10-10-85
Vol. 50 No. 197
Pages 41329-41468

Federal Register

Thursday
October 10, 1985

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Banks, Banking
Federal Deposit Insurance Corporation
Federal Reserve System

Bridges
Coast Guard

Communications Common Carriers
Federal Communications Commission

Government Procurement
Agency for International Development

Marine Safety
Coast Guard

Mortgages
Housing and Urban Development Department

Motor Vehicle Safety
National Highway Traffic Safety Administration

Pests and Pesticides
Environmental Protection Agency

Postal Service
Postal Service

CONTINUED INSIDE

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

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

The **Federal Register** will be furnished by mail to subscribers for $300.00 per year, or $150.00 for 6 months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

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

How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

Selected Subjects

Contents

Federal Register
Vol. 50, No. 197
Thursday, October 10, 1985

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
5377 41329
5378 41331
5379 41333

12 CFR
210 41335
Proposed Rules:
303 41361
309 41361

14 CFR
39 41336
Proposed Rules:
121 41452

17 CFR
240 41337

21 CFR
510 41340
558 41340
561 41341

24 CFR
27 41344

27 CFR
Proposed Rules:
9 41364

30 CFR
Proposed Rules:
700 41365
701 41365
785 41365
817 41365
827 41365

33 CFR
117 41345
165 (4 documents) 41345–41347
Proposed Rules:
117 41366

39 CFR
Proposed Rules:
310 41462
320 41462

40 CFR
52 41348
180 41349

47 CFR
69 41350
Proposed Rules:
2 41366

48 CFR
Proposed Rules:
716 41367
752 41367

49 CFR
571 41356
Proposed Rules:
571 41368

50 CFR
20 41359

Federal Register
Vol. 50, No. 197
Thursday, October 10, 1985

Presidential Documents

Title 3—

The President

Proclamation 5377 of October 4, 1985

Suspension of Entry as Nonimmigrants by Officers or Employees of the Government of Cuba or the Communist Party of Cuba

By the President of the United States of America

A Proclamation

In light of the current state of relations between the United States and Cuba, including the May 20, 1985, statement that the Government of Cuba had decided "to suspend all types of procedures regarding the execution" of the December 14, 1984, immigration agreement between the United States and Cuba, thereby disrupting normal migration procedures between the two countries, I have determined that it is in the interest of the United States to impose certain restrictions on entry into the United States of officers or employees of the Government of Cuba or the Communist Party of Cuba.

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution and laws of the United States of America, including section 212(f) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1182(f)), having found that the unrestricted entry of officers or employees of the Government of Cuba or the Communist Party of Cuba into the United States would, except as provided in Section 2, be detrimental to the interests of the United States, do proclaim that:

Section 1. Entry of the following classes of Cuban nationals as nonimmigrants is hereby suspended: (a) officers or employees of the Government of Cuba or the Communist Party of Cuba holding diplomatic or official passports; and (b) individuals who, notwithstanding the type of passport that they hold, are considered by the Secretary of State or his designee to be officers or employees of the Government of Cuba or the Communist Party of Cuba.

Sec. 2. The suspension of entry as nonimmigrants set forth in Section 1 shall not apply to officers or employees of the Government of Cuba or the Communist Party of Cuba: (a) entering for the exclusive purpose of conducting official business at the Cuban Interests Section in Washington; at the Cuban Mission to the United Nations in New York; or at the United Nations in New York when, in the judgment of the Secretary of State or his designee, entry for such purpose is required by the United Nations Headquarters Agreement; (b) in the case of experts on a mission of the United Nations and in the case of individuals coming to the United States on official United Nations business as representatives of nongovernmental organizations when, in the judgment of the Secretary of State or his designee, entry for such purpose is required by the United Nations Headquarters Agreement; or (c) in such other cases or categories of cases as may be designated from time to time by the Secretary of State or his designee.

Sec. 3. This Proclamation shall be effective immediately.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of Oct., in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 85-24403
Filed 10-8-85; 2:19 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5378 of October 7, 1985

Twenty-fifth Anniversary Year of the Peace Corps

By the President of the United States of America

A Proclamation

The American people throughout our history have shown their commitment and concern for the welfare of their fellow men and women, both in their own communities and around the globe. Nowhere has the proud American tradition of voluntarism been better illustrated than through the Peace Corps, which has begun a year-long observance of its twenty-fifth anniversary.

For a quarter of a century, the Peace Corps has recruited and trained volunteers to serve in countries of the developing world, helping people help themselves in their quest for a better life. More than one hundred and twenty thousand Americans have served in the Peace Corps in more than ninety countries. Their projects and programs have built bridges of understanding between the people of the United States and the peoples of the countries they have been privileged to serve.

Peace Corps volunteers have returned to their communities enriched by the experience, knowing more of the world, its complexities, and its challenges. They continue to communicate with people in the countries where they served, thereby strengthening the ties of friendship and mutual understanding.

The Peace Corps' call for service has renewed importance today, as American volunteers help others overseas seek long-term solutions to the complex human problems of hunger, poverty, illiteracy, and disease. The generous response to this call continues to exceed the Peace Corps' recruitment requirements.

The Congress, by House Joint Resolution 305, has designated the period from October 1, 1985, through September 30, 1986, as the twenty-fifth anniversary year of the Peace Corps and authorized and requested the President to issue a proclamation on this occasion to honor Peace Corps volunteers past and present.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 1, 1985, through September 30, 1986, the Twenty-fifth Anniversary Year of the Peace Corps. I call upon public and private international voluntary organizations, development experts, scholars, the business community, individuals and leaders in the United States of America and overseas, and past and present Peace Corps volunteers to reflect upon the achievements of the Peace Corps during its twenty-five years, as well as to consider ways that the talents and expertise of its volunteers may be used even more effectively in the future. During this time, I invite all Americans to honor the Peace Corps and its volunteers past and present, and reaffirm our Nation's commitment to helping people in the developing world help themselves.

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

Ronald Reagan

[FR Doc. 85-24404
Filed 10-8-85; 2:20 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5379 of October 7, 1985

Mental Illness Awareness Week, 1985

By the President of the United States of America

A Proclamation

At some time in their lives, millions of Americans in all walks of life suffer from some form of mental illness. The cost of such illness to society is staggering, totaling billions of dollars for treatment, support, and lost productivity each year.

The emotional costs to those who suffer, and the anguish it causes their families and friends, are beyond reckoning. Because of the unwarranted stigma too often associated with mental illness—a by-product of fear and misunderstanding—many victims do not seek the help they need.

But help is available. Treatment can bring relief to many. Scientific advances in recent decades have led to a variety of effective treatments, using modern drugs as well as behavioral and psychosocial therapies: the lows of a depressive disorder can be ameliorated; suicide prevented; hallucinations and delusions dispelled; and crippling anxieties eased. Those who suffer can be healed and again become productive members of society.

In recognition of the unparalleled growth in scientific knowledge about mental illnesses and the need to increase awareness of such knowledge, the Congress, by Senate Joint Resolution 67, has designated the week beginning October 6, 1985, as "Mental Illness Awareness Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 6, 1985, as Mental Illness Awareness Week. I call upon all health care providers, educators, the media, public and private organizations, and the people of the United States to join me in this observance.

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

Ronald Reagan

[FR Doc. 85-24405
Filed 10-8-85; 2:21 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 50, No. 197
Thursday, October 10, 1985

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Docket No. R-0552]

Regulation J—Collection of Checks and Other Items and Wire Transfers of Funds

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary rule; request for comment.

SUMMARY: The Board has adopted an amendment to Subpart A of Regulation J creating a standard holiday schedule to be applied to the recently adopted notification of nonpayment provision. Although the temporary rule is effective immediately the Board is requesting comments from the public prior to adopting a final rule.

DATE: The temporary rule is effective on October 3, 1985. Comments must be received by November 4, 1985.

ADDRESS: Comments, which should refer to Docket No. R-0552, may be mailed to the Board of Governors of the Federal Reserve System, 20th & C Streets NW. Washington, DC 20551, attention Mr. William W. Wiles, Secretary. Comments may also be delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m. except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Associate Director, Division of Federal Reserve Bank Operations (202/452-3926); Joseph R. Alexander, Attorney, Legal Division (202/452-2489); or Joy W. O'Connell, Telecommunication Device for the Deaf (202/452-3244).

SUPPLEMENTARY INFORMATION: On February 8, 1985, the Board amended § 210.12 of Regulation J, 12 CFR 210.12, to strengthen the requirement that paying banks provide notice of nonpayment when they are returning large-dollar cash items presented through the Federal Reserve. 50 FR 5734 (1985). The amendment requires the paying bank to provide notice to the bank of first deposit ("depositary bank") that the item is being returned unpaid by midnight of the second banking day following the paying bank's deadline for return of the item to its Reserve Bank. 12 CFR 210.12(c)(2). The requirement took effect on October 1, 1985.

While the Board was seeking comment on the notification amendment, three of the 260 comments received discussed the problem that could be the result of different holiday schedules observed by banks in different regions in the country. These commenters suggested that the Board override state and local holidays and impose a uniform holiday schedule nationwide. After examining this issue, the Board determined that it was not necessary or desirable to impose a uniform schedule at that time.

As Reserve Banks refined the details of the new and complex operations required to implement the notification procedures on October 1, however, they realized that the discrepencies among banks as to what constitutes banking days create greater problems for paying banks than had previously been anticipated and that these problems arise more quickly and more frequently than had previously been assumed. This results from the way in which the notification procedure is designed to work.

The notification of nonpayment requirement provides that the paying bank must notify the depositary bank if it is not going to pay a cash item. The notice must be received by the depositary bank by midnight of the paying bank's second banking day following the deadline the regulation imposes on the paying bank for return of the item. For example, if a paying bank receives a check from a Reserve Bank on Monday, it must return the check to the Reserve Bank by midnight on Tuesday and provide notice of nonpayment to the depositary bank by midnight Thursday.

Regulation J defines the term "banking day" to mean "a day during which a bank is open to the public for carrying on substantially all of its banking functions." 12 CFR 210.2(d) [1]. This definition means that the business schedule of the paying bank will drive the time at which notice must be received by the depositary bank. For example, if the paying bank in the previous illustration is closed on Wednesday, it would only be required to provide notice of nonpayment to the depositary bank by midnight Friday.

The definition may cause problems for banks if they are open for business on days that most of the banking community is closed. For example, many banks are open for most of their banking functions on Saturdays. This is especially true for banks that normally observe regular midweek closing days. If a bank that opens on Saturday received a check on Wednesday, it would have to return the check to its Reserve Bank by midnight Thursday and provide notice to the depositary bank by midnight Saturday. If the depositary bank were closed on that Saturday, notice could be made on the following Monday, but it could be difficult for the paying bank to determine whether the depositary bank was closed or open, especially if the two banks are separated by any great distance. Nevertheless, in some cases Saturday would count as a banking day for purposes of providing the notice.

In order to provide the return item notification service on Saturdays for paying banks, the Reserve Banks estimate that they would incur costs of up to $50,000 for each Saturday. In short, the costs for Reserve Banks to provide the return item service for paying banks on Saturdays in relation to the number of notices to be provided would result in a misallocation of economic resources in the payments mechanism.

Private correspondent banks are also planning to provide a return item notification service. If they are to provide a complete service, they too would have to remain open on Saturdays and nonstandard holidays to provide the service on behalf of their customers. Given the relatively small volume expected on these days, this would also be a costly service for correspondent banks to provide.

The alternative to the Reserve Banks or other service providers being open on

[1] This definition is the same as that generally found in State law. *See* U.C.C. 4-101(1)(c).

Saturdays while not going forward with the proposed temporary rule would be to require paying banks to fend for themselves on Saturdays. This is likely to be very burdensome to the paying banks. It would require them to establish, for at least one day each week, the elaborate procedures necessary for making notice of nonpayment to other banks open on Saturdays. This would be complicated by the difficulty in ascertaining whether or not the depositary bank is open and able to receive notices on Saturdays.

In order to alleviate these problems and similar problems that arise with respect to certain holidays which may not be observed uniformly, the Board is adopting a standard holiday schedule for purposes of calculating the deadline for the notice of nonpayment. The Board is not attempting at this time to establish a nationwide bank holiday schedule for all purposes. Under the amendment, the following days will not be considered banking days for purposes of the notice of nonpayment:

All Saturdays,
All Sundays,
New Year's Day (January 1),
Martin Luther King's Birthday (third Monday in January),
Washington's Birthday (third Monday in February),
Memorial Day (last Monday in May),
Independence Day (July 4),
Labor Day (first Monday in September),
Columbus Day (second Monday in October),
Veterans' Day (November 11),
Thanksgiving Day (fourth Thursday in November), and
Christmas Day (December 25).

This schedule follows that observed by the federal government. *See* 5 U.S.C. 6103.

If a fixed holiday (such as Christmas) falls on a Saturday, the holiday will be observed on the previous Friday; if such a holiday falls on a Sunday, it will be observed on the following Monday. This practice also follows that adopted by the federal government. *See*, Exec. Order No. 11,582 (Jan. 1, 1971). The Board, however, specifically seeks comment on whether there are other alternatives for handling such occurrences.

Immediate adoption of this rule is required to avoid potential problems arising on October 5, 1985, the first Saturday on which the notification would apply. In addition, this amendment will ease a regulatory burden in that paying banks that open on Saturday will be given an extra day to comply with the notice requirements under certain circumstances. It will also relieve correspondent banks providing the notification service of the responsibility of remaining open on Saturdays. For these reasons, the Board finds that application of the notice and public participation provisions of 5 U.S.C. 553 to this action would be contrary to the public interest and that good cause exists for making this action effective immediately.

This regulation will not have any significant impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 210

Banks, Banking, Federal Reserve System.

PART 210—[AMENDED]

Pursuant to its authority under section 13 of the Federal Reserve Act, 12 U.S.C. 342, section 16 of the Federal Reserve Act, 12 U.S.C. 248(o) and 360, section 11(i) of the Federal Reserve Act, 12 U.S.C. 248(i), and other provisions of law, the Board hereby amends 12 CFR 210.12(c).

1. The authority citation for Part 210 continues to read as follows:

Authority: Secs. 13, 16, and 11(i) of the Federal Reserve Act, 12 U.S.C. 342, 248(o), 360, and 248(i).

2. Section 210.12 is amended by adding a new paragraph (c)(10) to read as follows:

§ 210.12 Return of cash items.

* * * * *

(c) * * *

(10) The following days shall not be considered banking days for purposes of the deadline for notice of nonpayment: Saturdays and Sundays, January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday in November, and December 25. If January 1, July 4, November 11, or December 25 fall on a Saturday, the previous Friday shall not be considered a banking day for purposes of this subsection. If January 1, July 4, November 11, or December 25 fall on a Sunday, the next following Monday shall not be considered a banking day for purposes of this subsection.

* * * * *

By Order of the Board of Governors of the the Federal Reserve System, October 3, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-24102 Filed 10-9-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR PART 39

[Docket No. 85-CE-22-AD; Amdt. 39-5147]

Airworthiness Directives; Cessna Models 402C and 414A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 85-13-03R1 Amendment 39-5113, applicable to certain Cessna Models 402C and 414A airplanes, by clarifying the initial inspection compliance time and by providing an alternate method of compliance for airplanes equipped with Cessna Service Kit SK414-17. Subsequent to issuing the AD, the FAA learned that the AD in part, placed an unintentional burden on certain owners/operators with regard to repetitive radiographic inspections of the the engine beams. This revision removes this unnecessary burden and affords owners/operators an optional compliance method.

EFFECTIVE DATE: October 10, 1985. Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Multi-engine Service Bulletin MEB85-3, dated March 1, 1985, applicable to this AD may be obtained from the Cessna Aircraft Company Customer Services, P.O. Box 1521, Wichita, Kansas 67201; Telephone (316) 685-9111. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence S. Abbott, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION: AD 85-13-03R1 (Amendment 39-5113) applicable to Cessna Models 402C and 414A airplanes which superseded AD 85-13-03 (Amendment 39-5086), was issued on July 23, 1985, and became effective August 7, 1985. Its intent was to provide an initial compliance time for airplanes subject to the repetitive 1600 hour radiographic inspection required by the superseded AD. In part, AD 85-13-03R1 requires radiographic inspection at 1600 hour intervals of those engine beams on which Cessna Service Kit SK414-17 has been

incorporated. As written, this creates an undue and unintentional burden on affected owners/operators since the requirement ignores the time of installation of the SK414–17 kit for the initial inspection. This revision corrects paragraph (a)(3) of AD 85–13–03R1 by associating the 50 flight hour initial compliance time interval to time-in-service of the previously installed kit.

In addition, the FAA has become aware of an alternative method of compliance with the AD which may be used under certain conditions. Accordingly, paragraph (c)(2) af AD 85–13–03R1 has been rewritten to allow for this alternative.

This amendment provides allowable time for compliance with the AD and an alternate method of compliance under certain conditions which the FAA has determined is acceptable from a safety standpoint. Since it removes an unnecessary burden on the operator by eliminating the possibility for unwarranted duplicate compliance and provides for an alternate method of compliance, notice and public procedure hereon are impracticable and unnecessary and contrary to the public interest.

For the reasons stated above, I certify that this action (1) is not a "major rule" under Executive Order 12291 and (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

§ 39.13 [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 revising paragraphs (a)(3) and (c)(2) of AD 85–13–03R1 as follows:

(a)(3) On all the above airplanes with Cessna Service Kit SK414–17 installed and that have more than 1550 hours time-in-service from the time of installation, within the next 50 flight hours and each 1600 hours time-in-service thereafter, radiographic inspect the engine beams in accordance with Cessna Multi-engine S/B MEB85–3, dated March 1, 1985, attachment, Section III: Inspection Procedures—Radiographic.

(c)(2) If cracks found in the top (horizontal portion) of the beam are less than 1.75 inches, accomplish one of the following actions:

(i) Stop drill the crack and install Cessna Service Kit SK414–19 in accordance with Cessna Multi-engine S/B MEB85–3, dated March 1, 1985, or

(ii) Stop drill the crack and reinstall Cessna Service Kit SK414–17, and each 1600 hours time-in-service thereafter radiographic inspect the engine beams in accordance with Cessna Multi-engine S/B MEB85–3, dated March 1, 1985.

This amendment revises AD 85–13–03R1, Amendment 39–5113.

This amendment becomes effective on October 10, 1985.

Issued in Kansas City, Missouri, on September 25, 1985.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 85–24236 Filed 10–9–85; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–22499; File No. S7–8–84]

Customer Protection Rule

AGENCY: Securities and Exchange Commission.

ACTION: Rule amendment.

SUMMARY: The Securities and Exchange Commission ("Commission") is adopting amendments to Rule 15c3–3 under the Securities Exchange Act of 1934 ("Act"). Under the rule, the broker-dealer is required to make a weekly computation (or in certain cases a monthly computation), as of the close of business Friday, to determine how much money it is holding which is either customer money or money obtained from use of customer securities (*i.e.*, formula credits). From that amount the broker-dealer subtracts the amount of money it is owed by its cash or margin customers or by other broker-dealers because of customer transactions (*i.e.*, formula debits). If the credits exceed the debits, the broker-dealer must deposit the excess by Tuesday morning in a Reserve Bank Account. If the debits exceed the credits, no deposit is necessary. This process is commonly referred to as the Reserve Formula Computation.

The amendments will, for purposes of the debit items of the Reserve Formula: (1) Exclude the debit balances of household members and other persons related to broker-dealer principals or affiliated in a certain way with a broker-dealer; (2) exclude, under certain circumstances, the debit balances of accounts in which "principals" of a broker-dealer have ownership interests; and (3) exclude, under certain circumstances, the amount by which a broker-dealer's margin accounts receivable (a debit item) with a single customer exceeds twenty-five percent of the net capital of the broker-dealer prior to securities haircuts ("tentative net capital").

The amendments are designed to assure that customers' funds and securities held by broker-dealers are protected against misuse of insolvency. The net effect of the amendments is to require that greater deposits be made in the Reserve Bank Accounts of some broker-dealers.

EFFECTIVE DATE: November 22, 1985 except the concentration provision (17 CFR 240.15c3–3a, Note E, paragraph 5) which will be effective on April 1, 1986.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Division of Market Regulation, 450 5th Street, NW., Washington, DC 20549 (202) 272–2904.

SUPPLEMENTARY INFORMATION:

I. Introduction

Rule 15c3–3 is designed to asure that customers' funds (as well as securities) held by broker-dealers are protected against broker-dealer misuse or insolvency. The rule requires, among other things, that a broker-dealer maintain with a bank or banks a "Special Reserve Bank Account for the Exclusive Benefit of Customers" ("Reserve Bank Account") and deposit in this accoutn its reserve requirement as computed in accordance with the Formula for Determination of Reserve Requirement For Brokers and Dealers ("Reserve Formula"), Exhibit A of Rule 15c3–3. In addition, before making a withdrawal from the Reserve Bank Account, a broker-dealer must make a computation which shows that after the withdrawal there is an amount remaining in the Reserve Bank Account at least equal to that required to be on deposit.

Under the Rule, a broker-dealer is required to make a weekly computation (or in certain cases a monthly computation), as of close of business Friday, to determine how much money it is holding which is either customer money or money obtained from use of customer securities (*i.e.*, formula credits). From that amount the broker-

dealer subtracts the amount of money it is owed by its cash or margin customers or by other broker-dealers and certain other entities because of customer transactions (*i.e.*, formula debits). If the credits exceed the debits, the broker-dealer must deposit the excess by Tuesday morning in a Reserve Bank Account. If the debits exceed the credits, no deposit is necessary.

One of the purposes of the Reserve Formula is to ensure that customers' funds held by a broker-dealer are deployed only in areas of the broker-dealer's business related to servicing its customers (*i.e.*, debit items in the Reserve Formula) or, to the extent that the funds are not deployed in these limited areas, that they be deposited in a Reserve Bank Account. Thus, the Reserve Bank Account includes all funds held by a broker-dealer that have as their source customer assets and which have not been utilized to finance the broker-dealer's customer related transactions. The rule makes it unlawful for a broker-dealer to accept or use customer funds to finance any part of its proprietary business activities. This prohibition applies as well to transactions of principal officers, directors, and general partners ("principals") of a broker-dealer and thereby prevents the broker-dealer from using customer funds to finance the insiders' own personal investment activities.

Recent events, particularly the financial failures of two broker-dealers, caused renewed concern in the area of misuse of customer free credit balances. Proposed revisions to Rule 15c3–3 were recommended by a Committee of the Securities Industry Association ("SIA") in response to the problem of protecting customer free credit balances. Based on these recommendations the Commission proposed remedial revisions to Rule 15c3–3 in Securities Exchange Act Release No. 20655 (February 15, 1984). In response to comments received on that proposal, the Commission modified its proposal and reproposed the amendments for public comment in Securities Exchange Act Release No. 21865 (March 26, 1985).

The Commission received fifteen comment letters on the proposed amendments. Most of the commentators supported the stated objective of the proposed amendments: to protect customers' funds held by broker-dealers from misuse or insolvency, and to ensure that those funds are used only to service bona fide customers accounts. Some of the commentators however, still believed that the costs of compliance (*e.g.*, computer programming and financing costs) would be unduly burdensome on smaller and medium sized broker-dealers. Others believed that the mechanism of allowing the Designated Examining Authority ("DEA") to grant exceptions to the concentration provision would be unworkable absent uniform guidelines for granting exceptions. In light of the specfic comments received and, with the view towards minimizing the compliance burden on broker-dealers, the Commission has determined to adopt the proposed amendments in modified form.

II. Discussion

The Commission proposed three amendments to Rule 15c3–3. Each of these amendments is described below along with a summary of the comments received and any modifications made in adopting the amendments.

A. Household Members, Related Persons and Affiliates

As stated in its prior releases, the Commission is concerned that certain broker-dealer principals have been able to utilize the securities accounts of family members (or persons under their control) or affiliates to circumvent the prohibition against the use of customer funds held by their firms (*i.e.*, credit items in the Reserve Formula) to finance their own securities activities. The Commission is concerned that this financing activity can lead to a reduction or total elimination of the broker-dealer's reserve deposit requirements to the possible detriment of bona fide public customers.

The Commission thus proposed to add a paragraph to Note E of the Reserve Formula which would provide that:

> the debit balances in the accounts of household members and other persons related to principals of a broker-dealer or affiliated with a broker-dealer are not "customers" debit balances, and therefore should not be included in the Reserve Formula, unless it can be shown that such debit balances are directly related to formula credit items for those same persons.

The Commission proposed to define the terms "household members and other persons related to . . ." to include parents, mothers-in-law or fathers-in-law, husbands or wives, brothers or sisters, brothers-in-law or sisters-in-law, children or any relative to whose support the broker-dealer principal contributes directly or indirectly.

Commentators on the original proposal suggested that the proposed definition was too broad. In response to those comments, the Commission reproposed the definition and asked commentators to suggest alternative definitions. Although none of the latest round of commentators suggested alternative definitions, two of the commentators suggested establishing a de minimis threshold of $50,000 below which the debit balances of household members and other persons releated to principals of a broker-dealer would not be affected by the amendment.

The Commission is not incorporating the threshold concept into the amendment it is adopting because, with respect to the debit balances of close relatives such as spouses and children, there is no basis for distinquishing those debit balances from the debit balances of principals of a broker-dealer. The Commission believes it is fair to assume that principals may be exerting control over the accounts of close relatives, or that these will be favored accounts. In contrast, the Commission believes, that the accounts of parents, siblings and inlaws, absent some financial dependence, would not necessarily be controlled by the principals.

Based on the above, and in the interest of reducing any recordkeeping burden on broker-dealers, the Commission is adopting a narrow definition. For purposes of the Reserve Formula, the term "household members and other persons related to . . ." will include only husbands or wives, children, sons-in-law or daughters-in-law and any other relative household member to whose support the broker-dealer principal contributes directly or indirectly. The Commission recognizes that narrowing the definition might make it possible for principals to use the accounts of certain relatives. However, on balance, the Commission believes that the revised household member restriction combined with the concentration provisions described below will adequately address the most egregious cases which pose the greatest threat to the public customers of broker-dealers.

B. Joint Accounts, Etc.

In Securities Exchange Act Release No. 20655 the Commission proposed a revision of an earlier interpretation (issued in Securities Exchange Act Release No. 9922) regarding the definition of the term "customer" for purposes of Rule 15c3–3. In that earlier release a joint account, custodian account, participation in a hedge fund or limited partnership, or a similar type account or arrangement by a person who would be excluded from the definition of customer (*i.e.*, a general partner, director or principal officer of a broker-dealer) with persons includible in the definition of customer, was

considered a customer's account. The proposal would have treated those accounts as non-customer accounts insofar as the debit items in the Reserve Formula were concerned, unless the broker-dealer demonstrated that the debits were directly related to formula credit items.

Based on comments that this proposal was too broad, the Commission modified its proposed note E(6) to the Reserve Formula as follows: If the non-customer has less than a five percent ownership interest in the subject account, then the entire debit balance will be included in the formula; if such percentage ownership is between five percent and fifty percent, then the portion of the debit balance attributable to the non-customer will be excluded from the formula and the remainder of the debit balance will be included in the formula, unless the broker-dealer can demonstrate that such debit balances are directly related to credit items in the formula; if such percentage ownership by a non-customer is greater than fifty percent, then the entire debit balance shall be excluded from the formula unless the broker-dealer can demonstrate that such debit balances are directly related to credit items in the formula.

The commentators were uniformly supportive of the proposal, as modified. Accordingly, the Commission is adopting the amendment in its modified form.

C. Concentration Provision

Finally, the Commission's original proposal would have provided that debit balances in margin accounts must be reduced by the amount by which a single customer's margin debit balance exceeds ten percent of the aggregate of all debit balances in customers' margin accounts included in Item 10 of the Reserve Formula.

Based on the comments received on that proposal, the Commission modified the proposed concentration provision to provide for a more flexible approach to the treatment of concentrated margin debits. The modified proposal tied the concentration charge to the broker-dealers tentative net capital rather than its overall margin debt, provided for an exception mechanism through the broker-dealers Designated Examining Authority ("DEA") and, made it clear that a concentrated debit balance may be included in the formula to the extent that it is directly related to credit items in the formula.

In general, the comments received on the modified concentration provision indicated that the changes made alleviated some of the concerns raised by the original proposal. Three of the commentators stated their general support for the provision, as modified. Some of the commentators expressed their concern that the concentration provision might have a disproportionate impact on small and medium-sized broker-dealers. Other commentators were fearful that, unless industrywide criteria were established, the DEA exception procedures would present administrative difficulties. Still other commentators were uncertain as to how to demonstrate the required relationship between debits and credits, in order to avoid the impact of the concentration charge. The last comment also applies to the "household members and other persons related to . . ." amendment.

This concentration provision effectively restricts a broker-dealer from lending a large percentage of other customers' money to any one customer except under certain conditions intended to alleviate the risks of such a concentrated position. The Commission believes that this is an appropriate limitation on the use of other customers' money and consistent with the purposes of Rule 15c3–3. The amendments have been designed to minimize any concomitant burdens. Indeed, the impact on broker-dealers is expected to be minimal. While the amendments will not absolutely prevent fraud or abuse, they will reduce the financial exposure of broker-dealers and perhaps lead to more investor confidence in broker-dealers who hold customer monies.

With regard to establishing industry guidelines for granting requests for exceptions from the concentration provision, the Commission is delaying the effective date of this amendment until April 1, 1986. The DEAs, with the aid of the Commission's staff, will be able to formulate objective criteria for granting exceptions during this time period. Such criteria will enable the DEAs to review the exception requests expeditiously and should provide guidance to broker-dealers in seeking an exception. In addition, the amendment adopted by the Commission will make it clear that during any review period, the concentrated debit may be included in the reserve formula computation for five business days after a request for DEA exception is made.

With regard to demonstrating the relationship between particular debit balances with credit items in the formula, broker-dealers are free to choose any method of allocating debits and credits. The Commission believes that many broker-dealers will use the allocation systems that they use in making other determinations required by Rule 15c3–3.

However, broker-dealers are not limited to such systems. In fact, because the principal objective of the amendments is to ensure that customer free credit balances are not being misused by principals of a broker-dealer, it would be sufficient for a broker-dealer to demonstrate the requisite relationship indirectly by showing that it did not carry any customer free credit balances.

In sum, the Commission believes that establishing objective criteria for granting exceptions, allowing concentrated debit balances to be included in the formula during any review period and, allowing broker-dealers flexibility in demonstrating that a particular debit balance is related to a formula credit item will ensure that the amendments will not be unduly burdensome on broker-dealers. At the same time, the Commission believes the amendments it is adopting are necessary and appropriate in the public interest to ensure that customer funds and securities are not placed at undue risk because of fraudulent practices by broker-dealers or large extensions of credit to individual accounts financed with free credit balances.

III. Summary of Final Regulatory Flexibility Analysis

The Commission has prepared a Final Regulatory Flexibility Analysis in accordance with 5 U.S.C. 604 regarding the amendments to Rule 15c3–3. The Analysis notes that the amendments are necessary in order to ensure that broker-dealers do not circumvent the prohibition against broker-dealer principals using customer funds to finance their own personal/proprietary investment activities and toward unnecessary concentrations in broker-dealers margin lending. The analysis states that the Commission did not receive any comments concerning the Initial Regulatory Flexibility Analysis. The Analysis points out that in response to commentators concern about the costs involved in compliance with the amendments to Rule 15c3–3, the Commission modified the amendments to lessen any compliance burden.

A copy of the Final Regulatory Flexibility Analysis may be obtained by contacting Julio Mojica, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, (202) 272–2372.

IV. Statutory Basis

Pursuant to the Securities Exchange Act of 1934 and particularly sections 15(c)(3), 17 and 23(a) thereof, 15 U.S.C.

78o(c)(3), 78q and 78w(a), the Commission is adopting amendments to § 240.15c3–3 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below.

Lists of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

V. Text of the Amendments

In accordance with the foregoing, 17 CFR Part 240 is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read in part as follows:

Authority: Sec. 23, 98 Stat. 901, as amended, 15 U.S.C. 78q * * *.

Section 240.15c3–3a also issued under Secs. 15(c)(2), 15(c)(3) and 17(a), 48 Stat. 895, 897, as amended; 15 U.S.C. 78o(c), 78q(a) * * *.

Section 240.15c3–3 also issued under Secs. 15(c)(2), 15(c)(3) and 17(a), 48 Stat. 895, 897, as amended; 15 U.S.C. 78o(c), 78q(a) * * *.

2. Section 240.15c3–3 is amended by revising paragraph (a)(1), and by adding paragraphs (a)(11), (a)(12) and (a)(13) as follows:

§ 240.15c3–3 Customer protection—reserves and custody of securities.

(a) * * *

(1) The term "customer" shall mean any person from whom or on whose behalf a broker or dealer has received or acquired or holds funds or securities for the account of that person. The term shall not include a broker or dealer or a registered municipal securities dealer. The term shall not include general partners or directors or principal officers of the broker or dealer or any other person to the extent that that person has a claim for property or funds which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer. The term customer shall, however, include another broker or dealer to the extent that that broker or dealer maintains an omnibus account for the account of customers with the broker or dealer in compliance with Regulation T under the Securities Exchange Act of 1934.

* * * * *

(11) The term "principal officer" shall mean the president, executive vice president, treasurer, secretary or any other person performing a similar function with the broker or dealer.

(12) The term "household members and other persons related to principals" includes husbands or wives, children, sons-in-law or daughters-in-law and any household relative to whose support a principal contributes directly or indirectly. For purposes of this paragraph (a)(12), a principal shall be deemed to be a director, general partner, or principal officer of the broker or dealer.

(13) The term "affiliated person" includes any person who directly or indirectly controls a broker or dealer or any person who is directly or indirectly controlled by or under common control with the broker or dealer. Ownership of 10% or more of the common stock of the relevant entity will be deemed prima facie control of that entity for purposes of this paragraph.

* * * * *

3. Section 240.15c3–3a is amended by adding paragraphs 4, 5 and 6 to Note E as follows:

§ 240.15c3–3a Exhibit A—formula for determination of reserve requirement for brokers and dealers under § 240.15c3–3.

* * * * *

Note E.

* * * * *

(4) Debit balances in cash and margin accounts of household members and other persons related to principals of a broker or dealer and debit balances in cash and margin accounts of affiliated persons of a broker or dealer shall be excluded from the Reserve Formula, unless the broker or dealer can demonstrate that such debit balances are directly related to credit items in the formula.

(5) Debit balances in margin accounts (other than omnibus accounts) shall be reduced by the amount by which any single customer's debit balance exceeds 25% (to the extent such amount is greater than $50,000) of the broker-dealer's tentative net capital (*i.e.*, net capital prior to securities haircuts) unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the Reserve Formula. Related accounts (*e.g.*, the separate accounts of an individual, accounts under common control or subject to cross guarantees) shall be deemed to be a single customer's accounts for purposes of this provision. If the registered national securities exchange or the registered national securities association having responsibility for examining the broker or dealer ("designated examining authority") is satisfied, after taking into account the circumstances of the concentrated account including the quality, diversity, and marketability of the collateral securing the debit balances or margin accounts subject to this provision, that the concentration of debit balances is appropriate, then such designated examining authority may grant a partial or plenary exception from this provision.

The debit balance may be included in the reserve formula computation for five business days from the day the request is made.

(6) Debit balances of joint accounts, custodian accounts, participations in hedge funds or limited partnerships or similar type accounts or arrangements of a person who would be excluded from the definition of customer ("non-customer") which persons includible in the definition of customer shall be included in the Reserve Formula in the following manner: if the percentage ownership of the non-customer is less than 5 percent then the entire debit balance shall be included in the formula; if such percentage ownership is between 5 percent and 50 percent then the portion of the debit balance attributable to the non-customer shall be excluded from the formula unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the formula; if such percentage ownership is greater than 50 percent, then the entire debit balance shall be excluded from the formula unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the formula.

* * * * *

Dated: October 3, 1985.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85–24254 Filed 10–9–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor of four new animal drug applications (NADA's) from Feed Specialties Co., Inc., to Henwood Feed Additives, Division of Feed Specialties Co., Inc.

EFFECTIVE DATE: October 10, 1985.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: Henwood Feed Additives, Division of Feed Specialties Co., Inc., 211 Western Rd., Box 577, Lewisburg, OH 45338, has informed FDA of a change of sponsor of several NADA's from its parent firm, Feed Specialties Co. The NADA's affected are: 45–690, tylosin premixes; 108–484, tylosin/sulfamethazine premixes; 110–439, hygromycin B premixes; and 118–874, pyrantel tartrate premixes. This change of sponsor does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. The regulations providing for use of the premixes are amended to reflect the change of sponsor.

Henwood Feed Additives is not currently listed as a sponsor of approved NADA's in 21 CFR 510.600. The regulation is amended to add this firm.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. Section 510.600 is amended by adding a new sponsor entry alphabetically in paragraph (c)(1) and numerically in paragraph (c)(2), to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Henwood Feed Additives, Division of Feed Specialties Co., Inc., 211 Western Rd., Box 577, Lewisburg, OH 45338	026186
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
026186	Henwood Feed Additives, Division of Feed Specialties Co., Inc., 211 Western Rd., Box 577, Lewisburg, OH 45338.
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 558.274 [Amended]

4. In § 558.274 *Hygromycin B* in paragraph (a)(5) by removing "017274" and inserting in its place "026186" and in paragraph (e)(1), in the table in items (i) and (ii), under "Sponsor" by removing "017274" and inserting in numerical sequence "026186".

5. In § 558.485 by adding paragraph (a)(4) to read as follows:

§ 558.485 Pyrantel tartrate.

(a) * * *

(4) To 026186: 9.6 and 19.2 grams per pound, paragraph (e) (1) through (3).

* * * * *

6. In § 558.625 by revising paragraph (b)(11) and adding paragraph (b)(15) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(11) To 017274: 4, 8, and 10 grams per pound, paragraph (f)(1)(vi)(*a*) of this section; 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

(15) To 026186: 1.6, 4, 10, and 20 grams per pound, paragraph (f)(1)(vi)(*a*) of this section; 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

§ 558.630 [Amended]

7. In § 558.630 *Tylosin and sulfamethazine* in paragraph (b)(3) by adding "017274" and in paragraph (b)(8) by removing "017274" and adding in numerical sequence "026186".

Dated: September 27, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85–24240 Filed 10–9–85; 8:45 am]

BILLING CODE 4160–01–M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP OH5275, 3H5378/R792; FRL–2909–8]

Thiodicarb; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation to permit thiodicarb and its metabolite in or on the commodities cottonseed hulls and soybean hulls. This regulation to establish the maximum permissible level for residues of this insecticide in or on these commodities was requested by Union Carbide Agricultural Products Co., Inc.

EFFECTIVE DATE: October 10, 1985.

ADDRESS: Written objections, identified by the document control numbers [FAP OH5275, FAP 3H5378/R792] may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a proposal, published in the **Federal Register** of July 3, 1985 (50 FR 27452), which proposed that a feed additive regulation be established under section 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA), permitting residues of the insecticide thiodicarb (dimethyl *N,N'*-[thiobis [(methylimino)carbonyloxy]]bis [ethanimidothioate]) and its metabolite in or on the feed commodities soybean hulls at 0.8 part per million (ppm) and cottonseed hulls at 0.8 ppm.

Animal metabolism studies have shown that acetamide is a metabolite of thiodicarb. Although the Agency does not expect detectable levels of acetamide to occur in cottonseed and soybean hulls as a result of the

proposed use, residues of acetamide could be present in tissues, milk and eggs of food producing animals at maximum levels of 0.002 ppm. Four studies have been conducted with acetamide that have demonstrated a possible oncogenic effect. Although none of the four studies meet current standards for oncogenicity testing, the studies do collectively demonstrate that under certain conditions, long term dietary administration of acetamide at high levels is associated with the occurrence of liver tumors in rats. Based on the acetamide studies, the Agency believes it prudent to assume that acetamide is a possible human carcinogen.

Cottonseed hulls and soybean hulls are processed foods used as animal feed. Section 409(c)(3) of the Federal Food, Drug and Cosmetic Act (FFDCA) states that a food additive regulation may not be issued if a fair evaluation "fails to establish that the proposed use of the food additive, under the conditions of use to be specified in the regulation will be safe" (this is known as the "general safety clause"). Section 409(c)(3) also contains a specific criterion called the "Delaney Clause" which provides that "no additive will be deemed to be safe if it is found to induce cancer when ingested by man or animal". This Delaney Clause prohibition is subject to an important exception with respect to pesticides such as thiodicarb which will be present in the feed of cattle or other animals which are raised for the production of eggs, meat, or milk for human consumption. FFDCA section 409(c)(3)(A) states that the Delaney Clause "shall not apply with respect to the use of a substance as an ingredient of feed for animals which are raised for food production if the [Administrator] finds (i) that under the conditions of use and feeding specified in the proposed labeling and reasonably certain to be followed in practice, such additive will not adversely affect the animals for which such feed is intended, and (ii) that no residue of the additive will be found (by methods of examination prescribed or approved by the [Administrator] by regulations * * *) in any edible portion of such animal after slaughter or in any food yielded by or derived from the living animal."

FDA has extensively analyzed the meaning of this exception (referred to as the "DES provisio") in a document published in the **Federal Register** of March 20, 1979 (44 FR 17070). In that document FDA concluded that the proviso should be implemented by requiring that residues of an oncogenic compound should not be allowed to be present in the total diet of humans unless it can be verified by analytical methodology that if such residues do occur they will be present at a level less that which, by use of prescribed methods of extrapolation from animal bioassay data and a series of conservative assumptions yields an excess cancer risk level that is deemed insignificant (which FDA sets at the level of one in a million or 1×10^{-6}).

For the purposes of this action, EPA adopts the reasoning and methodology of the FDA document (with the exceptions set forth in this document and in the July 3, 1985 proposed rule).

Under the FDA approach, as explained in the July 3 proposed rule, an individual's diet could contain up to 30 ppb acetamide and the excess lifetime cancer risk would not exceed 1×10^{-6}. One of the most important conservative assumptions made by FDA is that eggs may constitute 33 percent of the daily diet of humans; meat may constitute 33 percent of the daily diet of humans; and, milk may constitute 100 percent of the daily human diet. Thus, using FDA's approach, the allowable residue of acetamide in milk is 30 ppb based on milk constituting 100 percent of the total diet. Since meat is assumed to constitute 33 percent of the total diet, it may contain three times this level, or 90 ppb. Eggs are also assumed to constitute 33 percent of the diet, and could likewise contain 90 ppb of acetamide.

For meat, the liver was chosen as the target tissue. (A target tissue is the tissue selected to monitor for residues in the target animal.) Animal feeding studies have shown that acetamide, if present, would occur in greater concentration in the liver than in any other tissue. Beef liver was found to contain 17 times the concentration of acetamide contained in meat (muscle). In poultry, the liver contained 6 times the concentration of acetamide contained in muscle. Thus, the allowable level for acetamide in beef liver is 1530 ppb (17×90 ppb) and that in poultry liver is 540 ppb (6×90 ppb). EPA has estimated that at the proposed tolerance levels, acetamide would be present in cattle and poultry liver at maximum concentrations of 1.8 ppb and 0.6 ppb, respectively. These acetamide levels are well below the allowable levels for beef and poultry liver as calculated under the SOM procedure. Union Carbide has submitted analytical methods for detection of residues of acetamide in beef and poultry liver. The lowest limits of reliable measurement for acetamide in beef and poultry liver are 770 ppb and 400 ppb, respectively. EPA concludes that this method is adequate to detect residues of acetamide in beef and poultry tissues that would be unacceptable under the approach taken by the 1979 FDA document.

The Agency has estimated the maximum expected level of acetamide in milk and eggs resulting from thiodicarb use on cotton and soybeans to be 0.3 ppb and 0.07 ppb, respectively. These levels are well below those calculated using the procedures from the 1979 FDA document, i.e., 30 and 90 ppb. Union Carbide has submitted data showing that acetamide residues are present in milk and eggs from animals not exposed to thiodicarb. The acetamide residues from approximately 275 to 500 ppb (average 400) in milk to 75 to 350 ppb (average 170) in eggs. Union Carbide has requested that the Agency waive the requirement for a method of analyzing for residues of acetamide in milk and eggs. A regulatory method capable of measuring acetamide residues at levels equivalent to a 1×10^{-6} would be futile since the amount of ubiquitous acetamide present would mask the much lower contribution of acetamide expected to result from the use of thiodicarb on cotton and soybeans. The Agency is prepared to waive the requirement of a regulatory analytical method for analysis of acetamide in milk and eggs under the 1979 FDA document. This is discussed in further detail later in this document.

The Agency's proposals to (1) issue tolerances on certain agricultural commodities (cotton and soybeans) and (2) issue a feed additive regulation (cottonseed and soybean hulls) were published in the **Federal Register** of July 3, 1985. (Refer to that document for a more detailed description of the Agency's findings.) Comments from interested parties, including the general public, were requested.

The Agency received comments from seven interested parties. Four responded favorably; three responded in opposition.

The four different commenters that responded favorably to the establishment of the proposed feed additive regulation were The National Cotton Council of America; Drill Friess, Hays, Loomis & Shaffer, Inc., Consultants in Toxicology; North Carolina State University Department of Entomology; and Mitchner Farms of Mississippi. Two of these commenters stated the registration of thiodicarb would provide the cotton farmer with an effective alternative to the synthetic pyrethroids that should delay the development of resistance to the

pyrethroids. The other two commenters supported the Agency's use of the 1979 document developed by the Food and Drug Administration (FDA) to establish feed additive tolerances for thiodicarb.

The three different commenters that responded in opposition to the establishment of the proposed feed additive tolerances for thiodicarb were Manasota—88, Public Citizen Health Research Group (PC/HRG), and The Natural Resource Defense Council, Inc. (NRDC).

NRDC and PC/HRG commented that the Agency did not explain how it was able to calculate an extrapolation slope from the existing studies on acetamide since none of the acetamide studies provided a definitive dose response relationship.

The procedures used to calculate the extrapolation slope for acetamide can be found in an article by Gaylor and Kodell (1980) entitled "Linear Interpolation Algorithm for Low-Dose Risk Assessment of Toxic Substances" *Journal of Environmental Pathology and Toxicology*, Vol. 4: 305–312). In using these methods, FDA considers the lowest experimental dose to represent that study dose that most closely approximates an incidence level 1 percent above the control response. The modification of the SOM that applies to the one active dose scenario is also in that article and is stated as follows:

> In the special case where only one dosage level of a chemical is administered to animals, obviously no mathematical model can be obtained. The experimental range is confined to a single point so that interpolation proceeds along the line connecting the upper confidence limit for the excess tumor rate at the experimental dosage to the origin (no excess tumors at zero dose).

Although the Agency's proposed rule stated that the SOM procedures in the 1979 FDA document, 44 FR 17070 (March 20, 1979), were being used to establish these tolerances, the Agency diverged from these procedures to extrapolate the slope for acetamide. The extrapolation method of Gaylor and Kodell (1980) was used in this case because FDA now uses this method and considers it to be more appropriate than that presented in the 1979 SOM procedures (Flamm and Winbush, 1984. "Role of Mathematical Models in Assessment of Risk The SOM procedures used to calculate the extrapolation and in Attempts to Define Management Strategy." *Fundamental and Applied Toxicology*. Vol. 4: 5395–5401). This method is preferred because "it does not depend on any theory of carcinogenesis—only that the dose response is curving upward at low doses", which is usually the case in toxicology studies. The Agency has used the 1979 procedures to calculate the allowable residues of acetamide in the total diet. This value is 26 ppb which is similar to the 30 ppb value obtained by the Gaylor and Kodell method.

Manasota—88, PC/HRG, and NRDC claim that the Delaney clause in section 409 of the FFDCA bars approval of carcinogens as food additives.

EPA disagrees with this comment for the reasons set forth in the 1979 FDA document and adopted by EPA, for the purposes of this action, in the July 3, 1985 proposed rule.

NRDC and PC/HRG commented that the FDA's SOM procedures are only a proposal and have yet to be finalized. Therefore, they believe these procedures should not be implemented until a final rule has been issued.

EPA notes that it has provided notice and an opportunity for comment on the rationale adopted in this rule. The fact that FDA has not issued a final rule following the 1979 proposed rule therefore is not controlling.

NRDC commented that while the Agency described the analytical methods to detect residues of thiodicarb and its metabolites methomyl and acetamide, it did not specify whether these residues could be detected in the routine multiresidue scans conducted by FDA.

FDA does have a multiresidue method that will detect thiodicarb as methomyl. No multiresidue method is available for detection of acetamide.

NRDC and Manasota—88 commented that the Agency should not waive the requirement for an analytical method for detection of acetamide in milk and eggs because then there would be no way to guarantee that levels of acetamide would remain below the SOM values for milk and eggs.

EPA has estimated that the maximum expected levels of acetamide that would occur in milk and eggs as a result of the use of thiodicarb on cotton and soybeans to be 0.3 ppb and 0.07 ppb, respectively. These levels are well below the values obtained using the 1979 FDA document.

Union Carbide requested that the Agency waive the requirement for a method of analyzing for residues of acetamide in milk and eggs. The basis for this request was their data that showed acetamide to be present in market basket samples of milk and eggs from animals not exposed to thiodicarb. The Agency tentatively agreed to waive the method but also directed its Analytical Chemistry Section to obtain milk samples (commercially available pasteurized; and unprocessed/unpasteurized pesticide-free milk from USDA's Dairy Department at the Beltsville Agricultural Research Center (BARC) campus) and analyze for acetamide residues. The Agency specified that milk was to be analyzed rather than eggs because as already indicated, the Agency has data submitted by Union Carbide showing acetamide to be ubiquitous in milk and eggs. The Agency believed based on this data that if acetamide were found in milk it would also be present in eggs.

Pasteurized milk purchased locally and unpasteurized milk obtained from a USDA dairy herd were analyzed for acetamide by low resolution gas chromatography-mass spectroscopy. The Agency was not able to obtain and analyzes milk from a pesticide-free herd (EPA was mistaken in that USDA does not have a pesticide-free herd). Had we been able to, we could have determined whether acetamide is found in milk from cows not exposed to pesticides. However, positive milk samples from such a herd would only have served to eliminate pesticides as a source of acetamide; the actual source of acetamide would still remain unknown.

The unpasteurized samples the Agency obtained were from cows not exposed to thiodicarb and which had a diet not atypical of American dairy herds. Acetamide was found in the milk samples anaylyzed from both sources. The Agency's results are consistent with Union Carbide's contention that acetamide is ubiquitous in milk and presumably also in eggs. In addition, the results give no reason to doubt that acetamide is present in milk at the approximate levels found by Union Carbide (275 to 500 ppb, average 400). Based on these data, the amount of ubiquitous acetamide present would likely mask the expected contribution of acetamide from the use of thiodicarb on cotton and soybeans. Therefore, the Agency is waiving the requirement of a regulatory analytical method for analysis of acetamide in milk and eggs.

Based on a review of the data cited in the July 3, 1985 proposed rules and on the comments submitted in response to the proposed rules, the Agency has determined that the requested tolerances for residues of thiodicarb in or on cottonseed hulls at 0.8 ppm and soybean hulls at 0.8 ppm are appropriate.

Elsewhere in this issue of the **Federal Register**, the Agency is issuing a final rule establishing tolerances under FFDCA section 408 for residues of thiodicarb in or on the raw agricultural commodities cottonseed and soybeans.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the

Federal Register, file written objections with the Hearing Clerk at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164 (5 U.S.C. 601-612)), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 21 CFR Part 561

Feed additives, Pesticides and pests.

Dated: October 20, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, Part 561 is amended as follows:

PART 561—[AMENDED]

1. The authority citation for Part 561 continues to read as follows:

Authority: 21 U.S.C. 348.

2. Section 561.366 is revised, to read as follows:

§ 561.366 Thiodicarb.

Tolerances are established for residues of thiodicarb [dimethyl *N, N'*-[thiobis[(methylimino)carbonyloxy]]bis [ethanimidothioate]) and its metabolite methomyl in or on the following processed feeds when present therein as a result of application of this insecticide to growing crops:

Feed	Part per million
Cottonseed hulls	0.8
Soybean hulls	0.8

[FR Doc. 85-24269 Filed 10-9-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 27

[Docket No. R-85-1262; FR-2154]

Nonjudicial Foreclosure of Multifamily Mortgages

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises HUD's regulations on nonjudicial foreclosure of multifamily mortgages. The revised rule requires the foreclosure commissioner to commence foreclosure within 45 days after he or she has accepted designation as commissioner. This expanded time period will provide the commissioner with an adequate opportunity to initiate the foreclosure.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: John P. Kennedy, Associate General Counsel for Program Enforcement, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6568. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 24, 1984, the Department published regulations at 24 CFR Part 27 implementing the Multifamily Mortgage Foreclosure Act of 1981, 12 U.S.C. 3701-3717 (49 FR 7072). Those regulations, at 24 CFR 27.15(a), require the foreclosure commissioner to commence a foreclosure within 10 days after HUD's General Counsel has designated him or her as commissioner. In practice, HUD has found that this deadline does not allow sufficient time for the commissioner to seek updated title information and to take other necessary steps before commencing foreclosure. This final rule will expand the time for commencing foreclosure to 45 days after the commissoner accepts his or her designation under 24 CFR 27.10(b). The Department believes that this is a more realistic period in which to take necessary actions preliminary to foreclosure.

This minor technical change to the Department's procedural requirements should have no significant effect on any party, other than the Federal government. Accordingly, the Department has concluded that notice and public comment on the rule is unnecessary and that good cause exists for publishing the rule as a final rule.

In accordance with 20 CFR 50.20(k), an environmental finding is not necessary because the change affects only internal administrative procedures and is categorically excluded from the environmental requirements of 24 CFR Part 50.

The rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. The rule does not: (1) Have an annual effect on the economy of one hundred million dollars or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) have a significant adverse effect on competition, employment, investment productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of the Regulatory Flexibility Act, (5 U.S.C. 605(b)), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule makes technical changes to internal agency procedures. These changes should have no significant effect on any party, other than the Federal government.

This rule was not listed in the Department's Semiannual Agenda of Regulations published April 29, 1985 (50 FR 17286) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Programs numbers are: 14.103, 14.112, 14.115, 14.116, 14.124, 14.125, 14.126, 14.127, 14.128, 14.129, 14.134, 14.135, 14.137, 14.138, 14.139, 14.149, 14.151, 14.153, 14.154, 14.155, 14.167, and 14.220.

List of Subjects in 24 CFR Part 27

Mortgages, Foreclosures.

Accordingly, Title 24 CFR Part 27 is amended to read as follows:

PART 27—NONJUDICIAL FORECLOSURE OF MULTIFAMILY MORTGAGES

1. The authority citation for 24 CFR Part 27 continues to read as follows:

Authority: Secs. 369C(5) and 369I, Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3711(5) and 3717); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 27.15(a) is revised to read as follows:

§ 27.15 Notice of default and foreclosure sale.

(a) Within 45 days after accepting his or her designation to act as commissioner, the commissioner shall commence the foreclosure by serving a Notice of Default and Foreclosure Sale.

* * * * *

Dated October 2, 1985.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 85-24277 Filed 10-9-85; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7-85-28]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway; FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Manatee County the Coast Guard is adding regulations governing the Cortez and Anna Maria drawbridges by permitting the number of openings to be limited during certain periods. This change is being made because vehicular traffic has increased. This action will accommodate the needs of vehicular traffic yet still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on November 12, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 536-4103.

SUPPLEMENTARY INFORMATION: On July 9, 1985 the Coast Guard published (50 FR 27991) a proposal to revise these regulations. The proposed regulations were also published in a public notice issued by Commander, Seventh Coast Guard District on July 22, 1985. In each notice interested persons were given until August 23, 1985 to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Pashowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Comments

In response to the proposal six comments were received. One supported the proposal. Five letters opposed it as not being restrictive enough; four of those writers suggested openings on the hour and half hour only. One writer, in addition, favored an exemption for cruise vessels and shrimpers. Since under the existing regulations the bridges actually open only about twice per hour the proposed rule appears to adequately meet the needs of both vehicular and marine traffic. Two of the letters advocating a more restrictive regulation wanted weekday restrictions on the Anna Maria bridge also. While this change is beyond the scope of the proposed rule, it may be the subject of future rulemaking after Manatee County provides substantiating data.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.287 is amended by revising paragraph (d) to read as follows:

§ 117.287 Gulf Intracoastal Waterway, Caloosahatchee River to Perdido River.

* * * * *

(d)(1) The draw of the Cortez (SR 684) bridge, mile 87.4, shall open on signal; except that, from 9 a.m. to 6 p.m. on Saturdays, Sundays, and federal holidays the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour. From December 1 to May 31, Monday through Friday except federal holidays, from 9 a.m. to 6 p.m., the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour.

(d)(2) The draw of the Anna Maria (SR 64) bridge, mile 89.2, shall open on signal except that from 9 a.m. to 6 p.m. on Saturdays, Sundays, and federal holidays the draw need open only on the hour, quarter-hour, half-hour and three-quarter hour.

* * * * *

Dated: September 26, 1985.

G. S. Duca,

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

[FR Doc. 85-24283 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Honolulu Regulation 85-02]

Safety Zone Regulations; Kaneohe Bay, Oahu, HI

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a 3,000 by 24,000 foot rectangular safety zone offshore of Kaneohe, Oahu, Hawaii. This zone is needed to protect spectators and performers during the Blue Angels Air Show. Entry into the zone is prohibited, unless authorized by the Captain of the Port, Honolulu, Hawaii.

EFFECTIVE DATES: This regulation becomes effective on October 17, 1985 at 2:00 p.m. HST. It terminates the same day at 4:00 p.m. HST, unless terminated sooner by the Captain of the Port.

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

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent injury or damage to persons and equipment incident to the air show.

Drafting Information

The drafters of this regulation are LT. C.A. CRAMPTON, project officer for the Captain of the Port, and LCDR S.R. CAMPBELL, Project Attorney, Fourteenth Coast Guard District Legal Office.

Discussion of the Regulation:

The event requiring this regulation is the U.S. Navy Blue Angels Air Show which will occur offshore of Kaneohe Marine Corps Air Station between 2:00 p.m. and 4:00 p.m. October 17, 1985. This safety zone is necessary because of the low altitude requirement for the aircraft during the show.

This regulation is intended to minimize the hazard to personnel, vessels, and aircraft participating in and around the air show. While establishment of this zone will restrict watersports and vessel operations during the short duration of the show, the zone has been selected so that public viewing of the show and the safety of persons, aircraft, and vessels are maximized.

List of Subjects in 33 CFR Part 165

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

PART 165—[AMENDED]

Regulation

33 CFR 165 is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

2. In Part 165, a new § 165.T1402 is added as follows:

§ 165.T1402 Kaneohe Bay, Oahu, Hawaii.

(a) Location, the following area is a safety zone:

(1) Fixed Safety Zone A: All navigable waters within a rectangle offshore of Kaneohe, HI. enclosed by the following positions: 21°26'00" N, 157°47'32.5" W; 21°26'22.8" N, 157°47'52" W; 21°28'50.3" N, 157°44'31" W; 21°28'26.5" N, 157°44'11.5" W.

(2) Fixed Safety Zone B: All navigable waters within a rectangle offshore of Kaneohe, HI. enclosed by the following positons: 21°26'36.4" N, 157°46'43" W; 21°26'59.5" N, 157°47'02" W; 21°28'13" N, 157°45'22.2" W; 12°27'49.2" N, 157°45'03.7" W.

(b) Regulations:

(1) In accordance with the general regulations in § 165.23 of this part, no vessel may enter or remain within Safety Zone A between 2:00 p.m. and 4:00 p.m. on October 17, 1985 unless authorized by the Captain of the Port. In addition no person may enter or remain within Safety Zone B between 2:00 p.m. and 4:00 p.m. on October 17, 1985 unless authorized by the Captain of the Port.

Dated: October 2, 1985.

C.W. Gray,

Captain, U.S. Coast Guard, Captain of the Port, Honolulu, Hawaii.

[FR Doc. 85–24286 Filed 10–9–85; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 165

[COTP Honolulu Regulation 85–01

Safety Zone Regulations; Mamala Bay, HI

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a 3,000 by 24,000 foot rectangular safety zone offshore of Honolulu, Oahu, Hawaii. This zone is needed to protect spectators and performers during the Blue Angels Air Show. Entry into the zone is prohibited, unless authorized by the Captain of the Port, Honolulu, Hawaii.

EFFECTIVE DATE: This regulation becomes effective on October 19, 1985 at 1:30 p.m. HST. It terminates the same day at 4:00 p.m. HST unless terminated sooner by the Captain of the Port.

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

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent injury or damage to persons and equipment incident to the air show.

Drafting Information

The drafters of this regulation are LT C.A. Crampton, Project Officer for the Captain of the Port, and LCDR S.R. Campbell, Project Attorney, Fourteenth Coast Guard District Legal Office.

Discussion of the Regulation

The event requiring this regulation is the U.S. Navy Blue Angels Air Show which will occur offshore of Honolulu between 2:00 p.m. and 4:00 p.m. October 19, 1985. This safety zone is necessary because of the low altitude requirement for the aircraft during the show.

This regulation is intended to minimize the hazard to personnel, vessels, and aircraft participating in and around the air show. While establishment of this zone will restrict watersports and vessel operations during the short duration of the show, the zone has been selected so that public viewing of the show and the safety of persons, aircraft, and vessels are maximized.

List of Subjects in 33 CFR Part 165

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

PART 165—[AMENDED]

33 CFR 165 is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

2. In Part 165, a new § 165.T1401 is added as follows:

§ 165.T1401 Mamala Bay, Hawaii.

(a) Location, the following area is a safety zone:

(1) Fixed Safety Zone A: All navigable waters within a rectangle offshore of Honolulu, HI. enclosed by the following positions: 21°15'32" N, 157°48'44" W; 21°15'08" N, 157°49'04" W; 21°17'31" N, 157°52'28" W; 21°17'55" N, 157°52'08" W.

(2) Fixed Safety Zone B: All navigable waters within a rectangle offshore of Honolulu, HI. enclosed by the following positions: 21°15'44.6" N, 157°49'55.2" W; 21°16'55.5" N, 157°51'39" W; 21°17'19" N, 157°51'18" W; 21°16'07" N, 157°49'36" W.

(b) Regulations:

(1) In acordance with the general regulations in § 165.23 of this part, no vessel may enter or remain within Safety Zone A between 1:30 p.m. and 4:00 p.m. on October 19, 1985 unless authorized by the Captain of the Port. In addition no person may enter or remain within Safety Zone B between 1:30 p.m. and 4:00 p.m. on October 19, 1985 unless authorized by the Captain of the Port.

Dated: October 2, 1985.

C.W. Gray,

Captain, U.S. Coast Guard, Captain of the Port, Honolulu, Hawaii.

[FR Doc. 85–24284 Filed 10–9–85; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 165

[COTP Honolulu Regulation 85–03]

Safety Zone Regulations; Mamala Bay, HI

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a 3,000 by 10,000 foot rectangular safety zone offshore of

Barbers Point, Oahu, Hawaii. This zone is needed to protect spectators and performers during the Blue Angels Air Show. Entry into the zone is prohibited, unless authorized by the Captain of the Port, Honolulu, Hawaii.

EFFECTIVE DATE: This regulation becomes effective on October 20, 1985 at 2:00 p.m. HST. It terminates that same day at 4:00 p.m. HST, unless terminated sooner by the Captain of the Port.

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

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent injury or damage to persons and equipment incident to the air show.

Drafting Information

The drafters of this regulation are LT C.A. Crampton, project officer for the Captain of the Port, and LCDR S.R. Campbell, Project Attorney, Fourteenth Coast Guard District Legal Office.

Discussion of the Regulation

The event requiring this regulation is the U.S. Navy Blue Angels Air Show which will occur offshore of Barbers Point between 2:00 p.m. and 4:00 p.m. October 20, 1985. This safety zone is necessary because of the low altitude requirement for the aircraft during the show.

This regulation is intended to minimize the hazard to personnel, vessels, and aircraft participating in and around the air show. While establishment of this zone will restrict watersports and vessel operations during the short duration of the show, the zone has been selected so that public viewing of the show and the safety of persons, aircraft, and vessels are maximized.

List of Subjects in 33 CFR Part 165

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

PART 165—[AMENDED]

33 CFR 165 is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. In Part 165, a new § 165.T1403 is added as follows:

§ 165.T1403 Mamala Bay, Hawaii.

(a) Location, the following area is a safety zone:

(1) Fixed Safety Zone A: All navigable waters within a rectangle offshore of Barbers Point, HI, enclosed by the following positions: 21°18'08" N, 158°04'16" W; 21°17'24.5" N, 158°02'52" W; 21°17'51" N, 158°02'36.8" W; 21°18'14" N, 158°03'20" W.

(2) Fixed Safety Zone B: All navigable waters within a triangle offshore of Barbers Point, HI, enclosed by the following positions: 21°18'08" N, 158°04'16" W; 21°17'52.5" N, 158°03'46.8" W; 21°18'12.7" N, 158°03'34.8" W.

(b) Regulations:

(1) In accordance with the general regulations in § 165.23 of this part, no vessel may enter or remain within Safety Zone A between 2:00 p.m. and 4:00 p.m. on October 20, 1985 unless authorized by the Captain of the Port. In addition no person may enter or remain within Safety Zone B between 2:00 p.m. and 4:00 p.m. on October 20, 1985 unless authorized by the Captain of the Port.

Dated: October 2, 1985.

C.W. Gray,

Captain, U.S. Coast Guard, Captain of the Port, Honolulu, Hawaii.

[FR Doc. 85-24285 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-14-M

---

33 CFR Part 165

[COTP San Francisco Regulation 85-08]

Safety Zone Regulations; San Francisco Bay

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The U.S. Navy and the City of San Francisco coordinate an annual "Fleetweek" event on San Francisco Bay in which a parade of 13 vessels sail into San Francisco Bay. This parade of vessels is accompanied by a low level air show along the San Francisco Waterfront, parachute jumpers, and a fireworks display. In order to preserve the safety of Fleetweek participants and spectators, the Captain of the Port San Francisco is establishing three safety zones along the San Francisco waterfront for this year's events scheduled for 11, 12 and 14 October 1985. Entry into these zones is prohibited without the permission of the Captain of the Port.

EFFECTIVE DATES: These regulations are effective on 11 October 1985 between 11:00 a.m. and 12:30 p.m. PDT, on 12 October 1985 between 10:30 a.m. and 1:00 p.m. PDT and on 14 October 1985 between 9:30 p.m. and 11:00 p.m. PDT.

FOR FURTHER INFORMATION CONTACT: LTJG Steven J. Boyle, MSO San Francisco Bay, (415) 437-3073.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent danger to persons and property.

Drafting Information

The drafters of this notice are LTJG Steven J. Boyle, Project Officer, MSO San Francisco Bay, and CDR W.H. Norris, Project Attorney, Twelfth Coast Guard District Legal Office.

Discussion of Regulation

The events requiring this regulation will begin at approximately 10:30 a.m. PDT, 12 October 1985 with a parade of one Coast Guard and 12 Navy ships proceeding inbound from the San Francisco Bay main bar channel. The vessels will sail in two parallel columns into San Francisco Bay with the lead vessel crossing under the Golden Gate Bridge at approximately 10:45 a.m. PDT. The vessels will be spaced about 400 yards apart and proceeding at about 10 knots through the water. The parade of ships will sail along the San Francisco waterfront and pass under the San Francisco-Oakland Bay Bridge at approximately 11:30 a.m. PDT. The parade of ships will then disperse to their respective moorings.

The Navy ships proceedings through the Bay in column formation require unobstructed waters for safe navigation and to maintain a column formation.

The Navy's Special Boat Unit 11 will be operating off Crissy Field, Marina Green, and Aquatic Park just prior to the arrival of the parade of ships. The Navy has also tentatively scheduled a special parachute jumping demonstration off Aquatic Park just after the passage of the parade of ships.

An aerial demonstration by the U.S. Navy Blue Angels is expected to take place immediately after the parade of ships have cleared the area off Aquatic Park and the parachute jumpers have been removed from the waters. The demonstration will center on a flight line between Fort Point and Pier 39, San Francisco, with aircraft flying as low as 100 ft. above the water. The Blue Angels

will stage a practice demonstration on 11 October 1985. Safety Zones are needed to ensure that other vessels remain safely away from the Navy vessels and aircraft participating in this event. The Blue Angels require a clear area along their flight line for navigational reference. Two Coast Guard vessels will be stationed within the clear area along the flight line to serve as reference points for the pilots. The aircraft will fly at extremely low altitudes above the water which requires that vessels be kept clear for their own safety as well the safety of the aircraft and their pilots.

The safety zone proposed for the Blue Angels demonstration will temporarily restrict access to some marinas and commercial docks. This restriction may result in some inconvenience to vessels berthed within the safety zone. All efforts have been made to minimize this inconvenience by limiting the duration and size of the zones as much as possible, consistent with safety requirements.

Vessels moored within the safety zone established along the north San Francisco waterfront for the Blue Angels aerial demonstration will not be authorized to get underway during the time the safety zones are in effect. Vessel operators are strongly advised to move their vessels prior to the effective time to avoid transiting the zones.

A safety zone will also be established for a fireworks display scheduled for the evening of 14 October 1985. Fireworks will be launched from a barge anchored just off Pier 30–32. Falling debris or undetonated fireworks could pose a hazard to vessels in the immediate vicinity of the barge and all vessels are advised to remain well clear.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (Water), Security measures, Vessels, Waterways

Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191, 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

2. A new § 165.T1208 is added to read as follows:

165.T1208 Safety Zones: San Francisco Bay Fleetweek Activities.

a. Locations. The following areas are Safety Zones:

(1) The waters of San Francisco Bay between Fort Point and Pier 39, San Francisco, from the shoreline out to 1000 yards, on 11 October 1985 from 11:00 A.M. to 12:30 P.M. PDT and on 12 October 1985 from 10:30 A.M. to 1:00 P.M. PDT.

(2) The waters surrounding two parallel columns of one Coast Guard and 12 Navy ships proceeding inbound at a speed of 10 knots from the Golden Gate Bridge, along the San Francisco city front, to the San Francisco-Oakland Bay Bridge on 12 October 1985 from 10:30 A.M. to 11:30 A.M. PDT. This is a moving safety zone and extends 400 yards ahead of the lead vessel to 200 yards astern of the last vessel and 200 yards to either side of each column of vessels in the parade including all the waters between the vessels.

(3) The waters surrounding a barge anchored 200 yards off Pier 30–32 San Francisco, CA. This safety zone extends 200 yards around the barge used for launched fireworks on 14 October 1985 from 9:30 P.M. to 11:00 P.M. PDT.

b. Regulations:

(1) In accordance with the general regulations in § 165.23 of this part, entry into these zones is prohibited unless authorized by the Captain of the Port, San Francisco Bay.

(2) Vessels berthed in the stationary zones established in paragraph (b)(1) of this section not authorized to navigate within the zones during the time they are in effect.

(3) All vessels are prohibited from passing between the U.S. Navy ships in formation or otherwise entering the safety zone established in paragraph (b)(2) of the section.

Dated: September 30, 1985.

Harvey G. Knuth,

Commander, U.S. Coast Guard, Alternate Captain of the Port, San Francisco Bay.

[FR Doc. 85-24287 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA ACTION MO 1731; A-7-FRL-2908-7]

Approval and Promulgation of State Implementation Plans; Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This document takes final action to approve a new regulation as part of the Missouri State Implementation Plan. The new regulation requires the controlling of emissions during episodes of high air pollution potential. It is a consolidation of four rules which dealt with episodes in four geographic areas of the state. The new replacement rule applies statewide. Regulations controlling emissions during episodes are required as part of the state plan by the Clean Air Act. Federal approval means the rule will be enforceable by EPA as well as by the state.

EFFECTIVE DATE: This action will be effective December 9, 1985 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Comments should be sent to: Daniel J. Wheeler, Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101. A copy of the state's submission is available for review at the above address and at the Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC, The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC, and the Missouri Air Pollution Control Program, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler at (913) 236–2893, (FTS) 757–2893.

SUPPLEMENTARY INFORMATION: On January 22, 1985, the State of Missouri submitted to EPA a new regulation as a revision to the state's plan to attain the National Ambient Air Quality Standards. This regulation is state rule 10 CSR 10–6.130, "Controlling Emissions During Episodes of High Air Pollution Potential." It was adopted by the Missouri Air Conservation Commission on August 23, 1984, after proper public notice and a public hearing held on July 26, 1984.

The new rule consolidates and replaces on a statewide basis four existing rules that each pertained to a specific area of the state. Those four rules (10 CSR 10–2.170, 3.110, 4.160, and 5.260, all entitled "Rules for Controlling Emissions During Periods of high Air Pollution Potential") have been rescinded by the state.

Section 110(a)(2)(F) of the Clean Air Act requires states to have emergency authority and contingency plans to implement such authority. This requirement is detailed in 40 CFR 51.16 and explained in Appendix L of Part 51

The Missouri State Implementation Plan (SIP) contains episode plans, as required, and was previously approved with respect to this requirement. The state's consolidation of the implementing regulations represents no substantial change in the SIP because the new rule is substantially similar to the rules it replaces.

An episode plan should provide for taking steps to prevent air pollution from reaching levels that could cause significant harm to human health. It should specify two or more levels of episode criteria below significant harm, provide for public announcement whenever any episode level has been reached, and require adequate emission control actions at each level.

The new state rule includes these basic requirements, as did its predecessors. Other episode plan requirements in 40 CFR 51.16, such as source inspections and communications procedures, continue to be satisfied by other portions of the previously approved state episode plan. Therefore, EPA's review of 10 CSR 10–6.130 finds that it is approvable as part of the SIP.

This state submission constitutes a proposed revision to the Missouri SIP. The Administrator's decision to approve this submission is based on a determination that the revision meets the requirements of section 110 of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes this action is noncontroversial and is approving it without prior proposal. The public is advised that this action is effective 60 days after publication unless we receive written notice within 30 days from today that someone wishes to submit adverse or critical comments. In such case, this action will be withdrawn and rulemaking will commence again by announcing a proposal of this action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals, for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements.

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

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities.

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference.

Dated: October 3, 1985.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1320 is amended by adding a new paragraph (c)(54) as follows:

§ 52.1320 Identification of plan.

* * * * *

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

* * * * *

(54) A new rule, Controlling Emissions During Episodes of High Air Pollution Potential, was submitted by the Department of Natural Resources on January 22, 1985.

(i) *Incorporation by reference.* 10 CSR 10–6.130, Controlling Emissions During Episodes of High Air Pollution Potential, adopted by the Missouri Air Conservation Commission and effective on October 11, 1984.

(ii) *Additional material.* The State has rescinded rules 10 CSR 10–2.170, 3.110, 4.160, and 5.260, all entitled "Rules for Controlling Emission During Periods of High Air Pollution Potential."

[FR Doc. 85–23981 Filed 10–9–85; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 180

[PP 0F2413, 3F2793/R791; PH–FRL 2909–7]

Thiodicarb; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide thiodicarb and its metabolite in or on the raw agricultural commodities cottonseed and soybeans. This regulation to establish the maximum permissible level for residues of this insecticide in or on these commodities was requested by Union Carbide Agricultural Products Co., Inc.

EFFECTIVE DATE: October 10, 1985.

ADDRESS: Written objections, identified by the document control numbers [PP 0F2413, PP 3F2793/P791] may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Environmental Protection Agency, 401 M St. SW., Washington, D.C., Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a proposal, published in the **Federal Register** of July 3, 1985 (50 FR 27463), which proposed that tolerances be established for residues of the insecticide thiodicarb (dimethyl *N,N'*-[thiobis [(methylimino)carbonyloxy]]bis [ethanimidothioate]) and its metabolite in or on cottonseed at 0.4 part per million (ppm) and soybeans 0.2 ppm.

The Agency's proposals to (1) issue tolerances on certain agricultural commodities and (2) issue feed additive regulation published in the **Federal Register** of July 3, 1985, requested comments from interested parties, including the general public.

The Agency received comments from seven interested parties. Four of the commenters responded favorably to the establishment of tolerances for thiodicarb. Three commenters responded in opposition to the establishment of the proposed feed additive tolerances for thiodicarb. For the Agency's response to the comments received, see the companion regulation establishing the feed additive tolerances, which appears elsewhere in this issue of the **Federal Register.**

Based on a review of the data cited in the July 3, 1985 proposed rules and on the comments submitted in response to the proposed rules, the Agency has determined that the requested tolerances for residues of thiodicarb in or on cottonseed at 0.4 ppm and soybeans at 0.2 ppm are appropriate and that these levels will protect the public health. Therefore, the tolerances are established as set forth below.

Elsewhere in this issue of the **Federal Register**, the Agency is issuing a final rule establishing a feed additive regulation for residues of thiodicarb in

or on cottonseed hulls and soybean hulls.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164 (5 U.S.C. 601–612)), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 2, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. By amending § 180.407 by adding and alphabetically inserting the raw agricultural commodities cottonseed and soybeans, to read as follows:

§ 180.407 Thiodicarb; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cottonseed	0.4
Soybeans	0.2

[FR Doc. 85-24270 Filed 10-9-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 84-800; FCC 85-527]

Authorized Rates of Return for Interstate Services of AT&T and Exchange Telephone Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action establishes enforcement policies related to a carrier's authorized rate of return and amends Part 69 of the Commission's Rules to create a calendar year access tariff year beginning in 1987. This action is taken by the Commission to balance the interests of ratepayers and investors by promoting just and reasonable rates. This action will establish an enforcement mechanism to ensure just and reasonable rates without imposing excessive burdens or costs on the carriers or the Commission.

EFFECTIVE DATE: September 30, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Goodman, Common Carrier Bureau, (202) 632-0745.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 69

Access charges, Communications common carriers, Exchange carrier association, Revenue pooling, Tariffs, Telephone.

Proposed rulemaking was published in the **Federal Register** on August 17, 1985, at page 32871, and Supplemental proposed rulemaking was published in the **Federal Register** on August 21, 1985 at page 33786.

Report and Order

In the matter of Authorized Rates of Return for the Interstate Services of AT&T Communications and Exchange Telephone Carriers; CC Docket No. 84-800, Phase I.

Adopted: September 27, 1985.

Released: September 30, 1985.

By the Commission: Commissioner Dawson dissenting in part and issuing a separate statement at a later date; Commissioner Patrick issuing a separate statement at a later date.

I. Introduction

1. In this phase of the proceeding, we address the maximum allowable rates of return and enforcement procedures for the regulated interstate activities of AT&T Communications (ATTCOM) and the interstate access services of local exchange carriers (LECs). In a Supplemental Notice of Proposed Rulemaking (*Supplemental NPRM*) adopted August 7, 1985,[1] we set forth our tentative conclusions on the refund obligation of carriers earning in excess of the ceiling, and the interim ceiling which should apply to ATTCOM and the LECs pending represcription of rates of return. In Phase II of this proceeding, we will address the procedures for represcribing the authorized rates of return.

2. In the *Supplemental NPRM*, we concluded that the maximum allowable rate of return should be determined by adding a fixed increment to the authorized or target rate of return. For the LECs, we proposed continuation of the ¼ of 1% increment adopted in the most recent rate of return proceeding for the former integrated Bell system.[2] For AT&T, we set forth two alternatives—use of a ¾ of 1% increment with returns measured on a one-year basis; or use of a ½ of 1% increment with returns measured on a two-year basis. The *Supplemental NPRM* additionally specified the level of service aggregation to be utilized in reviewing earnings. For AT&T, the *Supplemental NPRM* proposed to review earnings by the categories in the Interim Cost Allocation Manual (ICAM).[3] For the LECs, we concluded that earnings should be reviewed access element by access element at the same jurisdictional aggregation as the tariffs filed by the carriers. Finally, the *Supplemental Notice* explained the manner in which refunds would be required, should a carrier's earnings exceed the maximum allowable rate of return.

3. A great deal of comment was submitted in response to the *Supplemental NPRM*, with 32 parties filing comments and 23 parties filing

[1] Authorized Rates of Return for the Interstate Services of AT&T Communications and Exchange Telephone Carriers, CC Docket No. 84-800, 50 FR 33786 (August 21, 1985).

[2] American Telephone and Telegraph Company, CC Docket No. 79-63, 86 FCC 2d 221 (1981).

[3] The *Supplemental NPRM* additionally proposed a temporary waiver of the separate MTS and WATS categories for purposes of monitoring compliance with the rate of return ceiling and remedying any violations.

reply comments.[4] After reviewing the record in this proceeding, we have decided to adopt most of our tentative conclusions set forth in the *Supplemental NPRM*, although we are modifying our proposals to some extent. We believe that the enforcement policies we are adopting today best balance the competing interests of the ratepayers and the telephone company investors.

II. Amount and Use of an Increment Above the Target Rate of Return

4. Some of the comments filed in response to the *Supplemental NPRM* demonstrate a failure to understand what we are doing in this phase of the proceeding. We did not propose to raise the interim rate of return of any of the carriers.[5] Rather, we find that the carriers should continue to use the return prescribed in Docket 79–63, pending represcription according to the procedures to be adopted in Phase II.[6] Both AT&T and the LECs must target their tariffs to earn no more than 12.75%, and we intend to scrutinize their tariff support material carefully to ensure compliance with this requirement.

5. Nor was it our intent in this phase to examine the relative riskiness of the carriers. In setting the increment, we are attempting to define the range of earnings which do not trigger the refund mechanism. There are two reasons that underlie use of a range about the prescribed rate of return. First despite the appearance of scientific exactitude, there is no constant, single point which represents the carriers' exact cost of capital during the period of the prescription. Rather, there will inevitably be some movement as interest rates, market conditions and investors' perceptions change over time. Applying a range for enforcement purposes expressly recognizes that fluctuations do occur in the cost of capital. Second, a range is utilized administratively because of exogenous changes that affect the carrier's interstate earnings.[7] Carriers are unable to target their earnings with precision due to their dependence on demand forecasts which hinge on the state of the economy and other similar unpredictable factors. Disallowing any earnings "peaks," while ignoring the "valleys," would tend to induce a systematic bias that would cause a carrier to fall short of its targeted rate of return over the long run. Such a situation is not in the interests of shareholders or in the long run interest of ratepayers.

6. In setting the increments for AT&T and the LECs, our judgment is primarily based on our perceptions of the changes in the underlying level of fluctuations in earnings and cost of capital since our last prescription. While risk and the fluctuations are somewhat interrelated, we are not evaluating the relative riskiness of LECs vis-a-vis ATTCOM in this phase of the proceeding. Rather, we will carefully examine the risks facing both ATTCOM and the LECs in the context of represcribing the target rate of return. At present, we are adopting the increment which when added to the authorized rate of return establishes the maximum return that carriers may earn.

7. In the *Supplemental NPRM*, we tentatively concluded that the spread should stay fixed and not be subject to revision whenever the target return is reviewed. FEA suggests that the increment should be revisited as part of the Commission's regular rate of return proceeding. We think that adding an additional issue to the rate of return proceedings is unnecessary, complicating and potentially delaying. We will, over time, review the fluctuations experienced by the carriers and determine whether circumstances have changed sufficiently to justify contracting or expanding the increments we are adopting today. We do not intend, however, to incorporate the increment as an issue to be addressed in the represcription proceedings we will establish in Phase II.

8. For ATTCOM, the *Supplemental NPRM* proposed either a 50 basis points or 75 basis points increment, depending on whether earnings were measured over a one-year or a two-year period. AT&T, in its comments, continues to ask for at least a 300 basis point spread (with a request for an unspecified increase if returns are measured on less than an overall interstate jurisdictional basis). AT&T supports its requests with evidence of increased variability in earnings since 1984 when measured either on monthly or quarterly bases. In addition, AT&T refers to financial and cost characteristics, such as operating leverage, which it contends should cause ATTCOM to experience greater earnings volatility in the future. In contrast, US West's expert demonstrates that ATTCOM has exhibited a significantly lower operating leverage than that experienced by US West.[8]

9. The fluctuations experienced by a carrier are relevant insofar as they affect the carrier's ability to earn at its authorized level over time. That ability is a function of both the spread and the time period over which earnings are measured, since both can allow the "peaks" to be offset by "valleys." We have concluded that for ATTCOM, a 50 basis point spread with earnings measured for each ICAM category (with MTS and WATS being merged on a temporary basis)[9] over a two-year period will provide a sufficient range to accommodate fluctuations in ATTCOM's cost of capital, as well as to provide a fair opportunity for ATTCOM to earn its allowed rate of return over time.[10] The monthly and quarterly

---

[4] A list of the commenting parties is attached as Appendix A.

[5] *E.g.*, ICA Comments, p. 8; Reply Comments, p. 2.

[6] The comments of ICA suggest that the Commission should immediately lower the LECs authorized return to 11.75% from 12.75%, and expeditiously review ATTCOM's rate of return with an eye to lowering it. Having reviewed the record in this proceeding, we conclude that we should continue utilizing the interim target of 12.75% for both ATTCOM and the LECs pending represcription. While some evidence in the record supports a somewhat lower return for the LECs (*i.e.*, the NTIA Survey), other evidence supports a higher return (*i.e.*, the comments filed by the regional Bell Operating Companies (RBOCs)). There are flaws in both sets of numbers. *See e.g.*, Bell Atlantic Reply Comments pp. 10–12; Supplemental NPRM at fn. 10. We believe, however, that the record allows us to conclude that continuation of the interim target will harm neither the public nor the phone companies' investors while a better record is compiled through the procedures established in Phase II.

[7] NYNEX asserts an additional function or benefit of use of a range—incentives for the introduction of efficiencies. We reject their contention that use of a 25 basis point increment on the overall earnings of LECs is an elimination of the incentive for carriers to implement new efficiencies. Even without any increment, a carrier has incentives to devise cost cutting actions. First, such actions would serve to lower the carrier's risk and effectively lower its cost of capital. Regulatory lag, however, would delay measuring the new cost of capital for some period of time, allowing the investors to reap the benefits of the improved performance. Second, the successive introduction of more efficient production techniques would tend to eliminate the earnings "valleys" and increase the likelihood of the carrier earning its authorized return over time.

[8] US West Reply Comments, Statement of Peter C. Cummings.

[9] AT&T contends that ICAM categories should not be utilized since the ICAM was not designed "as a rate of return constraint." AT&T Comments, p. 15. We reject their argument that we cannot use the ICAM categories for measuring earnings for refund purposes. As we noted in adopting the ICAM, "the results of the cost allocation manual will be the basis for determination of the rate of return of the reporting categories." American Telephone and Telegraph Company, CC Docket No. 79–245, 84 FCC 2d 384, 408 (1981). We recognize that the manual is not flawless, as our waiver of the MTS and WATS equalization requirement demonstrates. However, we believe the ICAM is a sufficiently accurate and valuable tool that it should be used for measuring earnings and ordering refunds for the remaining two categories.

[10] We believe that the approach we are adopting better balances ratepayer and investor interests than our alternate proposal of a 75 basis point increment measured over a single year.

fluctuations, while of some interest, do not convince us of the need for a greater increment. As we noted previously, much of the fluctuation is due to seasonal and other short run factors as well as divestiture true-ups and other retroactive accounting adjustments which disappear when earnings are examined over a full year, and which should diminish as ATTCOM and the LECs continue to improve their accounting systems. Moreover, we will examine ATTCOM's earnings on a two-year basis, which further minimizes the impact of monthly or quarterly fluctuations. With respect to ATTCOM's evidence on financial characteristics, we believe it too speculative to support the need for a greater spread presently. We will, of course, examine both ATTCOM's and the LECs' earnings and cost of capital fluctuations in the future in order to evaluate the continued reasonableness of the increments we are adopting today. We conclude, however, that for ATTCOM an increment of ½ of 1% measured over a two-year period for each of the two ICAM categories separately, will suffice.

10. Several parties objected to our proposal to suspend the equalization requirement for the separate WATS and MTS categories.[11] The commenting parties suggest that if the problem lies in the lack of peak and off-peak pricing in the ICAM, then we should simply amend the ICAM. Ideally, we would like to adopt a costing methodology that balances both equity and economic efficiency. Unfortunately, we do not have sufficient information to prescribe a peaking adjustment at this time. The ICAM's original purposes would be frustrated if we use an unadjusted allocation while we develop that information. We believe it would not benefit the consumers or investors to utilize a flawed allocation manual as a measure of the relative earnings between AT&T's switched services.[12]

11. Some parties criticize our temporary suspension of this ICAM requirement for two reasons. First, they assert that we are effectively abandoning regulation of ATTCOM's MTS/WATS pricing, and that predation and/or cross-subsidization will result.[13] Such a concern is ill-founded. As is the case with individual private line services, while earnings on a retrospective basis will be examined with respect to the entire MTS and WATS ICAM category, ATTCOM is still required to justify the reasonableness of each tariff that is filed for each individual service.[14] While the cost standards for ATTCOM's switched services are still evolving,[15] we have often demonstrated our intent to preclude predatory pricing (and concomitantly cross-subsidization).

12. The second argument made by commenting parties is that our temporary suspension of the equalization requirement for MTS and WATS is at odds with the Court's vacating of our *Like Service* decision.[16] Our decision to grant a waiver is not premised on the finding that MTS and WATS, or 800 Service and AT&T WATS are "like services." Rather, we think that the ICAM may not accurately allocate costs between the broad ICAM switched services categories. To the extent that the parties raise legitimate questions regarding differences between the two WATS services, and ATTCOM's varying market power with regard to different switched services, we will address those questions in the context of particular tariff proceedings or other rulemaking proceedings.

13. For the LECs, the *Supplemental NPRM* proposed a 25 basis point spread measured on an access element-by-access element basis, at the same level of jurisdictional aggregation as the carrier's tariffs. This proposal was uniformly criticized by the exchange carriers.[17] The LECs argue that for numerous reasons, they are unable to target their earnings accurately on such a disaggregated basis. In particular, they cite to the impossibility of forecasting accurately bypass, Commission changes to separations and Part 69, and changes resulting from updated separations studies. Moreover, they argue that the exchange carriers experienced wide variations in earnings on an access element-by-access element basis, and that the Commission's proposal would result in refunds under circumstances even when the carrier was substantially below its authorized rate of return.[18] Finally, the carriers argue that such a program, with the mid-course tariff corrections envisioned by the Commission, would create an administrative quagmire.

14. After reviewing the comments, we have decided that some modifications in our proposal would be desirable. Claims that exchange carriers as well as interexchange carriers will inevitably experience greater difficulty in targeting rates in the post-divestiture environment appear to be well founded. Nevertheless, we do not believe that results in the immediate post-divestiture environment reflect the normal range of targeting error that shoud be expected in the future. Some modest changes in our original proposal should enable a carrier that makes a conscientious effort to implement the access charge plan to earn its authorized return.

15. We have decided to use a two year rather than a one year period to measure compliance with a rate of return prescription. This should significantly reduce the risk of targeting error and the risk that frequent rate changes might be required to remain with the allowable return range.

16. The use of a two year period may not be sufficient to enable carriers to target individual access elements within 25 basis points. We do not believe, however, that we can entirely eliminate element-by-element refunds without undermining some of the purposes of the access charge plan. That plan was designed in part to change the relationship among rates for end user services in order to reduce discrimination and preferences within the existing rate structure. We required that each element be targeted separately in order to further that purpose. The same considerations that led us to require that elements be targeted to earn the same return generally require element-by-element refunds. The three end office or switching elements—Line Termination, Local Switching and Intercept—are, however, so closely related that we have decided that it

[11] ADAPSO Comments, pp. 3–9; Ad Hoc Reply Comments, pp. 12–15; Arinc Reply Comments, pp. 2–8; MCI Comments, pp. 2–7; SBS Comment, pp. 3–5.

[12] In contrast, we believe the ICAM allocates costs between AT&T's private line and switched services with reasonable accuracy. Thus, it is in the public interest to continue to rely on the ICAM to examine separately the earnings of ATTCOM's private line services as a whole.

[13] *E.g.*, MCI; SBS; Arinc; ADAPSO.

[14] As we stated in adopting the ICAM, "our use of aggregated reporting categories neither constitutes a waiver of the requirement to support individual tariff filings nor an intent on our part to abandon our responsibility to evaluate such filings." AT&T, 84 FCC 2d 384, 396 (1981). *See also*, § 61.38 of the Commission's Rules, 47 CFR 61.38.

[15] Guidelines for Dominant Carriers' MTS Rates and Rate Structure Plans, 50 FR 1811 (January 14, 1985).

[16] Ad Hoc Telecommunications Users Committee v. FCC, 680 F.2d 790 (D.C.Cir. 1982).

[17] Pacific; US West; Southwestern; Bell Atlantic; Ameritech; GTE; NYNEX; BellSouth; Anchorage Telephone Utility; CP National; Centel; Contel; Elkhart and Fidelity; Fort Bend; NECA; Rochester; Rural Telephone Coalition; Southern New England; Taconica; U.S.T.A.; United; Waitsfied Fayston and Granite State; Cincinnati; ALLTEL, *cf.*, SBS Comments, p. 2; Ad Hoc Reply Comments, pp. 15–22; FEA Reply Comments, pp. 2–3; ICA (lower return to 11.75%); Florida PSC (use 1% range on return on equity).

[18] For example, Ameritech states that Ohio Bell's total interstate return for the 12-month period ending May 31, 1985 would have fallen from 8.41% to 7.84% if the Commission's element-by-element refund plan was utilized. Bell Atlantic claims its return would sink from 11.52% to 10.38%

would be appropriate to treat them as a single category for purposes of measuring compliance with the rate of return prescription and impelementing any refund requirement.

17. Although we are requiring that most refunds be made on an element-by-element basis, the comments have persuaded us that it would be more equitable to take the total access return into account in determining when refunds will be required.[19] For the 1987–88 and subsequent two year periods we will require refunds for each category that exceeds the target return by 25 basis points if the overall access returns exceeds the target returns by 25 basis points. If the overall access return does not exceed the target return by 25 points, we will require refunds for each category that exceeds the target return by 40 basis points.[20] We believe that it is desirable to retain a refund requirement for such targeting errors even though this may prevent a carrier from earning its overall authorized return in order to encourage all carriers to target as accurately as possible.

18. Our modifications to the initial proposal meet the concerns raised by the LECs while still protecting consumers. The exchange carriers, with the longer evaluation period, broader range for individual categories and somewhat higher level of aggregation, will receive the opportunity to earn their authorized return, since our enforcement program will, within reason, make adequate allowance for "peaks" and "valleys." Moreover, with a two-year evaluation period carriers are afforded the opportunity to make mid-course corrections as part of the regular annual access tariff filing without creating problems of tariff churn or generally creating an administrative quagmire.[21] Consumers remain protected, however, because the refund mechanism will preclude exchange carriers from earning excessively with respect to the particular bundle of services purchased by customers.

19. While we are modifying our proposal in response to the LECs' comments, we must reject two other arguments that were proffered in the comments. Several exchange carriers assert that they should receive the same increment as ATTCOM,[22] and claim that the Commission's proposal to review earnings at the same jurisdictional level as the tariffs will lead to carriers filing a single tariff for all of their operating companies.[23] It is not our intent to influence carriers to file single versus multiple tariffs. The carriers will continue to have the latitude to elect the level of geographic aggregation that comports with each carrier's forcecasting ability. Each carrier will thus be able to balance its ability to target rates by study area and the advantages that are derived from rates that more closely match costs, with the ability to offset one state's "peaks" with another state's "valleys."

20. With respect to the claim that the LECs should receive the same spread as ATTCOM, we continue to perceive there to be significant distinctions which warrant different increments. As ATTCOM observes in its comments, there are numerous differences in its financial characteristics.[24] In addition, we believe that ATTCOM faces more competition than the LECs, which should cause greater fluctuations in its earnings and cost of capital. Moreover, we anticipate that the difference in levels of competition will be magnified over time. While it is true that exchange carriers face competition in the form of uneconomic bypass, it is our firm belief that those risks will diminish over time as we move to a more rational pricing scheme with further implementation of our access charge plan. In contrast, we expect that the implementation of equal access will continue to increase competition in the interexchange market.

21. While we are adopting a two-year earnings review period, we agree with Bell Atlantic that it makes sense to tie the review period for the LECs to the same time when a rate of return prescription and tariff "test years" are in effect.[25] We are adopting our proposal to move back to a calendar year access year beginning January 1, 1987. Thus, we believe that for the initial period of review we should review the earnings of the LEC's over the period from June 1, 1985 to December 31, 1986. In light of the somewhat shorter period of review than two years, we will expand by 10 basis points the increments during this transition.[26] Thus, LECs may earn up to 13.25% on any of the categories without triggering a refund so long as its overall return for this period is less than 13.10%. For ATTCOM, there does not appear to be the same problem of matching the review period with a "test year" different from the calendar year. Thus, we intend to review ATTCOM's earnings for the two-year period from January 1, 1985 to December 31, 1986, and will require refunds of earnings in excess of 13.25% for either the private line or combined MTS and WATS ICAM categories.

22. We expressed our tentative conclusion in the *Supplemental NPRM* that we should not prescribe a minimum return requirement. We also noted that carriers would be free to target categories below the target rate as long as the same target was utilized for all of the carrier's categories. Several carriers suggested that the Commission should prescribe a floor which would serve as a trigger point for a carrier revising its rates upward.[27] We do not believe such a procedure to be necessary. We expect that carriers will protect adequately the interests of their investors and file revised tariffs if they believe their earnings are falling too far below the authorized level.

III. Refund Mechanism

23. Many of the commenting carriers assert that the Commission lacks authority to implement an automatic refund procedure.[28] Several parties contend that the Commission does not have legal power to require refunds retroactively absent an investigation into the lawfulness of the tariffs and imposition of an accounting order. Other carriers argue that even assuming that

[19] Support for such a mechanism is provided by, *e.g.*, Bell Atlantic Reply Comments, fn. 6 and Ad Hoc Reply Comments p. 19.

[20] If a carrier's overall return exceeds 13%, then refunds will be required for each of the categories earning in excess of 13%, regardless of whether the categories earned in excess of 13.15%. The amount of refund required for the category will be proportionate to the categories' earnings in excess of 13%. Categories earning under 13% would not be subject to refunds.

[21] In this regard, we expect that each carrier will revise its tariffs as necessary to ensure that the ceilings are not violated.

[22] *E.g.*, Bell Atlantic; Centel; Elkhart and Fidelity; GTE; US West; Southwestern; Pacific; Southern New England.

[23] *E.g.*, GTE; United; US West; Bell Atlantic; Southwestern Bell.

[24] AT&T Reply Comments, pp. 5–9.

[25] Bell Atlantic Comments, p. 13.

[26] A concern voiced by several parties relates to the need to two comprehensive access tariff filings in calender year 1986. It is clear that two filings will be necessary in light of the June 1, 1986 effective date for the subscriber line charge increase to $2 per month for residential and single-line business customers. If we adopt the Joint Board recommendation for the direct assignment of WATS closed ends on June 1, 1986, we will probably make some access charge rule revisions effective at the same time. In addition, the mid-1986 filing would be the only regularly scheduled opportunity for a carrier to file a "mid-course" correction. While it may be possible for the Commission to accept a somewhat less than comprehensive filing in mid-1986, we feel it is best to address that issue in the context of individual carrier requests for waiver of the access tariff filing rules. Such a procedure provides carriers the flexibility to determine in the first instance their need for a comprehensive filing, *e.g.*, United Reply Comments pp. 7–8, while at the same time affording the Commission a more complete record so it can determine what material must be filed.

[27] Contel; Cincinnati; Anchorage.

[28] *E.g.*, Pacific; GTE; Contel; Fort Bend; U.S.T.A.; Ameritech; NYNEX.

the Commission has the authority to require refunds, it cannot do so on an automatic basis but must do so as a discretionary matter after a hearing.

24. As we stated in the *Supplemental NPRM*, we expect that we will rarely, if ever, be necessary for us formally to invoke our refund remedies.[29] That is particularly true in light of our adopting a two-year earning review period which effectively requires carriers to make "mid-course" corrections. While it is our hope that we will never have to initiate specific enforcement proceedings, it is our conclusion that the Commission clearly has such power.[30] With one exception, each of the arguments made by the carriers that the Commission lacks such power were carefully considered and rejected in the 1978 Refund decision.[31] We need not repeat that analysis here.

25. The lone new argument raised by the LECs in this proceeding is that under the *Arizona Grocery* line of cases,[32] The Commission cannot require refunds because it has prescribed the access rates. We disagree with the parties' contention that the Commission prescribed the carriers' access tariffs. While Part 69 does, to some extent, specify the manner in which some of the access tariff elements shall be computed, the carriers retain a substantial degree of independence and flexibility. The Commission's actions in promulgating the Part 69 Rules fall far short of a prescription of charges.[33]

26. Several parties assert that there is a conflict between the Commission's automatic refund proposal and the discretionary nature of refunds. Those parties contend that with respect to the need for refunds, the Commission is required to look at the relevant factors and strike a reasonable accommodation among them.[34] In this instance, we have considered the relative equities and have sought in the refund mechanism that is contained herein to strike a balance between the interests of the shareholders and the interests of consumers.

27. We also believe that the exercise of our discretion is best utilized at this point in time, in this rulemaking proceeding. We have stated throughout this proceeding our desire to avoid an administrative quagmire. To add an additional level of administrative hearings to review the need for refunds on a case by case basis would add significant burdens to the Commission, the public and the carriers without providing much, if any, additional benefit to the carriers or to the public. Our refund mechanism has been carefully crafted to be triggered only after excessive earnings have been received by a carrier. We have, in response to the comments, modified our initial proposal to accommodate more fully the interests of investors. At the same time, we believe the public benefits from both the refunds of excessive returns, and the certainty and lack of delay inherent in the refund procedures we are adopting today.

28. The *Supplemental NPRM* described our initial proposal for a refund mechanism. Following the policy adopted in the *1978 Refund Order*, we determined that refunds could best be effectuated by a subsequent reduction in the revenue requirement for the category in which the carrier earned excessively. The amount of the reduction would be the amount of earnings that exceeded the maximum allowable rate of return. For the LECs, we proposed that refunds would occur in the access year following the discovery of the excessive earnings. For ATTCOM, we determined that a tariff reflecting a refund of excessive earnings should be filed within 60 days after the amount of excess earnings has been determined. We did not impose a mandatory "pass-through" filing by ATTCOM of LEC refunds, but instead suggested that we would review the need for such ATTCOM filings on a case-by-case basis. We also stated that interest would be computed from the end of the calendar access year in which excess earnings were realized to the middle of the initial annual period in which the rates are to be in effect to reflect that refund. The interest rate would be the maximum return which was in effect during the period of excess earnings.

29. Several parties criticized our proposal, and some offered alternatives. We have concluded, however, that except for one modification to reflect the two-year review period, we should adopt our initial proposal.

30. Several parties criticized our suggestion of requiring refunds to be given on a category-by-category basis for the specific category which overearned. The main reason that was advanced for rejecting the proposal is the problems that might arise because the wrong pricing signals, *i.e.*, deviation from cost, would occur in the year in which refunds were given. It was argued that incorrect pricing signals could exacerbate uneconomic bypass problems. One party proposed using the carrier common line charge as the refund mechanism, regardless of the source of the overearning.[35] US West suggested that excessive earnings should be used as an offset to the depreciation reserve deficiency.[36]

31. We continue to believe that a reduction in the revenue requirement for the particular category in a subsequent period would be the most equitable and efficient solution to the problem of refunds.[37] First, we believe it is imperative that the class of customers who were overcharged receive the benefit of the refund. Second, we must be mindful of the administrative costs incurred by the carriers and the Commission in refunding the money to the customers, and the burdens that would be imposed if an efficient mechanism did not exist for the restoration of excessive revenues to customers.

32. US West's proposal falls short on both counts. The depreciation reserve deficiency is not easily attributed or allocated to particular services or customers. Thus, it is not at all clear that the customers who were overcharged would be compensated. Moreover, calculating the existence or amount of a depreciation reserve deficiency is a complicated and controversial task. The Commission, however, would be required to make such detailed computations in order to know the amount of the deficiencies, because it would not inure to the benefit of the ratepayers to create a depreciation reserve surplus.

33. The other alternative, use of the carrier common line charge as the refund mechanism, must be rejected because it would not provide refunds to the same class of customers that were overcharged. While we did utilize that

[29] Supplemental NPRM, para. 26.

[30] This order, which is a continuing order under section 408 of the Communications Act, requires that carriers: (1) Automatically modify their tariff charges to stay below the target rate plus the applicable increment ("upper bound"); and (2) when the upper bound has been exceeded, that carriers automatically reduce their prospective revenue requirements by the amount of the overage plus accrued interest. Carriers are then obligated to file tariffs that implement those revenue requirement reductions as provided herein.

[31] AT&T Earnings on Interstate and Foreign Services during 1978, CC Docket No. 79-187, 49 FR 49502 (December 20, 1984).

[32] Arizona Grocery Co. v. Atchison, T. & S. F. Ry. Co., 284 U.S. 370 (1932).

[33] *See, e.g.*, Direct Marketing Association, Inc. v. FCC, No. 84-1249 (D.C. Cir.), Decided September 6, 1985; Consolidated Edison Co. v. FPC, 512 F.2d 1332 (D.C. Cir. 1975); Nat'l Ass'n of Motor Bus Owners v. FCC, 460 F.2d 561 (2d Cir. 1972); *Cf.*, Moss v. CAB, 430 F.2d 891 (D.C. Cir. 1970).

[34] Las Cruces TV Cable v. FCC, 645 F.2d 1041 (D.C. Cir 1981).

[35] United Comments, p. 20.

[36] US West Comments at p. 16. This suggestion was supported by Pacific and United in their reply comments.

[37] There are over one-thousand carriers that might occasion the initiation of one or more refund proceedings.

mechanism in the particular circumstances of effecting the Bell Operating Companies' refund obligation for their 1978 overearnings, we believe that a category-by-category approach retains distinct advantages. With respect to the 1978 excess earnings, the Commission lacked knowledge of the categories or customers responsible for the excess earning. In contrast, under our enforcement plan, since earnings will be monitored on a category-by-category basis, information will be available for a more refined refund mechanism.

34. The approach we are taking of subsequent reductions in revenue requirements best balances the degree of refinement necessary to provide refunds with that administrative costs issuing refunds. We are wary of requiring the carriers to search through detailed billing records to determine precisely which customers were overcharged and by how much. Where there are thousands or millions of customers, the administrative burdens and costs far outweigh the benefits of additional refinement. On the other hand, for some of the services of the LECs, there may be only a few customers, making a direct refunds to the customers practical. Thus, we will allow the carriers the option of providing refunds to all the customers in the category directly, but will not make the practice mandatory. Under such a procedure, interest would be computed at the maximum allowable rate of return from the end of the calendar or access year in which the excessive earnings occur until the time of payment. The relative revenues from the customers would determine the proportion of the excessive earnings to be refunded to each customer.[38]

35. While the parties raise concerns regarding the bypass problems that could arise from category-by-category refunds,[39] we do not believe that those problems are of such a magnitude that we should abandon our proposal. It is our belief that with the modifications adopted today, that tariffs will be "self-correcting," and that direct refunds will rarely or ever be required. Moreover, we believe that further implementation of our access charge plan will, in general, mitigate uneconomic bypass fears.

36. In measuring the amount deemed excessive, we proposed to treat funds above the ceiling to be subject to refund. FEA proposes instead that the Commission require all earnings in excess of the target to be refunded if the ceiling is exceeded. We reject that suggestion because FEA fails to recognize that a target return is in reality a point within a zone of reasonableness. Returns that slightly exceed such a target have never been and should not be deemed unjust.

37. In the *Supplemental NPRM* we proposed use of the prescribed maximum return during the period of excessive earnings for computing interest, but invited alternate suggestions. *Supplemental NPRM*, para. 23. Several carriers submitted substitutes for the use of the maximum return. BellSouth suggested 90 day T-Bill rates.[40] GTE suggested use of the rate used on customer deposits.[41] Pacific argued that since the funds are available only for a short period of time, the carrier's short-term borrowing costs should be utilized.[42] We continue to believe that the interest calculation should be based on the maximum return. The money received in the form of excessive earnings is fungible with other cash used for plant or as part of cash working capital. Use of the company's average cost of capital (*i.e.*, the average of equity, short term debt and long term debt) recognizes the carrier's ability to have earned at that level on the funds in its possession that were garnered from excess earnings. It would be no more accurate to use the carrier's short-term cost of borrowing money than the return on equity component (and even less accurate to use the federal government's short-term borrowing cost). We also reject GTE's suggestion that customer deposits are equivalent to excess earnings because, *inter alia*, those funds generally are excluded from the carrier's rate base.

38. In our initial proposal, we had anticipated a one-year earnings review cycle for the LECs and had specified that excess earnings should be refunded in the access year after discovery of excessive returns. We have now decided to modify slightly that procedure to allow carriers a little more flexibility in light of the two-year earnings review period. The LECs may, at their option, make a tariff filing in the same year as discovery so as to provide a longer period to effectuate the refund. Thus, for example, if earnings are excessive for access years 1 and 2, it will presumably be discovered early in access year 3. The carrier may choose to file a tariff to spread the refund over the remainder of access years 3 and 4, or it may simply wait until it makes its regular access tariff filing for access year 4 and spread the refund over a single year.

IV. Conclusion

39. In formulating our enforcement procedures, we have sought to strike a balance between the interests of the ratepayers and the investors. We believe that the plan set forth in the *Supplemental NPRM*, as modified herein, best balances those competing interests. Carriers are provided a fair opportunity to achieve their authorized rates of return, and ratepayers are effectively protected from paying excessive rates. Moreover, we have sought to protect the regulatory process by avoiding potential administrative quagmires and thereby benefitting carriers, the public and the Commission alike.

40. Accordingly, it is ordered, That pursuant to sections 4 (i) and (j), 205 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j), 205 and 403, the rules set forth in Phase I of the Supplemental Notice of Proposed Rulemaking, as modified herein, are adopted.

41. It is further ordered, That Part 69 of the Commission's Rules, 47 CFR 69.1 et seq., is amended as set forth in Appendix B to change the access year to a calendar year basis beginning January 1, 1987.

42. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.*, it is certified that the rules adopted in this proceeding are exempt from application of the statute because they will not have a significant economic impact on a substantial number of small entities pursuant to the analysis set forth in the *Supplemental NPRM*.[43] This certification shall be provided to the Chief Counsel for Advocacy of the Small Business Administration as required by section 605 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605.

43. It is further ordered, That pursuant to § 1.427(b) of the Commission's Rules, 47 CFR 1.427(b), this Order is effective immediately upon release. Good cause for such action is provided by the concurrent effectiveness of the exchange carriers' access tariffs for the 1985–1986 access year.

[38] In the case of customers no longer in existence, we will address how carriers should disgorge their excess earnings in such a situation should the need arise, but choose not to grapple with that problem presently.

[39] *E.g.*, Southwestern Comments, pp. 13–17; Ameritech Comments, p. 12.

[40] BellSouth Comments, pp. 16–17.

[41] GTE Comments, pp. 43–44.

[42] Pacific Reply Comments, p. 9.

[43] We note that none of the comments in Phase I addressed or challenged our initial conclusion in this regard.

44. It is further ordered, That the Secretary shall cause this Order to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Initial Commenting Parties

ALLTEL Corporation (ALLTEL)
American Telephone and Telegraph Company (AT&T)
The Ameritech Operating Companies (Ameritech)
Anchorage Telephone Utility (Anchorage)
The Association of Data Processing Service Organizations, Inc. (ADAPSO)
The Bell Atlantic Telephone Companies (Bell Atlantic)
BellSouth Corporation (BellSouth)
Central Telephone Company (Centel)
Cincinnati Bell Telephone Company (Cincinnati)
Continental Telecom Inc. (Continental)
CP National Corporation (CP National)
Elkhart Telephone Company and Fidelity Telephone Company (Elkhart/Fidelity)
The Federal Executive Agencies (FEA)
Florida Public Service Commission (Florida PSC)
Fort Bend Telephone Company (Fort Bend)
The GTE Telephone Companies (GTE)
GVNW Inc./Management (GVNW)
International Communications Association (ICA)
MCI Telecommunications Corporation (MCI)
The Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company, and Pacific Northwest Bell Telephone Company (US West)
National Exchange Carrier Association, Inc. (NECA)
The NYNEX Telephone Companies (NYNEX)
Pacific Bell and Nevada Bell (Pacific)
Rochester Telephone Corporation (Rochester)
The Rural Telephone Coalition (RTC)
Satellite Business Systems (SBS)
The Southern New England Telephone Company (SNET)
Southwestern Bell Telephone Company (Southwestern)
Taconic Telephone Corporation (Taconic)
United States Telephone Association (USTA)
United Telephone System, Inc. (United)
Waitsfield Fayston and Granite State Telephone (Waitsfield)

Reply Commenting Parties

Ad Hoc Telecommunications Users Committee (Ad Hoc)
Aeronautical Radio, Inc. (Arinc)
American Telephone and Telegraph Company
Ameritech Operating Companies
Bell Atlantic
BellSouth
Continental Telecom, Inc.
Elkhart/Fidelity
Federal Executive Agencies
Fort Bend Telephone Company
GTE Telephone Companies
International Communications Association
NYNEX
Pacific Bell and Nevada Bell
Rochester Telephone Corporation
Rural Telephone Coalition
Southern New England Telephone Company
Southwestern Bell Telephone Company
Taconic Telephone Corporation
United States Telephone Association
United Telephone System, Inc.
US West
Waitsfield Fayston and Granite State Telephone Company

Appendix B

PART 69—[AMENDED]

Part 69, Chapter 1 of Title 47, Code of Federal Regulations, is amended as follows.

1. The authority citation for 47 CFR Part 69 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403, unless otherwise noted.

2. In § 69.3, paragraphs (a), (b), (e)(6), and (e)(8) are revised to read as follows:

§ 69.3 Filing of access service tariffs

(a) A tariff for access service shall be filed with this Commission for an annual period. Such tariffs shall be filed so as to provide a minimum of 90 days notice with a scheduled effective date of January 1, provided however, that a tariff for access service for the period from June 1, 1986 to December 31, 1986, shall be filed to provide a minimum of 90 days notice with a scheduled effective date of June 1, 1986.

(b) The requirement imposed by paragraph (a) of this section shall not preclude the filing of revisions to those annual tariffs that will become effective on dates other than January 1.

* * * * *

(e) * * *

* * * * *

(6) A telephone company or companies that elect to file such a tariff for the period June 1, 1986 to December 31, 1986, shall notify the Association not later than November 30, 1985, and for any annual period subsequent to December 31, 1986, shall notify the association not later than June 30 of the preceding year, if such company or companies did not file such a tariff in such preceding period or cross-referenced association charges in such preceding period that will not be cross-referenced in the new tariff.

* * * * *

(8) To enable the association to prepare an access tariff for each annual period subsequent to December 31, 1986, each telephone company shall notify the association no later than June 30 of the preceding year of the projected average number of private line terminations and any other lines that would be subject to the special surcharge; provided, however, that for the period June 1, 1986, to December 31, 1986, such information shall be given to the association by November 30, 1985.

3. Section 69.606(b) is revised to read as follows:

§ 69.606 Computation of average schedule company payments.

* * * * *

(b) The association shall submit a proposed revision of the formula for each annual period subsequent to December 31, 1986, or certify that a majority of the directors of the association believe that no revisions are warranted for such period on or before June 30 of the preceding year.

[FR Doc. 85-24174 Filed 10-9-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80-18; Notice 4]

Federal Motor Vehicle Safety Standards; Anchorages for Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: To permit the securing of child safety seats, this notice amends Standard No. 210 *Seat Belt Assembly Anchorages,* to require all vehicles with automatic restraint systems at the right front passenger seating position to be equipped with anchorages for a lap belt at that position if the automatic restraint cannot be used to secure a child safety seat. Some automatic belts cannot be used to secure child safety seats since they include only a single, diagonal

shoulder belt. The new requirement will enable parents to install a lap belt if they wish to secure a child safety seat in the front right outboard seating position. The amendment also requires vehicle manufacturers to include information in their owner's manuals on child safety and the location of shoulder belt anchorages in the rear seats. The owner's manual must also provide instructions explaining how a lap belt can be installed for use with child safety seats in the front right passenger seating position in vehicles with automatic restraints that cannot be used for securing child restraints.

DATES: The effective date for all of the amendments, except for the amendments adding S6 and S7 to the standard, is September 1, 1987. The amendments adding S6 and S7 contain information collection requirements which must be approved by the Office of Management and Budget (OMB). After OMB approval, the agency will publish a notice announcing the effective date of S6 and S7 of the standard. Petitions for reconsideration must be received by November 12, 1985.

ADDRESS: Petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Vladislav Radovich, Office of Vehicle Safety Standards, Room 5320, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone (202) 426-2264.

SUPPLEMENTARY INFORMATION: On December 11, 1980 (45 FR 81625), NHTSA issued a notice of proposed rulemaking to amend Standard No. 210, *Seat Belt Assembly Anchorages*, to require anchorages in certain vehicles for child safety seat tether straps. In addition, the notice proposed requiring vehicles equipped with automatic restraint systems at the right front designated seating position, which can not be used for the securing of child safety seats, to have separate anchorages at that position for the installation of Type 1 lap belts.

On July 5, 1985 (50 FR 27623) the agency published a notice terminating the portion of the proposed rule concerning anchorages for child safety seat tether straps. As explained in that notice the agency has decided that the appropriate way to reduce problems created by tether misuse is to propose an amendment (50 FR 27633) to Standard No. 213, *Child Restraint Systems* to require all child safety seats to pass a 30 mile per hour simulated crash test without a tether attached. This will ensure that all child safety seats provide an adequate level of safety even if they are designed to be used with a tether strap. This notice Announces the agency decision on the remaining portion of the proposed rule relating to front passenger seat safety belt anchorages.

Lap Belt Anchorages for Front Seats

A large percentage of the commenters supported the proposed requirement on the basis that some provision is necessary for securing child restraint systems used in front right seating positions, especially in vehicles with single, diagonal automatic belt designs. Several commenters noted that, in particular, infant safety seats are often used in that seat so the infant is within the view and reach of an adult. However, several commenters stated that the propsals did not go far enough. Some commenters recommended that in addition to requiring holes for anchorages, the agency should require anchorage hardware to be installed by vehicle manufacturers so that lap belts could be readily installed by consumers. Other commenters recommended that lap belts be required for these positions in addition to the anchorages.

A few commenters argued that the proposed anchorages should not be required at all because the rear seat is the safest location for the transportation of children and the proposal would encourage parents to place their children in the less safe front seat. Several commenters also requested that the anchorage strength for the lap belt anchorages be set at 3,000 pounds rather than the proposed 5,000 pounds, on the basis that the lap belts would only be used to restrain children, not adults.

The agency agrees that the installation of lap belts in front seating positions not currently having them (vehicles equipped with single, diagonal, automatic belts or with nondetachable automatic belts that cannot be used for attachment of child safety seats) would be the optimum situation insofar as securing child safety seats is concerned. Short of this, requiring complete attachment hardware would make the installation of lap belts somewhat easier than if manufacturers only provide anchorage holes. However, both of these approaches involve costs which the agency believes are not justified because of the limited number of vehicle owners who would actually have need of this equipment.

The cost of requiring the actual anchorage hardware in addition to providing threaded anchorage holes would be approximately $.30 for each vehicle, and the cost of requiring the lap belts to be installed would be approximately $14.00 per vehicle. If lap belts or anchorage hardware were required, many owners would be paying for equipment they do not need. The agency does not believe these costs are justified since the presence of the threaded hole will allow those vehicle owners who actually have need of lap belts to easily install them. The agency has therefore decided to require only threaded anchorage holes to be present. With the threaded holes present, the attachment hardware and lap belt can be installed in a short time.

Type of Threaded Holes

Several commenters objected to the proposed requirement that the anchorage holes be threaded to accept one specific type of bolt for attaching a lap belt. They said that Standard No. 209, *Seat Belt Assemblies*, permits the use of several types of bolts and argued that specifying the use of only one type of bolt would be restrictive. The agency agrees that manufacturers should have the same design flexibility as provided by Standard No. 209. Therefore, the final rule provides that manufacturers can thread the anchorage holes to accept any one of the bolts permitted by Standard No. 209.

Anchorage Strength

With regard to anchorage strength, the agency believes that the lap belt anchorages required by this amendment should comply with the 5,000 pound requirement currently specified in Standard No. 210 for Type 1 lap belts, rather than the 3,000 pound requirement recommended by some commenters. It is true that certain "special" lap belts designed only for use by children might not need to meet a 5,000 pound strength requirement. However, since only anchorage holes are required, some persons may install typical lap belts which will at times be likely used by adults. Adults might also use the "special" lap belt designed only for use by children, thinking that it is intended for use by anyone. For these reasons, the agency believes it is important for the anchorage strength to be sufficient to withstand the 5,000 pound force that could be generated by an adult in a crash. The agency is therefore adopting a 5,000 pound strength requirement.

Information in the Owner's Manual

The notice of proposed rulemaking proposed that the owner's manual in each vehicle provide specific

information about protecting children in motor vehicles. It proposed that each owner's manual explain how to use a vehicle lap belt to secure a child safety seat, alert parents that children are safer in the rear seats, particularly in the center rear seat, and have a specific warning about the need to use infant and child safety seats. All 50 States and the District of Columbia now require children to be fastened into child safety seats. The notice also proposed that the owner's manual provide information about the proper installation of a lap belt in the front right passenger seating position of a vehicle with an automatic restraint that cannot be used to secure a child safety seat. In addition, the notice proposed that the owner's manual identify the location of the shoulder belt anchorages that are currently required by the standard for rear outboard seating positions.

Several commenters said that recommendations concerning the proper use of lap belts for attachment of child safety seats should be given by the child safety seat manufacturer rather than by the vehicle manufacturer. They said that the child safety seat manufacturer is more knowledgeable about the proper use of its product. The agency agrees and notes that all child safety seat manufacturers currently provide such information. Accordingly, vehicle manufacturers will only be required to have a section in the owner's manual referring to the importance of properly using the vehicle belts with child safety seats and will not have to provide specific information about the use of belts with each type of child safety seat.

Other commenters expressed concern about the proposed requirement that vehicle manufacturers state that the center rear seat is the safest position to secure a child safety seat. The commenters noted that many vehicles currently do not have a center rear seat. Other commenters objected to including the information in owner's manuals of vehicles that do not have a rear seat. The agency agrees with these objections and has therefore modified the requirement so that vehicles with no rear seats do not have to include the statement and in vehicles with no center rear seat, a manufacturer only has to state that the rear seat is the safest position. Several commenters argued that the agency should not require manufacturers to provide information in the owner's manual since the agency's noncompliance notification and remedy regulations would then apply. They recommended that the manufacturers voluntarily provide the information.

The agency recognizes that the proposed warning requirement, which would have required manufacturers to use specific wording on child safety in the owner's manual, could lead to situations where manufacturers would have to file petitions for inconsequentiality for minor variations in the wording. At the same time, the agency believes that it is important that vehicle owners receive general information on child safety and specific information on installing lap belts at the right front seat. Thus manufacturers will still have to provide information about protecting children. However, the agency has decided against requiring a warning with prescribed wording about child safety in all owner's manuals, so as to give manufacturers the maximum flexibility to incorporate that information effectively.

Finally, the agency is adopting, as proposed, the requirement that the owner's manual provide information about the location of the shoulder belt anchorages for the rear seat. Several commenters said that few people are aware that the anchorages are currently present and therefore do not know that shoulder belts can be installed in the rear seats. No commenter objected to this proposal.

Effective Date

The safety belt anchorage requirements included in this amendment become effective September 1, 1987. In response to the notice of proposed rulemaking, various vehicle manufacturers indicated leadtime needs of one year, 18 months, two years and three years. Those estimates, however, reflected the time necessary for designing, tooling, and installing tether anchorages rather than for the simpler task of providing additional lap belt anchorages. Standard No. 210 currently requires anchorages for a Type 2 lap-shoulder safety belt (an inboard and an outboard floor anchorage for the lap portion of belt and an outboard anchorage for the upper torso belt) at each front outboard seating position, even if the vehicle is equipped with a single, diagonal automatic belt. However, the inboard anchorage of some diagonal belts is not suitable for attachment of a lap belt since the anchorage is designed only to accommodate an automatic belt. The amendment adopted today would require, for some vehicles, the addition of one more anchorage (an additional inboard anchorage) than currently required. For any vehicles which have a three point nondetachable automatic belt that cannot be used, two additional anchorages may be required. After a careful consideration of all comments and an evaluation of the necessary design changes and tooling requirements, the agency has concluded that a leadtime of one year should be sufficient.

However, if the rule were to go into effect in mid-model year, the tooling and other costs associated with the rule will substantially increase. Therefore, the agency has decided that there is good cause for making the rule effective on September 1, 1987. A leadtime of longer than a year is in the public interest since it will serve to reduce the cost of the rule to manufacturers and consumers.

Cost and Benefits

NHTSA has examined the effect of this rulemaking action and determined that it is not major within the meaning of Executive Order 12291 or significant within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has prepared a final regulatory evaluation, which has been placed in the docket, for this amendment. The evaluation shows that the cost of providing the anchorages required by this rule should not be greater than $0.17, which should not have a significant economic effect on either manufacturers or consumers. The agency does not precisely know how many automatic belt designs do not include a lap belt. If 10 percent of the new car fleet did not have lap belts, it is anticipated that the installation of lap belts by motorists will save two lives and prevent 190 injuries annually. The maximum benefit, if all automatic restraint designs did not include a lap belt, would be 23 lives saved and 1,900 injuries reduced per year, assuming motorists install lap belts in all cases where they are needed.

Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based on that consideration, I hereby certify that it will not have a significant economic impact on a substantial number of small entities. Few, if any, passenger car manufacturers would qualify as small entities. Small organizations and governmental units should not be significantly affected since the price increases associated with this proposed action should not affect the purchasing of new motor vehicles by these entities.

Environmental Effects

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of

this action will not have any significant impact on the quality of the human environment.

Paperwork Reduction

S6 and S7 of this rule, concerning the information that must be provided in the vehicle owner's manual, contains information collection requirement, which will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) The requirement of S6 and S7 will become effective only after OMB has assigned an approval number. When OMB assigns that number, the agency will publish a notice in the **Federal Register** announcing the effective date for S6 and S7 of the rule.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—[AMENDED]

In consideration of the foregoing, Standard No. 210, *Seat Belt Assembly Anchorages* (49 CFR 571.210), is amended as set forth below:

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. A new section 4.1.3 is added to read as follows:

§ 571.210 [Amended]

* * * * *

S4.1.3 Notwithstanding the provision of paragraph S4.1.1, each vehicle equipped with an automatic restraint at the front right outboard designated seating position that cannot be used for securing a child restraint system shall have anchorages for a Type 1 seat belt assembly at that position. The anchorages shall consist of, at a minimum, holes threaded to accept bolts complying with S4.1(f) of Part 571.209 of this chapter.

* * * * *

3. New sections S6 and S7 are added to read as follows:

* * * * *

S6. *Owner's Manual Information.* The owner's manual in each vehicle shall include:

(a) A section explaining that all child restraint systems are designed to be secured in vehicle seats by lap belts or the lap belt portion of a lap-shoulder belt. The section shall also explain that children could be endangered in a crash if their child restraints are not properly secured in the vehicle.

(b) In a vehicle with rear designated seating positions, a statement alerting vehicle owners that, according to accident statistics, children are safer when properly restrained in the rear seating positions than in the front seating positions. In a vehicle with a center rear seating position, the owner's manual shall state that the center rear position is the safest.

(c) A diagram or diagrams showing the location of the shoulder belt anchorages required by this standard for the rear outboard designated seating positions, if shoulder belts are not installed as item of original equipment by the vehicle manufacturer at those positions.

S7. *Installation Instructions.* The owner's manual in each vehicle with an automatic restraint at the front right outboard designated seating position that cannot be used to secure a child restraint system shall include:

(a) A statement that the automatic restraint at the front right outboard designated seating position cannot be used for the securing or a child restraint system.

(b) If a lap belt is not installed at the front right outboard designated position as an item of original equipment by the vehicle manufacturer, then the owner's manual shall have:

(i) A statement that anchorages for installation of a lap belt to secure a child restraint system have been provided at the front right outboard designated seating position.

(ii) A diagram or diagrams showing the locations of the lap belt anchorages for the front right outboard designated seating position.

(iii) A step-by-step procedure and a diagram or diagrams for installing the proper lap belt anchorage hardware and a Type 1 lap belt at the front right outboard designated seating position. The instructions shall explain the proper routing of the belt assembly and attachment of the assembly to the lap belt anchorages.

Issued on October 4, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 85-24251 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule, correction.

SUMMARY: On September 25, 1985, the Service published in the **Federal Register** seasons, limits, and shooting hours for waterfowl and certain other migratory game birds. This document corrects § 20.105 of 50 CFR to remove the waterfowl hunting closures in disputed areas of Illinois and California; to correct the entry for the scaup-only season in New Hampshire, and the opening and closing dates for the first segment of the black duck season in the South Zone of New Jersey; and to include the bag limits for the special canvasback season in Virginia; this document also corrects §§ 20.109 of 50 CFR to add the extended seasons of Maine and South Carolina for taking migratory game birds by falconry.

DATE: Effective on October 10, 1985.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Phone (202) 254-3207.

SUPPLEMENTARY INFORMATION: On September 25, 1985, the Service published in the **Federal Register** (50 FR 38952) seasons, limits, an shooting hours for certain migratory game birds. In the table under § 20.105 where the seasons, limits and shooting hours are listed for Illinois in the Mississippi Flyway (50 FR 38960) and California in the Pacific Flyway (50 FR 38965), the respective footnote for each State indicating that waterfowl hunting is closed in certain areas unless and until the State authorizes, agrees to and aids the Service in establishing these areas as steel-shot-only zones has been removed. Both States have agreed to the imposition of steel shot regulations in the disputed areas and notice is hereby given that the closure on waterfowl hunting in those areas has been lifted. At 50 FR 38957, the scaup-only season listed for the Inland Zone of New Hampshire is an error, it should appear for the State's Coastal Zone in place of the listed extra-scaup option. The opening and closing dates for the first half of the split season for black ducks in the South Zone of New Jersey are listed as October 26 and November 2, respectively; the opening date should read October 12 and the closing date should read October 19. At 50 FR 38959, the daily bag and possession limit for canvasbacks during Virginia's special canvasback season should read 4 and 8, respectively. In the table under § 20.109 where the extended seasons, limits and hours for taking migratory game birds

by falconry in the Atlantic Flyway are listed (50 FR 38967) the seasons of Maine and South Carolina where inadvertently omitted.

PART 20—[AMENDED]

1. Accordingly, the Service corrects § 20.105 of 50 CFR Part 20 at 50 FR 38960 and 38963, and 38965 and 38967 by deleting footnote [12] for Illinois and footnote (21) for California, respectively; and by revising the scaup-only season in the duck zones of New Hamsphire and the black duck season in the South Zone of New Jersey at 50 FR 38957; and the bag limits for canvasbacks during Virginia's special canvasback season at 50 FR 38959, as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules. [Corrected]

ATLANTIC FLYWAY

	Season dates	Limits	
		Bag	Possession
* * * * *			
New Hampshire			
Ducks:			
Inland Zone (1)			
Black Ducks	Oct. 5–Oct. 27 & Nov. 28–Dec. 14	1	2
Ducks	Oct. 5–Oct. 27 & Nov. 28–Dec. 14	5	10
Extra teal during regular season.	Oct. 5–Oct. 13	2(2)	4(2)
Coastal Zone (1)			
Black Ducks	Nov. 28–Dec. 28	2	4
Ducks	Oct. 26–Nov. 3 & Nov. 28–Dec. 28	4	8
Extra teal during regular season.	Oct. 26–Nov. 3	2(2)	4(2)
Scaup only season.	Dec. 29–Jan. 13	5	10
* * * * *			
New Jersey			
Ducks:			
South Zone (1)			
Black Ducks	Oct. 12–Oct. 19 & Nov. 27–Dec. 28	1	2
* * * * *			
Virginia			
Special Canvasback season.	Jan. 8–Jan. 13	4	8

* * * * *

§ 20.109 [Corrected]

2. The Service corrects § 20.109 of 50 CFR Part 20 at 50 FR 38967 by adding alphabetically by State under the Atlantic Flyway the extended falconry seasons of Maine and South Carolina as follows:

Atlantic Flyway	
Maine:	
Ducks, Coots, Mergansers:	
North Zone	Nov. 14–Jan. 13 (only 1 black duck daily, 2 in possession).
South Zone	Oct. 20–Nov. 19 and Dec. 15–Jan. 13 (only 1 black duck daily, 2 in possession).
South Carolina:	
Ducks, Coots, Mergansers.	Oct. 8–Oct. 11 and Oct. 13–Nov. 27 and Dec. 1–Dec. 8.

* * * * *

Public comment was received on proposed rules for the seasons and limits contemplated herein. These comments were addressed in **Federal Registers** dated June 4, 1985, (50 FR 23459), August 13, 1985, (50 FR 32587) and September 5, 1985, (50 FR 36198). By nature of the corrections and the time available, these changes must become effective immediately. Accordingly, the Notice and public comment required by the Administrative Procedure Act is unnecessary, and the Service finds that good cause exists for making this rule effective immediately upon publication in the **Federal Register**. The Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and Executive Order 12291 in the **Federal Register** dated March 14, 1985 (at 50 FR 10282). The seasons promulgated by this rule are authorized under the Migratory Bird Treaty Act of July 3, 1918, (40 Stat. 755; 16 U.S.C. 703–711), as amended.

Dated: October 4, 1985.

P. Daniel Smith,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–24280 Filed 10–9–85; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 50, No. 197
Thursday, October 10, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303 and 309

Rules for Disclosure of Change in Bank Control Notices

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) solicits comments on three proposals: (1) To require persons who have filed notices with the FDIC under the Change in Bank Control Act of 1978 ("CBCA" or "Act") 12 U.S.C. 1817(j), to publish an announcement of the notice's acceptance in a newspaper, except that in the case of a public tender offer the announcement may be delayed until a tender offer commences; and (2) to make certain information regarding CBCA notices accepted by the FDIC available to the public upon request, except in certain public tender offer situations. These proposals represent a departure from the FDIC's current policy of confidentiality with respect to pending notices, *i.e.*, notices pertaining to acquisitions not yet consummated. These proposals are designed to (1) increase the amount of timely and useful information available to the public and (2) increase the FDIC's sources of information in connection with its statutory review of acquisitions and changes in control, thereby enhancing the FDIC's ability to carry out the purposes of the CBCA, namely, to prevent dishonest or unqualified persons from acquiring control of a federally insured bank. At the time these amendments become final, the FDIC will publish a conforming amendment to its Privacy Act system of records titled "Changes in Bank Control Ownership Records". The amendment would expand the routine uses for which the data in the system may be used without the consent of the individual to whom the data pertains.

DATE: Comments must be submitted on or before November 12, 1985.

ADDRESS: Send comments to: Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. Comments may be hand delivered to and are available for reviewing in Room 6108 on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Francis X. Grady, Attorney, Legal Division, [202–389–4151], Room 4055B, 550 17th Street, NW., Washington, D.C. 20429 or James R. Dudine, Chief, Special Activities Section, Division of Bank Supervision [202–389–4412], Room 5100, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Background

Under the CBCA, persons seeking to acquire control of any insured state nonmember bank must submit a prior written notice, describing the proposed acquisition, to the FDIC. The transaction may proceed if the FDIC, within a sixty-day period, neither disapproves the transaction nor extends the notice period for an additional thirty days. An acquisition may proceed prior to the expiration of the disapproval period if the FDIC issues written notice of its intent not to disapprove the transaction.

In its administration of the CBCA, the FDIC has followed an informal policy of confidentiality with respect to pending notices. Although not set forth formally through a regulation or policy statement, the policy is nontheless well known to the banking bar and others involved in bank acquisitions. Specifically, the policy has been that the FDIC will neither confirm nor deny the receipt of a notice filed under the CBCA involving a particular institution or filed by or on behalf of a particular acquiring party. The policy of neither confirming nor denying the existence of a notice has been followed both when there is a notice pertaining to a pending acquisition and when there is no such notice pertaining to a pending or unconsummated transaction. This has been done to avoid indicating to requester that the "neither confirm nor deny" language is used only where there is in fact pending notice. Exceptions to the FDIC's current policy of nondisclosure include proposed acquisitions that are public tender offers or otherwise publicly known transactions, in which case the FDIC may disclose the information contained in a notice to the same extent that the information is already publicly available elsewhere.

It was the FDIC's view in formulating its current policy of nondisclosure under the CBCA that even mere acknowledgment of the receipt of a CBCA notice could cause competitive harm and disadvantage to the acquiring party. On the other hand, where a change in control has been consummated or where a notice pertains to a publicly known acquisition, disclosure would not affect the dynamics of the marketplace. Hence, under such circumstances, disclosure is made in response to a Freedom of Information Act ("FOIA") request. The FDIC perceived congressional intent to be that the CBCA serve neither as a device for triggering defensive action on the part of persons who might be opposed to the change of control nor to alter the economics of the marketplace in which the control might be acquired.

The FDIC now believes that the concerns expressed as support for the current policy should be revisited and weighed against its experience administering the CBCA. The FDIC is of the opinion that the benefits gained from informing the public of proposed changes in control outweigh the risks of interfering with market factors. The proposed public disclosure policy and newspaper publication requirement will better enable the FDIC to fulfill its responsibilities under the CBCA to prevent dishonest and unqualified people from acquiring control of a federally insured state nonmember bank.

Under the proposal, within three days from receipt of the FDIC's acceptance of the notice, the acquirer would be required to publish an announcement in the business section of a newspaper having general circulation in the community in which the institution's home office is located.[1] For banks

[1] The mere filing of a CBCA notice does not automatically constitute "acceptance." Rather, a notice is considered accepted when the appropriate regional office of the FDIC determines that the notice contains all the information required by 12 U.S.C. 1817(j)(6).

located in communities where there is no daily newspaper, the acquirer would have ten days from receipt of the FDIC's aceptance of the notice to publish the newspaper announcement. For a notice filed in comtemplation of a public tender offer subject to the requirements of the Williams Act Amendments to the Securities Exchange Act of 1934 (15 U.S.C. 78), an acquirer can delay newspaper publication until whichever of the following occurs first: A tender offer commences under the Securities and Exchange Commisison's rule 14–2 (17 CFR 240.14d–2), other public announcement is made, or until 30 days after the notice is accepted by the FDIC.

The newspaper publication would contain only the name of the prospective acquirer, the name of the bank whose stock is sought to be acquired, and the date of acceptance of the acquirer's change in control notice. The newspaper publication also would inform the public of the procedures and deadlines for commenting upon the filing. After publication, copies of the newspaper and the publisher's affidavit of publication would be filed promptly with the regional director of the FDIC region in which the bank in which stock is being acquired is located.

In order to ensure that the FDIC's review process is not undully delayed, comment by the public on the acquisition would have to be received within 20 days of the newspaper publication in order to be considered as part of the record of the notice of acquisition of control. The public's opportunity for comment, however, would not preclude the FDIC from acting on the notice before the comment period has run.

Upon acceptance of a substantially complete notice (other than notices filed in contemplation of a tender offer), the appropriate FDIC regional office would make available to the public, upon request, the following information:

(1) The name of the bank to be acquired;

(2) The date the notice was accepted;

(3) The identity of the proposed acquirer(s);

(4) The number of shares to be acquired; and

(5) The number of outstanding shares of stock in the bank.

If, at the time the information is requested, the transaction has been consummated, the following also would be released.

(6) The date shares were acquired;

(7) The names of sellers (or transferees); and

(8) The total number of shares owned by purchasers (or acquirers).

Where a letter of intent not to disapprove the change in control has been issued, the contents of the letter will normally be released to the public. Where a written notice of disapproval of a change of control has been issued, the order of the Board of Directors disapproving the acquisition would be released to the public. During the period in which an appeal can be requested, the fact that the Board has acted to disapprove and the date of the action will be released, but the order itself will not. Where the notice has been withdrawn prior to disposition, the fact that it has been withdrawn and the date of withdrawal shall be released. The remaining information in the notice will be kept confidential consistent with the Freedom of Information Act, 5 U.S.C. 552 (b)(4) and (b)(6).

The exception to availability-upon-request of basic information concerning CBCA notices would involve notices under the Act that are filed in contemplation of a public tender offer subject to the requirements of the Williams Act Amendments to the Securities Exchange Act of 1934. Such notices could be given confidential treatment for up to thirty days after the notice is accepted if: (i) The filing party requests such confidential treament and represents that a public announcement of the tender offer and the filing of appropriate forms with the Federal Deposit Insurance Corporation will occur within thirty days from the filing of the notice; and (ii) the Division of Bank Supervision of the FDIC determines, in its discretion, that it is in the public interest to grant such confidential treatment. Requests for confidential treatment under other circumstances could be granted by the FDIC, in its discretion, when they are justified as consistent with the purposes of the CBCA.

Disclosure to the target bank and disclosure by newspaper publication do not, in the Board's view, constitute the commencement of a public tender offer under the Securities and Exchange Commission's rule 14d–2 (17 CFR 240.14d–2). Under rule 14d–2, a tender offer is deemed to commence, *inter alia*, when there has been public announcement through the press of the following information: public disclosure of the identities of the bidder and target, the amount of securities sought, and the price to be paid. The public disclosure demanded by these two proposed measures does not require public disclosure of the price to be paid for the target's stock.

The public release of information entailed by these two proposals in no way affects the obligations and liabilities which the person filing the notice may have under the federal securities laws or other laws.

Comments on Disclosure Policy

Because the FDIC believes that the subjects of public notice and input regarding proposed acquisitions and public release of information under the CBCA is of broad interest, it requests public comment on the policy generally. In particular, the FDIC solicits comment with respect to the following questions:

1. To what extent would newspaper publication of the filing of a notice, including identification of the bank and the proposed acquirer, be useful in eliciting information from the community as to whether a proposed change of control should be disapproved?

2. To what extent would the interest of a person filing a notice be prejudiced by the early disclosure of its existence?

Regulatory Flexibility Act

This proposal, if adopted, would not require any action by state nonmember banks that they do not now perform pursuant to current regulations. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–12), the FDIC certifies that this proposal will not have a significant economic impact on a substantial number of small banks, and an Initial Regulatory Flexibility Analysis was not prepared.

Paperwork Reduction Act

The newspaper publication of the filing of a notice, including identification of the prospective acquirer, the target bank, and the date of filing, is not "information" within the meaning of the regulations that implement the Paperwork Reduction Act. As such, the Paperwork Reduction Act does not apply to this proposed rule.

List of Subjects

12 CFR Part 303

Banks, banking: administrative practice and procedure, Authority delegations, Bank deposit insurance, State nonmember banks, Change in bank control.

12 CFR Part 309

Authority delegations, Disclosure requirements, Freedom of Information, Privacy.

Accordingly, the FDIC hereby proposes to amend 12 CFR Parts 303 and 309 as set forth below.

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITIONS OF CONTROL

1. The authority citation for Part 303 continues to read as follows:

Sec. 2(5), 2(6), 2(7)(j), 2(8), 2(9 "Seventh" and "Tenth"), 2(18), 2(19), Pub. L. No. 797, 64 Stat. 876, 881, 893 as amended by Pub. L. No. 86-463, 74 Stat. 129; sec. 2, Pub. L. No. 87-827, 76 Stat. 953; Pub. L. No. 88-593, 78 Stat. 940; Pub. L. No. 89-79, 79 Stat. 244; sec. 1, Pub. L. No. 89-356, 80 Stat. 7; sec. 12(c), Pub. L. No. 89-485, 80 Stat. 242; sec. 3, Pub. L. No. 89-597, 80 Stat. 824; title II, secs. 201, 205, Pub. L. No. 89-695, 80 Stat. 1055; sec. 2(b), Pub. L. No. 90-505, 82 Stat. 856; secs. 6(c) (7), (12), (13), Pub. L. No. 95-369, 92 Stat. 616-620; title III, secs. 306, 309 and title VI, sec. 602, Pub. L. No. 95-630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1818, 1819 "Seventh" and "Tenth", 1828, 1829); title I, sec. 108, Pub. L. No. 90-321, 82 Stat. 150 as amended by title IV, sec. 403, Pub. L. No. 93-495, 88 Stat. 1517 and title VI, sec. 608, Pub. L. No. 96-221, 94 Stat. 171 (15 U.S.C. 1607).

2. Section 303.4(b) is revised to read as follows:

§ 303.4 Change in bank control.

* * * * *

(b) *Notices.* (1) Notice of proposed acquisition of control should be filed with the regional director of the Federal Deposit Insurance Corporation region in which the bank in which stock is being acquired is located. A notice shall not be considered accepted unless information provided is responsive to every item specified in paragraph 6 of the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)(6)), or every item prescribed in the appropriate Corporation forms. With respect to personal financial statements required by paragraph 6(b) of the Change in Bank Control Act of 1978, an individual acquirer may include a current statement of assets and liabilities, as of a date within ninety days of the notice of proposed acquisition, a brief income summary, and a statement of material changes since the date thereof, subject to the authority of the regional director, the Director of the Division of Bank Supervision, or the Corporation to require additional information.

(2) Within three days from receipt of the notice's acceptance by the appropriate FDIC regional office, the acquirer is required (i) to publish an announcement (described in the notice forms and instructions § 303.4(b)) in the business section of a newspaper having general circulation in the community in which the home office of the bank whose stock is sought to be acquired is located, and (ii) to send a copy of the newspaper publication and the publisher's affidavit of publication to the regional director of the FDIC region in which the bank in which stock is sought to be acquired is located. The newspaper publication would only contain the name of the prospective acquirer, the name of the bank whose stock is sought to be acquired, and the date of aceptance of the acquirer's change in control. In a community where there is no daily newspaper, the acquirer would have ten days from receipt of the FDIC's acceptance of the notice to publish the newspaper announcement. For a notice filed in contemplation of a public tender offer subject to the requirements of the Williams Act Amendments to the Securities Exchange Act of 1934 (15 U.S.C. 78), an acquirer may delay newspaper publication until a tender offer commences under the Securities and Exchange Commission's rule 14d-2 (17 CFR 240.14d-2). As specified in the aforementioned notice forms and instructions, the newspaper publication will inform the public of the procedures and deadlines for commenting upon the filed notice. The FDIC will not consider comments received from the public more than 20 days after the newspaper publication as part of its review of the notice. Nor will the public's opportunity for comment preclude the FDIC from acting, for good cause shown, on the notice prior to the expiration of the comment period.

* * * * *

PART 309—DISCLOSURE OF INFORMATION

3. The authority citation for Part 309 continues to read as follows:

Authority: Sec. 2(9 "Seventh" and "Tenth"), Pub. L. No. 797, 64 Stat. 881 as amended by title III, sec. 309, Pub. L. No. 95-630, 92 Stat. 3677 (12 U.S.C. 1819 "Seventh" and "Tenth"); 5 U.S.C. 552.

4. In § 309.4, is amended by removing paragraph (c)(2) and redesignating (c) (3) and (2), and paragraph (d) is revised as follows:

§ 309.4 Publicly available information.

* * * * *

(d) At the regional office of the FDIC where the applicant or subject bank is located:

(1) In the FDIC's discretion nonconfidential portions of application files as provided in 12 CFR 303.14(c), including applications for deposit insurance, to establish branches, to relocate offices and to merge. A list of FDIC's regional offices is available from the Office of Corporate Communications, Federal Deposit Insurance Corporation, 550-17th Street, NW., Washington, D.C. 20429, (202) 389-4221.

(2)(i) Upon acceptance of a substantially complete notice filed in connection with the requirements of the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)) (other than notices filed in contemplation of a tender offer), the appropriate FDIC Regional Office will make available, upon request, the following information: The name of the bank to be acquired; the date the notice was accepted; the identity of the proposed acquirer(s); the number of shares to be acquired; and the number of outstanding shares of stock in the bank. The mere filing of the notice does not automatically constitute "acceptance." Rather, a notice is accepted when the regional office determines that the Notice contains all information required by 12 U.S.C. 1817(j)(6).

(ii) If, at the time the information is requested, the transaction has been consummated, the following will also be released upon request: The date shares were acquired; the names of sellers (or transferees); and the total number of shares owned by purchasers (or acquirers).

(iii) Where a letter of intent not to disapprove the change in control has been issued, the contents of the letter will normally be released upon request. Where a written notice of disapproval of a change of control has been issued, the final order of the Board of Directors shall be released to the public. The order becomes final upon the date the right of appeal expires or upon appeal being taken to the appropriate U.S. court of appeals. During the period in which an appeal can be requested, the fact that the Board has acted to disapprove and the date of the action shall be released. Where the notice has been withdrawn prior to disposition, the fact that it has been withdrawn and the date of withdrawal shall be released. The remaining information in the notice will be kept confidential consistent with the Freedom of Information Act, 5 U.S.C. 552 (B)(4) and (b)(6).

(iv) Notices under the Change in Bank Control Act that are filed in contemplation of a public tender offer subject to sections 13(d) or 14(d) of the Williams Act Amendments to the Securities Exchange Act of 1934 (15 U.S.C. 78) may be given confidential treatment for up to thirty days after the notice is accepted if: The filing party requests such confidential treatment and represents that a public announcement of the tender offer and the filing of appropriate forms with the Federal

Deposit Insurance Corporation will occur within thirty days from the filing of the notice; and the FDIC determines, in its discretion, that it is in the public interest to grant such confidential treatment. Requests for confidential treatment under other circumstances may be granted by the FDIC, in its discretion, when they are justified as consistent with the purposes of the CBCA.

(v) The public release of this information in no way affects the obligations and liabilities which the person filing the notice may have under the federal securities laws or other laws.

By order of the Board of Directors this 30th day of September, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-24009 Filed 10-9-85; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 571]

Revision of the Boundary of the Temecula Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: ATF is proposing to amend the approved boundary of the Temecula viticultural area to include vineyards which were unintentionally omitted from the area when it was approved in T.D. ATF-188 (49 FR 42563). This proposal is based on a petition submitted by Richard C. McMillan, a partner of Bear Valley Vineyards, located near Murrieta, California. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of viticultural area appellations of origin will also help winemakers distinguish their products from wines made in other areas.

DATE: Written comments must be received by November 12, 1985.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385.

Copies of the petition and written comments received in response to this notice will be available during normal business hours at: ATF Reading Room, Disclosure Branch, Room 4406, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, Coordinator, FAA, Wine and Beer Branch, (202) 566-7626.

SUPPLEMENTARY INFORMATION: On October 23, 1984, ATF published T.D. ATF-188 (49 FR 42563) establishing the Temecula viticultural area. ATF received two opposing petitions for the establishment of this area, each proposing a different boundary. The approved boundary, a hybrid of the two petitioned boundaries, was developed by ATF on the basis of voluminous public comments and a public hearing.

The approved boundary inadvertently omitted a portion of the Bear Valley Vineyards which is on the east side of Murrieta Creek. ATF did not intend to draw the boundary through an existing vineyard. Mr. Richard C. McMillan, a partner of Bear Valley Vineyards, petitioned ATF to revise the boundary to include all of his vineyard in the approved area. The area proposed to be added is approximately 60 acres containing approximately 35 acres of grapevines which are part of Bear Valley Vineyards.

The petition contains evidence that the area to be added to the Temecula viticultural area is under the same marine climate influence which distinguishes the approved area from its surroundings. In addition, ATF believes that the entire area is part of the place named "Temecula" except for the village of Murrieta, California, east of the proposed enlargement. The petition contains affidavits supporting this enlargement from each of the two opposing parties in the original rulemaking.

Public Participation—Written Comments

Based on the above discussion, ATF is issuing this notice of proposed rulemaking to request comments concerning this proposed revision of the Temecula viticultural area boundary.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C 605(b)) that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Compliance with Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

List of Subjects 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural area, Wine.

Drafting Information

The principal author of this document is John A. Linthicum, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

27 CFR Part 9—American Viticultural Areas is amended as follows:

PART 9—[AMENDED]

¶1. The statutory authority for 27 CFR Part 9 continues to read as follows:

Authority: August 29, 1935, Chapter 814, sec. 5, 49 Stat. 985, as amended (27 U.S.C. 205), unless otherwise noted.

2. Section 9.50 is amended by revising paragraphs (c)(23) and (24) and adding paragraphs (c)(25), (26), and (27) to read as follows:

§ 9.50 Temecuta.

* * * * *

(c) * * *

(23) The boundary proceeds northwesterly along the westernmost branches of Murrieta Creek to its intersection with Hayes Avenue, northwest of Murrieta, California.

(24) The boundary follows Hayes Avenue northwesterly, approximately 4,000 feet, to its terminus at an unnamed, unimproved, fair or dry weather road.

(25) The boundary follows this road southwesterly to Murrieta Creek.

(26) The boundary proceeds northwesterly along the westernmost branches of Murrieta Creek to its intersection with Orange Street in Wildomar, California.

(27) From the intersection of Murrieta Creek and Orange Street in Wildomar, California, the boundary proceeds in a straight line to the beginning point.

Signed: October 2, 1985.

Stephen E. Higgins,

Director.

[FR Doc. 85-24256 Filed 10-9-85; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701, 785, and 827

Surface Coal Mining and Reclamation Operations: Permanent Regulatory Program; Definitions; Requirements for Permits for Special Categories of Mining; Coal Preparation Plants: Performance Standards; Reopening of the Public Comment Period and Public Hearing

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

ACTION: Notice of reopening of public comment period and public hearing.

SUMMARY: The Office of Surface Mining (OSM) has published proposed rules for public comment which would amend OSM's permanent regulatory program with respect to coal preparation plants and other surface coal mining operations. OSM has decided to reopen the comment period for the above proposed rules and schedule a public hearing.

DATES: The comment period on the proposed rules is reopened until 5:00 p.m. eastern time on November 14, 1985. The public hearing is scheduled for October 23, 1985, at 1 p.m. Rocky Mountain time in Albuquerque, New Mexico.

ADDRESS: The public hearing will be held at the following location: 517 Gold Street, Room 1022, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Raymond Aufmuth, Division of Permit and Environmental Analysis, OSM, Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240; Telephone: (202) 343-1507.

SUPPLEMENTARY INFORMATION: OSM has proposed rules and requested comments on rules governing coal preparation plants. 50 FR 28180. OSM has received a request to hold a public hearing on these proposed rules. In order to facilitate the requested hearing and allow sufficient notice to those who may wish to participate and to allow sufficient time for additional comment which may result from the public hearing, OSM has decided to reopen the public comment period for these rules.

The public hearing will be held beginning at 1 p.m. Rocky Mountain time, located at Room 1022, 517 Gold Street, Albuquerque, New Mexico.

Dated: November 7, 1985.

Brent Wahlquist,

Assistant Director, Technical Services and Research.

[FR Doc. 85-24309 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-05-M

---

30 CFR Part 817

Permanent Program Performance Standards; Underground Activities; Subsidence Control

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

ACTION: Petition for rulemaking; deferral of decision.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (DOI) has decided to defer decision on the rulemaking petition filed by the Consolidation Coal Company (Consol) requesting and exemption from the requirements of 30 CFR 817.121 (d) and (e) until a rule on the applicability of section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, to underground mining has been promulgated.

FOR FURTHER INFORMATION CONTACT: Dr. C.Y. Chen, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240; Telephone: 202-343-1501 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: On June 1, 1983, OSM published its final permanent program subsidence control rules. (48 FR 24652). The rule, at 30 CFR 817.121(d), prohibits underground mining activities beneath or adjacent to specified structures and impoundments unless the subsidence control plan required by 30 CFR 784.20 demonstrates that subsidence will not cause material damage to or reduce the reasonably forseeable use of those features or facilities. Section 817.121(d) further allows the regulatory authority to limit the percentage of coal extracted if it is necessary in order to minimize the potential for material damage. Section 817.121(e) provides that if subsidence does cause material damage, the regulatory authority may suspend mining until the subsidence control plan is modified.

On November 30, 1983, Consol filed a petition requesting OSM to revise § 817.121(d) and (e) of the subsidence control rules to create an exemption when the mining technology used requires planned subsidence in a predictable and controlled manner. That request was based on section 516(b)(1) of the Surface Mining Control and Reclamation Act (the Act), 30 U.S.C. 1201 *et seq.*, which provides that each permit shall require the operator to "adopt measures consistent with known technology in order to prevent subsidence causing material damage . . . except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner. . . ."

On February 23, 1984, OSM requested comments on the changes proposed by Consol. (49 FR 6749). Among other issues, OSM asked commenters to address whether such a showing of no material damage is essential to aid the regulatory authority in making the permit finding required by section 510(b)(4) of the Act that no surface coal mining operations will be permitted in areas that are unsuitable for mining under sections 522(e)(4) and (5) of the Act, which prohibit surface coal mining operations within certain distances of specified structures and facilities.

On April 3, 1985, while still evaluating the comments received on the Consol

petition, OSM published a notice of intent to conduct rulemaking on the applicability of the prohibitions in section 522(e) to underground coal mining (50 FR 13250). That rulemaking process is underway. OSM has determined that the rulemaking will be a major Federal action, has conducted scoping meetings, and is preparing an EIS. (50 FR 25473).

The positions OSM could take in the proposed section 522(e) rulemaking cover a range of possibilities, most of which directly impact the issues in the Consol petition. Accordingly, OSM had determined that a decision on the Consol petition should be made following the section 522(e) rulemaking. Consol's concerns may be addressed in conjunction with the proposed section 522(e) rulemaking. If appropriate, OSM will reexamine the issues raised by the petition at the conclusion of that rulemaking.

Dated: October 7, 1985.

Brent Wahlquist,

Assistant Director, Technical Service and Research.

[FR Doc. 85-24310 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7-85-46]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterways, SC

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the South Carolina Highway Department the Coast Guard is considering a change to the regulations governing the Wappoo Creek bridge, mile 471 at Charleston, by extending the periods during which openings may be limited. This proposal is being made because increased vessel traffic during certain periods of the year aggravates vehicular traffic congestion. This action should accommodate the needs of vehicular traffic yet still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before November 25, 1985.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 51 SW. 1st Avenue, Miami, Florida 33130. The comments and other materials referenced in this notice will be available for inspection and copying at 51 SW. 1st Avenue, Room 816, Miami, Florida. Normal office hours are from 7:30 a.m. to 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 350-4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Proposed Regulations

The bridge presently need not open for vessels on weekdays from 6:30 a.m. to 9 a.m. and 4 p.m. to 6 p.m. In addition, on weekends and federal holidays from 2 p.m. to 6 p.m. the bridge need open for vessels only on the hour and half-hour. At all other times the draw must be open on signal. The proposed rule would further restrict weekday openings by requiring openings only every 20 minutes from 9 a.m. to 4 p.m. This restriction would be effective during the busiest months of the year for bridge openings. This change is intended to space draw openings, virtually eliminating the "back-to-back" openings which contribute significantly to vehicular traffic delays during these periods.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.911(c) is proposed to be revised to read as follows:

§ 117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.

* * * * *

(c) The draw of the S 171/700 bridge across Wappoo Creek, mile 470.8 at Charleston, shall open on signal except that the draw need not be opened from 6:30 a.m. to 9 a.m. and from 4 p.m., to 6 p.m. Monday through Friday. On Saturdays, Sundays, and federal holidays from 2 p.m. to 6 p.m. the draw need be opened only on the hour and half-hour. In April, May, October and November, Monday through Friday from 9 a.m. to 4 p.m. the draw need be opened only on the hour, 20 minutes past the hour, and 40 minutes past the hour. Public vessels of the United States, tugs with tows and vessels in distress shall be passed at any time.

* * * * *

Dated: September 25, 1985.

G. S. Duca,

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

[FR Doc. 85-24282 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen Docket No. 85-172]

Further Sharing of the UHF Television Band by Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects figures in paragraph 19 and footnote 32 of the notice of proposed rulemaking concerning sharing of the UHF television band by private land mobile radio services published on June 20, 1985 (50 FR 25587).

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

FOR FURTHER INFORMATION CONTACT: Rodney Small, Federal Communications Commission, Room 7310, Washington, DC 20554, (202) 653–8169.

SUPPLEMENTARY INFORMATION:

Erratum

In the matter of Further Sharing of the UHF Television Band by Private Land Mobile Radio Services, Gen. Docket No. 85–172.

Released: October 2, 1985.

The Commission's *Notice of Proposed Rulemaking*, FCC 85–289, released June 10, 1985, is corrected by changing paragraph 19, line ten to read: "we assume a receiver susceptibility ratio of 45 dB,[32] an average TV" and footnote [32] is corrected to read: "Based on the DOC study, a 45 dB co-channel receiver susceptibility ratio applies to 90% of the TV sets" on page 25591 of the June 20, 1986, **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85–24084 Filed 10–9–85; 8:45 am]

BILLING CODE 6712–01–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[AIDAR Case 85–2]

48 CFR Parts 716 and 752

Indefinite Quantity Contracts

AGENCY: Agency for International Development, IDCA.

ACTION: Proposed rule.

SUMMARY: AID proposes to authorize use of indefinite quantity contracts using the time and material payments clause. This proposed rule would establish this contract combination in the AID Acquisition Regulation (AIDAR).

DATE: Comments on this proposed rule should be submitted in writing to the address specified below. In order to be considered in the formulation of the final rule, comments must be received on or before December 9, 1985.

ADDRESS: Comments should be submitted to M/SER/CM/SD/POL, Room 713, SA–14, Agency for International Development, Washington, D.C. 20523. Please cite AIDAR Case 85–2 in all correspondence related to this proposed rule.

FOR FURTHER INFORMATION CONTACT: M/SER/CM/SD/POL, Ms. C.R. Eldridge, Telephone (703) 235–9107.

SUPPLEMENTARY INFORMATION: AID needs use this contract combination for its short term, repetitive, professional service requirements of 120 days or less. Because of the professional and overseas nature of the work, it is difficult to estimate the exact time required with sufficient accuracy to justify use of fixed prices.

This proposed AIDAR amendment is being made available for review and comments in accordance with OFPP Policy Letter 83–2 (48 FR 24492, 6/1/83) and AIDAR 701.374(b).

List of Subjects in 48 CFR Parts 716 and 752 Government procurement.

PART 716—TYPES OF CONTRACTS

1. Part 716 is amended by adding the following new table of contents and authority citation:

Subpart 716.3—Cost Reimbursement Contracts

Sec.

* * * * *

716.301–3 Limitations.

* * * * *

Subpart 716.5—Indefinite Delivery Contacts

* * * * *

716.501 General.

* * * * *

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

2. Part 716 is amended to add a new Subpart 716.5 as follows:

Subpart 716.5—Indefinite Delivery Contracts

716.501 General.

(c) AID uses a combination of contract types to obtain short term (up to 120 days) indefinite quantity professional services. Specifically, AID uses the time and materials payment method in its indefinite quantity contracts because it has found that fixed-price payment provisions are not suitable for the professional services being provided.

(1) Under this indefinite quantity arrangement, AID acquires services under delivery orders on the basis of (i) direct labor days at specified fixed daily rates that include wages, overhead, general and administrative expenses, fringe benefits, and profit and (ii) other direct costs at cost, such as travel and transportation. Rather than using the fixed-price payment clauses for indefinite quantity contracts, these contracts will use the payment clause specified in AIDAR 752.232–7.

(2) Appropriate Government surveillance of contractor performance is required to give reasonable assurance that efficient methods and effective cost controls are being used.

(3) This combination contract may be used (i) only after the contracting officer executes a determination and finding that no other type of contract is suitable and (ii) only if the delivery order includes a ceiling price that the contractor exceeds at its own risk. The contracting officer shall document the delivery order file to justify the reasons for the amount of any subsequent change in the ceiling price.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. The authority citation for Part 752 is unchanged, and continues to read as follows:

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 Fr 56673; 3 CFR 1979 Comp., p. 435.

4. A new 752.232–7 is added as follows:

752.232–7 Payments under Time-and-Materials and Labor-Hour Contracts.

AID uses the payment provision contained in FAR 52.232–7 in indefinite quantity contracts for professional services up to 120 days, as provided in AIDAR 716.501(c). When this provision is used the following preamble will be included:

For the purposes of this clause, certain terms shall be interpreted as follows:

The term 'contract(s)' includes 'delivery order(s)'; 'hour(s)', or 'hourly' may be calculated in terms of 'day(s)' or 'daily (8 hours)'; and 'materials' includes 'other direct costs'.

Dated: September 26, 1985

John F. Owens,

AID Procurement Executive

[FR Doc. 85–24317 Filed 10–9–85; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 85-14; Notice 01]

Federal Motor Vehicle Safety Standards; School Bus Passenger Seating and Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Grant of petition; notice of proposed rulemaking.

SUMMARY: This notice grants a petition for rulemaking submitted by the Wayne Corporation and proposes an amendment to Federal Motor Vehicle Safety Standard No. 222, *School Bus Passenger Seating and Crash Protection.* Wayne petitioned the agency to amend Standard No. 222 to set certain requirements for safety belts when belts are voluntarily installed on school buses having gross vehicle weight ratings greater than 10,000 pounds. Wayne requested that voluntarily installed safety belts be required by Standard No. 222 to meet the same requirements currently set for safety belts on lighter school buses with gross vehicle weight ratings of 10,000 pounds or less. Safety belts on those lighter school buses must meet the requirements of FMVSS No. 208, No. 209, and No. 210 that apply to multipurpose passenger vehicles.

DATES: Comments must be received by November 25, 1985. If adopted, the proposed amendments would become effective 120 days after publication of the final rule in the Federal Register.

ADDRESS: Comment should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket Room hours 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. Robert Williams, Office of Vehicle Safety Standards, Room 5320, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone (202) 426-2264.

SUPPLEMENTARY INFORMATION: Wayne Corporation (hereafter "Wayne") has submitted a petition for rulemaking requesting that FMVSS No. 222, *School Bus Passenger Seating and Crash Protection,* be amended to set certain requirements for safety belts that are voluntarily installed on school buses with gross vehicle weight ratings (GVWR) greater than 10,000 pounds. Wayne requested that those voluntarily installed safety belts be required to meet the same specifications currently set for safety belts on lighter school buses with GVWR's of 10,000 pounds or less. Safety belts on those lighter school buses must meet the requirements of FMVSS No. 208, *Occupant Crash Protection,* No. 209, *Seat Belt Assemblies,* and No. 210, *Seat Belt Anchorages,* as they apply to multipurpose passenger vehicles. The petition did not request that NHTSA amend Standard No. 222 to require seat belts in school buses with GVWR's greater than 10,000 pounds and this notice does not propose such a requirement.

The Motor Vehicle and Schoolbus Safety Amendments of 1974 (Pub. L. 93-492) directed the agency to issue motor vehicle safety standards applicable to school buses and school bus equipment. In response to this amendment, NHTSA issued minimum performance standards which apply to each school bus or item of school bus equipment manufactured in or imported into this country on or after April 1, 1977.

Federal Motor Vehicle Safety Standard No. 222 establishes occupant protection requirements regarding school bus passenger seating and restraining barriers. The purpose of Standard No. 222 is to reduce the number of deaths and the severity of injuries that result from the impact of school bus occupants against structures within the bus during crashes and sudden driving maneuvers.

Standard No. 222 sets requirements for school buses with GVWR's of 10,000 pounds or less that differ from those set for school buses with GVWR's greater than 10,000 pounds, because the crash pulse or deceleration experienced by the lighter vehicles is more severe than that of larger vehicles in similar collisions. For the lighter vehicles, Standard No. 222 requires all seating positions other than the driver's seat to meet the requirements of Standards Nos. 208, 209 and 210 as they apply to multipurpose passenger vehicles. Safety belts are thus required in the lighter buses in order to provide adequate crash protection for the occupants.

For the heavier school buses, Standard No. 222 relies on its requirements for compartmentalization between well-padded and well-constructed seats to provide occupant protection. Through compartmentalization, children are protected whether or not safety belts are worn. The padded area is intended to minimize the chances of serious injury occurring during a crash. Since the driver's seat on a school bus is not compartmentalized, FMVSS No. 208 requires a safety belt or automatic protection system for that seating position.

In denying petitions for rulemaking requesting that Standard No. 222 be amended to require installation of safety belts for passengers in school buses with GVWR's greater than 10,000 pounds, the agency has explained that adequate passenger protection is provided by compartmentalization. See 46 FR 45171 (September 10, 1981), 48 FR 47032 (October 17, 1983). NHTSA has further explained that State and local jurisdictions are free to order safety belts for their school buses.

Wayne argued in its petition that local jurisdictions that want to order safety belts in their large school buses need guidelines concerning the specifications for and installation of belts in these vehicles. The petitioner argued that there are questions about the appropriate performance requirements for safety belts in school buses with GVWR's greater than 10,000 pounds since belt performance in these vehicles is not currently regulated by any standard.

Wayne included in its petition a position paper from the School Bus Manufacturers Institute (SBMI) entitled "Passenger Seat Belts in School Buses" (June 26, 1984). As outlined in that memorandum, the SBMI guidelines recommend that safety belt installation in new school buses having GVWR's greater than 10,000 pounds comply with the requirements of FMVSS No. 222 as applicable for school buses having GVWR's of 10,000 pounds or less. SBMI's paper indicates that many school bus manufacturers install safety belts in large school buses in voluntary compliance with the requirements for safety belts on the lighter school buses. Wayne, however, believed that absent the requirements of safety standards concerning the installation of belts and belt anchorages for passengers seats in large school buses, improper safety belt installation could occur. The petitioner argued that requiring conformance to the safety standards for safety belts is the only way to ensure school bus safety by clearing up any confusion about safety belt performance requirements in large school buses when belts are installed on these vehicles.

The agency has concluded that the issues raised by Wayne's petition deserve further consideration and has therefore granted the petition. The agency has tentatively decided to amend Standard No. 222 to require that safety belts, when voluntarily installed

on school buses with GVWR's greater than 10,000 pounds, meet the specifications currently applicable to safety belts on school buses with GVWR's of 10,000 pounds or less.

NHTSA finds merit in Wayne's concern that, in the absence of additional guidance, improper safety belt installation can occur. It appears that an increasing number of local jurisdictions are interested in ordering safety belts in their large school buses. Amending Standard No. 222 as proposed in this notice would provide performance requirements for safety belts in large school buses which would ensure that the safety belt assemblies and anchorages used in those buses are capable of providing an acceptable level of safety.

At the same time, the agency does not believe that it is necessary or appropriate to regulate an aspect of performance if that performance level can be achieved through voluntary means. In this regard, the agency specifically seeks public comment on whether: (a) There is a need for this amendment to Standard No. 222, as argued by Wayne; and (b) whether there are other, voluntary means, based on action by the agency or others, which could be undertaken to ensure that voluntarily installed safety belts in large school buses provide an acceptable level of safety.

Under the current requirements of paragraph S5(a) of Standard No.222, a school bus passenger seat test specimen need not meet further requirements after having met S5.1.2 and S5.1.5, or either S5.1.3, S5.1.4, or S5.3. NHTSA explained in past preambles that S5(a) is worded in this way so as not to require a particular seating system to be subject to more than one destructive test. (See 40 FR 47141; October 8, 1975.) The proposed amendment to Standard No. 222 also provides alternatives for compliance tests of school bus passener seats voluntarily equipped with safety belts. The proposal would not require a particular test specimen to meet further requirements after having met S5.1.2 and S5.1.5, or be subject to either S5.1.3, S5.1.4, S5.3 or § 571.210 (Standard No. 210). As in our past interpretations of S5(a), the agency emphasizes that the proposed wording of that section is not intended to establish a test sequence.

The agency believes that the proposed amendment to Standard No. 222 reflects current practice within the industry and thus little or no lead time would be necessary. However, comments are requested from manufacturers estimating the amount of lead time that would be needed to review and implement necessary design changes pursuant to the proposed amendment.

Cost and Benefits

NHTSA has examined the effect of this proposed rulemaking action and determined that it is not major within the meaning of Executive Order 12291 or significant within the meaning of the Department of Transportation's regulatory policies and procedures. The proposal does not in any manner require safety belts to be installed on large school buses. The proposed amendment affect manufacturers of large school buses only if purchasers choose to order safety belts on their vehicles. The agency has also determined that the economic and other effects of this rulemaking action are so minimal that a full regulatory evaluation is not required.

Regulatory Flexibility Act

NHTSA has also considered the effects of this proposed rulemaking action under the Regulatory Flexibility Act. I hereby certify that it would not have a significant economic impact on a substantial number of small entities. School bus manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Even if those manufacturers were considered small businesses, the agency believes that many if not all of the school bus manufacturers currently install safety belts on large school buses in compliance with Standards Nos. 208, 209, and 210. Accordingly, this proposal would not impose new cost considerations on those manufacturers. Small governmental units and small organizations are generally affected by amendments to the Federal motor vehicle safety standards as purchasers of new motor vehicles. While small jurisdictions and groups may purchase large school buses, it would continue to be their choice as to whether to order safety belts on those vehicles. Since any impact on small entities from this proposal would be minimal and would only result from the exercise of choice on the part of the purchaser, the agency has determined that no initial regulatory flexibility analysis is necessary.

Environmental Effects

NHTSA has analyzed this proposed rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21) Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.222 [Amended]

In consideration of the foregoing, it is proposed that 49 CFR 571.222, *School Bus Passenger Seating and Crash Protection*, be amended as follows:

1. The authority citation for Part 571 of Title 49 would be revised to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. S5(a) would be revised to read:

S5. *Requirements.* (a) Each vehicle with a gross vehicle weight rating of more than 10,000 pounds shall be capable of meeting any of the requirements set forth under this heading when tested under the conditions of S6. Vehicles in this weight class equipped with safety belts at seating positions other than the driver's seat shall meet the requirements of §§ 571.208, 571.209, and 571.210 of this chapter (Standards Nos. 208, 209, and 210) as they apply to multipurpose passenger vehicles. However, the requirements of Standard Nos. 208 and 210 shall be met at W seating positions in a bench seat using a body block as specified in Figure 2 of this standard. A particular school bus passenger seat (i.e., test specimen) in this weight class need not meet further requirements after having met S5.1.2 and S5.1.5, or been subjected to either S5.1.3, S5.1.4, S5.3 or § 571.210 (Standard No. 210).

* * * * *

Issued on October 4, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-24252 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 50, No. 197
Thursday, October 10, 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

Feed Grain Donations for the Fort Peck Reservation Indian Assiniboine and Sioux Tribes in Montana

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Assiniboine and Sioux Indian Tribes of the Fort Peck Reservation in Montana has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation designated for Indian use and is utilized by members of the Assiniboine and Sioux Tribes for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of these tribes to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribes utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 15, 1986, or such other date as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C. on October 4, 1985.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 85-24255 Filed 10-9-85; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Sierra National Forest Grazing Advisory Board; Meeting

The Sierra National Forest Grazing Advisory Board will meet at 9:00 a.m. November 6, 1985 in Room 2002 of the Federal Building, 1130 O Street, Fresno, California.

Agenda

1. Discussion and approval of proposed Range Betterment Funded projects for FY '86.
2. Results of Advisory Board election.
3. A discussion concerning proposed changes in administrative procedures.
4. General topics of mutual interest.

The meeting will be open to the public.

The committee has established the following rules for public participation: Matters identified by the public will be considered by the Board at the close of the planned agenda.

Dated: October 2, 1985.

James L. Boynton,

Forest Supervisor.

[FR Doc. 85-24316 Filed 10-9-85; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Environmental Impact; Gilford Park Critical Area Treatment RC&D Measure, IN

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Indianapolis, Indiana, 46224, telephone 317-248-4350.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Gilford Park Critical Area Treatment RC&D Measure, Dearborn County, Indiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert L. Eddleman, State Conservationist, has determined that the preparation of and review of an environmental impact statement are not needed for this project.

The project concerns a plan for critical area treatment. The planned works of improvement include the installation of rip rap structure, critical area planting. Approximately one area will be seeded.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation is on file and may be reviewed by contacting Robert L. Eddleman, State Conservationist. The FNSI has been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

[This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials]

Dated: October 1, 1985.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 85-24340 Filed 10-9-85; 8:45 am]

BILLING CODE 3410-16-M

Environmental Impact; Prairie Creek Critical Area Treatment RC&D Measure, ID

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Indianapolis, Indiana, 46224, telephone 317-248-4350.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Prairie Creek Critical Area Treatment RC&D Measure, Boone County, Indiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert L. Eddleman, State Conservationist, has determined that the preparation of and review of an environmental impact statement are not needed for this project.

The project concerns a plan for critical area treatment. The planned works of improvement include the installation of gabion rip-rap baskets and sheet piling wall along 200 feet of streambank.

The notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation is on file and may be reviewed by contacting Robert L. Eddleman, State Conservationist. The FNSI has been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: October 1, 1985.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 85-24341 Filed 10-9-85; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Consultation/Hearing on Housing Discrimination

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1983, Pub. L. 98-183, 97 Stat. 1304, that a public consultation/hearing of the U.S. Commission on Civil Rights will begin on November 12, 1985 at 1:30 p.m. in Conference Room B of the Departmental Auditorium on Constitution Avenue between 12th and 14th Streets, NW., Washington, D.C. It will also convene on November 13, 1985, beginning at 8:45 a.m.

The purpose of the consultation/hearing is to collect information within the jurisdiction of the Commission, particularly concerning housing discrimination.

Following the conclusion of the hearing on November 13, there will be an open session from 5:00 p.m. to 6:00 p.m. during which interested members of the public are invited to testify with regard to housing discrimination.

The Commission is an independent, bipartisan factfinding agency authorized to study, collect, and disseminate information and to appraise the laws and policies of the Federal Government with respect to discrimination or denials of the equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Dated at Washington, D.C., October 4, 1985.

Clarence M. Pendleton, Jr.,

Chairman.

[FR Doc. 85-24230, Filed 10-9-85; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-013]

Certain Carbon Steel Products From Korea; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order.

SUMMARY: On July 31, 1985, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certain carbon steel products from Korea and announced its tentative determination to revoke the order. The review covers the period from October 1, 1984.

We gave interested parties an opportunity to comment. After considering the comment received, we determine that domestic interested parties are no longer interested in continuation of the order, and we are revoking the order. In accordance with the interested carbon steel products exported on or after October 1, 1984.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Richard C. Henderson or Al Jemmott, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 30987) the preliminary results of its changed circumstances administrative review of the countervailing duty order on certain carbon steel products from Korea (48 FR 7241, February 18, 1983). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Korean certain carbon steel products. Such merchandise is currently classifiable under items 607.6610, 607.6620, 607.6625, 607.6710, 607.6720, 607.6730, 607.6740, 607.8320, 607.8342, 607.8350, 607.9400, 608.0710, 608.0730, 608.1100, 608.1310, and 608.1330 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1984.

Analysis of Comment Received

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received a comment from ARMCO Inc., a domestic interested party.

Comment: ARMCO claims that there is a discrepancy in the wording between our notice of preliminary results and the terms of the Arrangement Concerning

Trade in Steel Products between Korea and the United States ("the Arrangement"). The Arrangement provides that *shipments* of Korean certain carbon steel products on or after October 1, 1984, will be subject to export ceilings. Our notice provided that "the revocation will apply to all certain carbon steel products *entered, or withdrawn from warehouse,* for consumption on or after October 1, 1984."

ARMCO argues that we should adhere to the Arrangement by making the revocation applicable only to shipments made on or after October 1, 1984.

Department's Position: Since the domestic interested parties' lack of interest in continuation of the countervailing duty order is the basis of the revocation, and since one of them, ARMCO, has unambiguously stated that its lack of interest in continuation applies to shipments made on or after October 1, 1984, we are revoking this order with respect to shipments of Korean certain carbon steel products exported on or after October 1, 1984. Exports prior to October 1, 1984, that are entered, or withdrawn from warehouse, for consumption on or after that date continue to be subject to the countervailing duty order.

If any interested party chooses to request, in accordance with the interim final/final rule (50 FR 32556, August 13, 1985), an administrative review for the period immediately preceding October 1, 1984, we will consider arguments that the revocation should affect exports (shipments) prior to October 1 that were entered on or after October 1.

Final Results of the Review and Revocation

After a review of the comment received, we determine that the domestic interested parties are no longer interested in continuation of the countervailing duty order on certain carbon steel products from Korea and that the order should be revoked on this basis.

Therefore, we are revoking the order on certain carbon steel products from Korea effective October 1, 1984. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after October 1, 1984, without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries.

This notice does not cover unliquidated entries of certain carbon steel products from Korea which were exported prior to October 1, 1984. The Department will cover any entries not covered in a prior administrative review and exported before October 1, 1984, in a separate review, if one is requested.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: October 3, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 85-24246 Filed 10-9-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-580-403]

Cold-Rolled Carbon Steel Flat-Rolled Products From Korea; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order.

SUMMARY: On July 31, 1985, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on cold-rolled carbon steel flat-rolled products from Korea and announced its tentative determination to revoke the order. The review covers the period from October 1, 1984.

We gave interested parties an opportunity to comment. We received no comments. We therefore determine that domestic interested parties are no longer interested in continuation of the order, and we are revoking the order. In accordance with the petitoner's notification, the revocation will apply to all cold-rolled carbon steel flat-rolled products entered, or withdrawn from warehouse, for consumption on or after October 1, 1984.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Richard C. Henderson or Al Jemmott, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 30988) the preliminary results of its changed circumstances administrative review of the countervailing duty order on cold-rolled carbon steel flat-rolled products from Korea (50 FR 5653, February 11, 1985). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Korean cold-rolled carbon steel flat-rolled products. Such merchandise is currently classifiable under items 607.8320, 607.8350, 607.8355, and 607.8360 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1984.

Final Results of the Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments.

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the countervailing duty order on cold-rolled carbon steel flat-rolled products from Korea and that the order should be revoked on this basis.

Therefore, we are revoking the order on cold-rolled carbon steel flat-rolled products from Korea effective October 1, 1984. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984, without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries.

This notice does not cover unliquidated entries of cold-rolled carbon steel flat-rolled products from Korea which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984. The Department will cover any entries not covered in a prior administrative review and entered, or withdrawn from warehouse, for consumption before October 1, 1984, in a separate review, if one is requested.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: October 4, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-24245 Filed 10-9-85; 8:45 am]

BILLING CODE 3510-05-M

[A-428-501]

Certain Table Wine from the Federal Republic of Germany; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether certain table wine from the Federal Republic of Germany is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination or or before October 25, 1985, and we will make ours on or before February 18, 1986.

EFFECTIVE DATE: October 10, 1985.

FOR FURTHER INFORMATION CONTACT: William D. Kane, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1766.

SUPPLEMENTARY INFORMATION:

The Petition

On September 10, 1985, we received a petition in proper form filed by the American Grape Growers Alliance for Fair Trade (the "Alliance") and the following members of the Alliance who are individual co-petitioners: California Association of Wine Grape Growers, Allied Grape Growers, Italian Swiss Colony, Sun-Diamond Growers of California, Guild Wineries and Distilleries, and Gibson Winery filing on behalf of the U.S. industry producing wine grapes and ordinary table wine. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry. The petition also alleges that sales of the subject merchandise are being made at less than the cost of production.

The petitioners based the United States price alternatively on U.S. Bureau of Census 1984 import statistics for still wines produced from grapes containing not more than 14 percent alcohol by volume and valued at not over four dollars per gallon, and on European Community export statistics for table wine in the first six months of 1984.

Petitioners state that home market prices are not available, and that third country prices, based on European Community export statistics for 1984, are below the cost of producing the merchandise. They base foreign market value on an estimated constructed value of the merchandise which includes material, labor and fabrication costs, all of which are derived from published studies of West German viniculture, and statutory minimums of 10 percent of these costs for general expenses and 8 percent of general expenses and cost for profit.

Based onthe comparison of constructed value to U.S. Bureau of Census statistics, petitioners alleged dumping margins of from 63 to 115 percent. Based on the comparison of constructed value to European Community statistics, petitioners alleged dumping margins of from 66 to 119 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on ordinary table wine and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether certain table wine from the Federal Republic of Germany is being, or is likely to be, sold in the United States at less than fair value.

Petitioners also allege that sales in the home market are at less than the cost of production. However, since they have failed to provide home market sales data to substantiate their allegation of sales at less than the cost of production in the home market, we are not adopting that allegation as part of our investigation. If, during the course of our investigation, we determine that there is not a viable home market, we will commence a cost of production investigation relative to third country sales which we determine have been demonstrated to be at prices below cost of production. If our investigation proceeds normally, we will make our preliminary determination by February 18, 1986.

Scope of Investigation

The product covered by this investigation is ordinary table wine, defined as still wine produced from grapes containing not over 14 percent alcohol by volume, and in containers each holding not over 1 gallon. Such wines are commonly denominated as "Tafelwein" or "Qualitaetswein" in the FRG. This does not include wine categorized by the appropriate authorities as "Qualitaetswein mit Praedikat". The product covered by this investigation is currently classifiable in the Tariff Schedules of the United States, Annotated (TSUSA), under items 167.3005, 167.3015, 167.3025, 167.3030, 167.3045, and 167,3060.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 25, 1985, whether there is a reasonable indication that imports of ordinary table wine from the Federal Republic of Germany causing material injury, or threaten material injury, to a United States industry. If its determination is negative the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

September 30, 1985.

[FR Doc. 24326 Filed 10-9-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-504]

Certain Table Wine From France; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether certain table wine from France is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before October 25, 1985, and we will make ours on or before February 18, 1986.

EFFECTIVE DATE: October 10, 1985.

FOR FURTHER INFORMATION CONTACT: Ray Busen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2830.

SUPPLEMENTARY INFORMATION:

The Petition

On September 10, 1985, we received a petition in proper form filed by the American Grape Growers Alliance for Fair Trade (the "Alliance") and the following members of the Alliance who are individual co-petitioners: California Association of Wine Grape Growers, Allied Grape Growers, Italian Swiss Colony, Sun-Diamond Growers of California, Guild Wineries and Distilleries, and Gibson Winery filing on behalf of the U.S. industry producing wine grapes and ordinary table wine. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from France are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry. United States price was derived from U.S. Bureau of Census import data for 1984, European Community export statistics for the first nine months of 1984, and from official French export data. These prices are reported to be f.o.b. No adjustments were made to these prices. Foreign market value was determined by calculating the cost of materials and processing expenses for the production of ordinary table wine in France and adding the statutory minimums of ten and eight percent for general expenses and profit. Based on this information, petitioners allege dumping margins ranging from 3 percent to 69 percent.

The petition also includes an allegation that sales in the home market are below the cost of production. Petitioners were unable to provide home market prices for bottled wine and consequently relied on prices for bulk wine between 1980 and 1983 as indicative of sales below the cost of bottled wine. Third country sales are also alleged to be below the cost of production based on French government export statistics for bottled wine in 1984.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on certain table wine from France and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether certain table wine from France is being, or is likely to be, sold in the United States at less than fair value. Since petitioners were unable to provide home market prices for bottled wine, we will not at this time commence an investigation of sales in the home market below the cost of production. If, during the course of our investigation, we determine that there is not a viable home market, we will commence a cost of production investigation relative to third country sales which we determine have been demonstrated to be at prices below cost of production. If our investigation proceeds normally, we will make our preliminary determination by February 18, 1986.

Scope of Investigation

The product covered by this investigation is ordinary table wine, defined as still wine produced from grapes, containing not over 14 percent alcohol by volume, and in containers each holding not over 1 gallon. Such wines are commonly denominated as "vins de pays" (country wine), "vins de table" (table wine) and "vin ordinaire" (ordinary wine). This does not include wine categorized by the appropriate French authorities as "Appelation d'Origine Controlee" or "Vins Delimites de Qualite Superieure". The product covered by this investigation is currently classifiable in the Tariff Schedules of the United States, Annotated (TSUSA), under items 167.3005, 167.3015, 167.3025, 167.3030, 167.3045, and 167.3060.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 25, 1985, whether there is a reasonable indication that imports of certain table wine from France are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

September 30, 1985.

[FR Doc. 85-24324 Filed 10-9-85; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be issued.

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International

Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a certificate should be issued. An original and five (5) copies should be submitted not later than October 21, 1985 to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 83-2A024."

Applicant: U.S. Export and Trading Company, P.O. Box 1698, Carlsbad, California 92008.

Application No. 83-2A024.

Date Deemed Submitted: September 27, 1985.

Members (in addition to applicant): None.

Amendment: U.S. Export & Trading Company seeks to amend its Certificate of Review. The amendment would add High Impact Ultraviolet Resistant Polyvinylchloride (UVR-PVC) blended (formulated) compounds and High Impact UVR-PVC pipes and fitting to the products listed under Export Trade in the original certificate.

Dated: October 4, 1985.

James V. Lacy,

Director, Office of Export Trading Company Affairs.

[FR Doc. 85-24331 Filed 10-9-85; 8:45 am]

BILLING CODE 3510-DR-M

[A-475-501]

Certain Table Wine From Italy: Initiation of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether certain table wine from Italy is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before October 25, 1985, and we will make ours on or before February 18, 1985.

EFFECTIVE DATE: November 10, 1985.

FOR FURTHER INFORMATION CONTACT: Arthur J. Simonetti; Office of Investigation, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-4198.

SUPPLEMENTARY INFORMATION:

The Petition

On September 10, 1985, we received a petition in proper form filed by the American Grape Growers Alliance for Fair Trade (the "Alliance") and the following members of the Alliance who are individual co-petitioners: California Association of Wine Grape Growers, Allied Grape Growers, Italian Swiss Colony, Sun-Diamond Growers of California, Guild Wineries and Distilleries, and Gibson Winery filing on behalf of the U.S. industry producing wine grapes and ordinary table wine. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that import of the subject merchandise from Italy are being, or are likey to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry. The petition also alleges that sales of the subject merchandise are being made at less than the cost of production.

Comparisons of United States price and foreign market value were based on both 1983 and 1984 data because complete statistics were not available from the Italian government on the export value of certin table wine for 1984.

The petitioners based the United States price for certain table wine on three general sources: (1) Official U.S. Bureau of the Census statistics pertaining to wine containing no more than 14 percent alcohol and sold on an f.o.b. basis at less than $4 per gallon; (2) the official export statistics published by the Government of Italy, and (3) Eurostat statistics.

Home market prices were not available to petitioners. They provide third country prices based on European Community 1984 export statistics, and allege that these prices are below the cost of producing the merchandise. They base foreign market value on an estimate of constructed value of the merchandise which includes material, labor and fabrication costs, all of which are derived from published studies of Italian viniculture, and statutory minimums of 10 percent of these costs for general expenses, and 8 percent of general expenses and cost for profit.

Using the value assigned by Italian export statistics, petitioners allege dumping margins of approximately 95-121 percent in 1983. Using the statistics contained in 1983 Bureau of Census compilations, they allege dumping margins of between 85-109 percent of the f.o.b. price for certain table wine from Italy. Using the 1984 Bureau of Census compilations, they allege dumping margins of between 92-117 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We examined the petition on certain table wine from Italy and have found it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether certain table wine from Italy is being, or is likely to be, sold in the United States at less than fair value.

Petitioners also allege that sales in the home market are at less than the cost of production. However, since they have failed to provide home market sales

data to substantiate their allegation of sales at less than the cost of production in the home market, we are not adopting that allegation as part of our investigation. If, during the course of our investigation, we determine that there is not a viable home market, we will commence a cost of production investigation relative to third country sales which we determine have been demonstrated to be at prices below cost of production. If our investigation proceeds normally, we will make our preliminary determination by February 18, 1986.

Scope of Investigation

The product covered by this investigation is ordinary table wine, defined as still wine produced from grapes containing not over 14 percent alcohol by volume, and in containers each holding not over 1 gallon. This does not include wine categorized by the appropriate Italian authorities as "Denominazione di Origine Controllata." The product covered by this investigation is currently classifiable in the *Tariff Schedules of the United States Annotated* (TSUSA), under item numbers 167.3005, 167.3015, 167.3025, 167.3030, 167.3045 and 167.3060.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 25, 1985, whether there is a reasonable indication that imports of ordinary table wine from Italy are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

September 30, 1985.

[FR Doc. 85-24325 Filed 9-9-85; 8:45 am]

BILLING CODE 3510-DS-M

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held November 5, 1985, at 9:30 a.m., the Herbert C. Hoover Building, Room 3407, 14th and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to computer peripherals, components and related test equipment or technology.

General Session

1. Opening remarks by the Chairman.
2. Comments by the public.
3. Report of progress on foreign availability assessment on floppy disk by Department of Commerce.
4. Report on claim for decontrol of magnetic tape.
5. Report of other action items from Foreign Availability Subcommittee.
6. Preliminary review of recommendations to the TTG in reference to 1986 COCOM negotiations.
7. Progress report from Technical Regulations Subcommittee.
8. Review and approval of 1985 annual report.
9. Nomination and election of new Chairman.
10. Establishment of date of next meeting and the agenda.

Executive Session

11. Discussions of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session will be open to the public with a limited number of seats available. A Notice of Determination to close meetings or portions of meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377-4217. For further information or copies of the minutes contact Margaret A. Cornejo, (202) 377-2583.

Dated: October 7, 1985.

Milton M. Baltas,

Director, Technical Programs Staff Office of Export Administration.

[FR Doc. 85-24321 Filed 10-9-85; 8:45 am]

BILLING CODE 3510-DT-M

Joint Meeting of the Electronic Instrumentation Technical Advisory Committee, et al; Closed Meeting

A joint meeting of the Electronic Instrumentation, the Computer Systems and the Automated Manufacturing Equipment Technical Advisory Committees will be held on October 31, 1985, 2:00 p.m., Herbert C. Hoover Building, Room 3407, 14th Street and Constitution Avenue NW., Washington, D.C. The Committees advise the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to electronic instrumentation, automated manufacturing, and computer systems equipment or technology.

The Committees will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(c)(1) and are properly classified under Executive Order 12356.

Copies of the Notice of Determination to close meetings or portions thereof are available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4217. For further information or copies of the minutes contact Margaret A. Cornejo, 202-377-2583.

Dated: October 7, 1985.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 85-24323 Filed 10-9-85; 8:45 am]

BILLING CODE 3510-DT-M

Transportation and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Transportation and Related Test Equipment Technical Advisory Committee will be held October 30, 1985, 9:30 a.m., Herbert C. Hoover Building, Room 3407, 14th Street and Constitution Avenue NW., Washington, D.C.

The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology.

This will be the first meeting of the Transporation and Related Equipment TAC since the enactment of the Export Administration Amendments Act of 1985. The Act provides for annual review of the list and prompt revisions as may be necessary after each review. Before beginning each annual review, notice shall be made in the **Federal Register**, with opportunity during the review for comment and the submission of data by interested parties. This data is to include the availability from sources outside the United States of goods and technology comparable to those subject to export controls. This meeting will receive such comments, expecially with a view to developing an annual plan. The controls affected will be for multilateral, unilateral, and for special (bulk) licensing.

Agenda:

I. Opening remarks by the Chairman.

2. Presentation of papers or comments by the public.

3. Briefing by DOC on the new Export Administration Act and its impact on the Committee.

Executive Session:

4. Discussion of matters properly classified under Executive Order 12356, dealing the U.S. and COCOM control program and strategic criteria related thereto.

The general session of 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.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 19, 1985, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377–4217. For further information or copies of the minutes contact Margaret A. Cornejo, 202–377–2583.

Dated: October 7, 1985.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 85–24322 Filed 10–9–85; 8:45 am]

BILLING CODE 3501–DT–M

Geological Survey; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made 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). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 85–166. Applicant: U.S. Geological Survey, Denver, CO 80225. Instrument: Mass Spectrometer, Series 215 with Accessories. Manufacturer: Mass Analyzer Products Limited, United Kingdom. Intended use: See notice at 50 FR 23171.

Comments: None received.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (November 29, 1984).

Reasons: The foreign instrument has very low gas background levels of less than 1.0×10^{-13} cubic centimeters at mass 36 (Argon equivalent) and of less than 2.0×10^{-15} cubic centimeters at mass 132 (Xenon equivalent) at standard temperature and pressure. The National Bureau of Standards advises in its memorandum dated July 29, 1985 that the capability of the foreign instrument described above is pertinent to the applicant's intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formally requested a bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The applicant has provided satisfactory evidence that it formally requested a bid by the domestic manufacturer but received no reply. Accordingly, we conclude that the domestic manufacturer was either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

(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. 85–24327 Filed 10–9–85; 8:45 am]

BILLING CODE 3510–DS–M

Rutgers University, et al.; Applications for Duty-Free Entry of Scientific Instruments

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

Docket No.: 85-298. Applicant: Rutgers University, Department of Physics & Astronomy, P.O. Box 849, Piscataway, NJ 08854. Instrument: Piezo-electric Fabry-Perot Interferometer and Controller. Manufacturer: Queensgate Instruments Limited, United Kingdom. Intended use: The instrument is intended to be used for investigations of the dynamics of stellar and gaseous material during research of the following:

(1) Solar System—10 plasma torus.

(2) Galactic bipolar jets and star formation.

(3) Galactic globular cluster mass loss searches and catyclysmic variables.

(4) Extragalactic M82 absorption lines and polarization in the H alpha line.

(5) Absorption line work on E galaxies.

(6) Search for emission line regions in E galaxies.

(7) Spiral/irregular galaxies—star formation rates and complex velocity fields.

(8) Active galaxies/QSO.

Application received by Commissioner of Customs: September 20, 1985.

Docket No. 85-299. Applicant: Virginia Commonwealth University, Department of Physiology & Biophysics, Box 551, 1101 E. Marshall Street, Richmond, VA 23298-0001. Instrument: Four Hydraulic Micromanipulators with three axes of motion, Model MO-103N-R and MO-103N-L. Manufacturer: Narishige Scientific Instrument Laboratory, Japan. Intended use: The instrument is intended to be used for studies of calcium release from the sarcoplasmic reticulum in skinned cardiac cells, i.e., in single cardiac cells from which the sarcolemma has been removed by microdissection. Experiments will be conducted to obtain an understanding of the basic mechanism of cardiac excitation-contraction coupling. This, in turn, should permit a better understanding of the mechanism of action of cardioactive drugs. Application received by Commissioner of Customs: September 20, 1985.

Docket No. 85-300. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Instrument: Streak Camera, Model C1587 with Accessories. Manufacturer: Hamamatsu Corporation, Japan. Intended use: The instrument is intended to be used to research and study phenomena related to the diagnosis of fast particle (electron and proton) beams and plasmas created by the vaporization of materials by high energy, very high energy density particle and photon beams. In addition, the isntrument will be used to image light emitted by electrical breakdown of solids and liquids to diagnose the breakdown properties. Experiments to be conducted will include the following:

(a) Use of spectroscopic techniques to determine the Stark broadening of a background gas which will measure the electron density of a particle beam or plasma.

(b) Use of spectroscopic techniques to determine the line/continuum ratio of a background gas which will measure the electron and ion temperature of a plasma or particle energy of a particle beam.

Application received by Commissioner of Customs: September 20, 1985.

Docket No.: 85-304. Applicant: National Institutes of Health, National Institute of Allergy and Infectious Diseases, 9000 Rockville Pike, Building 5, Room 114, Bethesda, MD 20289. Instrument: Hollow Fiber Culture Apparatus, Model 115/60 Hz. Manufacturer: Catholic University of Nijmegen, The Netherlands. Intended use: The instrument is intended to be used for studies of *plasmodium falciparum* cultured in human blood cells in experiments conducted to extract material used for developing malarial vaccines. Application received by Commissioner of Customs: September 26, 1985.

Docket No.: 85-305. Applicant: University of New Mexico, Department of Biology, Albuquerque, NM 67131. Instrument: Electron Microscope, Model EM 109 with TFP Photography System. Manufacturer: CArl Zeiss, West Germany. Intended use: Investigation of the ultrastructure of tissues, cells extracellular matrix, and subcellular fractions from mammalian and human origins. In addition, protozoan and prokaryotic material will be examined. The ultrastructure of cells and tissues in diseased and normal states will be compared and contrasted. The effects of specimen prepartion techniques upon ultrastructure of smooth muscle tissue will also be studied. The majority of the objectives are related to better understanding the biochemistry and enzymology of cells and their relations to, and their responses to, the extracellular environment. Application received by Commissioner of Customs: September 26, 1985.

Docket No.: 85-306. Applicant: Yale University School of Medicine, Tomkins 5, 333 Cedar Street, New Haven, CT 06510. Instrument: Electron Microscope, Model JEM-100CX with Accessories. Manufacturer: JEOL, Limited, Japan. Intended use: The instrument will be used to carry out investigations of:

(1) Ultrastructural studies of cultured neuronal cells to investigate the cytroarchitecture of the preserved cell and compare it with that of the living cell.

(2) Study of the differentiation and characterization of olfactory epithelial cells from explants and transplants from juvenile and adult rats.

The instrument will also be used in the training of graduate students who are candidates for Ph.D. degree in Neurosciences. Application received by Commissioner of Customs: September 26, 1985.

Docket No.: 85-307. Applicant: Mississippi Crime Laboratory, 1900 East Woodrow Wilson, Jackson, MS 39216. Instrument: Combination IR-UV with image enhancement. Manufacturer: Foster & Freeman, Limited, United Kingdom. Intended use: Scientific analysis of those documents pertaining to investigations of criminal activity as conducted by law enforcement officers within the state of Mississippi. Application received by Commissioner of Customs: September 26, 1985.

Frank W. Creel,

Director, Statutory Import Programs Staff.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc. 85-24330 Filed 10-9-85; 8:45 am]

BILLING CODE 3510-DS-M

Queens College et al; Applications for Duty-Free Entry of Scientific Instruments

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, D.C.

Docket No.: 85–140R. Applicant: Queens College, City University of New York, Chemistry Department, 65–30 Kissena Boulevard, Flushing, NY 11367–0904. Instrument: Teaching Flash Kinetic Spectrometer with Accessories. Original notice of this resubmitted application was published in the **Federal Register** of May 3, 1985.

Docket No.: 85–283. Applicant: Research Triangle Institute, Office of Purchasing, P.O. Box 12193, Research Triangle Park, NC 27709. Instrument: Mass Spectrometer, Model MMZAB/E with Accessories. Manufacturer: VG Analytical Instruments, Limited, United Kingdom. Intended Use: The substances to be studied will include compounds of high molecular weight and low volatility. Some of these compounds include polypeptides, glycopeptides, oligonucleotides, phospholipids, antibiotics, synthetic polymers and natural products. The compounds will be ionized mainly by fast atom bombardment (FAB) mass spectrometry, and also by electron impact. Ions produced will be detected by an electron multiplier and information processed by computer techniques to yield a mass spectrum characteristic of the compound. Other techniques will allow the determination of which parent ions decompose to produce daughter ions. Application received by Commissioner of Customs: September 20, 1985.

Docket No.: 85–284. Applicant: National Aeronautics and Space Administration, Ames Research Center, Mail Stop ASM:241–1, Moffett Field, CA 94035. Instrument: Microcomputer Controlled Field Reflective Spectrometer System with Accessories. Manufacturer: Barringer Resources, Incorporated, Canada. Intended use: The instrument is intended to be used to study reflected solar radiation from and within plant canopies and leaf tissues. Spectra of ground leaves, whole leaves, leaf assemblages, and plant canopies will be obtained in the field at remote sites. These spectra will be investigated relative to the high spectra resolution absorption properties of their biochemical composition. Application received by Commissioner of Customs: September 18, 1985.

Docket No.: 85–285. Applicant: Columbia University, Department of Biological Sciences, New York City, NY 10027. Instrument: Stereomicroscopes, Model M5A with accessories. Manufacturer: Leitz (Wild-Heerbrugg), Switzerland. Intended Use: The instruments are to be used in conjunction with genetic studies of nerve cell development. These studies use a free-living nematode (round worm) called Caenorhabditis elegans, which is quite small. Thus, all manipulations must be done under a high resolution stereomicroscope. Application received by Commissioner of Customs: September 11, 1985.

Docket No: 85–286. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Instrument: superconducting Magnet System. Manufacturer: Oxford Instruments Limited, United Kingdom. Intended use: The instrument will be used to study films of NbN sputter deposited onto Sapphire Hastelloy tapes. Specifically, the system will be used to measure the critical field as a function of temperature up to fields of 13 Tesla, and critical current densities as a function of applied field up to 13 Tesla. The system will also be used to measure resistivity as a function of temperature from 300 K to the superconducting transition temperature. Application received by Commissioner of Customs: September 18, 1985.

Docket No.: 85–287. Applicant: State University of New York at Buffalo, Department of Biochemical Pharmacology, School of Pharmacy, Buffalo, NY 14260. Instrument: Nanosecond Fluorescence Spectrometer System, Model 2000. Manufacturer: Photochemical Research Associates, Incorporated, Canada. Intended use: The instrument is intended to be used for studies of fluorescence lifetimes and quantum yields and fluorescence depolarization (anisotropy) properties of chemical solutions. These variables are helpful in assessing the microviscosity and rotational properties of biological macromolecules and cell membranes. Longterm research objectives concern examination of mechanisms by which nerve and muscle cells communicate and transfer information. Use of the instrument will also become a part of the doctoral training of graduate student in their research. Application received by Commissioner of Customs: September 17, 1985.

Docket No.: 85–288. Applicant: Duke University Medical Center, Department of Physiology, Box 3709–PH, Durham, NC 27710. Instrument: Electron Microscope, Model JEM–1200EX with Accessories. Manufacturer: JEOL, Company Limited, Japan. Intended Use: The instrument will be used by several investigators to carry out high resolution transmission electronic microscopy of cell ultrastructural features in conjunction with energy dispersive x-ray analyses of subcellular composition and scanning electron microscopy of cell surface structures. Some of the studies will include the following:

(1) Quantitation and localization of membrane binding sites for an irreversible ^{3}H-amiloride inhibitor of sodium transport in toad urinary bladder and rabbit kidney collecting duct.

(2) Measurement of intracellular ionic concentrations in isolated mammalian kidney tubules and correlation with ultrastructure.

(3) Identification of cell types in tissue fractions during isolation procedures in the mammalian kidney and toad urinary bladder.

(4) Determination of the ultrastructural correlates of the physiological responses of cultured heart cells to sodium pump adaptation and active transport inhibiton.

(5) Establishment of the morphological aspects of excitation-contraction coupling in skeletal and cardiac muscles and to define the relation of this morphology to the ionic content of intracelluar structures.

The instrument will also be used in the training of post-doctoral fellows and MD-PH.D. students requiring correlation of ultrastructure with subcellular composition in their work. Application received by Commissioner of Customs: September 17, 1985.

Docket No.: 85–289. Applicant: U.S. Geological Survey, MS 431, National Center, Reston, VA 22092. Instrument: Electromagnetic Terrain Conductivity Meter, Model Em–34–3XL with Accessories. Manufacturer: Geonics Limited, Canada. Intended use: The instrument is intended to be used for studies of geologic and aquifer materials. Experiments will be conducted to define subsurface geologic layers and fluid conductivity. The objectives of the investigations are to understand subsurface geologic and hydrologic conditions as they pertain to ground-water contamination. Application received by Commissioner of Customs: September 17, 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. 85–24329 Filed 10–9–85; 8:45 am]

BILLING CODE 3510-DS-M

University of Chicago et al.; Applications for Duty-Free Entry of Scientific Instruments

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, D.C.

Docket No.: 85–157R. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Instrument: Surface Analysis System, Model X Sam 800. Original notice of this resubmitted application was published in the **Federal Register** of May 24, 1985.

Docket No.: 85–291. Applicant: State University of New York at Stony Brook, Department of Anatomical Sciences, Health Sciences Center, Stony Brook, NY 11794. Instrument: Reflex Light Microscope. Manufacturer: Reflex Measurement Limited, United Kingdom. Intended Use: the instrument will be used in studies of the teeth of extinct and extant mammals to obtain accurate measurements in three dimensions, these teeth can be smaller than one millimeter in length. Application received by Commissioner of Customs: September 20, 1985.

Docket No.: 85–293. Applicant: U.S. Department of the Interior, Bureau of Reclamation, P.O. Box 25007, D–1523A, Lakewood, CO 80225. Instrument: ICP/Mass Spectrometer. Manufacturer: VG Instruments, United Kingdom. Intended use: the instrument is intended to be used for the identification and measurement of inorganic parameters such as trace metals and major cations from a wide range of sample matrices in the following programs:

1. Identify and measure trace metal priority pollutants and hazardous waste brackish and brine water from reservoirs, impoundments, agricultural runoff etc., to support water quality and limnological studies.

2. Determination of the leachability of trace metals in sediment and water during aerobic anaerobic conditions.

3. Provide simultaneous qualitative and quantitative data for trace metals and major cations in support of environmental impact statements and limnological studies, involving programs such as Kesterson National Wildlife Refuge, San Luis Drain, and Mt. Elbert Pump Storage facility.

4. Provide qualitative and quantitative data involving removal of selenium by electron exchange resin from agricultural drainage in support of water reclamation.

5. Determination of the elemental changes in alloys, construction materials etc., that has led to failure or weakening of the materials.

6. Determination of hazardous inorganic waste that has been generated by the Bureau.

7. Determination of elemental composition of geological specimens in support of construction projects.

Application received by Commissioner of Customs: September 20, 1985.

Docket No.: 85–294. Applicant: University of Maryland, College Park, MD 20742. Instrument: Fast-Scanning Michelson Interferometer, Model #40501. Manufacturer: Analytical Accessories, Limited, United Kingdom. Intended use: The instrument will be used to measure low level electromagnetic radiation (light) produced by electron cyclotron emission from relativistic electrons on the TARA Mirror Machine. These measurements will be used to diagnose the energy and spatial extent of these relativistic electrons. Application received by Commissioner of Customs: September 23, 1985.

Docket No.: 85–295. Applicant: Arizona State University, Department of Chemistry, Tempe, AZ 85287. Instrument: Automated X-ray Powder Diffractometer, Model D/MAX–IIB. Manufacturer: Rigaku Corporation, Japan. Intended use: The instrument is part of an integrated package which is intended to be used for x-ray powder diffraction research. Its main function is the study of solid state materials, their structures and textures. The main areas of research to be performed are examination of the structure of compositionally modulated transition metal films, metal ammonia intercalates with transition metal sulfides, metal oxide/metal sulfide corrosion products and various materials of geochemical interest. The primary educational use of this equipment is in one-on-one training of graduate students in the use and practice of modern x-ray powder diffraction. Application received by Commissioner of Customs: September 20, 1985.

Docket No.: 85–296. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Instrument: FTIR Vacuum Spectrometer, Model 6107457 and Accessories. Manufacturer: Bruher Analytische Messtechnik GmbH, West Germany. Intended use: Solid state absorption and reflectance spectrophotometry of disordered solids and fast ion conducting glasses. Reflectivity measurements from metals to provide information on their electronic structure. In the far IR, information is obtained on the conductivity vs. frequency while in the near IR and visible, information is more directly related to the band structure of the material. Application received by Commissioner of Customs: September 23, 1985.

Docket No.: 85–297. Applicant: Rensselaer Polytechnic Institute, 110 8th Street, Troy, NY 12180–3590. Instrument: Surface Forces Apparatus System. Manufacturer: Anutech Pty., Limited, Australia. Intended use: The instrument is intended to be used to study the fundamental phenomena of membrane fouling thus making it possible to understand these processes and operate them more efficiently. This involves studies of the interaction of foulants such as proteins, relevant in the new Biotechnology industry, with commercially available membrane materials such as polyamide and polypropylene. The objectives of this study are to compare microscopic measurements of solute-solute and solute-membrane interactions with macroscopic measurements of membrane performance evaluated in a test cell under the same experimental conditions. In addition, the instrument will be used for the education of graduate students (a) to conduct research described above and for demonstration purposes for graduate courses such as (1) Separations and Recovery Processes and (2) Membrane Separation Concepts. Application received by Commissioner of Customs: September 20, 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. 85–24328 Filed 10–9–85; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management International Through Government Bill of Lading

AGENCY: Military Traffic Management Command, Department of Defense (DOD).

ACTION: Notice of final decision.

SUMMARY: Reference announcement of 12 March 1985 in the Federal Register, 50 FR 9881. There the Military Traffic Management Command (MTMC) announced and discussed in detail its intention of modifying procedures associated with the acquisition of rates for international through government bill of lading (ITGBL) shipments of household goods and unaccompanied baggage for Volume 52, starting 1 April 1986. Written comments were solicited and considered. It has been determined to place these procedures into effect for the procurement cycle beginning 1 April 1986. (Solicitation being issued in October 1985).

FOR FURTHER INFORMATION CONTACT: LTC Robert P. Coleman or Mrs. Naomi King, HQ Military Traffic Management Command, Attn: MT-PPC (Room 408), 5611 Columbia Pike, Falls Church, VA 22041 Tel. (202) 756-2385.

SUPPLEMENTARY INFORMATION: As indicated in this section of the announcement in 50 FR 9881, the appropriate paragraph in DOD 4500.34 R, May 1971, The Personal Property Regulation, will be amended to reflect this change.

These determinations are being made under the authority of 10 U.S.C. 2301-2314 and DOD Directives 4500.9 and 4500.34R.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 7, 1985.

[FR Doc. 85-24308 Filed 10-9-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 2, 1985.

The USAF Scientific Advisory Board Ad Hoc Committee on Close Air Support will meet November 6, 1985, from 9:00 a.m. to 5:00 p.m. and November 7, 1985, from 9:00 a.m. to 4:00 p.m. at the Pentagon, Room 5D982, Washington, DC.

The purpose of this meeting is to receive briefings on the threat and the requirements for future close air support aircraft and weapons.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-24338 Filed 10-9-85; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Mill Creek, Metro Region of Nashville, TN; Flood Protection Study

AGENCY: Army Corps of Engineers, Nashville District DOD.

ACTION: Notice.

1. *Summary.* The Corps of Engineers, Nashville District, is conducting a study to identify solutions to reduce basin-wide flood damages for Mill Creek, Davidson County, Tennessee. The study was undertaken at the request of the Metropolitan Government of Nashville and Davidson County and conducted under the authority of a Congressional resolution, adopted 28 April 1965, to investigate flooding in the Mill Creek Basin, and a resolution adopted 19 September 1973, amended 3 July 1975, by the Senate Committee on Public Works (Metropolitan Region of Nashville, Tennessee study) calling for a comprehensive water resources study of ten counties in Middle Tennessee. The report will address options to alleviate flooding in the 108-square-mile Mill Creek Basin from the Creek's confluence with the Cumberland River (Cheatham Reservoir) at Mile 194.5 in Davidson County to its headwaters, some 24 miles upstream in Williamson County. Levees, floodwalls, modifications to channels and bridges, conventional permanent-pool dams, dry-bed dams, clearing and snagging debris from the channel, evacuation of floodprone areas, and floodproofing and raising homes and businesses are all being considered as methods to reduce flood damages in the Mill Creek Basin. Analysis thus far, however, indicates most of these options are effective only in specific heavily-damaged areas. Plans now being given the most attention include dry-bed detention dams ("dry dams") on Mill and Sevenmile Creeks and a section of channel widening on Sevenmile Creek. These plans yield the largest basin-wide net benefits and greatest reductions in flood damages and will be evaluated in greater detail in the DEIS.

2. *Scoping Process.* The public is invited to submit written comments within 30 days of this notice to aid in determining the issues to be covered in the DEIS.

Your comments and concerns regarding the alternatives described above will become a part of the EIS for the Mill Creek Basin. The EIS will identify, describe, and evaluate existing environmental, social, cultural, and recreational resources; explain flooding potential and alternative solutions; and evaluate environmental impacts associated with the alternatives under consideration.

The following is a preliminary list of significant issues which would be analyzed and addressed in the DEIS:

A. Effects on socio-economics.
B. Effects on fish and wildlife.
C. Effects on terrestrial habitat.
D. Effects on endangered species.
E. Effects on farmlands.
F. Effects on aquatic habitats.
G. Effects on cultural resources.
H. Effects on water quality.
I. Effects of discharge of fill material below ordinary high water under section 404 of the Clean Water Act of 1977.

Coordination will be conducted with the US Fish and Wildlife Service (FWS) to insure compliance with section 7 of the Endangered Species Act of 1973, as amended in 1978, as well as the FWS and Tennessee Wildlife Resources Agency under the Fish and Wildlife Coordination Act (48 Stat. 401 as amended: 16 U.S.C. 661 et seq.)

Copies of the draft and final EIS will be transmitted to State and Federal agencies for comments and filed with the Environmental Protection Agency in accordance with ER 200-2-2 and 40 CFR Parts 1500-1508.

3. *Scoping Meeting.* Public meetings and workshops were held on 1 July and 12 August 85, respectively to discuss and develop project alternatives. Scoping letters were mailed on 11 June 85. No additional scoping meeting will be conducted unless determined necessary by the District Engineer.

4. *Estimated Completion.* The DEIS should be made available to the public in January 1985.

5. *Questions.* The District point of contact for questions concerning this project DEIS is Ms. Lizabeth Rhodes, (615) 251-5028 or FTS 852-5028. All

correspondence should be sent to the following address: U.S. Army Engineers District, Nashville Planning Branch, Environmental Analysis Section, PO Box 1070, Nashville, Tennessee 37202.

Dated: October 2, 1985.

William T. Kirkpatrick,

Colonel, Corps of Engineers, Commanding.

[FR Doc. 85-24314 Filed 10-9-85; 8:45 am]

BILLING CODE 3710-GF-M

DEPARTMENT OF ENERGY

International Energy Program; Approval by the Secretary of Energy Pursuant to Section 5 of the Voluntary Agreement and Plan of Action

AGENCY: Department of Energy.

ACTION: Publication of Approval of Participation by U.S. Oil Companies in the International Energy Agency's Fifth Allocation Systems Test.

SUMMARY: On September 19, 1985, the Secretary of Energy issued letters of approval with respect to U.S. oil company participation in the International Energy Agency's Fifth Allocation Systems Test. The text of the letter and related documents are appended to this notice.

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, Room 6A-167, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION: Section 252 of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6272, makes available to U.S. oil companies a limited antitrust defense and a breach of contract defense for actions to carry out a voluntary agreement or plan of action to implement the emergency provisions of the Agreement on an International Energy Program (IEP) (TIAS 8278, November 18, 1974), which is implemented through the International Energy Agency (IEA), in Paris. A voluntary Agreement and Plan of Action to Implement the IEP (Voluntary Agreement) was approved by the U.S. Government in 1976, 2 CCH Federal Energy Guidelines, para. 15,845. Eighteen U.S. oil companies currently participate in the Voluntary Agreement.[1]

Pursuant to section 252 of the EPCA, the Secretary of Energy monitors the carrying out of the Voluntary Agreement and is responsible for issuing antitrust approvals with respect thereto. Under section 5(b) of the Voluntary Agreement, specific approval of the Secretary of Energy is required if these U.S. oil companies are to provide, disclose or exchange confidential or proprietary information or data in IEA allocation systems tests.

The IEA's Fifth Allocation Systems Test (AST-5) began on September 20, 1985, with the transmission by the IEA of a telex to IEA member governments and participating companies announcing the hypothetical oil supply disruption for the test. To facilitate the test activities of U.S. oil companies which participate in the Voluntary Agreement, written approval has been given by the Secretary of Energy pursuant to section 5(b) of the Voluntary Agreement for these companies' submission, disclsoure or exchange, in AST-5, of confidential or proprietary information or data which is necessary to the conduct of the test. For a discussion of the IEP emergency oil sharing system and the oil industry's advisory and functional role in IEP activities, *see* 50 FR 33396 (August 19, 1985).

The documents published herewith are the text of the letter of approval sent to the 18 U.S. oil companies participating in the Voluntary Agreement; an appendix to the approval letter setting forth the U.S. Government antitrust operating procedures and the requirements for recordkeeping by the U.S. oil companies in connection with their participation in the test; and correspondence among the Department of Energy, the Department of Justice, the Department of State and the Federal Trade Commission evidencing consultation among those agencies and the required concurrence of the Department of Justice in the issuance of the letter of approval by the Secretary of Energy.

A draft of this approval letter with its operating procedures/recordkeeping requirements was published in the **Federal Register** for public comment. *See* 50 FR 33396 (August 19, 1985). The draft approval letter was similar to that which was issued for the previous IEA allocation systems test held in 1983. *See* 48 FR 20268 (May 5, 1983). However, the operating procedures and recordkeeping requirements used in 1983 were modified to incorporate improvements that have been made in analogous provisions of the most recent draft of a new plan of action to implement the IEP during an actual emergency, which provisions themselves earlier were improved based on experience gained in the last test.

Written comments were submitted by counsel on behalf of nine U.S. oil companies participating in the Voluntary Agreement and in AST-5. In response to these comments, and after consultation with the Departments of Justice and State and the Federal Trade Commission, we have modified the proposed approval letter and operating procedures/recordkeeping requirements in certain respects, as discussed below.

The data base for the test—consisting principally of historical import, export, indigenous production and stock level data for October 1984 through January 1985—actually will be altered to reflect the effects of the AST-5 hypothesized emergency oil disruption scenario. Also, companies are free to "mask" their sensitive data if they so wish. It is expected that the age of the data, their potential masking by the companies, combined with the protections built into the approval letter, should significantly reduce any risk of anticompetitive behavior as a result of the exchange or disclosure of proprietary company information during AST-5.

The pricing of oil transactions will not be considered in AST-5. The antitrust approval letter therefore expressly excludes permission for the U.S. oil companies to disclose or exchange confidential or proprietery crude oil or petroleum product prices or other commercial terms.

Discussion of Comments

The comments by counsel representing several U.S. Voluntary Agreement participants addressed both the approval letter and the operating procedures/recordkeeping requirements.

A. Approval Letter

Several changes made in the approval letter in response to the comments received were of a minor technical nature, including expressly authorizing communications with the IEA member government official who chaired the AST-5 design activity (paragraph 6) and clarifying which petroleum cargoes were within the test data base (paragraph 8).

One industry comment concerned the point in time when communications between a Voluntary Agreement participant company and another oil company, for the purpose of forming so-

[1] The U.S. oil companies which participate in the Voluntary Agreement are: Amerada Hess Corporation, Amoco Corporation, Ashland Oil, Inc., Atlantic Richfield Company, Caltex Petroleum Corporation, Champlin Petroleum Company, Chevron Corporation, Conoco, Inc., Exxon International Corporation, Mobil Oil Corporation, Murphy Oil U.S.A., Occidental Oil and Gas Company, Phillips Petroleum Company, Shell Oil Company, Standard Oil Company of Ohio, Sun Company, Inc., Texaco, Inc., and Union Oil Company of California.

called "closed loop" voluntary offers for oil reallocation, would begin to receive antitrust protection. As suggested, paragraph 11 was modified to make such coverage available following the companies' submission of their first cycle "Questionnaires A" to the IEA Secretariat, rather than from the point in time some six days later when IEA country allocation rights and allocation obligations would be announced. Paragraph 11 also has been revised to clarify that Voluntary Agreement participants may communicate with the affiliates of other IEA Reporting Companies (in addition to the other Reporting Companies themselves), and that the restrictions contained in paragraph 11 are not intended to appy to ISAG members.

As recommended, we have added a provision (paragraph 14) recognizing the possibility that oil company employees might inadvertently receive unsolicited confidential or proprietary information or data, but we have confined the applicability of this provision to company employees who serve on the Industry Supply Advisory Group (ISAG) in Paris, since Voluntary Agreement participant headquarters and affiliate employees are not likely to be the recipients of other companies' confidential or proprietary information or data during a systems test. This limitation in the test approval letter is without prejudice to the question of antitrust coverage for such receipts during an actual emergency, when the antitrust risks are likely to be different.

One change in the approval letter proposed by industry was rejected. The comments questioned the restriction, in paragraph 9(b), on the ISAG's access to certain data contained in the "Questionnaires A and B," *viz.*, company-specific opening inventory data, closing inventory levels, and inventory level changes for October 1984. Industry counsel contended that ISAG members probably would require access to the October 1984 inventory data, and that segregating this data from the balance of the restricted data would be unnecessarily burdensome. However, the access limitation on October 1984 inventory data was imposed because such data might not be affected by the hypothetical petroleum supply disruption upon which AST–5 is premised and, if not, the data unnecessarily would disclose actual company inventory positions at the close of September 1984, a period not included in the AST–5 data base. A similar limitation was contained in both the AST–3 and AST–4 approval letters. *See* 45 FR 71314, October 27, 1980, and 48 FR 20268, May 5, 1983. The approval letter (paragraph 9(b)) does provide, as did the approval letters for previous tests, that ISAG access to this data may be approved at the test site if that proves necessary to the conduct of the test.

B. Operating Procedures/Recordkeeping Requirements

In response to the comments, we have added a new definition of "Voluntary Agreement participant" (section 2(g)) and made technical changes in the definitions of "U.S. Voluntary Agreement participant" and "Covered Foreign Affiliate" (section 2 (h) and (i)). A further suggested definitional change in the term "attorney-client privilege" (section 2(b)) to specify that attorney "work product" is protected by that privilege, has not been adopted in the approval letter; this issue warrants further consideration in the context of a new plan of action for real emergencies, but does not appear to require resolution for AST–5.

The comments contended that the requirement in section 3(a), that U.S. ISAG members give advance notice to the U.S. Government observers at the test site whenever they anticipate "test site communications . . . during extraordinary hours" or any test activities outside of the test site, is impractical and would serve no useful monitoring purpose since any such telephone communications and other activities would be the subject of a required report by the ISAG members. We recognize that special circumstances (*e.g.*, significant time zone differences) may require ISAG members to make early morning or late night telephone calls from their hotels to governments or oil companies during the test, and that it would be impractical for the Government to attempt to monitor such calls, rather than relying upon the ISAG member's record of the communication. Therefore, the requirement that ISAG members give advance notice to the observers of such calls has been eliminated. However, U.S. ISAG members still will be required to give advance notice to the observers of telephone calls made after normal working hours from the test site, and of any other test activities conducted outside the test site.

In section 4, the draft approval letter's requirement that U.S. ISAG members make a record of their unwritten communications with test observers from the European Communities and with IEA member country officials, has been eliminated as proposed in the comments, but we have not accepted the suggestion for deletion of the provision that those records of other unwritten communications which will be required, identify "any problem involved and any conclusions reached or recommendations made."

In response to the comments, we have revised sections 7(c)(ii), 8(a)(i)(B) and 8(a)(ii), to clarify that the requirement for U.S. Voluntary Agreement participants and their Covered Foreign Affiliates regarding any agreement "or other arrangement," refers to intracorporate "arrangements" which by their nature may not involve formal "agreements," and further, that the reports are required only with respect to so-called "Type 2" transactions simulated in the test.

We have rejected the proposal that section 7(d) of the test approval letter be amended to allow two participating oil companies to decide which of them should make and retain a record of a communication between them, in satisfaction of the recordkeeping responsibilities of both companies. Although a similar practice is accepted (*see* sections 4(d) and 7(d)) for communications with or between individual ISAG members at the test site, we think that the need for duplicative recordkeeping of communications with the ISAG is diminished by the IEA-dedicated role of ISAG members, combined with the active monitoring by U.S. Government observers present at the test site. We remain open to further consideration of the issue in the context of a plan of action for real emergencies.

In response to a request for additional time within which to transmit to the Government the records specified in section 8(b), the applicable period has been lengthened from one to three days. Likewise, we have responded to an objection to the recordkeeping provisions of section 8(c)(iii) by eliminating the requirement for segregated company maintenance of test documents which are of an administrative or ministerial nature.

We have accepted counsel's request for deletion of the section 9(c) provision for disclosure of those oil company plans to make voluntary offers which remain tentative. However, for administrative reasons we have rejected the proposal that section 10 be amended to eliminate the need for separate transmittals of company records to three different U.S. Government agencies.

Finally, the comments urged that a provision be added to the operating procedures/recordkeeping requirements to the effect that Covered Foreign Affiliates of U.S. Voluntary Agreement participants will not be bound by the

applicable requirements of section 6 through 9, if compliance therewith would contravene so-called "foreign blocking statutes" of these affiliates' home countries. This suggestion has not been adopted in the approval letter because the Departments of Energy, Justice and State and the Federal Trade Commission still have under consideration whether, or under what circumstances, it may be appropriate to excuse the companies' foreign affiliates from compliance with applicable recordkeeping requirements if foreign blocking statutes are triggered. However, this issue seems potentially relevant mainly to a plan of action to take effect during a real emergency, not to a systems test where substantive activities are merely assumed or simulated; we therefore are prepared to consider it further, in conjunction with the Voluntary Agreement participants, in the preparation of a new plan of action.

Issued in Washington, D.C., October 7, 1985.

J. Michael Farrell,

General Counsel.

Appendices

A. Letter of Approval from the Secretary of Energy to U.S. Voluntary Agreement Participants.

B. Operating Procedures and Recordkeeping Requirements.

C. Letter from the Secretary of Energy to the Attorney General.

D. Letter from the Secretary of Energy to the Secretary of State.

E. Letter from the Assistant Secretary of State, Economic and Business Affairs, to the Secretary of Energy.

F. Letter from the Assistant Attorney General, Antitrust Division, Department of Justice, to the Secretary of Energy.

G. Letter from the Chairman of the Federal Trade Commission to the Attorney General.

Appendix A

September 19, 1985

Dear ————————:

1. The International Energy Agency (IEA) will conduct in the near future its Fifth Allocation Systems Test (AST–5), the fifth test of the IEA Emergency Oil Sharing System. The Department of Energy (DOE) considers AST–5 an important part of our preparedness efforts. We hope your company will participate and provide full cooperation to the IEA in this undertaking.

2. This letter sets out guidelines for participation in AST–5 by Voluntary Agreement participants and their employees and provides approval for the provision, exchange and disclosure of confidential or proprietary information or data in connection with AST–5, as required by the Voluntary Agreement and Plan of Action to Implement the International Energy Program ("Voluntary Agreement"), 2 CCH Federal Energy Guidelines, Paragraph 15,845. Participation by Voluntary Agreement participants and their employees is governed by section 252 of the Energy Policy and Conservation Act (EPCA), DOE regulations at 10 CFR Part 209, Department of Justice regulation at 28 CFR Part 56, and the Voluntary Agreement.

3. The primary objective of AST–5 is to continue the program of periodic training of personnel of participating IEA governments, oil companies and the IEA Secretariat in the data systems and emergency oil allocation procedures developed to implement the provisions of the Agreement on an International Energy Program (IEP) (TIAS 8278, November 18, 1974), which are delineated in the Emergency Management Manual (EMM) and the Industry Supply Advisory Group/Secretariat Operations Manual (ISOM). AST–5 also will include certain aspects of the Emergency Oil Sharing System that have not been tested previously: it will consider the ability of the sharing system to deal with the additional burden of matching voluntary offers of oil that, for unspecified reasons, have not been implemented subsequent to the initial matching process; and a recent modification to the procedure for resolving trade data discrepancies among countries and companies will be reviewed.

4. AST–5 will begin with the sending of a disruption telex on Friday, September 20, 1985, and will continue for approximately eight weeks. It will consist of one full and one curtailed allocation cycle. Prior to the completion of the full regular cycle commencing October 1, 1985, a second disruption telex will be released by the IEA Secretariat. Questionnaire A (QA) and Questionnaire B (QB) data will be submitted and allocation rights and allocation obligations will be calculated by the Secretariat and relayed to countries and companies for each cycle. Following communication of allocation rights and allocation obligations for the second cycle, the test will cease as far as IEA-directed activity is concerned. The large majority of ISAG representatives will be involved for less than four weeks, although a few ISAG representatives may remain at the test site until the completion of the test.

5. Industry will participate in several ways. First, industry representatives will staff the ISAG; the ISAG, with the IEA's Allocation Coordinator, Secretariat and a Standing Group on Emergency Questions Emergency Group composed of representatives of IEA member countries, will comprise the IEA Emergency Management Organization at IEA headquarters in Paris, France, which will conduct the test. Second, Reporting Companies will submit QA and other data to the IEA Secretariat and the ISAG, and individually will discuss these data with the IEA Secretariat and with the ISAG to the extent required for the test; their affiliates will make similar data submissions and have similar individual discussions with the NESOs of the participating countries in which they operate. Third, Reporting Companies will propose and simulate the carrying out of certain hypothetical supply reallocation measures called "Type 2" allocation by the IEA; in this connection, Reporting Companies may communicate with other Reporting Companies (a) for the purpose of identifying suitable suppliers or receivers of oil to formulate "closed loop" Type 2 offers, (b) to enable Reporting Companies to work out logistics needed to implement Type 2 offers, or (c) to undertake needed subsequent modification of Type 2 offers which have previously been accepted by the Allocation Coordinator. Finally, it is our understanding that some NESOs may have employees of Reporting or Non-Reporting Companies or their affiliates as members or advisors.

6. In Paris, the test will be conducted, for notice purposes under the Voluntary Agreement, as a single meeting of ISAG carried out in accordance with Section 5 of the Voluntary Agreement. In addition to individual tasks and contacts with the Secretariat by ISAG members, working sessions will include meetings of all ISAG members and smaller group meetings of several ISAG members, as well as joint working sessions of a few ISAG members assigned to solved particular problems. The ISAG Manager or his designee may meet with members of the AST–5 Control Group, consisting of the Chairman of the Industry Advisory Board, the Chairman of the Standing Group on Emergency Questions, the IEA Executive Director and the Chairman of the AST–5 Technical Sub-Group, or with members of the Standing Group on Emergency Questions Emergency Group. A verbatim transcript of certain sessions will be made under the supervision of U.S. Government observers; such transcripts will be available for review by participants in the sessions so transcribed, or their counsel, either during the test or later. For some ISAG sessions, a full and complete record will be prepared by U.S. Government observers who are present. A full and complete record of other communications will be maintained by the U.S. test participants. More detailed recordkeeping requirements, along with operating procedures, are set out in the attachment to this letter. These operating procedures and recordkeeping requirements, which have been prepared in cooperation with the Department of State, the Department of Justice and the Federal Trade Commission, are to be considered an integral part of this letter of approval. (The operating procedures and recordkeeping requirements have been based on recent drafts of a possible new "plan of action" to implement the IEP, which themselves reflect revisions in the procedures and requirements used in AST–4.)

7. In order to carry out the test, it will be necessary for Reporting Companies to provide the IEA Secretariat and the ISAG with certain information or data on IEA questionnaire forms and formats, and to submit voluntary offers to supply or receive reallocated oil, and they may have to engage in other communications with the IEA Secretariat or ISAG to clarify, amplify, correct, or supplement such data submissions and voluntary offers. Further, ISAG members may have to exchange this and other information or data among themselves, with members of the IEA Secretariat, with IEA

Reporting Companies, and with NESOs. Access to such information or data and to ISAG discussions and work sessions will be open to official observers from the European Communities and IEA member countries authorized by the IEA to be present at the test site. Aside from the IEA questionnaire and format data and information as to voluntary offers, much of the data or information will be available from public sources. Some such information or data, while actually public information, may not be definitely known to be publicly available by those exchanging it or it may be considered confidential by some companies. Some of the data or information needed to be provided or exchanged clearly will be confidential or proprietary.

8. Accordingly, approval under section 5(b) of the Voluntary Agreement is hereby given to Voluntary Agreement participants and their employees engaged in AST–5 to provide, exchange and disclose the types of information or data listed below which may be or may reveal confidential or proprietary information or data. However, this approval is granted only to the extent that the provision, exchange and disclosure of these types of confidential or proprietary information or data is necessary during the first cycle, and until allocation rights and allocation obligations have been determined and communicated by the IEA Secretariat in the second cycle, in order to implement the oil allocation procedures of the IEP as guided by the EMM, the ISOM, and the AST–5 Test Guide, and to meet specific problems as they arise during AST–5. Approval is further limited to information or data covering the historical period October 1984 through January 1985, including information or data relating to cargoes arriving during such period but loaded prior thereto. This letter neither approves nor disapproves the activities of company employees serving on NESOs or any communication between a Voluntary Agreement participant and a NESO. Under these limitations, and those set forth in paragraphs 9, 10, 11, 12 and 13, the following types of information or data which may be or may reveal confidential or proprietary information or data may be communicated by or to Voluntary Agreement participants or their employees in carrying out AST–5:

(a) Disaggregated October 1984 through January 1985 Questionnaire A or B data submitted during AST–5 by Reporting Companies or NESOs, *i.e.*, data as required by the Questionnaire A and B reporting instructions in effect for AST–5 as further defined in the AST–5 Test Guide, and ISAG work formats derived from such data, including:

(i) Indigenous production of crude oil, natural gas liquids (NGLs) and feedstocks;

(ii) Imports and exports of crude oil, NGLs and feedstocks;

(iii) Petroleum product imports and exports (in crude oil equivalents);

(iv) International marine bunkers;

(v) Inventory levels and changes; and

(vi) Stocks at sea.

This data base will be amended by Reporting Companies, coordinating with their affiliates as required, and by NESOs for Non-Reporting Companies operating within their boundaries, based on the Secretariat's disruption telex at the beginning of each cycle, and as elaborated during each cycle by updating telexes from the Secretariat. Reporting Companies may mask data if they so choose in accordance with the procedures established in the AST–5 Test Guide. Reporting Companies will rearrange their international supply plans to reflect the reduced availability of certain types of crude oil as well as certain other restrictions as indicated in the disruption telex and updating telexes and will report the new supply plan on QA submitted to the Secretariat. In addition, each NESO will compile QB from information or data received from Reporting Companies or their affiliates operating within its country and by simulating comparable supply effects for the Non-Reporting Companies operating within its country and will submit QB to the Secretariat. Some of the data submitted by companies will be unaffected by the assumed supply disruption and will therefore be actual data. Such actual data are likely to include the following:

—Inventory level changes in October 1984 and inventories at the end of October 1984 from which inventories as of October 1, 1984, can be derived (see paragraph 9(b) with respect to provision of this data to the ISAG);

—Indigenous crude/NGL production through all four months in the data base; and

—International marine bunkers.

(b) Capability of a refinery to process crude oil or specific crude oils, and the capability of a pipeline, dock or terminal or other storage or transit facility to receive, store, or throughput crude oil or specific crude oils or petroleum products or specific petroleum products.

(c) Capability of a port, installation, or waterway to receive or move vessels of various sizes and configurations.

(d) The availability of tankers and barges, including their location, routing, size, specifications and operating characteristics.

(e) Main characteristics of crude grades and product specifications.

(f) Actual and estimated historical production data on crude oils and NGLs for individual countries.

(g) Historical country supply patterns for crude oil, NGLs and petroleum products, *e.g.*, imports by country or origin, exports to country of destination, and inventory profiles.

(h) Specific refinery considerations that prevent acceptance or release of certain crudes, *e.g.*, the inability of a refinery to process specific types of crude oil or to make certain specialty products for which the crude oil is particularly suited; the inability of a type of crude oil to meet certain product specifications; hazards to refinery operations which processing of a particular type of crude oil might cause; or the need for a refinery to operate at a minimum throughput level.

(i) Identification of supply logistics problems relating to certain countries or regions of countries.

(j) Identification, without disclosure of specific costs, prices or financial information, or other underlying facts, of the existence of certain individual company considerations which would preclude or make impracticable a proposed movement of oil, involving:

(i) commercial policy;

(ii) supply or transportation factors;

(iii) affiliate, third-party, concessional or other contractual arrangements; or

(iv) constraints relating to actions or policies of governments.

(k) Identification of differences between the crude oil and petroleum product supply mix and demand for products in certain countries or regions of countries.

(l) Information or data concerning voluntary offers made by Reporting Companies or Non-Reporting Companies, or the implementation of Type 2 transactions.

(m) Clarification, amplification, correction, explanation or supplementation of the types of information or data specified in subparagraphs (a) through (l), provided that this subparagraph (m) does not supersede any specific prohibition contained in this approval letter.

(n) Such additional types of confidential or proprietary information or data as may be needed in implementing IEA oil allocation as guided by the EMM, the ISOM, and the AST–5 Test Guide, (i) if a communication of such types of information or data is approved in advance by the U.S. Government representatives at the test site or (ii) if communication of such types of information or data is needed on a timely basis and receipt of such advance approval is not practicable, provided, in the latter case, that prompt written notice of such communication together with a description of the circumstances necessitating such communication without such advance approval must be given to the representatives of the Secretary of Energy, the Attorney General and the Federal Trade Commission at the test site. Approval for the continued communication of such types of information or data can be terminated prospectively by the Department of Energy representative or the Department of Justice representative at the test site.

9. In order to carry out the test, information and data of the type specified in paragraph 8 must be provided, exchanged and disclosed on a disaggregated basis and the finding required by section 5(b)(2) of the Voluntary Agreement in this regard is hereby made, with the following limitations:

(a) During the first test cycle, U.S. ISAG personnel will examine QAs and QBs to detect possible errors. After detecting a possible error, a U.S. ISAG member may discuss such possible error with Secretariat personnel, members of ISAG, the Reporting Company or NESO which transmitted the possibly erroneous QA or QB data and the Reporting Company whose data is included in a QB and which data is thought to be such a possible error. U.S. ISAG personnel may not discuss suspected errors with any other persons. The U.S. Government representatives at the allocation site shall be notified in advance of the time and place of any discussion of suspected errors among ISAG personnel in which U.S. members of ISAG participate. When responding to an inquiry from the ISAG member regarding such errors, a Voluntary Agreement participant may only confirm the accuracy of the reported data, provide corrected data, or

discuss with ISAG members whether the reported data accurately reflect the cycle's reallocation and the cycle's disruption scenario. Any further explanation of such errors may only be provided to personnel of the IEA Secretariat.

(b) Company-specific opening inventory data as of October 1, 1984, data showing inventory level changes in October 1984 and the "check total" for October 1984 as reflected in QAs and QBs shall not be made available to ISAG personnel on a routine basis, but only as necessary to solve specific supply problems when they arise. A U.S. Government observer present at the AST–5 test site may give written approval for disclosure of such data, upon receipt and consideration of a written request from the ISAG Manager or his delegate stating that access to such data is necessary.

(c) It is understood that the IEA Secretariat will not permit any disaggregated QA data of a Reporting Company, other than QA data submitted by the Reporting Company in AST–5, to be made available to any other Reporting Company or employee thereof serving on the ISAG.

(d) The Department of Energy representative, with the concurrence of the Department of Justice representative, after consultation with the Federal Trade Commission representative at AST–5, may terminate this approval as it applies to the conduct of any supply analysis by U.S. ISAG personnel if such analysis may led to unwarranted disclosure of competitively sensitive supply or logistical information, or have any other unwarranted anticompetitive effect.

10. This approval does not extend to provision, exchange or disclosure of the following types of information or data to the extent that they are confidential or proprietary:

(a) Crude oil or petroleum product prices or related commercial terms;

(b) Company costs or market shares of crude oil or petroleum products (other than those which can be derived from the QA or QB data submitted during AST–5); or

(c) Individual company information regarding overall long-term programs for investment, divestment, refining, operating, transportation or marketing.

11. A Voluntary Agreement participant will be permitted to communicate confidential or proprietary information or data with another Reporting Company (and the affiliates thereof) only after submission of first cycle QAs to the IEA Secretariat, and continuing until its second cycle QA has been submitted to the IEA Secretariat, and only to enable it to formulate "closed-loop" voluntary offers, to arrange the logistics needed to implement Type 2 offers, and to modify previously approved voluntary offers if necessary, for the purpose of carrying out first cycle supply reallocated measures. Type 2 transactions are those intended to balance allocation rights and allocation obligations and to alleviate differences between product demand and the available supply mix. These communications will be limited to discussions of the quality and volumes of oil that would be involved in a voluntary offer and the timing or logistics involved in effecting the physical transfer of such oil. No other confidential or proprietary information or data shall be provided, exchanged or discussed. Prices or values of the oil shall not be discussed. Type 1 transactions, which for the most part are transactions made by a company to satisfy its own commercial objectives in response to an oil supply emergency situation, will be assumed to have occurred without communications between Voluntary Agreement participants, their affiliates, other Reporting Companies, or their affiliates, during AST–5. The limitations and restrictions contained in this paragraph do not apply to communications to or from a Voluntary Agreement participant employee serving on the ISAG.

12. Participation in AST–5 does not create an obligation on U.S. Voluntary Agreement participants or their employees serving on the ISAG to provide, exchange or disclose any information or data which may be confidential or proprietary.

13. In no case shall an employee of a Voluntary Agreement participant supply to his company or to any other person, any confidential or proprietary information or data obtained as a consequence of his membership in the ISAG or participation in any NESO, except such information or data as is necessary to be supplied in the course of carrying out AST–5 or related NESO activities. No Voluntary Agreement participant employee serving on the ISAG may remove any documents related to the test from the IEA premises, except as authorized in writing by a U.S. Government representative attending the test.

14. The unsolicited receipt by a Voluntary Agreement participant employee member of ISAG of confidential or proprietary information or data not specified in paragraph 8, shall not vitiate the antitrust defense accorded by section 252 of EPCA for a Voluntary Agreement participant or its employees, provided that prompt written notice of the information or data so received must be given to the U.S. Government in accordance with the operating procedures and recordkeeping requirements described in paragraph 6.

15. Each Voluntary Agreement participant shall provide one copy of its QA submitted to the IEA Secretariat in QA format as distinguished from telex form, to:

Ms. Catherine M. Keane, Voluntary Agreement Coordinator, International Affairs, IE–132, Department of Energy, Forrestal Building, Room 7G–076, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telex No. 710–822–0176, TWX No. 710–822–0001

Mr. Elliott M. Seiden, Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, Washington, D.C. 20530, Telex No. 710–822–1907, TWX No. 710–822–1907

16. Any confidential or proprietary information or data provided, exchanged or disclosed pursuant to the test to or by a Voluntary Agreement participant or its employee serving on the ISAG shall be supplied by them, upon request, to U.S. Government observers from the Department of Energy, Department of State, Department of Justice or Federal Trade Commission.

17. This approval may be modified or revoked in writing by the Department of Energy representative, with the concurrence of the Department of Justice representative in consultation with the Federal Trade Commission representative, if developments during AST–5 indicate that modification or revocation is warranted. Any modification or revocation shall be in writing and conveyed to all participants in the Voluntary Agreement and the ISAG Manager or his designee. No modification or revocation shall have retroactive effect.

18. This approval of Voluntary Agreement participants' participation in the test and of the provision, exchange and disclosure of certain data and information (including the need to provide it in disaggregated form) has been the subject of consultation with the Department of State and has been concurred in by the Department of Justice, after consultation with the Federal Trade Commission, all as required by the Voluntary Agreement. Copies of correspondence reflecting our consultation with the Department of State, and the Department of Justice's concurrence in our approval, after consultation with the Federal Trade Commission, are annexed.

Yours truly,

John S. Herrington.

Enclosures.

cc: Honorable Douglas H. Ginsburg,
Assistant Attorney General,
Antitrust Division,
Department of Justice,
Washington, D.C. 20530.
Honorable James C. Miller III,
Chairman,
Federal Trade Commission,
Washington, D.C. 20580.
Honorable George P. Shultz,
Secretary of State
Washington, D.C. 20520.

Appendix B

Operating Procedures and Requirements for Recordkeeping by Voluntary Agreement Participants in the Fifth Allocation Systems Test (AST–5)

1. Introduction

The following operating procedures and requirements for recordkeeping are in further implementation of the existing U.S. recordkeeping requirements in section 252 of EPCA, 10 CFR Part 209, and 28 CFR Part 56, and apply to the Fifth IEA Allocation Systems Test (AST–5). These operating procedures and requirements apply, *inter alia*, to U.S. Voluntary Agreement participants and their employees serving on the ISAG who will be participating in the test at the Test Site. These requirements also apply to Covered Foreign Affiliates to the extent set forth in sections 6, 7, 8 and 9.

If experience indicates the need, the U.S. Government observers at the Test Site will have discretion to allow alternative operating procedures and recordkeeping requirements consistent with section 252 of EPCA and regulations thereunder.

2. Definitions

For purposes of these procedures and requirements the following definitions apply:

(a) "Communication" means any written or unwritten disclosure, provision or exchange of information or data to carry out AST–5, subject to the limitation contained in (b).

(b) "Communication" and "document" exclude the communication or documentation of administrative, procedural, or ministerial information or data (*e.g.*, scheduling of meetings, personnel assignments, arranging for support services, or messages involving merely routine administration of simulated petroleum sale or exchange transactions) (but see section 8(c) (i) and (ii)), communications or documents which are subject to attorney-client privilege (but see section 8(c)(iii)), and communications with or the documentation of communications with U.S. Government observers at the test site.

(c) "Test site" means that space in IEA headquarters designated by the Allocation Coordinator as the area in which AST–5 shall be conducted.

(d) "Test meeting" means the following group meetings held at the test site (with or without IEA Secretariat participation):

(i) Meetings of the entire ISAG;

(ii) Meetings of the ISAG's Country Supply, Supply Coordination or Supply Analysis subgroups; and

(iii) Meetings of the ISAG Manager or Deputy Manager and ISAG subgroup heads.

(e) "Test site comunication" means any unwritten face-to-face communication occurring on, or telephonic communication received at or sent from, the test site, other than in a test meeting.

(f) "Off-site communication" means any unwritten face-to-face communication which does not occur on, or any telephonic communiction which is neither received at nor sent from, the test site.

(g) "Voluntary Agreement participant" means any oil company whose participation in the Voluntary Agreement has been approvd pursuant to section 9(b)(1) of the Voluntary Agreement and also any domestic or foreign affiliate of that oil company that is covered pursuant to section 9(b)(3) of the Voluntary Agreement.

(h) "U.S. Voluntary Agreement participant" means any oil company whose participation in the Voluntary Agreement has been approved pursuant to section 9(b)(1) of the Voluntary Agreement, and also any affiliate (other than a Covered Foreign Affiliate) of that oil company that is covered pursuant to section 9(b)(3) of the Voluntary Agreement.

(i) "Covered Foreign Affiliate" means any affiliate of a U.S. Voluntary Agreement participant that has its principal place of business outside the United States, that conducts the substantial majority of its activities outside the United States, and that is covered pursuant to section 9(b)(3) of the Voluntary Agreement.

3. U.S. Government Monitoring and Recordkeeping at the Test Site

(a) To the extent practicable, test activities of ISAG members shall be conducted at the test site, while a U.S. government observer is in attendance at the test site. A U.S. Government observer must be present throughout all test meetings in which a Voluntary Agreement participant employee serving on the ISAG participates, and may elect to be present during any other test activities in which a Voluntary Agreement participant employee member of ISAG participates, including communications (except communications between an individual Voluntary Agreement participant employee and his legal counsel). It is intended that U.S. Government observers will be in attendance continuously at the test site to monitor test meetings and communications by Voluntary Agreement participant employees serving on the ISAG during such regular hours as ISAG adopts, and at any extradordinary hours if given reasonable notice. Voluntary Agreement participant employees serving on the ISAG shall provide advance notice whenever they anticipate that these meetings or test site communications will occur during extraordinary hours, or that test activities (other than telephonic communications during extraordinary hours) will occur outside of the test site.

(b) A U.S. Government observer shall be responsible for keeping a written record of each test meeting in which a Voluntary Agreement participant employee serving on the ISAG participates, or for ensuring that a verbatim transcript is made. Failure of the U.S. Government to maintain a full and complete written record shall not vitiate the antitrust defense accorded by Section 252 of EPCA for a Voluntary Agreement participant or its employees unless such failure is due to the willful act of the Voluntary Agreement participant employee serving on the ISAG or of the Vountary Agreement participant.

(c) Unwritten communications of Voluntary Agreement participant employees serving on the ISAG which relate to test activities may occur outside of the test site only when circumstances make an off-site communication necessary, *i.e.*, when a need for an immediate communication arises unexpectedly or after normal working hours or otherwise makes a return to the test site umpracticable or unreasonable, or when time zone differences involved in necessary communications otherwise would require early morning arrival or late night stay at the test site.

4. Unwritten Communications, Outside of Test Meetings, Involving Voluntary Agreement Participant Employees Serving on the ISAG

(a) These recordkeeping requirements for unwritten communications apply to test site communications and off-site communications by or to Voluntary Agreement participant employees serving on the ISAG, including communications with the IAB, but excluding communications with the IEA Secretariat, members of the SEQ–EG, official observers from the European Communities, IEA Participating Country representatives authorized by the IEA to be present at the test site, or the U.S. and other IEA Participating Country NESOs.

(b) Except when a U.S. Government observer is present, a Voluntary Agreement participant employee serving on the ISAG shall make a full and complete record of any test site communication or off-site communications, by means of entering in a standardized log the date, time, identity of the parties (by name and organization) and a description of the substance of the communication (including, *e.g.*, a description of the transaction or information or data discussed, including identification of any problem involved and any conclusions reached or recommendations made). The entry also shall state the special circumstances which necessitated an off-site communication, or a test site communication despite the absence of a U.S. Government observer from the test site, if such absence was known to such employee at the time of such communication.

(c) When a Voluntary Agreement participant employee serving on the ISAG has been assigned to a joint work session to solve a specific identified problem, the overall subject matter of which already is contained in a full and complete record of a test meeting, or the result of which work session will be reported at a meeting where a full and complete record will be maintained, then notwithstanding subsection (b), the record of such session to be kept by such employee need only include the date, time and identity of the parties and a brief indication of the substance of the discussion during the work session, with a reference to the test meeting where it was more fully discussed.

(d) When more than one Voluntary Agreement participant employee serving on the ISAG is involved in a communication, the employees may designate who shall make and supply the record. Non-Voluntary Agreement participant employees serving on the ISAG may furnish the required records of communications with Voluntary Agreement participants and with Voluntary Agreement participant employees serving on the ISAG.

5. Disposition of Records by Voluntary Agreement Participant Employees Serving on the ISAG

(a) Each Voluntary Agreement participant employee serving on the ISAG shall provide to the U.S. Government observers at the test site, within three working days of the first day it covers, a copy of any log kept pursuant to section 4(b), and within one working day of the occurrence, a copy of any other written communication which such employee prepares or receives that relates to test activities.

(b) The requirement imposed by paragraph (a) of this section may be waived by the U.S. Government observers at the test site, to the extent that the IEA Secretariat will provide copies of such communications to the U.S. Government observers.

6. U.S. Government Monitoring at Voluntary Agreement Participant Offices

(a)(i) U.S. Government observers shall be permitted to interview all U.S. Voluntary Agreement participant employees engaged in carrying out the test, by telephone, and at the offices of, and upon reasonable advance notice to, the U.S. Voluntary Agreement participant involved. Any interviewed employee may have counsel present.

(ii) U.S. Government observers shall be permitted to interview all Covered Foreign

Affiliate employees engaged in carrying out the test, by telephone, and at the offices of the parent company U.S. Voluntary Agreement participant of such Covered Foreign Affiliate or, at the election of such Covered Foreign Affiliate and such parent company, at the offices of such Covered Foreign Affiliate, upon reasonable advance notice to such parent company and to such Covered Foreign Affiliate. Any interviewed employee may have counsel present.

(b) U.S. Government observers shall be permitted to examine and copy, at U.S. Voluntary Agreement participant headquarters during normal business hours and upon reasonable notice to the U.S. Voluntary Agreement participant involved, any communication, document or other information source related to test activities which is not subject to attorney-client privilege, and which is in the possession or custody of such U.S. Voluntary Agreement participant, including any Covered Foreign Affiliate records forwarded to such U.S. Voluntary Agreement participant pursuant to section 8(c)(ii).

7. Recordkeeping Requirements for Voluntary Agreement Participants Other Than Employees Serving on the ISAG

(a) Each U.S. Voluntary Agreement participant and each Covered Foreign Affiliate promptly shall make a full and complete record of all of the following unwritten communications:

(i) except as provided in section 7(d), communications with individuals serving on the ISAG (including any of its own employees serving on the ISAG); and

(ii) communications with another company (not including any affiliate).

(b) Records of such unwritten communications of a U.S. Voluntary Agreement participant should be made by the U.S. Voluntary Agreement participant in the manner described in section 4(b) for Voluntary Agreement participant employees serving on the ISAG.

(c) Records of such unwritten communications of a Covered Foreign Affiliate may be made in the manner described in section 4(b) or, at the election of the Covered Foreign Affiliate, may consist of a bi-weekly summary:

(i) Identifying (A) each individual serving on the ISAG with whom the Covered Foreign Affiliate has had a communication, (B) each nonaffiliated company with whom the Covered Foreign Affiliate has had a communication, and (C) each affiliate with whom the Covered Foreign affiliate has had a communication;

(ii) Describing with particularity each agreement entered into with any such other company, and each agreement or other arrangement entered into with an affiliate, with respect to any Type 2 transaction, and any such transaction simulated, to carry out the test, setting forth all significant terms, including volume, crude or product type, origin, destination and time of delivery; and

(iii) Describing in summary terms, for each category of communications listed in subparagraph (i) of this subsection, the substance thereof, to the extent not already disclosed pursuant to subparagraph (ii) of this subsection.

A bi-weekly summary may be made by the Covered Foreign Affiliate or, at the election of the Covered Foreign Affiliate and its parent company U.S. Voluntary Agreement participant, by such parent company on behalf of the Covered Foreign Affiliate.

(d) A Voluntary Agreement participant need not make a record pursuant to this section of a communiation with any individual serving on the ISAG, when such Voluntary Agreement participant has agreed with such individual that the record of the communication will be made by and provided to U.S. Government by such individual in accordance with section 5(a), or provided by the IEA Secretariat in accordance with section 5(b).

(e) To the extent that any information required to be set forth pursuant to section 7(a) can readily be derived from a document deposit pursuant to section 8, a specific cross-reference to such document shall suffice.

8. Disposition of Records by Voluntary Agreement Participants

(a)(i) Each U.S. Voluntary Agreement participant shall deposit with the U.S. Government, in accordance with this section, a copy of each record required to be made by it under section 7(a) which has not previously been furnished to the U.S. Government, and of:

(A) Each written communication with the ISAG (including any employee of the U.S. Voluntary Agreement participant serving on the ISAG); and

(B) each written communication with another company (not including any of the U.S. Voluntary Agreement participant's affiliates), each document setting forth any agreement with any other company, and each document setting forth any agreement or other arrangement with any affiliate, with respect to any Type 2 transaction.

Any portions of such records which are believed not to be subject to public disclosure should be specified.

(ii) Each Covered Foreign Affiliate (or, at the election of the Covered Foreign Affiliate and of its parent company U.S. Voluntary Agreement participant, such parent company) shall deposit with the U.S. Government, in accordance with this Section, a copy of each record required to be made by the Covered Foreign Affiliate under section 7(a), of each document setting forth any agreement between the Covered Foreign Affiliate and another company, and of each document setting forth any agreement or other arrangement between the Covered Foreign Affiliate and any affiliate, with respect to any Type 2 transaction. Any portions of such records which are believed not to be subject to public disclosure should be specified.

(b) Records of unwritten communications of U.S. Voluntary Agreement participants shall be sent to the U.S. Government within three days after the close of the week (ending Saturday) of the occurrence of the communications recorded. In the case of communications of Covered Foreign Affiliates, this period shall be extended to two weeks. If possible, copies of written communications by a U.S. Voluntary Agreement participant shall be sent to the U.S. Government by the U.S. Voluntary Agreement participant simultaneously with and by the same means of transmission used to send the original. Copies of all other written communications or documents shall be sent to the U.S. Government within seven days (or in the case of communications or documents of Covered Foreign Affiliates, fourteen days) after the close of the week (ending Saturday) in which they occur.

(c)(i) Each U.S. Voluntary Agreement participant shall maintain, for a period of five years, a copy of each record required to be desposited pursuant to section 8(a)(i), a copy of each document relating to the carrying out of the test which involves administrative, procedural, or ministerial information or data, as described in section 2(b), and copies of all other documents (including intracorporate documents) relating to the carrying out of the test. If so requested by the U.S. Government observers in connection with an examination pursuant to Section 6(b), such U.S. Voluntary Agreement participant, within two weeks of such request, shall forward a copy of each requested record to an appropriate office at company headquarters, where the records shall be maintained separately from other company records until completion of such examination.

(ii) Each Covered Foreign Affiliate shall maintain, for a period of five years, a copy of each record required to be deposited pursuant to section 8(a)(ii), a copy of each document relating to the carrying out of the test which involves administrative, procedural, or ministerial information or data, as described in section 2(b), and copies of all other documents (including intracorporate documents) relating to the carrying out of the test. If so requested by the U.S. Government observers in connection with an examination pursuant to section 6(b), such Covered Foreign Affiliate, within four weeks of such request, shall forward a copy of each requested record to an appropriate office at the headquarters of such Covered Foreign Affiliate's parent company U.S. Voluntary Agreement participant, where the records shall be maintained separately from other company records until completion of such examination.

(iii) Notwithstanding section 2(b), copies of all Voluntary Agreement participant documents relating to the carrying out of the test which are subject to attorney-client privilege shall be included among the records forwarded to the appropriate company office pursuant to section 8(c)(i) and (ii). Upon request, the Voluntary Agreement participant shall identify those records which are subject to attorney-client privilege. Those records which are not subject to attorney-client privilege may be subject to U.S. Government examination during and after the test, as provided elsewhere in these "Operating Procedures and Requirements for Recordkeeping by Voluntary Agreement Participants in the Fifth Allocation Systems Test (AST-5)."

9. Reports of Actions Taken

(a) Each Reporting Company U.S. Voluntary Agreement participant shall report to the Departments of Energy and Justice and

the Federal Trade Commission, actions simulated by it and its covered affiliates to carry out Type 2 transactions. Communications with respect to developing or implementing a voluntary offer are to be reported as provided in Sections 7 and 8.

(b) A report shall be submitted within seven days (or in the case of actions by Covered Foreign Affiliates, fourteen days) of the end of the week (ending Saturday) in which the action was simulated.

(c) Each Type 2 transaction that is implemented shall be described with particularity, including a statement of the volume, crude or product type, country of origin, original destination and recipient, new destination and recipient, time of delivery, and other significant terms involved. To the extent that a record submitted pursuant to section 8 already discloses such information, a cross-reference to a specific record will suffice. In other respects, the style and content of the report are left to the discretion of the individual Reporting Company. It can be submitted in any fashion that the Reporting Company believes will reflect what it and its covered affiliates have done.

(d) Each Reporting Company is invited (but not required) to comment in such reports on these operating procedures and recordkeeping requirements, with respect to their use in systems tests or in a real emergency.

(e) A Reporting Company Voluntary Agreement participant may submit a similar report to the IEA Secretariat. The Reporting Company simultaneously should send a copy of any such report to the Departments of Energy and Justice and the Federal Trade Commission.

10. Reporting Addresses

Reports and records required hereunder to be sent to U.S. Government agencies should be addressed to:

Ms. Catherine M. Keane, Voluntary Agreement Coordinator, International Affairs, IE–132, Department of Energy, Forrestal Building, Room 7G–076, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telex No. 710–822–0176, TWX No. 710–822–0001

Mr. Elliott M. Seiden, Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, Washington, D.C. 20530, Telex No. 710–822–1907, TWX No. 710–822–1907

Mr. Harvey Blumenthal, Federal Trade Commission/CS–4, Washington, D.C. 20585

Appendix C

Honorable Edwin Meese, III,
Attorney General,
Washington, D.C. 20530.

Dear Mr. Attorney General: The Secretariat of the International Energy Agency (IEA) will conduct the fifth test of its emergency allocation systems in October and November of this year. The test, known as AST–5, will commence with the IEA's distribution on September 20 of a telex announcing the hypothetical oil supply disruption which will provide the backdrop for the test.

The conduct of AST–4 will require the active participation of U.S. oil companies. Pursuant to section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, the Department of Energy's regulations at 10 CFR Part 209, the Department of Justice's regulations at 28 CFR Part 56, and the "Voluntary Agreement and Plan of Action to Implement the International Energy Program," 2 CCH Federal Energy Guidelines para. 15,845, an antitrust defense is made available to U.S. oil companies to facilitate their involvement in IEA activities. In order for the U.S. oil companies which are signatories to the Voluntary Agreement to receive the benefit of this antitrust defense for any disclosure or exchange of confidential or proprietary information or data which may be necessary in ATS–5, section 5(b)(2) of the Voluntary Agreement requires that the Secretary of Energy approve such exchange or disclosure, after consultation with the Secretary of State, and with the concurrence of the Attorney General, after the Attorney General has consulted with the Federal Trade Commission.

Enclosed is an approval letter which I propose to send to the U.S. oil companies which are signatories to the Voluntary Agreement. This letter was developed by the Department of Energy in conjunction with staffs of the Antitrust Division, Department of Justice, the Department of State and the Federal Trade Commission. A draft of this letter was published for public comment in the **Federal Register** on August 19, 1985, 50 FR 33396.

In our view the participation of U.S. oil companies and U.S. oil company personnel are essential to the conduct of AST–5. Such participation may necessitate the disclosure and exchange of confidential or proprietary information or data as specifically set forth in the proposed approval letter. Therefore, I request your concurrence in my intended approval.

Yours truly,

John S. Herrington.

Enclosure.

cc: Honorable James C. Miller, III,
Chairman, Federal Trade Commission.

Appendix D

Honorable George P. Shultz,
Secretary of State,
Washington, D.C. 20520.

Dear George: The Secretariat of the International Energy Agency (IEA) will conduct the fifth test of its emergency allocation systems in October and November of this year. The test, known as AST–5, will commence with the IEA's distribution on September 20 of a telex announcing the hypothetical oil supply disruption which will provide the backdrop for the test.

The conduct of AST–5 will require the active participation of U.S. oil companies. Pursuant to section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, the Department of Energy's regulations at 10 CFR Part 209, the Department of Justice's regulations at 28 CFR Part 56, and the "Voluntary Agreement and Plan of Action to Implement the International Energy Program," 2 CCH Federal Energy Guidelines para. 15,845, an antitrust defense is made available to U.S. oil companies to facilitate their involvement in IEA activities. In order for the U.S. oil companies which are signatories to the Voluntary Agreement to receive the benefit of this antitrust defense for any disclosure or exchange of confidential or proprietary information or data which may be necessary in AST–5, section 5(b)(2) of the Voluntary Agreement requires that the Secretary of Energy approve such exchange or disclosure, after consultation with the Secretary of State, and with the concurrence of the Attorney General, after the Attorney General has consulted with the Federal Trade Commission.

Enclosed is an approval letter which I propose to send to the U.S. oil companies which are signatories to the Voluntary Agreement. This letter was developed by the Department of Energy in conjunction with staffs of the Antitrust Division, Department of Justice, the Department of State and the Federal Trade Commission. A draft of this letter was published for public comment in the **Federal Register** on August 19, 1985, 50 FR 33396.

In our view the participation of U.S. oil companies and U.S. oil company personnel are essential to the conduct of AST–5. Such participation may necessitate the disclosure and exchange of confidential or proprietary information or data as specifically set forth in the proposed approval letter. Therefore, I am writing to request your views with respect to my intended approval.

Yours truly,

John S. Herrington.

Enclosure.

Appendix E

September 16, 1985.

Dear Mr. Secretary: Secretary Shultz has asked me to reply to your letter requesting the views of the Department of State regarding your proposed approval of the exchange and disclosure of confidential or proprietary information or data by U.S. oil companies during the fifth test of the International Energy Agency emergency oil allocation system (AST–5). It is important that the U.S. Government and U.S. companies participate fully in AST–5 so as to provide tangible evidence of the continued U.S. commitment to the IEA and its oil crisis response system. Your approval would enable U.S. oil companies participating in AST–5 to receive the benefit of an antitrust defense when disclosing or exchanging confidential or proprietary information or data as specifically set forth in the proposed approval letter. The Department of State strongly supports your proposed approval of their activity because it will facilitate the involvement of these companies in AST–5.

Sincerely,

Douglas W. McMinn,

Assistant Secretary for Economic and Business Affairs.

The Honorable John S. Herrington,
Secretary of Energy.

Appendix F

September 19, 1985.

Honorable John S. Herrington,
Secretary of Energy,
Washington, D.C. 20461.

Dear Secretary Herrington: I am writing in response to your recent letter in which you seek the concurrence of the Department of Justice in your intended approval for designated U.S. oil companies, participating in the International Energy Program (IEP) as Reporting Companies, to provide and exchange certain confidential and proprietary information in the course of assisting the International Energy Agency (IEA) in carrying out a fifth test of its emergency oil-sharing system (AST-5). Your approval, conditioned on compliance with annexed recordkeeping requirements and other limitations and antitrust safeguards, is set forth in the letter that you propose to send to these companies, a draft of which you have provided me. Our concurrence in this action is sought pursuant to section 5(b)(2) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, which is authorized by section 252 of the Energy Policy and Conservation Act (EPCA), as amended, and which governs the conduct of participating oil companies in the IEA.

As you note, the Antitrust Division participated in the development of the approval letter. The conditions and procedures outlined in the letter, supplemented by U.S. Government monitoring of the required recordkeeping, exchanges of data and other company activities during the test, will minimize risks to competition and fulfill statutory requirements without imposing overly burdensome requirements on test participants. Accordingly, pursuant to section 5(b)(2) of the Voluntary Agreement, I hereby concur in your approval of the proposed letter on submission and exchange of confidential and proprietary information and data by U.S. oil company participants in AST-5 and the annexed recordkeeping requirements for the test. This approval is effective as of the commencement of the test on September 20, 1985 and will terminate when allocation rights and obligations have have been determined, and communicated in the second cycle of the test. I enclose a copy of a letter from the Federal Trade Commission evidencing the consultations we have held with that agency on this matter, as required by section 5(b) of the Voluntary Agreement.

Sincerely,

Douglas H. Ginsburg,

Assistant Attorney General, Antitrust Division.

Enclosures.

cc: Honorable George P. Shultz,
Secretary of State,
Washington, D.C. 20520.
Honorable James C. Miller, III,
Chairman, Federal Trade Commission,
Washington, D.C. 20580.

Appendix G

September 18, 1985.

Honorable Edwin Meese, III,
Attorney General,
Department of Justice,
10th & Constitution Avenue, NW.,
Washington, D.C. 20530.

Dear Mr. Attorney General: The Honorable John S. Herrington, Secretary of Energy and Administrator of the Voluntary Agreement and Plan of Action to Implement the International Energy Program ("Voluntary Agreement"), has requested your concurrence to a proposed letter. The letter provides clearance to the oil-company signatories of the Voluntary Agreement to exchange confidential and proprietary information among themselves and to provide such information and data to the International Energy Agency ("IEA") during the IEA's fifth test of the emergency oil allocation system ("AST-5"), beginning September 20, 1985. Under the Voluntary Agreement, the Attorney General must consult with the Commission before concurring in this exchange of information.

Section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, directs the Attorney General and the Federal Trade Commission to monitor the carrying out of the Voluntary Agreement. The Commission has examined the types of data and information proposed to be exchanged during AST-5. The data to be used during AST-5 will be roughly one year old, likely to be distorted due to the hypothetical supply disruption, and subject to masking by the submitting company. Additionally, U.S. Government monitors will be at the IEA site during the test and will have access to the offices of U.S. companies participating in AST-5 to interview company employees engaged in the test-related activities. The U.S. Government will make or obtain a full and complete record of all communications among U.S. oil company personnel, including a verbatim transcript of most group meetings. Finally, the proposed clearance letter prohibits removal of documents from the test site without written U.S. Government approval and also prohibits communication of confidential information learned at the test to persons not involved in the test.

In light of both the limited competitive significance of the data and the procedural safeguards that are proposed, the Commission does not object to your approval of the exchange of information and data needed to carry out AST-5.

By direction of the Commission, Commissioner Douglas not participating.

James C. Miller III,

Chairman.

cc: Honorable John S. Herrington,
Secretary of Energy.

[FR Doc. 85-24394 Filed 10-9-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Algonquin Gas Transmission Co.; Filing of Changes in FERC Gas Tariff

October 4, 1985.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on October 1, 1985, tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Substitute Seventh Revised Sheet No. 203
Seventh Revised Sheet No. 203
Third Revised Sheet No. 204
First Revised Sheet No. 222

Algonquin Gas states that these tariff sheets are being filed to reflect adjusted rates for service under Rate Schedules T-Con, F-2 and F-3 for the period November 1, 1985 through October 31, 1986. These changes are made in accordance with the provisions of two Commission-approved settlement agreements in Algonquin Gas' Docket Nos. CP82-119-004 through -009, and reflect the application of the methodology previously approved by the Commission to the actual cost facts known with respect to the facilities constructed to render Rate Schedule T-Con, F-2 and F-3 service beginning November 1, 1985.

Algonquin Gas requests that the Commission accept such tariff sheets, to be effective November 1, 1985.

Algonquin Gas notes that a copy of this filing is being served upon each affected party 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 (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 11, 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. 85-24291 Filed 10-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-714-000, et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; Electrodyne Research Corp., et al.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Electrodyne Research Corp.

[Docket No. QF85-714-000]

October 1, 1985.

On September 19, 1985, Electrodyne Research Corp., (Applicant) 1617 Sweetbriar Road, Gladwyne, Pennsylvania 19035, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping cycle cogeneration facility will be located within the Schuylkill Station presently owned by the Philadelphia Electric Company. Schuylkill Station is located at the intersection of Schuylkill Avenue and Christian Streets in Philadelphia, Pennsylvania. The facility will consist of a boiler, a back pressure turbine-generator set and a condensing turbine-generator set. Steam produced in the boiler is sold in the District steam system. The primary energy source for the facility will be dryed processed anthracite culms. The electric power production capacity of the facility will be 62 megawatts. Construction of the facility will commence in the year 1986.

2. The Energy Systems Company, Inc.

[Docket No. QF85-719-000]

October 1, 1985.

On September 20, 1985, The Energy Systems Company, Inc. (Applicant) 1810 Craig Road, Suite 201, St. Louis, Missouri 63146, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Porter Township, adjacent to the Village of Sheridan in Schuylkill County, Pennsylvania. The facility will consist of a circulating fluidized bed boiler and a condensing steam turbine-generator set. The Primary energy source for the facility will be waste in the form of anthracite culm. The net electric power production capacity of the facility will be 40 magawatts.

3. Sundial Investment, Inc.

[Docket No. QF85-723-000]

October 4, 1985.

On September 23, 1985, Sundial Investment Inc., (Applicant), of 807 Ladore Drive, Salt Lake City, Utah 84107 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 25 kW hydroelectric project will be located at the Applicant's address. The facility will consist of 4 inch water line 600 yards long to a hydro-generator.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

4. The Townsend Co.

[Docket No. QF85-724-000]

October 4, 1985.

On September 23, 1985, The Townsend Co., (Applicant) of RFD No. 2, Friendship, Wisconsin 53934 submited for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility wil be located at the Applicant's address at Friendship, Wisconsin. The facility wil burn wood waste to produce 1,340 kW of electricity.

5. Twin Falls Canal Co.

[Docket No. QF85-697-000]

October 4, 1985.

On September 12, 1985, Twin Falls Canal Company of P.O. Box 326, Twin Falls, Idaho 83301 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal consitutes a complete filing.

The proposed small power production hydroelectric facility will be located in Twin Falls County, Idaho and will consist of an intake structure, penstock, and power house. The maximum electric power production capacity will be 2,350 kW.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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 and 385.214). All such motions or protests should be filed on or before the comment date. 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. 85-24290 Filed 10-9-85; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline Tentative Valuation

October 9, 1985.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative valuation is under consideration for the common carrier by pipeline listed below:

1981 Annual Report

Valuation Docket No. PV—1452-000, Chase Transportation Company; P.O. Box 2256, Wichita, Kansas 67201.

On or before November 8, 1985, persons other than those specifically designated in section 19a[h] of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section

19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 85-24268 Filed 10-9-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-91002; TSH-FRL 2865-9]

1,3-Butadiene; Decision To Report to the Occupational Safety and Health Administration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has reasonable basis to conclude that the manufacture of 1,3-butadiene and its processing into polymers present an unreasonable risk of injury to the health of exposed workers. EPA has further determined that this risk may be prevented or reduced to a sufficient extent if action is taken by the Occupational Safety and Health Administration (OSHA) under the Occupational Safety and Health Act (OSGAct). EPA is submitting to OSHA a report under section 9(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2608(a), that describes the risks of 1,3-butadiene and requests that OSHA respond to EPA within 180 days of the publcation of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-543, 401 M Street SW., Washington, D.C. 20460. Toll-free: (800-424-9065). In Washington, D.C.: (554-1404). Outside U.S.A.: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

1,3-Butadiene is an industrial chemical produced at a rate of about 3 billion pounds per year in the U.S. and is predominantly used as a monomer in the production of various types of synthetic rubbers, plastics, and resins. 1,3-Butadiene is a gas at ambient temperatures, and a significant route for human exposure is via inhalation of this chemical in the workplace. Worker exposure may occur during manufacture of the monomer, during processing into polymers, and during fabrication of various products (e.g., tires) from the polymers. Although the total number of workers in the U.S. potentially exposed to 1,3-butadiene may be as high as 65,000, this notice concerns the 5,300 to 8,200 workers exposed to this chemical in 14 plants that produce the monomer and in 40 plants that process the monomer into polymers.

The EPA determined, under section 4(f) of TSCA, 15 U.S.C. 2603(f), that there may be a reasonable basis to conclude that 1,3-butadiene presents a significant risk of serious harm to humans from cancer, as published in the Federal Register of January 5, 1984 (49 FR 845). This is known as the 4(f) threshold determination. Under section 4(f), EPA has 180 days from receipt of the information that led to the threshold determination to "initiate appropriate action" to prevent or reduce the risk from the chemical of concern or to announce that the risk is not unreasonable.

The section 4(f) threshold determination notice for 1,3-butadiene was primarily based on two animal studies which demonstrated that the chemical is carcinogenic via inhalation in both sexes of rats and mice at two dose levels (Refs. 4 and 9). Based on these studies, as well as other supportive evidence, 1,3-butadiene was considered a potential human carcinogen. The Agency's section 4(f) threshold determination was also based on available information indicating that in facilities where 1,3-butadiene is polymerized into rubber and plastics, some workers in certain job categories may be exposed to levels of 1,3-butadiene roughly equivalent to those that produced tumors in the experimental animals, and many other workers are exposed to lower yet significant levels. OSHA's current workplace standard of 1,000 parts per million (ppm) for 1,3-butadiene, which was established in the 1960s, is based solely on acute toxicity rather than carcinogenic potential.

The Agency is currently compiling information on occupational exposures to 1,3-butadiene other than those in monomer and polymer plants—primarily in rubber tire manufacturing facilities, and also on non-occupational exposures, especially on the potential contamination of the ambient air. EPA will shortly announce the results of its preliminary assessement of the need to regulate 1,3-butadiene under the Clean Air Act to protect the public from ambient-air exposures. Also, the Agency is assessing waste streams from 1,3-butadiene production facilities to determine whether they should be listed as hazardous waste under the Resource Conservation and Recovery Act. If risks other than those related to contamination of the ambient air or to industrial waste streams are identified, the Agency would take action under the appropriate statute(s) to reduce such risks.

Within the 180-day statutory time frame, designated by section 4(f) of TSCA, EPA "initiate[d] appropriate action." The initiation consisted of the issuance of an Advance Notice of Proposed Rulemaking (ANPR) published in the Federal Register of May 15, 1984 (49 FR 20524). The ANPR announced the initiation of regulatory action by the EPA to determine and implement the most effective means of controlling exposures to 1,3-butadiene. An announced intention of the ANPR was to determine whether any of EPA's legislative authorities or the OSHAct, administered by OSHA, provided the most appropriate basis for regulation. The ANPR invited public comments and relevant data in five general areas: (1) Health effects; (2) manufacturing, processing, use, and disposal; (3) human exporures; (4) appropriate controls and their cost; and (5) substitutes.

Seven organizations responded to the ANPR: four trade associations, two individual companies, and one public interest group (Refs. 1 through 3 and 5 through 8). While the seven sets of comments dealt in some detail with numerous issues related to the aforementioned five general areas, the essence of the comments can be characterized by the commenters' two diametrically opposite conclusions. The industry-affiliated commenters stated that 1,3-butadiene poses no unreasonable health risks and there is no justification for regulatory action at this time, and that in any case it is not EPA but OSHA which has jurisdiction over workplace-related exposures to toxic chemicals. The Natural Resources Defense Council (NRDC), on the other hand, urged EPA to use its authority under section 6 of TSCA to reduce occupational exposures to 1,3-butadiene by instituting manufacturing and processing controls, instead of shifting the regulatory responsibility to OSHA under section 9(a). NRDC also urged EPA to address all human exposures to 1,3-butadiene, including environmental releases to the air, soil, and ground water.

Following the issuance of the ANPR, the Agency continued its regulatory investigation by conducting further

assessments of the health effects, occupational exposures, health risks, risk control methods and costs, and the availability of substitutes for 1,3-butadiene. As a result of the information submitted in response to the ANPR and other information developed by EPA, the Agency has determined that a revised workplace standard may reduce the risks to a sufficient extent, and appears technically and economically feasible. The Agency's determination with respect to workplace exposure addresses only workplace risks and does not consider risks from other exposure sources.

Based on the entire record developed during EPA's regulatory investigation, the Agency has reasonable basis to conclude that current exposures during the manufacture of 1,3-butadiene and its processing into polymers present an unreasonable risk of injury to human health, and EPA has determined that the risk may be reduced to a sufficient extent by action taken under the OSHAct. Therefore, pursuant to section 9(a) of TSCA, the Agency is issuing this report and is requesting OSHA to determine if the risk described in the report may be prevented or reduced to a sufficient extent by action taken under the OSHAct and, if so, to issue an order declaring whether the activities described in this report present the risk described. A response from OSHA to the Administrator of EPA is requested within 180 days of publication of this report in the **Federal Register**. EPA believes 180 days is sufficient time for OSHA to evaluate the scientific matters and policy requirements. In particular, OSHA will have to evaluate the data relating to significant risk and evaluate the technical and economic feasibility of control options in affected industries.

II. Legal Authorities

TSCA provides EPA with broad authority to assess and regulate chemical substances in the environment, in the workplace, and in commercial products. Under section 6(a) of TSCA, EPA is authorized to impose regulatory controls if the Agency finds that there is reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance presents or will present an unreasonable risk of injury to human health or the environment.

To determine whether a risk is unreasonable, EPA balances the probability that harm will occur from the chemical substance under consideration against the social and economic costs to society of placing restrictions on the chemical. Specifically, as stated in section 6(c) of TSCA, this conclusion incorporates consideration of:

1. The effects of the chemical substance on the health of humans.
2. The magnitude of human exposure to the chemical substance.
3. The benefits of the chemical substance for various uses.
4. The availability of substitutes for such uses.
5. The reasonably ascertainable economic consequences of regulation, after consideration of the effect on the national economy, small business, technological innovation, the environment, and public health.

The Agency realizes that no single mathematical formula can be used to calculate unreasonable risk, since the amount and nature of the information will differ in each case. Instead, EPA applies a general approach on a case-by-case basis, weighing quantitative information with qualitative factors, and applying generally accepted prinicples of responsible public health administration and prudent public policy.

Under section 9(a)(1) of TSCA, the Administrator is required to submit a report to another Federal agency when two determinations are made. The first determination is that the Administrator has reasonable basis to conclude that a chemical substance or mixture presents or will present an unreasonable risk of injury to health or the environment. The second determination is that the unreasonable risk may be prevented or reduced to a sufficient extent by action taken by another Federal agency under a Federal law not administered by EPA. Section 9(a)(1) provides that where the Administrator makes these two determinations, EPA must provide an opportunity to the other Federal agency to assess the risk described in the report, to interpret its own statutory authorities, and to initiate an action under the Federal laws that it administers.

Accordingly, section 9(a)(1) requires a report requesting the other agency (1) to determine if the risk may be prevented or reduced to a sufficient extent by action taken under its authority, and (2) if so, to issue an order declaring whether or not the activities described in the report present the risk described in the report.

Under section 9(a)(2), EPA is prohibited from taking any action under section 6 or 7 with respect to the risk reported to another Federal agency pending a response to the report from the other Federal agency. There would be no similar restriction on EPA for any risks associated with a chemical substance or mixture that is not within the section 9(a)(1) determinations and therefore not part of the report submitted by EPA to the other Federal agency.

The second agency may take one of five possible actions set out below. The Administrator may not take any action under section 6 or 7 with respect to such risk if the other agency either:

(1) Issues an "order" within the EPA deadline, stating that the activities EPA has described do not present the "unreasonable risk" EPA has attrributed to them; or

(2) "initiates" within 90 days of its response to EPA action to "protect against" the risk identified by EPA.

On the other hand, EPA may take further action if the other agency either:

(a) Determines that its law does not authorize action to prevent or reduce the unreasonable risk to a sufficient extent; or

(b) explicitly defers to EPA despite the existence of adequate authority on its part (unless its own statutory authority precludes such action), presumably on the ground that action by EPA is preferable on practical or public policy grounds; or

(c) does nothing, in which case EPA, once the deadline has expired, remains free to act as before.

III. Findings Under Section 9(a)

In this unit, EPA discusses the findings used to support its decisions to refer 1,3-butadiene to OSHA. Units A and B constitute a summary of the factors used to assess the potential risks to workers exposed to 1,3-butadiene. Details of the evidence used to estimate the risks from exposure to 1,3-butadiene, and of the conclusions reached based on that evidence, are presented in the EPA support document, "Assessment of Cancer Risks to Workers Exposed to 1,3-Butadiene During Production of 1,3-Butadiene Monomer and Production of Synthetic Rubbers, Plastics, and Resins." Units C and D constitute a summary of the benefits of the continued production and use of 1,3-butadiene, and the potential consequences of regulatory action. Units E and F present the conclusions with respect to the unreasonable risk determination and the determination that the risk can be reduced to a sufficient extent by OSHA.

In addition to the support document on occupational cancer risks developed by the Office of Pesticides and Toxic Substances (OPTS) to support referral to OSHA, the Agency's Office of Health and Environmental Assessment (OHEA) also prepared a hazard assessment,

"Mutagenicity and Carcinogenicity Assessment of 1,3-Butadiene" (Ref. 11). That document was developed primarily for use by the Agency's Office of Air and Radiation to support regulatory decision-making regarding possible listing of 1,3-butadiene as a hazardous air pollutant. Both documents focused primarily on the assessment of carcinogenic potential and concluded that 1,3-butadiene is a probable human carcinogen [Group B2]. The OPTS document includes a description of occupational exposures and a discussion of the potential cancer risks to workers. The two documents employ slightly different approaches to the quantitative risk assessment which is used to estimate human risk at low doses on the basis of the dose-response seen in the bioassay on mice. While the risks that are predicted using these two methodologies are somewhat different, these differences do not affect the referral decision. The final OHEA document (Ref. 11) incorporates in the quantitative risk estimation recently received data on absorption of 1,3-butadiene by mice. The result of this alternative methodology is to estimate a higher human risk than was previously estimated.

A. The Effects of the Chemical Substance on Health

In conducting risk assessments of suspected carcinogens, EPA generally evaluates the overall weight of evidence, including both primary and secondary evidence of carcinogenicity. As specified in the Agency's "Proposed Guidelines for Carcinogen Risk Assessments" (Ref. 10), primary evidence derives for long-term animal studies and available epidemiological data. Secondary or supplemental evidence includes the results of short-term tests, metabolic and pharmacokinetic studies, other relevant toxicological studies, and inferences deduced from chemical structure-activity relationships.

Based upon the weight of available evidence, EPA classifies 1,3-butadiene as a probable human carecinogen. The Guidelines cited above give this classification when:

> Evidence of human carcinogenicity from epidemiological studies ranges from almost "sufficient" to "inadequate." To reflect this range, the category is divided into higher (Group B1) and lower (Group B2) degrees of evidence. Usually, category B1 is reserved for agents for which there is at least limited evidence of carcinogenicity to humans from epidemiological studies. In the absence of adequate data in humans, it is reasonable, for practical purposes, to regard agents for which there is sufficient evidence of carcinogenicity in animals as if they presented a carcinogenic risk to humans. Therefore, agents for which there is inadequate evidence from human studies and sufficient evidence from animal studies [as 1,3-butadiene] would usually result in a classification of B2.

1. *Animal studies.* In assessing the cancer hazard posed to workers by 1,3-butadiene, EPA's conclusions rest primarily on the evidence of carcinogenicity from animal studies. 1,3-Butadiene has been shown to induce cancers at multiple sites in both sexes of two species of laboratory animals exposed at different dose levels. In addition, the animals were exposed via inhalation, the primary route of worker exposure to 1,3-butadiene. Further, tumors were induced in these animal species at exposure levels equal to or below the current OSHA workplace standard of 1,000 ppm, 8-hour time-weighted average (TWA).

In the rate and mouse, neoplastic response to 1,3-butadiene was considered to be biologically significant for several reasons. There were statistically significant increases in the incidence rates of many tumors observed in the treated mice and rats. For the rat, these included mammary fibroadenomas/carcinomas and thyroid follicular cell tumors in females, and Leydig cell adenoma and pancreatic exocrine tumors in males. In mice, the observed tumors included hemangiosarcomas of the heart, malignant lymphomas, alveolar/bronchiolar adenomas and carcinomas, and forestomach papillomas and carcinomas in males and females. In female mice, there were also hepatocellular adenomas/carcinomas, mammary gland acinar cell carcinomas, and ovary granulosa cell tumors. For several of these sites in the rat and mouse, the tumor response was dose-related. In both species, historically rare or uncommon tumors were observed. In the mouse, some tumors developed very early in the study, such as maligant lymphomas (week 20), hemiangiosarcomas (prior to weeks 60–61), and hepatocellular tumors (prior to weeks 60–61). In both species, there was decreased survival in the treated animals. In the mouse, there was an expecially strong response, with greater than 90 pecent of the animals dying of tumors by weeks 60–61 of the planned 104-week study.

The evidence of carcinogenicity in animals has provided the basis for a quantitative assessment of risks to workers exposed to 1,3-butadiene.

2. *Epidemiological studies.* EPA has also given consideration to the available epidemiological studies on workers in synthetic rubber plants. Although these studies show increased mortality from leukemia and lymphatic and hematopoietic system neoplasms, the Agency has concluded that they are generally inadequate to assess cancer mortality in the exposed populations because of study design limitations. Insufficient follow-up, low statistical power to detect moderate elevations of lymphatic/hematopoietic system neoplasm or leukemia risk, the lack of quantitative exposure estimates, and the inability to separate compounding exposures were the major limitations of the epidemiological studies. Therefore, these studies do not establish a link between 1,3-butadiene and human carcinogenicity, but neither do they show the absence of such a link.

3. *Secondary evidence.* The secondary evidence supporting the potential carcinogenicity of 1,3-butadiene in humans comes from studies of absorption, distribution, metabolism, and short-term assays. These studies show that 1,3-butadiene is readily absorbed by animals and humans via inhalation and that in animals it is distributed to many organs and tissues. Testing of 1,3-butadiene indicates that it is an indirect gene mutagen in bacteria, requiring metabolic activation to mutagenic intermediates. 1,3-Butadiene feedstock containing 40–69 percent of this chemical is a chromosome mutagen *in vivo*. There is evidence from metabolic studies indicating that 1,3-butadiene is converted to reactive epoxide metabolites which are direct-acting mutagens in several test systems (*in vitro* and *in vivo*) and which are DNA alkylators. There is also evidence that these metabolites may be potential carcinogens in animals. There is, however, insufficient knowledge of the metabolism and pharmacokinetics of 1,3-butadiene in humans and of the mechanism of cancer induction in animals to predict the specific mechanism of carcinogencity in animals and humans or to predict a most likely target site for carcinogenesis in humans. No information was found on the potential carcinogenicity of chemical compounds considered to be structurally analogous to 1,3-butadiene.

4. *Summary.* The overall weight of currently available evidence indicates that 1,3-butadiene is a probable human carcinogen [Group B2] based on sufficient evidence in animals, including metabolism and short-term tests, and on inadequate epidemiological evidence.

B. Human Exposure And Risk

1. *Exposure information.* The Agency has reviewed a number of surveys of air concentrations of 1,3-butadiene to which workers are exposed in plants that

produce the monomer and in plants that process it into various polymers. The air monitoring data were obtained from various organizations, including the Chemical Manufacturers Association, the International Institute of Synthetic Rubber Producers, the United Rubber Workers International Union, the National Institute for Occupational Safety and Health, the Occupational Safety and Health Administration, and several individual chemical and rubber companies.

The data compiled from these various sources indicate that from 480 to 740 workers in monomer production plants and from 4,800 to 7,500 workers in polymerization plants are exposed to 1,3-butadiene. In the monomer production plants, 9 job categories with exposed workers have been identified: non-technical laboratory technician, technical laboratory analyst, operator, warehouse worker, stillman, operator's helper, foreman, maintenance man, and pumper/loader. In polymerization plants, 12 job categories with exposure to 1,3-butadiene have been established: tank-car unloader, reactor operator, stripper-column operator, coagulation operator, warehouse worker, laboratory analyst, foreman/engineer, maintenance worker, vessel cleaner, baler/packer, dryer operator, and blend-tank operator.

The levels of inhalation exposure for each job category were determined by the use of personal monitoring devices. Although not all of the sampling and analysis surveys were performed in accordance with the procedure developed by the National Institute for Occupational Safety and Health (NIOSH), the results obtained by the various methods were comparable to the results obtained by the NIOSH procedure. The results of these surveys indicated a wide range of 1,3-butadiene exposure to workers; typical workday exposures ranged from less than 1 part per million (ppm) to levels as high as 500 to 1,000 ppm in a few instances. Based on this survey information, EPA determined a range of hypothetical exposure profiles for the various job categories. These exposure profiles were used in the preparation of the quantitative risk assessment.

The Agency's exposure assessment is presented in detail in the support documents entitled, "Assessment of Occupational Exposure Data on 1,3-Butadiene in Plants Producing Synthetic Rubbers, Plastics, and Resins" and "Control of Occupational Exposure to 1,3-Butadiene at Monomer Production Facilities." These documents describe the various assumptions used by the Agency and also indicate the limitations of the exposure assessment.

2. *Methodology used for estimating cancer risk to workers.* Human cancer risks from exposure to 1,3-butadiene were estimated by modelling the results of the long-term mouse oncology study (Ref. 9) mathematically to predict carcinogenic response at doses lower than the experimental dose levels. The mouse oncology study was chosen for the modelling for several reasons. A major consideration was that the mouse appeared to be the more sensitive of the two species. To estimate the cancer risk, pooled tumor data were used, which give a measure of general, overall response to 1,3-butadiene. Estimates of cancer risk were based on the date for male mice, because they had a higher cancer response rate than females. This response rate consequently gave higher extra lifetime risks at low doses.

The mathematical modelling technique consisted of a single-stage model, which yielded upper 95 percent confidence limits on risk estimates. These were equivalent to risk estimates obtained by the linearized multistage modelling procedure recommended in the Agnecy's "Proposed Guidelines for Carcinogenic Risk Assessment" (Ref. 10).

To characterize the cancer risk to workers exposed to 1,3-butadiene, the Agency used the exposure information obtained for the various job categories in monomer and polymer production plants to estimate lifetime average daily dose (LADDs).[1] For the calculation of LADDs, the Agency assumed that (1) humans live for an average of 70 years, (2) mice and humans absorb the same percentage of inhaled 1,3-butadiene, and (3) the workers are exposed during 40 years of employment. The risk estimates used by the Agency are the 95 percent upper confidence limits of extra lifetime risk to workers based on pooled tumor data for mice.

The risk assessment methodology used by the Agency, together with the various assumptions and inherent limitations, is described in detail in the support document, "Assessment of Cancer Risks to Workers Exposed to 1,3-Butadiene During Production of 1,3-Butadiene Monomer and Production of Synthetic Rubbers, Plastics, and Resins."

3. *Cancer risk estimates.* When the above risk assessment methodology was applied to the hypothetical exposure profile developed for each of the job categories identified in monomer production and polymerization plants, the resulting upper-limit risk estimates varied within each job category. For some job categories, the estimated individual risk ranged from 1 lifetime excess cancer incidence in 1,000 workers ot 1 incidence in 1 worker. For some other job categories, the range of the estimated risk was from 1 in 10,000 to 1 in 10. The magnitude of the estimated risk to a worker depended on the exposure range in which he was located within a particular job category. For example, from 800 to 1,200 reactor operators were estimated to be exposed in polymerization plants for 8 hours per day, 240 days per year, over a period of 40 years. Seventy-eight percent of these reactor operators were in the 1,3-butadiene exposure range of non-detectable levels to 5 ppm. Within this single exposure range, the estimated cancer risk varied according to the actual exposure level: 1 in 1,000 at 0.1 ppm, 1 in 100 at 1 ppm, and 1 in 10 at 5 pm. For the 22 percent of the reactor operators who were in the higher exposure ranges, the estimated individual cancer risk varied from 1 in 10 at 10 ppm to 1 in 1 at 25 ppm and above. About 7 percent of the reactor operators were exposed to 1,3-butadiene at levels higher than 25 ppm.

Another way of expressing the cancer risk from 1,3-butadiene in monomer and polymer production plants is to calculate the extra lifetime cancer incidence in worker populations (i.e., population risk) in these two industry segments. The Agency has performed such calculations, as shown in the support document entitled, "Estimates of Cancer Incidence in Workers Exposed to 1,3-Butadiene." The results of the obtained estimates are summarized below.

a. *Monomer production plants.* The estimated number of extra lifetime cancer cases (population risk) was calculated by multiplying the extra lifetime individual risks by the number of workers for each of the exposure ranges of the nine job categories. For the combined population of 480 to 740 workers, the estimated number of lifetime cancer cases caused by 40 years of exposure to 1,3-butadiene ranged from 22 to 80. These numbers reflect the range in the number of workers and the range of individual risks depending on exposure levels.

[1] The LADD is the amount of chemical that a worker is expected to absorb over his or her working career, divided by the expected lifetime of the worker and by the worker's body weight. This number is used to relate the expected daily dose that a worker received to the dose that the test animails received in the oncology study, and permits the comparison of observed tumor rates in test animals with possible tumor rates in exposed workers.

b. *Polymerization plants.* For this segment of the industry, the number of extra lifetime cancer cases was estimated to be in the range of 148 to 838, in a total population of 4,800 to 7,500 workers.

It should be emphasized that the extra lifetime individual risk estimates upon which the Agency's calculations are based represent upper-limit risks. Although these estimates are considered to be plausible upper bounds, indicating the upper end of the range of cancer risks that might be expected for the workers, the actual risks may be lower.

C. The Benefits of 1,3-Butadiene

EPA estimates that the current volume of 1,3-butadiene production in the U.S. is approximately 3 billion pounds per year, with an industry capacity of about 4 billion pounds. Most of this important industrial chemical is produced as a byproduct of ethylene manufacture and used captively for the production of rubbers, plastics, resins, fibers, and other polymeric products.

The major polymers made from 1,3-butadiene include styrene-butadiene (SBR) elastomers and latexes, polybutadiene elastomers, polychloroprene, nylon fibers and resins, acrylonitrile-butadiene-styrene (ABS) resins, acrylonitrile-butadiene (nitrile) rubbers, and ethylene-propylene-diene modification (EPDM) elastomers. These polymer uses of butadiene were estimated to account for over 95 percent of all domestic butadiene consumption in 1981.

In addition to its major uses, 1,3-butadiene is employed in a number of minor polymer applications, including modified polybutadiene as propellent binders, specialty copolymer resins and latexes for paints, coatings and adhesive applications, and hydrogenated butadiene-styrene polymers used as lubricating oil additives.

1,3-Butadiene is also used as an intermediate in the production of a number of non-polymers, including the agricultural fungicides Captan and Captofol, anthraquinone dyes, and the industrial extraction solvent Sulfolane.

Although technically suitable substitutes are available for most of the major uses of 1,3-butadiene, the cost of replacing this large-volume chemical is very high, as shown in the support document, "1,3-Butadiene Use and Substitutes Analysis."

D. The Reasonably Ascertainable Consequences of Potential Regulation

This unit concentrates on the regulatory measures that would likely be used to control exposure in the workplace. As discussed below, EPA has determined that workplace control methods appear to be both technologically and economically feasible to significantly reduce 1,3-butadiene exposures. Workplace control methods could include engineering controls, such as installation of dual mechanical seals, or the use of personal protective equipment, such as respirators. The technology for effective engineering controls is known and currently practiced in parts of the 1,3-butadiene industry. EPA's estimated exposure reductions are based on the available monitoring information and the hypothetical exosure situations developed in the risk assessment.

1. *Engineering controls.* Effective, yet relatively inexpensive engineering controls consist of installation of dual mechanical seals to prevent 1,3-butadiene leaks from pumps and compressors. These engineering controls have proven effective in reducing workers exposures in the vinyl chloride industry. Fugitive emissions from pumps, compressors, transfer lines, and sampling equipment can be controlled by relatively standardized engineering designs.

Complete enclosure and industrial ventilating systems may offer two other methods for reducing occupational exposures to a toxic chemical such as 1,3-butadiene. For the latter, either local exhaust ventilation or higher-volume general dilution air systems could be used; however, attention should be given to safeguarding the quality of the ambient air. Additionally, in the 1,3-butadiene monomer manufacturing industry the facilities are large outdoor plants where in most cases general mechanical exhaust ventilation and local exhaust ventilation are not feasible.

2. *Personal protective equipment and industrial hygiene practices.* Personal protective equipment and industrial hygiene practices can be effective ways to protect the worker from exposure to 1,3-butadiene in certain situations (e.g., protective gloves to prevent dermal contact with the liquefied chemical). The use of personal protective equipment, such as NIOSH-approved respirators, may be less effective than engineering controls due to the physical layout of the plants where 1,3-butadiene is manufactured and processed. Consequently, the Agency's estimate of the cost of effective workplace controls is based on engineering controls.

3. *Cost of controls.* The EPA has prepared a preliminary economic analysis of the costs associated with the imposition of workplace engineering controls on both the manufacturing and the processing of 1,3-butadiene. The support document "Regulatory Impact Analysis of 1,3-Butadiene" presents fully the methodology, data, and assumptions used in arriving at the costs. In summary, the imposition of workplace controls that should be capable of achieving workplace exposures of less than 1 ppm would result in estimated incremental costs of $118,000 to $320,000 per facility. On an annualized cost basis, the costs would range from $20,000 to $53,000 per plant, assuming a 10 percent discount rate over a 10-year period. Given the large volume of 1,3-butadiene produced annually, the potential impact on price of requiring engineering controls would not be significant.

E. Unreasonable Risk Determination

Available evidence indicates that 1,3-butadiene causes cancer in mice and rats and is a probable human carcinogen. Using the results of the mouse oncology study, the Agency performed mathematical modelling to estimate the cancer risk to workers in plants that produce 1,3-butadiene and process this chemical into polymers. Based on available workplace monitoring data, the upper-bound lifetime risk to workers in these plants is estimated to be in the range of 1 in 1 to 1 in 10,000, resulting in up to 900 extra lifetime cases of cancer.

The imposition of more effective engineering controls appears to be capable of reducing all workplace exposures to less than 1 ppm, thereby reducing the cancer risk to 1 in 100 or less and the extra lifetime cases of cancer to less than 100. The Agency's best estimate of the industry-wide total costs of the improved engineering controls is in the range of $8 million to $21 million, expressed in current dollars. (On an annualized cost basis, these engineering controls would cost from $1.3 million to $3.4 million per year, calculated over a 10-year period at a 10 percent discount rate.) Accordingly, up to 800 cancers could be avoided over a 40-year period at a total cost of $10,000 to $26,000 per cancer case avoided. Thus, through relatively inexpensive engineering controls, which are already in place at some 1,3-butadiene manufacturing and processing facilities, about 90 percent of the cancer risk may be eliminated. Further risk reduction through the use of more stringent engineering controls may be possible, but it appears that plant redesign would be required, thus resulting in a significantly higher cost. The Agency does not anticipate that the cost of the controls will have any adverse impact on the national economy or on small businesses. EPA therefore has

reasonable basis to conclude that current exposures during the manufacture of 1,3-butadiene and its processing into polymers present an unreasonable risk of injury to the health of exposed workers.

F. Unreasonable Risk May Be prevented or Reduced to a Sufficient Extent by Action Taken under OSHAct

A significant concern about human exposures to 1,3-butadiene relates to inhalation of this chemical in the workplace. The OSHAct is the primary statute for protecting the health and safety of workers, and, as such, provides broad authorities to achieve this objective. As discussed in Units C and D, a revised workplace standard may reduce unreasonable risks from the manufacture and processing of 1,3-butadiene to a sufficient extent. The requirement of such a revised workplace standard is clearly within the statutory authority of OSHA. Furthermore, OSHA has experience and expertise in enacting and enforcing these types of regulations. Therefore, EPA has determined that the unreasonable risk of injury to the health of exposed workers may be reduced or prevented by actions taken by OSHA under the Federal law it administers.

IV. Conclusions

Based upon the information in this report, and the supporting documents from which the information was extracted, the Administrator of EPA has concluded that the manufacture and processing of 1,3-butadiene, as currently practiced, present an unreasonable risk of cancer to workers. The Administrator has also determined that such risk may be eliminated or reduced to a sufficient extent by actions taken under the OSHAct. Therefore, under requirements of sec. 9 of TSCA, the Agency is requesting OSHA to:

1. Determine if the risk described in this report may be prevented or reduced to a sufficient extent by action taken under the OSHAct; and,

2. If so, issue an order declaring whether or not the risk described in this report is unreasonable.

We ask that OSHA respond to our request for the determination and order within 180 days of the date of publication of this notice in the **Federal Register.** In accordance with section 9, the response from OSHA must be accompanied by a detailed statement of OSHA's findings and conclusions, and must be published in the **Federal Register.**

V. Public Record

EPA established a record for this notice (docket number OPTS-91002). The record for the ANPR (OPTS-62034) and for the sec. 4(f) notice (OPTS-48502) are included in the new record. Nonconfidential information along with a complete index is available for inspection in the Office of Toxic Substances reading room from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays. The Agency also maintains a record of confidential information that is not part of the public record. The Public Information Office is located in Rm. E-107, 401 M Street SW., Washington, D.C. 20460. The record includes basic information considered by the Agency in developing the ANPR and this notice. The Agency will supplement the record with additional information as it is received.

A. References

(1) Chemical Manufacturers Association (CMA). Comments of the CMA's Butadiene Program Panel to EPA's Advance Notice of Proposed Rulemaking (ANPR). July 16 and August 29, 1984.

(2) E.I. du Pont de Nemours and Company. Comments on 1,3-Butadiene, Initiation of Regulatory Action. July 16, 1984.

(3) International Institute of Synthetic Rubber Producers, Inc. (IISRP). Comments on the ANPR. July 13 and August 29, 1984.

(4) IISRP. The Toxicity and Carcinogenicity of Butadiene Gas Adminstered to Rats by Inhalation for Approximately 24 Months. Final report, prepared by Hazleton Laboratories Europe Ltd., Volumes 1-4, dated November 1981.

(5) Natural Resources Defense Council, Inc. (NRDC). Comments of NRDC on Advance Notice of Proposed Rulemaking Governing Initiation of Regulatory Action on 1,3-Butadiene. July 16, 1984.

(6) Polysar Limited. Comments on the ANPR. June 28, 1984.

(7) Rubber Manufacturers Association (RMA). Comments on the ANPR. July 16, 1984.

(8) Synthetic Organic Chemical Manufacturers Association, Inc. (SOCMA). Comments on the ANPR. July 16, 1984.

(9) U.S. Department of Health and Human Services, PHS, NIH, National Toxicology Program (NTP). NTP Technical Report on the Toxicology and Carcinogenesis Studies of 1,3-Butadiene (CAS 106-99-0) in B6C3F, Mice (Inhalation Studies). August 1984.

(10) U.S. EPA, Office of Research and Development, Office of Health and Environmental Assessment. Proposed Guidelines for Carcinogenic Risk Assessments. Published in the **Federal Register** of November 23, 1984 (49 FR 46294).

(11) U.S. EPA, Office of Research and Development, Office of Health and Environmental Assessment. Mutagenicity and Carcinogenicity Assessment of 1,3-Butadiene. August 1985.

B. Support Documents

(1) USEPA, OPTS, ECAD. Assessment of Cancer Risks to Workers Exposed to 1,3-Butadiene During Production of 1,3-Butadiene Monomer and Production of Synthetic Rubbers, Plastics, and Resins. January 31, 1985.

(2) USEPA, OPTS, ECAD. Estimates of Cancer Incidence in Workers Exposed to 1,3-Butadiene. Supplement to (1) above. February 4, 1985.

(3) USEPA, OPTS, EED. Memorandum and Technical Support Document from M.P. Halper, "1,3-Budadiene Quantitative Risk Assessment: Dose-Response Investigations." November 30, 1984.

(4) USEPA, OPTS, ETD. Assessment of Occupational Exposure Data on 1,3-Butadiene in Plants Producing Synthetic Rubbers, Plastics and Resins. December 1984.

(5) USEPA, OPTS, ETD. 1,3-Butadiene Use and Substitutes Analysis. August 10, 1984. Prepared by ICF Inc.

(6) USEPA, OPTS, ETD. Control of Occupational Exposure to 1,3-Butadiene at Monomer Production Facilities. February 1985. Prepared by PEDCO Environmental, Inc.

(7) USEPA, OPTS, ETD. Production and Utilization of 1,3-Butadiene: Potential Exposure to Workers and the General Population. September 13, 1983. Prepared by Environ Corporation.

(8) USEPA, OPTS, ETD. Regulatory Impact Analysis of 1,3-Butadiene. April 15, 1985.

(8) USEPA, OPTS, ETD. Worker Exposure to 1,3-Butadiene in the Plastics and Rubber Industry. February 1985. Prepared by PEI Associates, Inc.

Copies of all references and support documents are available for inspection in Rm. E-108, at the EPA address given above. OSHA's response to EPA will also be inserted in the public record upon its receipt.

Dated: October 1, 1985.

Lee M. Thomas,

Administrator.

[FR Doc. 85-24271 Filed 10-9-85; 8:45 am]

BILLING CODE 6560-59-M

FEDERAL COMMUNICATIONS COMMISSION

Declaratory Ruling; Order Extending Time

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: The Order grants the motions of several parties to file their pleadings late and extends the date on which reply comments are due in the proceeding. *Declaratory Ruling on the Application of section 2(b) of the Communications Act of 1934 to Bell Operating Companies*, FCC 85-320 (released June 20, 1985), 50 FR 27053 (July 1, 1985). The proceeding began with a declaratory ruling by the Commission that the divested Bell Operating Companies remained fully subject carriers. It established procedures by which parties

wishing to allege otherwise could present their cases. The time for filing reply comments was extended to October 8, 1985, to give additional time for preparing reply comments due to the late-filed comment that was accepted.

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

FOR FURTHER INFORMATION CONTACT: Douglas Slotten, Common Carrier Bureau, Policy and Program Planning Division, 202-632-9342.

Order Extending Time

In the matter of Declaratory ruling on the application of section 2(b) of the Communications Act of 1934 to Bell Operating Companies; CC Docket No. 85-197.

Adopted: September 27, 1985.

Released: October 2, 1985.

By the Chief, Common Carrier Bureau:

1. On June 20, 1985, the Commission released a decision declaring that it had jurisdiction over the divested Bell Operating Companies (BOCs).[1] However, because of allegations that had been made in a variety of contexts, particularly in conjunction with depreciation prescription proceedings, the Commission initiated a proceeding in which interested persons could present their arguments relating to the Commission's jurisdiction over the divested BOCs. To that end, it allowed persons claiming that divestiture had altered the Commission's jurisdiction over the divested BOCs to file petitions presenting their positions within sixty days from the date on which the order was released. Parties wishing to oppose the petitions were given thirty days from the close of the sixty-day petition period to file oppositions. Parties wishing to file replies were required to do so within fifteen days of the close of the period for filing oppositions.

2. A number of state commissions filed petitions on August 19, 1985 (the due date for petitions) requesting that the BOCs within their jurisdiction be characterized as connecting carriers. Pacific Bell Telephone Company and Nevada Bell Telephone Company filed a pleading indicating that they currently offer interstate service, but sought to reserve their right to raise the jurisdiction issue later if their operating arrangements changed. Several state commissions filed petitions late. The Colorado Public Utility Commission (Colorado) filed on August 20; the Arizona Corporation Commission (Arizona) filed on August 22 with an accompanying motion to accept a late-filed petition; and the Utah Public Service Commission (Utah) filed on August 27.

3. A number of parties filed oppositions or comments relating to these petitions on September 18, 1985. The Ad Hoc Telecommunications Users Committee (ADHOC) filed its comments on September 23, 1985, accompanied by a motion requesting the Commission to accept the comments. ADHOC argued that since some states had filed late, uncertainty had been created about the date on which comments were due. It stated that it believed its comments were timely, but that if the Commission determined they were untimely, it requested that we accept its comments in light of the late-filed state petitons.

4. Because of the overriding importance of the jurisdiction issue to the regulatory process, we shall grant the Arizona motion to accept its late-filed petition and shall accept the other two late-filed state petitions as well. This furthers the efficient resolution of the jurisdictional issues raised by the divestiture of the BOCs. With respect to ADHOC's motion, we cannot agree that comments filed on September 23 were timely filed. However, because of the apparent confusion created by the late state filings, and because we have decided to accept the late-filed state petitions, we shall accept the ADHOC comments for consideration. This should not prejudice any party to this proceeding. However, this would leave only ten days for replies to the comments, measured from September 23. Accordingly, we shall extend the time in which to file replies to October 8, 1985.

5. Accordingly, it is ordered, pursuant to sections 1, 2, and 4 (i) and (j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, and 154 (i) and (j), that the motion of the Arizona Corporation Commission to accept its petition as late-filed is granted.

6. It is further ordered, That the petitons filed by the Colorado Public Service Commission and the Utah Public Service Commission are accepted.

7. It is further ordered, That the motion of the Ad Hoc Telecommunications Users Committee to acept late-filed comments is granted.

8. It is further ordered, That the date for filing replies to the comments is extended to October 8, 1985.

Federal Communications Commission.

Albert Halprin,

Chief, Common Carrier Bureau.

[FR Doc. 85-24293 Filed 10-9-85; 8:45 am]

BILLING CODE 6712-01-M

[1] Declaratory Ruling on the Application of section 2(b)(2) of the Communications Act of 1934 to Bell Operating Companies, FCC 85-320 (released June 20, 1985), 50 FR 27053 (July 1, 1985).

Federal Advisory Committee for the 1987 ITU World Administrative Radio Conference for the Mobile Services; Meeting

The fourth meeting of the Federal Advisory Committee for the 1987 Mobile World Administrative Radio Conference will be held on Tuesday, January 7, 1986, at 9:30 A.M. in the Commission Meeting Room 856, 1919 M Street, NW., Washington, D.C.

The meeting agenda is:

1. Approval of meeting agenda.

2. Approval of the summary record of the October 1, 1985, meeting.

3. Report on administrative matters from designated federal employee.

4. Progress reports and consideration of draft proposals from Ad Hoc Group Chairman:

(a) Aeronautical
(b) Land Mobile
(c) Maritime
(d) Satellite
(e) Steering

5. Report on technical matters under consideration in the U.S. CCIR organization relevant to the Mobile MARC.

6. Reports on International meetings bearing on the Mobile WARC.

7. Other business.

8. Selection of next meeting date.

Anyone desiring further information should contact Gordon Hempton, FCC/PRB at (202) 632-7073. These meetings are open to the public.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85-24294 Filed 10-9-85; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 85-288; File No. BRED-830401 BV et al.]

Agape Broadcasting Foundation, Inc., et al.; Hearing Designation Order

In re applications of:

Agape Broadcasting Foundation, Inc., for renewal of License for Radio Station KNON-FM, Dallas, Texas.	MM Docket No. 85-288 File No. BRED-830401BV.
and	
Criswell Bible Institute, Dallas, Texas, Req: Channel 215C, 90.9 MHz, 100kW ERP, 483 METERS HAAT.	File No. BPED-830630AF.
Family Broadcasting, Inc., Dallas, Texas, Req: Channel 215C, 90.9 MHz, 100kW ERP, 216 METERS HAAT.	File No. BPED-830629AF.

Crusader Broadcast Foundation, Inc., Dallas, Texas, Req: Channel 215C, 90.9 MHz, 100kW ERP, 241 METERS HAAT.	File No. BPED-830701AB.
McKinney Educational Broadcasting Foundation., McKinney, Texas, Req: Channel 217C, 91.3 MHz, 10kW ERP, 114 METERS HAAT.	File No. BPED-830204AD.

For Construction Permit for a New Noncommercial Educational FM Station.

Adpoted: September 24, 1985.
Released: October 7, 1985.

By the Chief, Audio Services Division.

1. The Commission by the Chief, Audio Services Division, acting pursuant to delegated authority, has before it (i) the application of Agape Broadcasting Foundation, Inc. (Agape), for renewal of license for noncommercial educational FM Station KNON-FM, Dallas, Texas; (ii) the applications of Criswell Bible Institute (Criswell), Family Broadcasting, Inc. (Family) and Crusader Broadcast Foundation, Inc. (Crusader), for authority to construct new noncommercial educational FM broadcast stations on Channel 215C in Dallas, which applications are mutually exclusive with each other and with the renewal of KNON; (iii) the additional mutually exclusive application of McKinney Educational Broadcasting Foundation (McKinney) for authority to construct a new noncommercial educational FM station on Channel 217C in McKinney, Texas; (iv) Criswell's Petition for Reconsideration of the Commission's April 21, 1983 grant of Agape's application for major change of facilities (CP grant); (v) Criswell's June 10, 1983 Motion for Stay and July 12, 1983 Engineering Supplement; (vi) a Petition for Reconsideration of Agape's CP grant, filed on June 28, 1983, by Creative Education Foundation (Creative); (vii) correspondence regarding KNON; and (viii) an informal objection to the grant of McKinney's applications, filed by Educational Research Foundation, Inc., licensee of noncommercial educational Station KVTT(FM), Dallas, Texas (KVTT).

2. *The petitions for reconsideration.* On or about September 16, 1977, the transmission tower of Station KCHU-FM was destroyed during a storm. The station never resumed operations under the call sign KCHU-FM. Agape notified the Commission of the loss on December 27, 1978. On February 2, 1979, the Commission authorized KCHU to remain silent until April 30, 1979, by which time Agape was to file a construction permit application (FCC Form 340) for a new site. No application was filed. On August 13, 1979, the call sign of the station was changed from KCHU to KNON. On May 28, 1982, Agape filed a proposal to reduce its then authorized but silent facilities from 100 kW effective radiated power (ERP) at 791 feet height above average terrain (HAAT) to 7.5 kW ERP at 480 feet HAAT. Since this would reduce the coverage of KNON's proposed 60 dBu (1.0 mV/m) contour by 70%, it was declared to be a major change and assigned file number BPED-820526AJ pursuant to then § 73.3573(a) of the Rules.[1]

3. Creative filed pleadings in opposition to the major change application dated June 15, 1982, July 15, 1982, and March 9, 1983. In these pleadings Creative alleged that Agape (i) was not financially qualified to construct the proposed facilities; (ii) had "mismanaged" the station; and (iii) "possibly" made willful false statements to the Commission. The Commission treated these pleadings as informal objections. In a letter dated April 21, 1983, the Commission, by the Chief, Audio Services Division acting pursuant to delegated authority, stated that, according to the information provided by Agape on April 11, 1983, the applicant was financially qualified to construct the proposed facilities. With regard to Creative's allegations of mismanagement and misrepresentation, the letter stated that these allegations were not supported by any information which would indicate a violation of any Commission rule or policy, nor were they supported by any specific facts which would raise a substantial and material question of fact as to Agape's qualifications. Accordingly, the informal objection of Creative was denied, and the application was granted. Letter 8920-JR, dated April 21, 1983 (CP grant).[2]

4. On May 2, 1983, Creative sought reconsideration of the CP grant.[3] In its petition, Creative alleges that (i) Agape is not financially qualified to construct and operate KNON, even at reduced facilities; and (ii) Agape has made willful false statements to the Commission. With regard to Agape's financial qualifications, Creative does not submit any newly discovered evidence or cite any errors of fact or law in the April 21, 1983 ruling, but instead restates the arguments and again cites the information on this allegation contained in its informal objection. However, a petition for reconsideration must be based upon newly discovered evidence or upon errors of fact or law in the action for which reconsideration is sought. *See* 47 CFR 1.106 (c) and (d). In the absence of such a showing, reconsideration will not be granted for the purpose of reviewing matters which the Commission has already considered and resolved. *WWIZ, Inc.*, 37 FCC 685, 686 (1964), *affd. sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. den.* 383 U.S. 967 (1966); *Employment Practices of Charlotte, N.C. Stations*, 77 FCC 2d 1 (1980). Further, on June 30, 1984, Agape stated in a letter to the Commission that it had raised "over $30,000 in the last 8 months" with which it would construct and begin operation of its station, and on January 4, 1984, Agape filed with the Secretary a list of transmitter and antenna expenditures.[4]

---

[1] At that time § 73.3573(a) read, in relevant part: A major change for FM stations authorized under this part is any change in frequency, station location or class of station, or any change in power, antenna location or height above average terrain (or combination thereof) which would result in a change of 50% or more in the area within the station's predicted 1 mV/m field strength contour.

[2] Creative's March 9, 1983 pleading was also intended to oppose the license renewal application of KNON. Since the pleading did not contain sufficient information or specific allegations of fact to raise a substantial and material question of fact concerning the CP application, it also failed as an informal objection to a grant of the license renewal application of KNON. KNON's renewal application was not ripe for any type of action when the April 21 ruling was issued.

[3] In addition, on June 28, 1983, Creative filed a supplement to its petition for reconsideration. However, § 1.106(f) of the Commission's Rules, 47 CFR 1.106(f), provides that "a petition for reconsideration and any supplement thereto shall be filed within 30 days of the release of the document containing the full text of the action or, in case such document is not released, after release of a public notice announcing the action in question." The 30-day time period for seeking reconsideration is statutory. *See* 47 U.S.C. 405. Public notice of the April 21 grant was released on May 11, 1983. Therefore, any petition for reconsideration or supplement thereto had to be filed by June 10, 1983. Accordingly, Creative's June 28, 1983 supplement to its petition for reconsideration was not timely filed and cannot be considered in this proceeding. *American Broadcasting Companies, Inc. (KGO-TV)*, 86 FCC 2d 1 (1981).

[4] Program test authority, including an additional statement that station construction was completed, was requested on July 29, 1983. It is true that on December 2, 1983, the Commission's Complaints and Investigations Branch issued a letter of inquiry as to why no transmitter had been set up. If the questions regarding operation had not been resolved satisfactorily, we would have considered adding a financial issue, inasmuch as the evidence, though circumstantial, would have indicated that perhaps Agape did *not* have the funds for construction and operation of KNON. However, KNON responded that it had erred in notifying the Commission of station completion before the transmitter was "fully operational." KNON also stated that the transmitter was brought to an operational level on December 11, 1983, and that broadcasting at its now reduced power had begun on December 14. KNON thereafter went silent due to "severe and unusual weather conditions," namely, ice on its antenna. KNON is now on the air. It was granted special temporary authority to operate at further reduced facilities through March

Continued

In view of this information and Creative's failure to submit any newly discovered evidence or to cite any errors of fact or law in the April 21, 1983 ruling, Creative's allegations regarding Agape's financial condition do not necessitate or justify reconsideration. However, since Agape has failed to put KNON on the air for over five years, this failure should be considered in evaluating Agape's qualifications vis-a-vis the mutually exclusive construction permit applicants.

5. With regard to Creative's allegations concerning Agape's misrepresentations, Item 8, Section 2, page 2 of FCC Form 301 (1982) asks whether the applicant is directly or indirectly controlled by another legal entity. In its application, Agape answered this question in the negative. BPED–820528AJ, Section 2, page 2, Item 8. In its petition for reconsideration, Creative asserts that this negative response is a misrepresentation to the Commission. In support of this contention, Creative cites internal memoranda of two organizations, the Association of Community Organizations for Reform Now (ACORN) and the Affiliated Media Foundation Movement (AM/FM), which were attached to its March 9, 1983 pleading. In a momorandum dated February 13, 1981, from Mr. Wade Rathke, Director of ACORN, to various members of ACORN, Mr. Rathke discusses at length that organization's potential strategies for taking over Agape/KNON and the disputes between ACORN and Agape/KNON, and asserts that ACORN and AM/FM are the "*de facto* administrators of Agape/KNON." In a memorandum dated February 21, 1981, from Mr. Steve R. Bauchman, identified by Creative as "ACORN's lawyer," to Mr. Rathke, Mr. Bauchman discusses their dispute with Agape and strategies for taking control of Agape, and asserts that AM/FM "has been caring for" Agape. However, these documents do not show that KNON or Agape is directly or indirectly under the control of ACORN and/or AM/FM. At the outset we note that, with the isolated exceptions just noted, these documents are devoted exclusively to the discussion of strategies by which ACORN *intended* to *take* control of the station. Accordingly, these documents obviously *cannot* show that those entities *are* in control of the station. Further, Agape/KNON was not in any way a party to the memoranda cited by Creative.[5] Accordingly, the bare assertion by ACORN and/or AM/FM that they are "*de facto* administrators of" are "caring for" Agape/KNON, without any evidence whatever that Agape/KNON was even aware of this assertion (much less acquiesced in the assessment) does not show that Agape/KNON was directly or indirectly under the control of ACORN and/or AM/FM.[6] Finally, Creative does not cite or provide factual support for a single specific act which would constitute a manifestation of actual control over Agape or KNON by ACORN or AM/FM. *Cf., Peoria Community Broadcasters, et al.*, 79 FCC 2d 311, 315–6 (1980). The April 21, 1983 letter stated that Creative's "allegation of 'possible' willful false statements to the Commission is not supported by specific facts as required by section 309(d) of the Communications Act." Creative has not submitted any newly discovered evidence, nor has it cited any errors of fact or law in the April 21, 1983 letter. The Commission has stated that it will not disqualify an applicant for alleged misrepresentation "unless it had a reasonable degree of certainty that delibertae misrepresentation had occurred." *Service Electric Company*, 86 FCC 2d 69, 93 (1981). The burden of proof to show misrepresentation is on the accuser and the evidence of such must be "clear, precise and indubitable." *Overmyer Communications Co., Inc., et al.*, 56 FCC 2d 918, 925 (1974), quoting *Mammoth Oil Co.* v. *U.S.*, 275 U.S. 13, 52 (1927). *See Riverside Broadcasting Co., Inc.*, 53 RR 2d 1154, 1157 (1983), *reconsideration denied*, 56 RR 2d 618 (1984). Accordingly, Creative's allegation concerning "possible" misrepresentation by Agape does not justify or necessitate reconsideration of the denial of its informal objection. In view of the foregoing discussion, Creative's petition for reconsideration shall be denied. *See* paragraph 26, *infra*.

6. On April 25, 1983, Criswell filed an informal objection to the CP grant. Section 73.3587 of the Commission's Rules, 47 CFR 73.3587, provides that an informal objection may be filed prior to Commission action on any application, and § 1.102 of the Commission's rules, 47 CFR 1.102(b)(1), provides that a Commission action is not effective until release of its text or, if no text is released, until release of a public notice announcing the action taken. Since there was no text to be released with regard to the CP grant, it was effective when the public notice of the action was released on May 11, 1983. Accordingly, Criswell's informal objection was timely filed. However, on June 10, 1983, Criswell filed a petition for reconsideration of the CP grant. In view of the current posture of this proceeding and the fact that the arguments contained in Criswell's April 25, 1983 informal objection are repeated almost verbatim in its June 10, 1983 petition for reconsideration, its pleadings and the allegations therein shall be treated as a petition for reconsideration in accordance with § 1.106(c) of the Commission's rules, 47 CFR 1.106(c).

7. In its petition for reconsideration, Criswell states that the alleged "downgrading" of KNON is *prima facie* inconsistent with the public interest absent a substantial showing of offsetting factors, and claims that Agape's previous financial straits are not sufficient justification for the downgrading of existing service. The cases cited by Criswell for this claim, however, are clearly distinguishable from the present case. In each of the cases cited by petitioners, there was a proposed decrease in the coverage area of an existing service. In the instant case, there was no existing service and

1, 1985, by telegram issued January 30, 1985. Additionally, by letter of May 24, 1985, Agape notified the Commission that its authorized transmitter had been installed.

[5] In this regard we note that certain language in the internal ACORN memoranda seems to strongly indicate an intent on the part of that organization to attempt to deceive the Commission with regard to the funding of an applicant for a low power television station. In a memorandum dated 11/30/80, from Mr. Rathke to various individuals, Mr. Rathke advised persons seeking pledges for money for such an applicant to advise prospective pledgors that they "never intend to ask you to put up any hard cash once we get the license," and advising them as to what they should say "if the FCC ever asked." Creative March 9, 1983 pleading, Attachment 4, page 1. Such behavior by an applicant before this Commission would obviously raise a substantial and material question of fact regarding that applicant's fitness to be a Commission licensee. However, as stated above, Agape/KNON was not in any way a party to the memoranda indicating ACORN's deceptive intent, and ACORN is not an applicant in the instant proceeding. Accordingly, these statements do not raise a substantial and material question of fact regarding Apape's qualifications, nor do they justify or necessitate reconsideration of the April 21, 1983 ruling.

[6] It is true that there is language in the agreement submitted as attachment 9 which seems to indicate an option or management agreement which might have come within the scope of the Commission rule requiring the filing of documents concerning the ownership and control of a broadcast licensee. See 47 CFR 73.3613(b). However, that 1977 agreement was between ACORN and Mr. Lorenzo Milam apparently on behalf of station KCHU. Mr. Milam is not currently associated with KNON and was not so associated at any time during this license period. Accordingly, while this failure to report the option in 1977 may have been a technical violation of § 73.3613 of the Commission's rules, since the option was not exercised and since Mr. Milam was not associated with the station at any time during the license term at issue here, this evidence has grown "stale" and will not impact upon Agape's present qualification to be a Commission licensee. *See Kaye-Smith Enterprises*, 71 FCC 2d 1402, 1406–7 (1979).

therefore no coverage curtailment.[7] We therefore believe it to be more in the public interest to have KNON initially operate at reduced facilities than for the station to remain silent.[8] The grant of authority to remain silent for a prolonged period of time is inconsistent with the efficient utilization of radio broadcast facilities. *Palladium Times, Inc.*, 43 FCC 546 (1950). *See also United Television Company, Inc.*, 30 RR 2d 46, 49 (1974). Agape's May 28 application was an attempt to get KNON on the air for the first time, and as such cannot be considered to be contrary to the public interest. However, KNON's reduction in authorized facilities may impact upon its comparative qualifications and should be addressed by the parties within the context of the comparative issue specified in paragraph 11, below.

8. *The Mutually Exclusive Applications.* In the instant case, three substantially complete and acceptable construction permit applications seek Channel 215C at Dallas, Texas, the channel currently licensed to Agape, and one seeks Channel 217C at McKinney, Texas. Due to the destructive interference patterns of the proposals, the applications are mutually exclusive, although the possibility of time-sharing must be considered if the Commission feels that such would result in a more effective use of the involved broadcast channel(s). *See* 47 CFR 73.561. Section 309 of the Communications Act, 47 U.S.C. 309, provides that where mutually exclusive applications are filed with the Commission, a hearing must be held to determine which of the applicants would better serve the public interest, convenience and necessity. *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1946). Accordingly, § 1.227(b)(6) of the Commission's rules, 47 CFR 1.227(b)(6), requires the Commission to designate for comparative hearing any application for a broadcast facility which is mutually exclusive with an application for renewal of broadcast license.

9. On June 10, 1983, Criswell filed a motion for stay,[9] premised on the argument that the application for a new station in McKinney, Texas (BPED–830204AD) on a second adjacent channel, which application would not have been acceptable absent the reduction in NOW's facilities, will preclude any future increase in Dallas service by anyone on KNON's channel. The motion is actually a request for an "efficient use" issue under 47 U.S.C. section 307(b). Since this question will be determined during the normal resolution of the section 307(b) issue and indicated below, no further specificity is required. Accordingly, Criswell's motion for stay will be dismissed as moot.

10. Applicants for new broadcast stations are required by § 73.3580(c) of the Commission's rules to provide local notice of the filing of their applications. We have no evidence that Family or Criswell published the required notice. To remedy this deficiency, Family and Criswell must publish local notice of their applications, if they have not already done so, and must either certify or document such publication to the presiding Administrative Law Judge.

11. Inasmuch as this proceeding involves competing applicants for noncommercial educational facilities, the standard areas and populations issued will be modified in accordance with the Commission's prior action in *New York University*, FCC 67–673, released June 8, 1967, 10 RR 2d 215 (1967). Thus, the evidence adduced under this issue will be limited to available noncommercial educational FM signals within the respective service areas. Additionally, as previously explained in paragraph 7, while KNON's reduction in service does not disqualify Agape from remaining a Commission licensee, such reduction may impact on Agape's comparative qualifications. Accordingly, the presiding Administrative Law Judge should examine KNON's reduced facilities in his consideration of variations in coverage under the standard noncommercial educational areas and populations issue.

12. Neither Criswell, Crusader nor McKinney has submitted data relative to the size of the area and population which would receive service from its proposal. To remedy this deficiency, Criswell, Crusader and McKinney will be required to provide the presiding Administrative Law Judge with the required information. Additionally, Agape shall submit area and population data for KNON's currently authorized facilities.

13. Although one of the respective proposals is for a different community, they all serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

14. Although one applicant in this proceeding had indicated that an attempt has been made to negotiate a share-time arrangement, no such agreement has been reached.[10] Therefore, an issue will be specified to determine whether or not a share-time arrangement between all or some of the applicants would be the most effective use of the frequency and thus better serve the public interest. *Granfalloon Denver Educational Broadcasting, Inc.*, 43 FR 49560, published October 24, 1978. In the event that this issue is resolved in the affirmative, it will also be necessary to determine the nature of such an arrangement. It should be noted that our action specifying a share-time issue is not intended to preclude the applicants either before the commencement of the hearing or at any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement between themselves.

15. Each of the Dallas applicants for construction permit has submitted deficient financial information. Family has stated that it has enough funds, from "committed" and projected donations of $10,000 plus a "loan commitment" of $150,000 to construct its station and operate it for the requisite three months. However, Family has provided no loan or pledge agreements nor any documentation in support of its claim of fiscal sufficiency. Accordingly, a financial issue will be specified regarding Family's failure to document its financial qualifications. Criswell and Crusader have certified their financial qualifications; however, each has used the financial certification form found in the application for *commercial* stations, FCC Form 301 (1982), not the newer form for certifying financial qualifications for noncommercial stations. Accordingly, Criswell and Crusader each will be required to submit an amendment to the presiding Administrative Law Judge

[7] *Central Coast Television*, 14 FCC 2d 985, *rev. den.* 18 FCC 2d 885 (1969) and *John Lamar Hill*, 70 FCC 2d 153 (1978), are distinguishable from the present case in another important way: not only would existing coverage of the respective areas have been decreased, but the modification of facilities also would have violated the Commission's Rules. *Central Coast* involved violation of the shadowing, line-of-sight and city coverage rules, while *Hill* involved an extreme violation of the city coverage rule. KNON's application, however, involves no rule violations.

[8] Agape indicated in its letter of June 28, 1983 that it intends the reduction to be temporary, lasting only until it can acquire the resources for a full-power station. It reiterated this statement in its letter dated May 24, 1985.

[9] In addition, on July 12, 1983, Criswell filed a supplement to its motion.

[10] Creative has submitted its attempt to negotiate a share-time agreement with Agape/KNON; it further submits that Agape/KNON has refused to negotiate. *See* letter of July 15, 1982, page 2.

which either provides the proper certification or advises the Judge that the required certification cannot be made. In the latter event, the Judge shall specify an appropriate issue.

16. *Agape.* As explained previously in paragraph 7, Agape failed to put KNON on the air for over five years. That failure will be considered in evaluating Agape's qualifications vis-a-vis the mutually exclusive construction permit applicants. Accordingly, an appropriate issue will be specified.

17. *Criswell.* The material submitted by Criswell does not indicate that it will have fewer than five full-time employees. The Commission requires that if there will be five or more full-time station employees, the applicant must complete and file Section VI, FCC Form 340, and supply a statement detailing hiring and promotion policies and providing a program for minority groups that have traditionally suffered from discrimination in employment unless the minority group is represented in the area in such insignificant numbers that a program would not be meaningful. Criswell states that its EEO program is on file with its other station, KCBI (BLED–810421AC). A search of the relevant file fails to show appropriate EEO data.[11] Accordingly, Criswell will be required to file this Section VI information within 30 days of the release of this Order with the presiding Administrative Law Judge, or an appropriate issue will be specified by the Judge.

18. *McKinney.* Applicant proposes an affiliation with the VOICE radio network, an independent programming network headquartered in Lewisville, Texas. VOICE has, in the past, come under scrutiny by the FM Branch due to the apparent lack of independent programming discretion allowed its affiliates as evidenced in VOICE's Operations Manual. *See* letter from the Chief, FM Branch to Stuart B. Mitchell (reference 8920–ALM, June 19, 1984). Accordingly, an appropriate condition will be specified.

19. On June 28, 1985, an informal objection to the grant of McKinney's application was filed by Educational Research Foundation, Inc., licensee of noncommercial educational FM station KVTT(FM), Dallas, Texas. KVTT claims that "when the appropriate adjacent channel calculations are made, using the correct [height above average terrain] of KVTT, it is apparent that prohibited interference would be caused to KVTT by the proposed McKinney station," and that the McKinney application should be dismissed. However, a detailed study by the Commission's engineering staff has shown that, when calculated using the correct facilities of each broadcaster, the interfering (80dBu) contour of the McKinney application is separated from the protected (60 dBu) contour of KVTT [12] by 0.2 km. Therefore, no prohibited overlap occurs under § 73.509(a) of the Commission's Rules, and KVTT's informal objection will be denied.

20. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Accordingly, it is ordered that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a Consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues.

1. To determine whether or not, in light of Agape's failure to commence opoeration with station KNON for over five years, the applicant is qualified to remain a Commission licensee.

2. To determine with respect to Family, whether or not, in light of the evidence adduced concerning the deficiency set forth above in paragraph 15, the applicant is financially qualified.

3. To determine whether or not a share-time arrangement between the applicants would result in the most effective use of the channel(s) and thus better serve the public interest, and, if so, the terms and conditions thereof.

4. To determine the number of other reserved-channel non-commercial educational FM services available in the proposed service area of each applicant, and the area and population served thereby.

5. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

6. To determine, in the event that it is concluded that a choice between applications should not be based solely on considerations relating to section 307(b), the extent to which each of the proposed operations will be integrated into the overall educational operation and objectives of the respective applicants, or whether other factors in the record demonstrate that one applicant will provide a superior FM educational broadcast service.

7. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

21. It is further ordered That, within 30 days of the release of this Order, Family and Criswell shall file with the presiding Administrative Law Judge amendments stating that they have or will comply with the local notice provisions of § 73.3580(c).

22. It is further ordered That, within 30 days of the release of this Order, Criswell, Crusader and McKinney shall file with the presiding Administrative Law Judge amendments detailing the areas and populations which would receive service from their proposals, and Agape shall file an amendment detailing the area and population being served by KNON at its currently authorized facilities.

23. It is further ordered That, within 30 days of the release of this Order, Criswell and Crusader shall submit the proper financial certification for noncommercial educational applicants, or advise the presiding Administrative Law Judge that the required certification cannot be made.

24. It is further ordered That, within 30 days of the release of this Order, Criswell shall file with the presiding Administrative Law Judge the Equal Employment Opportunity information required by Section VI of FCC Form 340, or an appropriate issue will be specified by the Judge.

25. It is further ordered That, in the event of a grant of the application of McKinney, the Construction permit shall contain the following condition:

> The grant of this application is conditioned upon the permittee filing with the Commission during the five-year period from the date of grant, copies of all changes in its network affiliation agreement with the VOICE radio network. The permittee is also required to file a copy of all management contracts (and/or changes thereto) which it might enter into during this five-year period. The above conditions will apply notwithstanding any future changes the Commission may make regarding the applicable general Commission rules concerning the filing of such information.

26. It is further ordered That, the Petition for Reconsideration and the Petition for Reconsideration filed by Creative Educational Foundation, are denied.

27. It is further ordered That, the Motion for stay filed by Criswell Bible Institute is dismissed as moot.

[11] A filing of August 23, 1977 indicates that KCBI employs six full-time and two part-time employees, and therefore "is not required to file an EEO Program." This is an incorrect statement of the law.

[12] *See* § 73.509(d) of the Commission's rules.

28. It is further ordered That, the informal objection filed by Educational Research Foundation, Inc., is denied.

29. It is further ordered That, in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M Street, NW., Washington, D.C. 20554.

30. It is further ordered That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence of the issues specified in this Order.

31. It is further ordered That, the applications here shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission

W. Jan Gay,

Assistant Chief, Mass Media Bureau.

[FR Doc. 85-24295 Filed 10-9-85; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 85-290; File Nos. BPCT-841214KE et al.]

First Equimedia Limited Partnership et al.; Hearing Designation Order

In re applications of:

First Equimedia Limited Partnership,	MM Docket No. 85-290, File No. BPCT-841214KE.
Non-Profit Television Concepts,	File No. BPCT-850214KL.
Monts & Pritchard, Inc.,	File No. BPCT-850214KP.
Caro Broadcasting, Ltd.,	File No. BPCT-850215KLJ.
Daye Corporation,	File No. BPCT-85021KX.
Best Broadcasting Company, a limited partnership,	File No. BPCT-850215KY.
D W & M Broadcasters,	File No. BPCT-850215LC.
Charleston Communications, Ltd.,	File No. BPCT-850215LD.
Channel 36 TV Associates,	File No. BPCT-85215LO.
R.G. Brown Communications, Inc.,	File No. BPCT-850215LR.
Evelyn Broadcasting Company,	File No. BPCT-850215LW.

For Construction Permit Charleston, South Carolina.

Adopted: September 24, 1985.

Released: October 7, 1985.

By the Chief, Video Services Division.

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of First Equimedia Limited Partnership (First Equimedia), Non-Profit Television Concepts (Non-Profit), Monts & Pritchard, Inc., Caro Broadcasting, Ltd. (Caro), Daye Corporation (Daye), Best Broadcasting Company, a limited partnership (Best), D W & M Broadcasters (D W & M), Charleston Communications Ltd. (CCL), Channel 36 TV Associates (TV Associates), R.G. Brown Communications, Inc. (Brown), and Evelyn Broadcasting Company (Evelyn) for authority to construct a new commercial television station on Channel 36, Charleston, South Carolina; petitions to deny filed by First Equimedia,[1] and related pleadings; a petition for leave to amend and an amendment filed by Best; and an amendment filed by Brown.[2]

2. Section 73.3555(b)(2) of the Commission's rules states that no license for a television broadcast station shall be granted to any party if such party directly or indirectly owns, operates, or controls one or more FM broadcast stations and the grant of such license will result in the Grade A contour of the proposed station encompassing the entire community of license of one of the FM broadcast stations. Louise P. Hawkins, Elizabeth P. Bowles, Edward K. Pritchard, Jr., Posey P. Bensen, and Julia P. Hyde, principals of Monts and Pritchard, Inc., each owns 20 percent of Pritchard and Company, Inc., which owns 44 percent of Hanahan Communications Inc., permittee of station WAVF(FM), Hanahan, South Carolina. Hanahan would be within the predicted Grade A Contour of the proposed station. Consequently, a grant of Monts and Pritchard, Inc.'s application would violate the rule. However, Mons and Pritchard, Inc. has represented to the Commission that, if it is the successful applicant, applicant, Pritchard and Company, Inc. will divest itself of all interest in and connection with the licensee of Station WAVF(FM), Hanahan, South Carolina. Accordingly, any grant to a construction permit to Monts and Pritchard, Inc. will be subject to a divestiture condition.

4. Section II, Item 10 FCC From 301, inquires whether documents, instruments, agreements or understandings for the pledge of stock of a corporate applicant, as security for loans or contractual performance, provide that (a) voting rights will remain with the applicant, even in the event of default on the obligations; (b) in the event of default, there will be either a private or public sale of the stock; and (c) prior to the exercise of stockholder rights by the purchaser at such sale, the prior consent of the Commission (pursuant to 47 U.S.C. 310(d)) will be obtained. Monts and Pritchard, Inc., and Evelyn have not answered Item 10. These applicants will each be required to submit its response to Item 10 to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

5. Denise Simpson, general partner of D W & M, is also a news anchor, public affairs and service director, program

---

[1] Application First Equimedia filed petitions to deny against the competing applications of Non-Profit, Monts & Pritchard, Inc., Caro, Daye, CCL, TV Associates, and Brown. Although the petitions are essentially predesignation petitions to specify issues, in some cases First Equimedia does raise questions with respect to acceptability of the applications from the standpoint of competeness. We have examined the applications and find each to be sustantially complete, within the meaning of § 73.3564(a) of the Commission's Rules. An application need not be grantable in order to be substantially complete, *James River Broadcasting Corp.* v. *F.C.C.*, 399 F. 2d 581 (D.C. Cir. 1968), and the relatively minor omissions or errors noted by the petitioner do not rise to the level of substantial "incompleteness." In fact, they are the kinds of errors that we regularly call for curative amendments when processing applications. Further, we reject the petitioner's invitation to revisit the Commission's policy of not becoming involved in copyright infringement proceedings. *See Roanoke Christian Broadcasting, Inc.*, FCC 83-441, released September 22, 1983, and *WPOW, Inc.* v. *MRLJ Enterprises*, 584 F. Supp. 132 (D.D.C. 1984). To extent that First Equimedia seeks to specify issues, such petitions are no longer permitted, and its petitions will be dismissed. *Revised Procedures for the Processing of Contested Broadcast Applications*, 72 FCC 2d 202 (1979). If appropriate, First Equimedia may subsequently file petitions to enlarge issues with the presiding Administrative Law Judge. *Id.*

[2] The deadline for filing amendments to the above-captioned applications was April 17, 1985. On May 22, 1985, Best filed a petition for leave to amend and an amendment to its applicaiton to update Section II, question 4(b). The amendment was required by § 1.65 of the Commission's Rules and it will be accepted for filing for § 1.65 purposes only. Brown filed an amendment to its application on June 10, 1985 to update its other broadcast interests. Although the amendment was not accompanied by a petition for leave to amend, the information is required by § 1.65 of the Commission's rules. The amendment will therefore be accepted for § 1.65 purposes only.

producer and host of First Charleston Corp., licensee of Station WCIV–TV, Charleston, South Carolina. Ms. Simpsons's connection with WCIV–TV may violate the Commission's cross-interest policy. Accordingly, an issue will be specified to determine whether Ms. Simpson's association with WCIV–TV, and her interest in D W & M would violate the cross-interest policy, and if so, whether a grant of the application would be consistent with the public interest.

6. CCL has not certified its financial qualifications. Although the financial standards are unchanged, the Commission requires only certification as to financial qualifications. Accordiingly, the applicant will be given 20 days from the date of release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue.

7. Section II item 3(b), FCC Form 301, inquires whether any funds, credit etc., for the construction, purchase or operation of the station will be provided by aliens, foreign entities, domestic entities controlled by aliens, or their agents. TV Associates gave a positive answer to item 3(b), but did not include the required exhibit. Accordingly, TV Associates will be required to file an amendment explaining its response to item 3(b), Section II, FCC Form 301, with the presiding Administrative Law Judge within 20 days after the release of this Order.

8. No determination has been made that the tower heights and locations proposed by Caro, Daye, TV Associates, and Brown and would not each constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.[3]

9. Daye's proposed tower is to be located 0.16 miles and Best's proposed tower is to be located 0.11 miles from the nondirectional tower authorized in a construction permit (BP–830915AA) for AM station WIXR, Mount Pleasant, South Carolina. CCL, TV Associates and Evelyn propose a common site that will be 0.12 miles from the licensed operating site of WIXR. Because of the proximity of the proposed towers to WIXR (as licensed and as authorized in the outstanding construction permit), a grant of a construction permit to any of these applicants will be conditioned to ensure that WIXR's radiation is not adversely affected by the proposed construction.

10. Sections V–C and V–G of FCC Form 301 require the signature of the applicant's technical consultant. Daye's application shows only a typed name. Daye will, therefore, be required to verify the signature pages of Sections V–C and V–G to the presiding Administrative Law Judge within 20 days after the release of this Order.

11. Section 73.685(f) of the Commission's rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least every 10° plus any minima or maxima. Best has not supplied this data. Accordingly, the applicant will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy each to the Chief, TV Branch, and the Chief, Hearing Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

12. Section V–C, Item 10, FCC Form 301, requires that an applicant submit figures for the area and population within its predicted Grade B contour. Daye and TV Associates have not provided these figures. Consequently, we are unable to determine whether there would be a significant difference in the size of the area and population that each applicant proposes to serve. Daye and TV Associates will each be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. If it is determined that there is a significant disparity between the areas and populations, the presiding Administrative Law Judge will consider it under the standard comparative issue.

13. The vertical tower sketch submitted by Brown is incorrect (the overall height above ground is labeled incorrectly) and does not agree with the figures appearing in Section V–C, Item 6, and Section V–G, Item 5, FCC Form 301. Brown will be required to submit a new vertical tower sketch showing the correct heights to the Administrative Law Judge within 20 days after this Order is released.

14. On July 19, 1985, the Commission released a Hearing Designation Order in *Kilgore Broadcasting* (MM Docket No. 85–207, Mimeo #5817), designating for comparative hearing three mutually exclusive applications for a construction permit for a new television station on Channel 62, Oklahoma City, Oklahoma. One of the applicants in the Oklahoma City proceeding is McKinley Johnson, d/b/a Non-Profit Television Concepts, who is also an applicant in this proceeding. In the Oklahoma City case, an issue was specified against Johnson to determine whether he has the requisite character qualifications to be a licensee. This issue was based on the question of whether Johnson made misrepresentations to the Commission as to whether he had reasonable assurance that his proposed transmitter site would be available to him for his intended purposes. Accordingly, a contingent issue will be specified in this proceeding, based on the question raised in the Oklahoma City proceeding, to assure that if, for any reason, the issue is not tried and resolved in the Oklahoma City proceeding, it will be tried in this proceeding. In the interest of and administrative efficiency, the Chief Administrative Law Judge may desire to assign this hearing to the same Administrative Law Judge who was assigned to preside in the Oklahoma City proceeding.

15. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

16. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to D W & M Broadcasters, whether Ms. Denise C. Simpson's connection with Station WCIV–TV, Charleston, South Carolina, and her interest in D W & M Broadcasters would violate the Commission's cross-interest policy, and, if so, whether a grant of the application

[3] The Federal Aviation Administration has approved Evelyn's overall height above ground at 1044 feet, but in its application to the FCC, Evelyn specified the overall height as 1016 feet. We cannot determine whether the discrepancy is an error, or whether Evelyn proposes to decrease the tower height by 28 feet. Therefore, Evelyn must either amend its application to conform to the data submitted to the FAA or refile with the FAA to conform to the data submitted to the Commission.

would be consistent with the public interest.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Caro, Daye, TV Associates, and Brown would each constitute a hazard to air navigation.

3. In the event that, for any reason, Issue 2 in the proceeding in MM Docket No. 85–207 is not tried and resolved, to determine, with respect to the application of McKinley Johnson, d/b/a Non/Profit Television Concepts, for a construction permit for a new television station on Channel 62, Oklahoma City, Oklahoma:

(a) Whether the applicant had reasonable assurance that its specified site would be available to it;

(b) Whether, in the light of the evidence adduced pursuant to the foregoing issue, the applicant misrepresented to the Commission the availability of its specified site;

(c) If issue (4b), above, is resolved in the affirmative, the effect thereof on the applicant's comparative or basic qualifications in this proceeding.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

17. It is further ordered, That the Petitions to Deny filed by First Equimedia Limited Partnership against Non-Profit Television Concepts, Monts and Pritchard, Inc., Caro Broadcasting, Ltd., Daye Corporation, Charleston Communications, Ltd., Channel 36 TV Associates, and R.G. Brown Communications, Inc. are dismissed.

18. It is further ordered, That Best Broadcasting Company's May 22, 1985 Petition for Leave to Amend is granted and the accompanying amendment is accepted for filing, for § 1.65 purposes only.

19. It is further ordered, That R.G. Brown Communications, Inc.'s June 10, 1985 amendment is accepted for filing for Section 1.65 purposes only.

20. It is further ordered, That, in the event of a grant of the Monts and Pritchard, Inc. application, the construction permit will be conditioned as follows:

Prior the commencement of operation of the television station authorized herein, permittee shall certify to the Commission that Pritchard and Company, Inc. has divested itself of all interest in, and connection with, the licensee of Station WAVF(FM), Hanahan, South Carolina.

21. It is further ordered, That Monts and Pritchard, Inc., and Evelyn Broadcasing Company shall each file a response to Section II, Item 10, FCC Form 301, with the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

22. It is further ordered, That within 20 days of the release of this Order, Charleston Communications, Ltd. shall submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

23. It is further ordered, That Channel 36 TV Associates shall submit an appropriate amendment explaining its positive answer to item 3(b), Section II, FCC Form 301, to the presiding Administrative Law Judge within 20 days after the release of this Order.

24. It is further ordered, That the Federal Aviation Administration is made a party respondent to the proceeding with respect to issue 2.

25. It is further ordered, That any grant of a construction permit to Daye Corporation or Best Broadcasting Company shall be subject to the following condition:

In the event that AM station WIXR, Mount Pleasant, SC, begins operating from the site authorized in BP–830915AA prior to the start of the tower structure erection authorized herein, the permittee shall, prior to construction of the tower authorized herein, notify AM Station WIXR, so that that station may commence determining operating power by the indirect method. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, antenna impedance measurements of the AM station shall be made and sufficient field strength measurements, taken at a minimum of 10 locations along each of eight equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omnidirectional. Prior to or simultaneous with the filing of the application for license to cover this permit, the results of the field strength measurements and the impedance measurements shall be submitted to the Commission in an application for the AM station to return to the direct method of power determination.

26. It is further ordered, That any grant of a construction permit to Charleston Communications, Ltd., Channel 36 TV Associates, or Evelyn Broadcasting Company shall be subject to the following condition:

In the event AM station WIXR is still operating at the site authorized in BL–820719AA when the erection of the tower structure authorized herein commences, permittee shall prior to construction of the tower authorized herein, notify AM station WIXR so that that station may commence determining operating power by the indirect method. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse affects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, antenna impedance meaurements of the AM station shall be made and sufficient field strength measurements, taken at a minimum of 10 locations along each of eight equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omni-directional. Prior to or simultaneous with the filing of the application for license to cover this permit, the results of the field strength measurements and the impedance measurements shall be submitted to the Commission in an application for the AM station to return to the direct method of power determination.

27. It is further ordered, That Daye Corporation shall submit an amendment verifying the signature pages of Sections V–C and V–G to the presiding Administrative Law Judge within 20 days after the release of this Order.

28. It is further ordered, That Best Broadcasting Company, shall submit an amendment providing the information required by § 73.685(f) of the Commission's rules, to the presiding Administrative Law Judge and a copy each to the Chief TV Branch, and the Chief, Hearing Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

29. It is further ordered, That Daye Corporation and Channel 36 TV Associates shall each submit an amendment providing the information required by Section V–C, Item 10, FCC Form 301, to the presiding Administrative Law Judge within 20 days after the Order is released.

30. It is further ordered, That R.G. Brown Communications, Inc. shall submit a new vertical tower sketch showing the correct heights as required by Section V–C, Item 6, and Section V–G, Item 5, FCC Form 301, to the presiding Administrative Law Judge within 20 days after this Order is released.

31. It is further ordered, That Evelyn Broadcasting Company shall submit to the presiding Administrative Law Judge, within 20 days after this Order is released, the correct tower height figures to conform to the data submitted to the FAA or refiled with the FAA to conform to the data submitted to the Commission.

32. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's rules, in

person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

33. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission,

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85-24296 Filed 10-9-85; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 85-291; File Nos. BP-830620AC and BP-831031AF]

Ms. America Broadcasting, Inc., Hearing Designation Order

In re applications of:

Ms. America Broadcasting, Inc., Gretna, Louisiana.	MM Docket No. 85-291, File No. BP-830620AC.
Req: 750 kHz, .25 kW, DA-D	
Carl J. Auel and Marvin B. Clapp, D/B/A Alabama Broadcasters Spainsh Fort, Alabama.	File No. BP-831031AF.

Req: 760 kHz, 1 kW, 5 kW-LS, DA-N, U.

For: Construction Permit.

Adopted: September 24, 1985.

Released: October 4, 1985

By the Chief, Audio Services Division.

1. The Commission has under consideration the above-captioned mutually exclusive applications for new AM stations. Also before the Commission is a petition to dismiss or deny the application of Carl J. Auel and Marvin B. Clapp d/d/a Alabama Broadcasters, and pleadings related thereto.

2. *Alabama Broadcasters.* A petition to dismiss or deny was filed by Capital Cities Communications, Inc., licensee of AM station WJR, Detroit, Michigan, alleging that the proposed Alabama Broadcasters' nighttime operation would cause prohibited interference of WJR within its nighttime 0.5mV/m 50% skywave contour in contravention of Section 73.182 of the Commission's Rules. In its opposition, Alabama Broadcasters submitted an amendment, dated December 27, 1984, that eliminated the overlap problem and mooted the pleading as a result.[1]

3. As the maps submitted by Alabama Broadcasters to establish compliance with our coverage requirements (§ 73.24(j)) do not identify the location of Spanish Fort, the principal community to be served, we cannot determine whether our requireemnts have been met. An appropriate issue, including provision for a waiver if necessary, will be specified.

4. It is our policy to consider as being generally stable, directional arrays which do not exceed their radiation limits with 1.0 percent current ratio and 1.0 degree phase deviation. We consider those arrays which exceed their radiation limits with parameter variations of 0.1 percent and 0.1 degree highly unstable. Where arrays exceed their radiation limits within these parameters variations, we will condition a grant accordingly.[2] Our computerized studies here indicate that the Alabama Broadcasters' proposed operation would exceed specified radiation values with variations of 1.0 percent current ratio deviation and 1.0 degree phase deviation, but would not do so at the 0.1 levels. Thus, the proposal falls into the category where stability conditions are called for.

5. Except as indicated by the issues specified below, all applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. As the proposals are for different communities, we will specify an issue to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which proposal would better provide a fair, efficient and equitable distribution of radio service. We will also specify a contingent comparative issue, should such an evaluation of the proposals prove warranted.[3]

6. Accordingly, it is Ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order upon the following issues:

1. To determine whether the application of Carl J. Auel and Marvin B. Clapp d/b/a Alabama Broadcasters complies with the requirements of § 73.24(j) of the Commission's Rules, and, if not, whether waiver of that provision is warranted.

2. To determine: (a) the areas and populations which would receive primary aural service from the proposals and the availability of other primary service to such areas and populations, and (b) in light thereof and pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it be concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the petition to dismiss or deny filed by Capital Cities Communications, Inc., is dismissed as moot.

8. It is further ordered, That the amendment submitted by Carl J. Auel and Marvin B. Clapp d/b/a Alabama Broadcasters is accepted for filing.

9. It is further ordered, That in the event the application of Carl J. Auel and Marvin B. Clapp d/b/a Alabama Broadcasters is granted, the construction permit shall contain the following condition:

An antenna monitor of sufficient accuracy and repeatability, and having a minimum resolution of 0.1 degrees phase and 0.1 percent sample current ratio deviation shall be installed and continuously available to indicate the relative phase and magnitude of the sample currents of each element in the array to insure maintenance of the radiated fields within the standard pattern values of radiation. Upon receipt of operating specifications and before issuance of a license, permittee shall submit the results of observations made daily of the base currents and their ratios, relative phases, sample currents and their ratios and sample current ratio deviations for each element of the array along with the final amplifier plate voltage

---

[1] Because it eliminates a potentially disqualifying issue, we will accept this amendment which was submitted after the "B" cut-off date.

[2] Where other factors, internal and/or external to the array warrant it, a hearing issue may be specified. Such circumstances, however, have not been established here.

[3] Operation with the facilities specified by Carl J. Auel and Marvin B. Clapp d/b/a Alabama Broadcasters herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necesseary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

and current, the common point current, and the field strengths at each monitoring point for both the nondirectional and directional (both daytime and nighttime) operations for a period of at least thirty days, to demonstrate that the array can be maintained within the specified tolerances.

10. It is further ordered, That in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M Street NW., Washington, D.C. 20554.

11. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall, within 20 days of the mailing of this Order, in person or by attorney, file with the Commission, in triplicate, written appearances stating an intention to appear on the dates fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, That pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicants shall give notice of the hearing as prescribed by the Rule, and shall advise the Commission of the publications of such as required by § 73.3594(g) of the rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 85-27297 Filed 10-9-85; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 85-289; File Nos. BPCT-850521 KH and BPCT-850709 KE]

Shelley Broadcasting Co., Inc. and Lynn W. Baker; Applications for Construction Permit Troy, AL; Hearing Designation Order

Adopted: September 24, 1985.
Released: October 4, 1985.

By the Chief, Video Services Division.

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 67, Troy, Alabama.

2. Shelley Broadcasting Co., Inc. (Shelley Broadcasting) proposes to side mount its antenna on the existing WSFA-TV tower. In item 6, Section V-C, FCC Form 301, Shelley Broadcasting specifies the overall height above ground (OHAG) of the complete antenna structure as 1,951 feet. Our records, however, show the OHAG as 1,931 feet. Accordingly, Shelley Broadcasting will be required to submit a corrective amendment, to the presiding Administrative Law Judge, within 20 days after this Order is released.

3. Section 73.3555(b) of the Commission's Rules states that no license for a television station shall be granted to any party if such party owns, operates, or controls and FM broadcast station and the grant of such license will result in the Grade A contour of the television station encompassing the entire community of the FM station. Shelley Broadcasting is the licensee of Station WRJM (FM), Troy, Alabama. However, Note 4 to the rule provides, *inter alia*, that applications for UHF television facilities will be handled on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. Accordingly an appropriate issue will be specified.

4. Section II, Item 10, FCC Form 301, inquires whether documents, instruments, agreements or understandings for the pledge of stock of a corporate applicant, as security for loans or contractual performance, provide that (a) voting rights will remain with the applicant, even in the event of default on the obligation; (b) in the event of default, there will be either a private or public sale of the stock; and (c) prior to the exercise of stockholder rights by the purchaser at such sale, the prior consent of the Commission (pursuant to 47 U.S.C. 310(d)) will be obtained. A negative response to this question must be accompanied by an explanation. Shelley Broadcasting answered negatively to item 10; however, it did not submit the required explanation. Shelley Broadcasting will be required to submit its response in the form of an amendment, to the presiding Administrative Law Judge, within 20 days after this Order is released.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Shelley Broadcasting Co., Inc. whether common ownership, operation, or control of Station WRJM(FM), Troy, Alabama, and the proposed television station would be consistent with the public interest.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That Shelley Broadcasting Co., Inc. shall submit an amendment which corrects the overall height above ground of its complete antenna structure, to the presiding Administrative Law Judge, within 20 days after this Order is released.

8. It is further ordered, That Shelley Broadcasting Co., Inc. shall submit its explanation for its negative answer to Section II, item 10, FCC Form 301, to the presiding Administrative Law Judge, within 20 days after this Order is released.

9. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

10. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85-24298 Filed 10-9-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–000050–041.

Title: Pacific/Australia-New Zealand Conference.

Parties:

Blue Star Line, Ltd.
Columbus Line
Pacific Australia Direct Line

Synopsis: The proposed amendment would restate the agreement to conform to the Commission's regulations concerning form and format. Additionally, it would authorize the parties to rationalize sailings within the agreement trade, increase the membership fee from $5,000 to $36,000, require the posting of financial security, establish conference control over service contracts and incorporate rules dealing with self-policing, consultation with shippers and shipper groups and independent action as required by the Commission's rules.

Agreement No.: 202–000150–080.

Title: Trans-Pacific Freight Conference of Japan.

Parties:

American President Lines, Ltd.
Barber Blue Sea Line
Hapag-Lloyd AG
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Lykes Bros. Steamship Co., Inc.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines Limited
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would restate the agreement to conform with the Commission's regulations concerning form and format. It would also clarify the parties' authority to meet with shippers' groups other than shippers' associations and make certain non-substantive changes in the language of the agreement.

Agreement No.: 202–003103–081.

Title: Japan-Atlantic and Gulf Freight Conference.

Parties:

Barber Blue Sea Line
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Lykes Bros. Steamship Co., Inc.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines Limited
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would restate the agreement to conform to the Commission's regulations concerning form and format and would make certain non-substantive changes to the language of the agreement.

Agreement No.: 202–008190–016.

Title: Japan-Puerto Rico and Virgin Islands Freight Conference.

Parties:

Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would restate the agreement to conform with the Commission's regulations concerning form and format. It would also clarify the parties' authority to meet with shippers' groups other than shippers' associations and make certain non-substantive changes in the language of the agreement.

Agreement No.: 203–008600–005.

Title: Agreement No. 8600—"Policy Level Agreement".

Parties:

Trans-Pacific Freight Conference of Japan
Japan-Atlantic and Gulf Freight Conference

Synopsis: The proposed amendment would restate the agreement to comply with the Commission's regulations concerning form and format.

Agreement No.: 213–009835–008.

Title: Six Lines' PNW Space Charter and Sailing Agreement in the Japan-U.S. Pacific Northwest Trades.

Parties:

Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha
Showa Line, Ltd.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would restate the agreement to conform with the Commission's format, organization and content requirements.

Agreement No.: 213–009975–010.

Title: Five Lines' Atlantic Coast Space Charter and Sailing Agreement in the Japan-U.S. Atlantic Coast Trades.

Parties:

Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would restate the agreement to conform with the Commission's format, organization and content requirements.

Agreement No.: 203–010099–003.

Title: International Council of Containership Operators.

Parties:

Lykes Bros. Steamship Co., Inc.
United States Lines, Inc.
Koninklijke Nedlloyd Groep N.V.
Atlantic Container Line Service, Ltd.
A.P. Moller (Maersk Line)
Sea-Land Service, Inc.
Overseas Containers, Ltd.
Hapag-Lloyd AG
Ben Line Containers, Ltd.
Finmare Group
Transatlantic Shipping Co., Ltd.
Hamburg-Sudamerikanische Dampfschiffahrts Gesellschaft
Compagnie Generale Maritime
Transportacion Mexicana Maritima
Mitsui OSK Lines, Ltd.
Compagnie Maritime Belge S.A.
The East Asiatic Company, Ltd: A/S
Crowley Maritime Corporation
Nippon Yusen Kaisha
Blue Star Line, Ltd.
The Australian National Line
United Arab Shipping Company (S.A.G.)
American President Lines, Ltd.
Orient Overseas Line, Ltd.
Neptune Orient Lines, Ltd.
Trans-Freight Lines
South African Marine Corp., Ltd.
Wilh. Wilhelmsen

Synopsis: The proposed amendment would restate the agreement to conform with the Commission's format, organization and content requirements.

Agreement No.: 203–010838.

Title: Agreement No. 8600–2, "Working Level Agreement."

Parties:

Trans-Pacific Freight Conference of

Japan
Japan-Atlantic and Gulf Freight Conference

Synopsis: The proposed agreement would permit the parties to confer upon, discuss and consider matters of mutual interest in the agreement trade.

By Order of the Federal Maritime Commission.

Dated: October 7, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-24264 Filed 10-9-85; 8:45 am]

BILLING CODE 6730-01-M

Water Pollution Certification Payments

The Federal Maritime Commission announces that after November 1, 1985, payments received by the Commission but intended for the U.S. Coast Guard Financial Responsibility For Water Pollution Program will be returned to the sender instead of being forwarded to Coast Guard.

The Financial Responsibility For Water Pollution Program was transferred from the Commission to the Coast Guard in September, 1983. However, some payments applicable to this program (approximately one percent annually) are erroneously sent to the Federal Maritime Commission, which in turn transfers the payments to Coast Guard. This present procedure involves costly and unproductive recordkeeping for both of these Federal agencies in addition to handling delays and increased risk of loss from multiple handling of documents.

Applications for Certification of Financial Responsibility For Water Pollution should be sent directly to: Commandant (G-WFR/21), U.S. Coast Guard Washington, DC 20593.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-24265 Filed 10-9-85; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

Redelegations of Child Support Enforcement Program Authorities

Notice is hereby given that, pursuant to the authorities for the Child Support Enforcement Amendments of 1984, Pub. L. 98-378, section 9 of the Parental Kidnapping Prevention Act of 1980, Pub. L. 96-611, and certain organizational realignments of program administration functions within the Department, the Director has approved the following redelegations of authority to the Deputy Director, OCSE:

I. Pursuant to section 466 of the Social Security Act (the Act), as amended, authority to specify data and estimates pertaining to caseloads, processing times, administrative costs and average support collections which the State is required to produce to request an exemption from the requirement to enact any of the laws or use the procedures required.

II. Pursuant to section 466 of the Act, authority to exempt a State, upon its request for an exemption from the requirement to enact any of the laws or use the procedures required under section 466 of the Act from the requirement to enact the law or use the procedures involved, or to exempt one or more political subdivisions of the State from these requirements, based on the effectiveness and efficiency of the State Child Support Enforcement program.

Conditions

(a) Authority to exempt one or more political subdivisions within a State is limited to the requirement under which *expedited processes* are in effect for obtaining and enforcing support orders and, at State option, establishing paternity, and must be based on the effectiveness and timeliness of support order issuance and enforcement within the political subdivision.

(b) Exemptions granted are subject to continuing review and termination of the exemptions should circumstances change.

III. Pursuant to section 15 of Pub. L. 98-378, authority to determine, at the request of any State on the basis of information submitted by the State and such other information as may be available, if a State shall not be required to establish a State Commission.

Conditions

(a) A State shall not be required to establish a State Commission:

(i) if the State has placed in effect and is implementing objective standards for the determination and enforcement of child support obligations;

(ii) if the State has established within five years prior to the enactment of Pub. L. 98-378 a commission or council with substantially the same functions as the State Commissions provided for under section 15 of Pub. L. 98-378; or

(iii) if the State is making satisfactory progress toward fully effective child support enforcement and will continue to do so.

IV. Pursuant to section 452(a)(4) of the Act, authority to determine, for the purposes of the penalty provision of section 403(h) of the Act, whether the actual operation of State programs for locating absent parents, establishing paternity and obtaining child support substantially complies with the requirements of Part D of title IV of the Act, based upon audits of such programs undertaken in accordance with section 452(a)(4) of the Act not less often than once every 3 years (or not less often than annually in the case of any State to which a reduction is being applied under section 403(h)(1), or which is operating under a corrective action plan in accordance with section 403(h)(2) of the Act).

Conditions

(a) Authority to make the final decision that the penalty provision of section 403(h) of the Act will be imposed upon a State and to determine the amount of the penalty is reserved for the Director, Office of Child Support Enforcement, after consultation with the Secretary.

(b) A State which is not in full compliance with the requirements of sections 402(a)(27), 452(a)(4) and 403(h) of the Act shall be determined to be in substantial compliance if it is determined that any noncompliance is of a technical nature which does not adversely affect the performance of the State Child Support Enforcement program.

V. Pursuant to section 403(h)(2) of the Act, authority to determine whether or not to suspend the penalty or to end a penalty suspension.

Conditions

(a) The penalty shall be suspended if:

(i) the State submits a corrective action plan (within a period specified in regulations) which contains steps necessary to achieve substantial compliance within an appropriate time period;

(ii) the corrective action plan (and any amendments thereto) is approved; and

(iii) the corrective action plan (and any amendments thereto) is being fully implemented by the State and the State is progressing in accordance with the timetable contained in the plan to achieve substantial compliance.

(b) A suspension of the penalty shall continue until such time as it is determined that:

(i) the State has achieved substantial compliance;

(ii) the State is no longer implementing its corrective action plan; or

(iii) the State is implementing or has implemented its corrective action plan but has failed to achieve substantial

compliance within the appropriate time period.

VI. Pursuant to section 458 of the Act, authority to estimate the amounts of the incentive payments to be made to the various States at or before the beginning of each fiscal year, to make such payments on a quarterly basis, and to determine whether such amounts should be reduced or increased to the extent of any overpayments or underpayments determined to have been made under section 458 of the Act to the States involved for prior periods and with respect to which adjustment has not already been made.

Conditions

(a) If one or more political subdivisions of the State participate in the costs of carrying out activities under the State plan during any period, each such subdivision shall be entitled to receive an appropriate share of any incentive payment made to the State for such period, taking into account the efficiency and effectiveness of the activities carried out under the State plan by the political subdivision.

VII. Pursuant to sections 455(e) and 1115 of the Act, authority to appoint panelists to review grant applications concerning demonstration projects which involve programs for locating absent parents, establishing paternity and obtaining child support.

VIII. Pursuant to section 1110 of the Act, authority to select technical evaluators to review contract proposals concerning research and demonstration projects, which involve programs for locating absent parents, establishing paternity and obtaining child support.

IX. Pursuant to sections 455(e) and 1115 of the Act, authority to conduct the competitive review of grant applications concerning demonstration projects which involve programs for locating absent parents, establishing paternity and obtaining child support.

X. Pursuant to section 1110 of the Act, authority to conduct the technical evaluation of contract proposals concerning research and demonstration projects, which involve programs for locating absent parents, establishing paternity and obtaining child support.⅛

XI. Pursuant to sections 455(e) and 1115 of the Act, authority to approve or disapprove demonstration projects which involve programs for locating absent parents, establishing paternity and obtaining child support.

Conditions

(a) Where all or any part of an experimental, pilot or demonstration project is wholly financed with Federal funds made available under section 1115 of the Act, without any State, local, or other non-Federal financial participation, that project must be personally approved by the Secretary or Under Secretary of HHS.

XII. Pursuant to section 1110 of the Act, authority to approve or disapprove cooperative research and demonstration projects, which involve programs for locating absent parents, establishing paternity and obtaining child support.

Conditions

(a) Where all or any part of an experimental, pilot research or demonstration project is wholly financed with Federal funds made available under section 1110 of the Act, without any State, local, or other non-Federal financial participation, that project must be personally approved by the Secretary or Under Secretary of HHS.

XIII. Pursuant to section 1115 of the Act, authority to waive, and review waivers of compliance with State plan requirements to enable States to carry out experimental, pilot or demonstration projects.

Conditions

(a) Where all or any part of an experimental, pilot or demonstration project is wholly financed with Federal funds made available under section 1115 of the Act, without any State, local, or other non-Federal financial participation, that project must be personally approved by the Secretary or Under Secretary of HHS.

XIV. Pursuant to section 455(e) of the Act, authority to waive any of the requirements of Part D of title IV of the Act that relate to the special project grants to States to promote improvements in interstate enforcement.

XV. Pursuant to section 455(e) of the Act, authority to determine the terms and conditions a State must meet in order to quality for a special project grant to promote improvements in interstate enforcement.

XVI. Pursuant to section 455(e) of the Act, authority to approve special project grants to States to promote improvements in interstate enforcement.

Conditions

(a) The project must be likely to be of significant assistance in improving interstate enforcement.

XVII. The redelegations contained in Authorities I, VII, VIII, IX, X, XI, XII, XV, and XVI may be further redelegated.

XVIII. The redelegations contained in Authorities II, III, IV, V, VI, XIII, and XIV may not be further redelegated.

XIX. The redelegations specified in Authorities I–XVI above were approved by the Director on April 8, 1985. The Director also affirmed and ratified any actions taken by the Deputy Director, OCSE, prior to the effective date of the approved redelegations.

Steve Ritchie,

Director, Office of Child Support Enforcement.

[FR Doc. 85–24336 Filed 10–9–85; 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

[Docket No. 81F–0154]

American Cyanamid Co.; Amended Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the notice of filing of an American Cyanamid Co. petition which proposed that the food additive regulations be amended to provide for the safe use of 1,3,5-tris[4-*tert*-butyl-3-hydroxy-2,6-dimethylbenzyl]-1,3,5-triazine-2,4,6-(1H,3H,5H)-trione as an antioxidant in polypropylene and high-density polyethylene, without limitation regarding the conditions of use. This notice announces that the petition has been amended to provide for the additional use of the additive in all olefin polymers, including polypropylene and high-density polyethylene, without limitation regarding the conditions of use.

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

SUPPLEMENTARY INFORMATION: Under the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5)), in the Federal Register of June 5, 1981 (46 FR 30197), notice was given that a petition (FAP 1B3548) had been filed by the American Cyanamid Co., Wayne, NJ 07470, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of 1,3,5-tris[4-*tert*-butyl-3-hydroxy-2,6-dimethylbenzyl]-1,3,5-triazine-2,4,6-(1H,3H,5H)-trione (CAS Reg. No. 40601–75–1), as an antioxidant in polypropylene and high-density polyethylene complying with § 177.1520 *Olefin polymers* (21 CFR 177.1520), without limitation regarding the conditions of use. Notice is now given that the petition has been amended to provide for the safe use of 1,3,5-tris[4-

tert-butyl-3-hydroxy-2,6-dimethylbenzyl)-1,3,5-triazine-2,4,6-(1H,3H,5H)-trione permitting it to be used in all olefin polymers, including polypropylene and high-density polyethylene, complying with § 177.1520, without limitation regarding the conditions of use listed in table 2 in 21 CFR 176.170(c).

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

Dated: September 30, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-24239 Filed 10-9-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85F-0436]

3M Co.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice of a petition (FAP 4M2935) proposing that the food additive regulations be amended to provide for the safe use of polonium 210 as an ionization source in static eliminator devices intended for use during the manufacture of articles intended to contact food.

FOR FURTHER INFORMATION CONTACT: George H. Pauli, Center for Food Safety and Applied Nutrition (HHF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 5, 1973 (38 FR 27633), FDA published a notice that it had filed a petition (FAP 4M2935) from 3M Co., Inc., 3M Center, St. Paul, MN 55101, that proposed to amend the food additive regulations to provide for the safe use of polonium 210 as an ionization source in static eliminator devices intended for use during the manufacture of articles intended to contact food. 3M Co. (formerly Minnesota Mining and Manufacturing Co., Inc.) has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: Septembr 30, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-24238 Filed 10-9-85; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Public Health Service, HHS.

ACTION: Inventory of Public Health Service (PHS) Privacy Act systems of records.

SUMMARY: PHS is publishing a complete inventory of its current systems of records. Pub. L. 97-375, the Congressional Reports Elimination Act, amended the Privacy Act to eliminate the requirement for an annual republication of the system notices themselves. PHS agencies have reviewed their systems of records and found no significant changes since the 1984 annual publication.

PHS has added four new systems of records to its inventory since the 1984 annual review; eleven systems have been deleted.

SUPPLEMENTARY INFORMATION:

A. General Information

1. We are including with the number and name of each system of records, the citation of the most recent publication of each system notice to assist in locating the notice. The inventories of Privacy Act systems of records of the six PHS components are published in the following sequence:

1. Office of the Assistant Secretary of Health (OASH)—09-37-0001 through 09-37-0018
2. Alcohol, Drug Abuse and Mental Health Administration (ADAMHA)—09-30-0004 through 09-30-0043
3. National Institutes of Health (NIH)—09-25-0001 through 09-25-0156
4. Centers for Disease Control (CDC)—09-20-0000 through 09-20-0162
5. Health Resources and Services Administration (HRSA)—09-15-0001 through 09-15-0052
6. Food and Drug Administration (FDA)—09-10-0002 through 09-10-0018

2. The routine uses set forth in each notice describe permissible disclosures outside the Department of records in that system, which may be made without the consent of individuals who are the subjects of those records. Additional disclosures without consent of subject individuals are permitted by the Privacy Act itself in Section 3(b), as follows:

"(1) To those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

"(2) Required under section 552 of this title (the Freedom of Information Act);

"(3) For a routine use (as described in the routine use section of each specific system notice);

"(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

"(5) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

"(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has value;

"(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

"(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if, upon such disclosure, notification is transmitted to the last known address of such individual;

"(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

"(10) To the Comptroller General, or any of his authorized representatives, in

the course of the performance of the duties of the General Accounting Office;

"(11) Pursuant to the order of a court of competent jurisdiction; or

"(12) To a consumer reporting agency in accordance with section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d))."

3. PHS has carefully reviewed each of its system notices again this year with a view toward enhancing clarity and specificity as well as to incorporate normal updating changes. However, we have not identified significant revisions and, therefore, are republishing only the inventory of current systems. Minor changes, which do not affect the public's right-to-know, such as a change in organizational designation to reflect a reorganization, are being made to the database only.

B. Specific Information

1. PHS has published four new systems of records during the year:

09–37–0017 "Proceedings of the Board for Correction of Public Health Service Commissioned Corps Records, HHS/OASH/OM," publ. **Federal Register**, Vol. 50, No. 138, p. 29270.

09–37–0018 "Disaster Health Services Information System, HHS/OASH/OEP," publ. **Federal Register**, Vol. 50, No 183, p. 38212.

09–25–0155 "Congressional Biographies, HHS/NIH/OPPE," publ. **Federal Register**, Vol. 49, No. 247, p. 49730.

09–25–0156 "Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD," publ. **Federal Register**, Vol. 50, No. 162, p. 33853.

2. PHS has deleted the following systems during the year:

09–30–0002 "Statistical Research Data on Adolescent Runaways, in Prince Georges County, MD, 1962–65, HHS/ADAMHA/NIMH."

The program has been terminated.

All records in this system have been destroyed.

09–30–0003 "Medical Records Files of Patients Seen in Therapy Programs of the Mental Health Study Center, HHS/ADAMHA/NIMH."

The study center was abolished in 1983. A small portion of these records related to a clinical infant study was transferred to the Health Resources and Services Administration (HRSA)/PHS. HRSA is maintaining these records in system #09–15–0054, "Medical Records of the Clinical Infant and Child Development Research Center, HHS/HRSA/BCHDA," which will be published shortly. All other records in the system were destroyed in 1984.

09–30–0021 "Patient Medical Records on PHS Beneficiaries 1935–74 and Civilly Committed Narcotics Addicts 1967–78 Treated at the PHS Hospitals, Fort Worth, Texas, and Lexington, Kentucky, HHS/ADAMHA/NIDA."

This system was combined with 09–30–0020, as published on December 18, 1984. The combined system was renamed 09–30–0020, "Patient Records on PHS Beneficiaries (1935–74) and Civilly Committed Drug Abusers (1967–78), HHS/ADAMHA/NIDA."

09–30–0046 "Survey of Alcohol Use Among Youth and Young Adults, HHS/ADAMHA/NIAAA."

This survey has been completed. All personally identifiable information has been destroyed.

09–25–0064 "Clinical Research: Japanese Hawaiian Cancer Studies, HHS/NIH/NCI."

This study has been completed by the National Cancer Institute and all records have been destroyed.

09–25–0155 "Congressional Biographies, HHS/NIH/OPPE."

This informaton is available from a non-Federal source. Therefore, all records in this system have been destroyed.

09–15–0047 "Cycle II Dentist Survey, HHS/HRSA/BHPr."

This survey has been completed and all records have been destroyed.

09–15–0048 "Chattanooga Incremental Care Program, HHS/HRSA/BHPr."

This program has been terminated and all records have been destroyed.

09–15–0049 "Indo-China Refugee Physicians and Medical Students, HHS/HRSA/BHPr."

This program has been terminated and all records have been destroyed.

09–15–0051 "Professional Nurse Traineeships, HHS/HRSA/BHPr."

This program has been terminated and all personally identifiable information has been destroyed.

09–15–0053 "Consultants for Office of Health Resources Opportunity, Division of Disadvantaged Assistance, HHS/HRSA/BHPr."

This program has been terminated and all personally identifiable information has been destroyed.

This information is current as of the date of signature. Readers who notice any inadvertent errors or omissions in the PHS inventory of system notices are invited to bring them to my attention at the following address: Department of Health and Human Services, Public Health Service, Office of the Assistant Secretary for Health, Office of Management, Room 17–25, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: October 2, 1985.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

Office of the Assistant Secretary of Health

Inventory of Privacy Act Systems of Records

09–37–0001 Office of the Assistant Secretary for Health Correspondence Control System, HHS/OASH/OM, publ. **Federal Register**, Vol. 49, No. 193, p. 39110

09–37–0002 PHS Commissioned Corps Personnel Records, HHS/OASH/OM, publ. **Federal Register**, Vol. 48, No. 219, p. 51746

09–37–0003 PHS Commissioned Corps Medical Records, HHS/OASH/OM, publ. **Federal Register**, Vol. 48, No. 219, p. 51751

09–37–0005 PHS Commissioned Corps Board Proceedings, HHS/OASH/OM, publ. **Federal Register**, Vol. 48, No. 219, p. 51752

09–37–0006 PHS Commissioned Corps Grievance, Non-Board and Pre-Board Involuntary Retirement/Separation, and Disciplinary Files, HHS/OASH/OM, publ. **Federal Register**, Vol. 48, No. 219, p. 51755

09–37–0008 PHS Commission Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM, publ. **Federal Register**, Vol. 48, No. 219, p. 51756

09–37–0009 Applicants for National Center for Health Statistics Technical Assistance, HHS/OASH/NCHS, publ. **Federal Register**, Vol. 48, No. 230, p. 53794

09–37–0010 Health and Demographic Surveys Conducted in Probability Samples of the U.S. Population, HHS/OASH/NCHS, publ. **Federal Register**, Vol. 49, No. 187, p. 37693

09–37–0011 Health Manpower Inventories and Surveys, HHS/OASH/NCHS, publ. **Federal Register**, Vol. 49, No. 187, p. 37694

09–37–0012 Vital Statistics for Births, Deaths, Fetal Deaths, Marriages and Divorces Occurring in the United States during Each Year, HHS/OASH/NCHS, publ. **Federal Register**, Vol. 49, No. 187, p. 37695

09–37–0013 Health Resources Utilization Statistics, HHS/OASH/NCHS, publ. **Federal Register**, Vol. 49, No. 187, p. 37697

09–37–0014 Curricula Vitae of Consultants to the National Center for Health Statistics, HHS/OASH/NCHS, publ. **Federal Register**, Vol. 47, No. 109, p. 45690

09-37-0015 National Center for Health Services Research Grants Records System, HHS/OASH/NCHSR, publ. **Federal Register**, Vol. 49, No. 124, p. 26151
09-37-0016 Users of Health Statistics, HHS/OASH/NCHS, publ. **Federal Register**, Vol. 49, No. 105, p. 22540
09-37-0017 Proceedings for the Board of Correction of Public Health Service Commissioned Corps Records, HHS/OASH/OM, publ. **Federal Register**, Vol. 50, No. 138, p. 29270
09-37-0018 Disaster Health Services Information System, HHS/OASH/OEP, publ. **Federal Register**, Vol. 50, No. 183, p. 38212

Alcohol, Drug Abuse, and Mental Health Administration

Inventory of Privacy Act Systems of Records

09-30-0004 Intramural Research Program Records of Research Performed on In- and Out-Patients with Various Types of Mental Illness, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53798
09-30-0005 Saint Elizabeths Hospital Research Subjects Data Records, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 49, No. 187 p. 37699
09-30-0006 Saint Elizabeths Hospital Medical Support Programs File System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230; p. 53799
09-30-0007 Saint Elizabeths Hospital Clinical Support Services Record System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53800
09-30-0008 Saint Elizabeths Hospital Social Services Record System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 49, No. 187 p. 37701
09-30-0009 Saint Elizabeths Hospital Multidisciplinary Raw Data Consultation Files, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53804
09-30-0010 Saint Elizabeths Hospital Juvenile Education Monitoring System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53805
09-30-0011 Saint Elizabeths Hospital Emergency Psychiatric Service Non-Admission File System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53806
09-30-0012 Saint Elizabeths Hospital Pre-Service Education Records, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53807
09-30-0013 Saint Elizabeths Hospital Training Videotape Records, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53808
09-30-0014 Saint Elizabeths Hospital Financial System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 50, No. 118, p. 25469
09-30-0015 Saint Elizabeths Hospital General Security System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53810
09-30-0016 Saint Elizabeth Hospital Patients' Personal Property Record System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53811
09-30-0017 Saint Elizabeth Hospital Legal Office Record System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53812
09-30-0018 Saint Elizabeths Hospital Area D Community Mental Health Center Citizens Advisory Group Records, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53813
09-30-0019 Saint Elizabeths Hospital Court-Ordered Forensic Investigatory Materials File, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53813
09-30-0020 Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1978), HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 49 No. 244, p. 49181
09-30-0022 National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Patient Files, HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 50, No. 173, p. 36491
09-30-0023 Records of Contracts Awarded to Individuals, HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 49 No. 106, p. 22713
09-30-0024 Saint Elizabeths Hospital General Administrative Record System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53818
09-30-0026 Saint Elizabeths Hospital Research Project Records, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 47, No. 198, p. 45450
09-30-0027 Grants and Cooperative Agreements: Research, Research Training, Research Scientist Development, Education, Demonstration, Fellowships, Clinical Training, Community Services, HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 49, No. 106, p. 22714
09-30-0028 Saint Elizabeths Hospital General Medical/Clinical Records System and Related Indexes, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 49, No. 187, p. 37703
09-30-0029 Records of Guest Workers, HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 48, No. 230, p. 53823
09-30-0030 Records of Visiting Fellows, HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 48, No. 230, p. 53824
09-30-0031 Saint Elizabeths Hospital Management Information Reporting System, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 49, No. 106, p. 22716
09-30-0033 Correspondence Files, HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 48, No. 230, p. 53825
09-30-0035 Three Mile Island Mental Health Survey Respondents Record, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 47 No. 198, p. 45459
09-30-0036 Mental Health Epidemiologic and Biometric Research Data HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 49, No. 206, p. 42639
09-30-0037 Psychotherapy of Opiate-Dependent Individuals, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53828
09-30-0038 Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 48, No. 230, p. 53829
09-30-0039 Drug Abuse Treatment Outcome Prospective Study (TOPS), HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 48, No. 230, p. 53830
09-30-0041 Subject-participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 48, No. 112, p. 26672
09-30-0043 Shipment Records of Drugs of Abuse of Authorized Researchers, HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 48, No. 230, p. 53832

Centers for Disease Control

Inventory of Privacy Act Systems of Records

09-20-0000 Cooperative Mycoses Study, HHS/CDC/CID, publ. **Federal Register**, Vol. 47, No. 198, p. 45470
09-20-0001 Certified Interpreting Physician File, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53854
09-20-0027 Radiation Exposure Records for NIOSH Employees, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53855
09-20-0055 Research/Demonstration, and Training Grants, and Cooperative Agreements Application Files, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53856
09-20-0059 Division of Training Mailing List, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53857
09-20-0063 Diagnostic Methods for Identification of Occupational

Diseases through Biopsy and/or Autopsy Specimens, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53858

09–20–0086 Surveillance of Persons on Isoniazid Preventive Treatment for Tuberculosis, HHS/CDC/CPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45476

09–20–0087 Surveillance of Inadvertent Vaccination during Pregnancy, HHS/CDC/CPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45477

09–20–0088 Subacute Sclerosing Panencephalitis Surveillance, HHS/CDC/CPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45478

09–20–0089 Studies of Treatment of Tuberculosis and other Mycobacterioses, HHS/CDC/CPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45478

09–20–0090 Studies of Testing for Tuberculosis and other Mycobacterioses, HHS/CDC/CPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45480

09–20–0093 Tuberculosis Preventive Therapy Studies, HHS/CDC/CPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45480

09–20–0094 Studies of Drug Resistant Tuberculosis Cases/Contacts, HHS/CDC/CPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45481

09–20–0095 Varicela Zoster Immune Globulin Records on High Risk Immuno-suppressed Children Exposed to Chickenpox, HHS/CDC/CPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45482

09–20–0096 Records of Tuskegee Study Health Benefit Recipients, HHS/CDC/CPS, publ. **Federal Register**, Vol. 48, No. 230, p. 53859

09–20–0097 Studies of the Effects of BCG Vaccinations for Tuberculosis, HHS/CDC/CPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45484

09–20–0098 Congenital Rubella Registry, HHS/CDC/CPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45486

09–20–0102 Alien Mental Waiver Program, HHS/CDC/CPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45486

09–20–0103 Alien Tuberculosis Follow-up Program, HHS/CDC/CPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45487

09–20–0106 Specimen Handling for Testing and Related Data, HHS/CDC/CID, publ. **Federal Register**, Vol. 49, No. 187, p. 37716

09–20–0107 Dengue and Research Studies, HHS/CDC/CID, publ. **Federal Register**, Vol. 48, No. 230, p. 53862

09–20–0112 CDC Exchange Visitor and Guest Researcher Records, HHS/CDC/OPS, publ. **Federal Register**, Vol. 47, No. 198, p. 45491

09–20–0113 Epidemic Investigation Case Records, HHS/CDC/CID, publ. **Federal Register**, Vol. 47, No. 198, p. 45491

09–20–0117 Medical and Test Record Results of Individuals Involved in NIOSH Laboratory Studies, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53863

09–20–0118 Study at Work-Sites Where Agents Suspected of Being Occupational Hazards Exist, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53864

09–20–0136 Epidemiologic Studies and Surveillance of Disease Problems, HHS/CDC/CID, publ. **Federal Register**, Vol. 49, No. 187, p. 37718

09–20–0137 Passport File, HHS/CDC/IHPO, publ. **Federal Register**, Vol. 48, No. 230, p. 53865

09–20–0138 Epidemic Intelligence Service Officers Files, HHS/CDC/EPO, publ. **Federal Register**, Vol. 47, No. 198, p. 45496

09–20–0147 Occupational Health Epidemiological Studies, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 49, No. 187, p. 37719

09–20–0148 Results of Occupational Hearing Studies, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53867

09–20–0149 General Industry Morbidity Studies, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53869

09–20–0150 Morbidity Studies in Coal Mining Activities, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53870

09–20–0151 Mortality Studies in Coal Mining Activities, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53871

09–20–0152 Mortality Studies in Non-Coal Mining Activities, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53873

09–20–0153 General Industry Mortality Studies, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53874

09–20–0154 Medical and Laboratory Studies,HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53876

09–20–0155 Morbidity Studies in Metal and Non-Metal Mining Activities, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53877

09–20–0156 Cytotechnologists Proficiency Answer Sheets and Test Results (Medicare), HHS/CDC/LPO, publ. **Federal Register**, Vol. 48, No. 230, p. 53879

09–20–0157 Clinical Laboratory Technologists Proficiency Answer Sheets and Test Results (Medicare), HHS/CDC/LPO, publ. **Federal Register**, Vol. 48, No. 230, p. 53879

09–20–0158 Independent Laboratory Directors Proficiency Answer Sheets and Exam Results (Medicare), HHS/CDC/LPO, publ. **Federal Register**, Vol. 48, No. 230, p. 53880

09–20–0159 Records of Subjects in Certification, Testing and Safety Studies of Personal Protective Devices for Hazardous Work Environments, HHS/CDC/NIOSH, publ. **Federal Register**, Vol. 48, No. 230, p. 53881

09–20–0160 Records of Subjects in Health Promotion and Education Studies, HHS/CDC/CHPE, publ. **Federal Register**, Vol. 47, No. 198, p. 45513

09–20–0161 Records of Health Professionals in Disease Prevention and Control Training Programs, HHS/CDC/CPS, publ. **Federal Register**, Vol. 48, No. 127, p. 30187

09–20–0162 Records of Subjects in Agent Orange, Vietnam Experience, and Selected Cancers Studies, HHS/CDC/CEH, publ. **Federal Register**, Vol. 49, No. 127, p. 26817

National Institutes of Health

Inventory of Privacy Act Systems of Records

09–25–0001 Clinical Research: Patient Records, HHS/NIH/NHLBI, publ. **Federal Register**, Vol. 49, No. 187, p. 37707

09–25–0002 Clinical Research: Patient Phonocardiogram Records, HHS/NIH/NHLBI, publ. **Federal Register**, Vol. 38, No. 230, p. 53836

09–25–0003 Administration: Authorized Radionuclide Users File, HHS/NIH/ORS, publ. **Federal Register**, Vol. 48, No. 198, p. 45776

09–25–0004 Administration: Registry of Individuals Exposed to Chemical Carcinogens, HHS/NIH/ORS, publ. **Federal Register**, Vol. 47, No. 198, p. 45777

09–25–0005 Administration: Library Circulation and User I.D. File, HHS/NIH/OD, publ. **Federal Register**, Vol. 47, No. 198, p. 45778

09–25–0007 Administration: NIH Safety Shoes and Safety Glasses Issuance Program, HHS/NIH/ORS, publ. **Federal Register**, Vol. 47, No. 198, p. 45778

09–25–0008 Administration: Radiation Workers Monitoring, HHS/NIH/ORS, publ. **Federal Register**, Vol. 48, No. 129, p. 30760

09–25–0009 Clinical Research: Radiotherapy Patient File, HHS/NIH/ORS, publ. **Federal Register**, Vol. 48, No. 230, p. 53837

09–25–0010 Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI, publ. **Federal Register**, Vol. 48, No. 129, p. 30760

09–25–0011 Clincial Research: Blood Donor Records, HHS/NIH/CC, publ. **Federal Register**, Vol. 48, No. 230, p. 53838

09–25–0012 Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC, publ. **Federal Register**, Vol. 47, No. 198, p. 45782

09–25–0013 Clinical Research: Preadmission Medical Records, HHS/NIH/CC, publ. **Federal Register**, Vol. 48, No. 230, p. 53839

09–25–0014 Clinical Research: Student Records, HHS/NIH/CC, publ. **Federal Register**, Vol. 47, No. 198, p. 45784

09–25–0015 Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINCDS, publ. **Federal Register**, Vol. 48, No. 230, p. 53840

09–25–0016 Clinical Research: Collaborative Perinatal Project, HHS/NIH/NINCDS, publ. **Federal Register**, Vol. 47, No. 198, p. 45785

09–25–0019 Clinical Research: Genetic Counseling, HHS/NIH/NINCDS, publ. **Federal Register**, Vol. 48, No. 230, p. 53841

09–25–0020 Clinical Research: Genetics of Neurological Disorders, HHS/NIH/NINCDS, publ. **Federal Register**, Vol. 48, No. 230, p. 53841

09–25–0021 Clinical Research: Guam Patient-Control Registry, HHS/NIH/NINCDS, publ. **Federal Register**, Vol. 48, No. 230, p. 53842

09–25–0026 Clinical Research: Nervous System Studies, HHS/NIH/NINCDS, publ. **Federal Register**, Vol. 48, No. 230, p. 53843

09–25–0028 Clinical Research: Patient Medical Histories, HHS/NIH/NINCDS, publ. **Federal Register**, Vol. 48, No. 230, p. 53844

09–25–0031 Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINCDS, publ. **Federal Register**, Vol. 48, No. 230, p. 53845

09–25–0033 International Activities: Fellowships Awarded by Foreign Organizations, HHS/NIH/FIC, publ. **Federal Register**, Vol. 49, No. 187, p. 37708

09–25–0034 International Activities: Scholars Program, HHS/NIH/FIC, publ. **Federal Register**, Vol. 47, No. 198, p. 45792

09–25–0035 International Activities: International Health Exchange Programs Participants, HHS/NIH/FIC, publ. **Federal Register**, Vol. 47, No. 198, p. 45793

09–25–0036 Grants: IMPAC (Grant/Contract Information), HHS/NIH/DRG, publ. **Federal Register**, Vol. 48, No. 230, p. 53846

09–25–0037 Clinical Research: Gerontology Research Center Longitudinal Aging Study, HHS/NIH/NIA, publ. **Federal Register**, Vol. 47, No. 198, p. 45795

09–25–0038 Clinical Research: Patient Data, HHS/NIH/NIADDK, publ. **Federal Register**, Vol. 47, No. 198, p. 45795

09–25–0039 Clinical Research: Diabetes Mellitus Research Study of Southwestern American Indians,HHS/NIH/NIADDK, publ. **Federal Register**, Vol. 47, No. 198, p. 45796

09–25–0040 Clinical Research: Southwestern American Indian Patient Data, HHS/NIH/NIADDK, publ. **Federal Register**, Vol. 47, No. 198, p. 45797

09–25–0041 Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIADDK, publ. **Federal Register**, Vol. 47, No. 198, p. 45798

09–25–0042 Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR, publ. **Federal Register**, Vol. 47, No. 198, p. 45799

09–25–0044 Clincial Research: Sensory Testing Research Program, HHS/NIH/NIDR, publ. **Federal Register**, Vol. 47, No. 198, p. 45801

09–25–0046 Clinical Research: Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 47, No. 198, p. 45802

09–25–0048 Clincial Research: Serology-Epidemiology Parasite Research, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 47, No. 198, p. 45803

09–25–0049 Clinical Research: Atlanta Federal Prison Malaria Research Projects, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 48, No. 230, p. 53848

09–25–0053 Clinical Research: Vision Studies, HHS/NIH/NEI, publ. **Federal Register**, Vol. 47, No. 198, p. 45805

09–25–0054 Administration: Property Accounting, HHS/NIH/ORS, publ. **Federal Register**, Vol. 49, No. 189, p. 37709

09–25–0057 Clinical Research: Burkitt's Lymphoma Registry, HHS/NIH/NCI, publ. **Federal Register**, Vol. 47, No. 198, p. 45807

09–25–0060 Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI, publ. **Federal Register**, Vol. 47, No. 198, p. 45808

09–25–0067 Clinical Research: National Cancer Incidence Surveys, HHS/NIH,NCI, publ. **Federal Register**, Vol. 47, No. 198, p. 45809

09–25–0069 NIH Clinical Center Admissions of the National Cancer Institute, HHS/HIS/NCI, publ. **Federal Register**, Vol. 47, No. 198, p. 45811

09–25–0074 Clinical Research: Division of Cancer Biology and Diagnosis Patient Trials, HHS/NIH/NCI, publ. **Federal Register**, Vol. 47, No. 198, p. 45812

09–25–0075 Administration: Principal Investigators Submitting Proposals for Protection from Research Risks, HHS/NIH/OD, publ. **Federal Register**, Vol. 49, No. 187, p. 33710

09–25–0077 Clinical Research: Biological Carcinogenesis Branch Human Specimen Program, HHS/NIH/NCI, publ. **Federal Register**, Vol. 48, No. 129, p. 30761

09–25–0078 Administration: Consultant File, HHS/NIH/NHLBI, publ. **Federal Register**, Vol. 49, No. 187, p. 37711

09–25–0087 Administration: Employees and Consultants, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 47, No. 198, p. 45816

09–25–0088 Clinical Research: Researchers Using H–2 Soluble Antigen and H–2 Antiserum, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 47, No. 198, p. 45817

09–25–0089 Clinical Research: HLA Antiserum and Tray Users, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 47, No. 198, p. 45817

09–25–0091 Administration: General Files on Employees, Donors and Correspondents, HHS/NIH/NEI, publ. **Federal Register**, Vol. 47, No. 198, p. 45818

09–25–0093 Administration: Authors, Reviewers and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, Vol. 47, No. 198, p. 45819

09–25–0096 Contracts: National Cancer Institute Contract Management System Principal Investigators, Projects Officers and Contract Specialists, HHS/NIH/NCI, publ. **Federal Register**, Vol. 47, No. 198, p. 45820

09–25–0099 Clinical Research: Patient Medical Records, HHS/NIH/CC, publ. **Federal Register**, Vol. 48, No. 129, p. 30762

09–25–0100 Clinical Research: Neuropharmacology Studies, HHS/NIH/NINCDS, publ. **Federal Register**, Vol. 47, No. 198, p. 45822

09–25–0102 Administration: Grants Associates Program Working Files,

HHS/NIH/DRG, publ. **Federal Register**, Vol. 47, No. 198, p. 45822

09–25–0105 Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/OD, publ. **Federal Register**, Vol. 49, No. 187, p. 37712

09–25–0106 Administration: Executive Secretariat Correspondence Records, HHS/NIH/OD, publ. **Federal Register**, Vol. 47, No. 198, p. 45824

09–25–0108 Personnel: Guest Workers/Visiting Fellows/Student Scientists/Scientists Emeriti, HHS/NIH/DPM, publ. **Federal Register**, Vol. 47, No. 198, p. 45825

09–25–0112 Grants: Research, Research Training, Fellowship and Construction Applications and Awards, HHS/NIH/OD, publ. **Federal Register**, Vol. 48, No. 230, p. 53849

09–25–0115 Administration: Curricula Vitae of Consultants and Clinicial Investigators, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 47, No. 198, p. 45828

09–25–0117 International Activities: U.S.-Japan Program Panel Members, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 47, No. 198, p. 45829

09–25–0118 Contracts: Professional Services Contractors, HHS/NIH/NCI, publ. **Federal Register**, Vol. 47, No. 198, p. 45830

09–25–0121 International Activities: Senior International Fellowships Program, HHS/NIH/FIC, publ. **Federal Register**, Vol. 47, No. 198, p. 45830

09–25–0124 Administration: Pharmacology Research Associates, HHS/NIH/NIGMS, publ. **Federal Register**, Vol. 47, No. 198, p. 45832

09–25–0126 Clinical Research: National Heart, Lung, and Blood Institute Epidemological and Biometeric Studies, HHS/NIH/NHLBI, publ. **Federal Register**, Vol. 47, No. 198, p. 45833

09–25–0128 Clinical Research: Neural Prosthesis & Biomedical Engineering Studies, HHS/NIH/NINCDS, publ. **Federal Register**, Vol. 49, No. 187 p. 37712

09–25–0129 Clinical Research: Clinical Research Studies Dealing with Hearing, Speech, Language and Chemosensory Disorders, HHS/NIH/NINCDS, publ. **Federal Register**, Vol. 47, No. 198, p. 45836

09–25–0130 Clinical Research Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NCI, publ. **Federal Register**, Vol. 47, No. 198, p. 45837

09–25–0131 Clinical Research: Clinical Epidemiologic Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NCI, publ. **Federal Register**, Vol. 47, No. 198, p. 45838

09–25–0133 Clinical Research: Kidney Transplant Histocompatibility Study (KTHS), HHS/NIH-NIADDK, publ. **Federal Register**, Vol. 47, No. 198, p. 45839

09–25–0134 Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS, publ. **Federal Register**, Vol. 47, No. 198, p. 45840

09–25–0135 Grants: PROPHET System Applicants Research Prospectuses, HHS/NIH-DRR, publ. **Federal Register**, Vol. 47, No. 187, p. 37713

09–25–0138 Biomedical Research: Studies of Possible Influence on Cognitive and Emotional Development of Children, HHS/NIH/NICHD, publ. **Federal Register**, Vol. 47, No. 198, p. 45843

09–25–0140 International Activities: Scientific Visitors at the National Institutes of Health, HHS/NIH/FIC, publ. **Federal Register**, Vol. 47, No. 198, p. 45844

09–25–0141 Patient and Donor Records in the Blood Component Support Program for the Division of Cancer Treatment, HHS/NIH/NCI publ. **Federal Register**, Vol. 47, No. 198, p. 45845

09–25–0142 Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies of Aging, HHS/NIH/NIA, publ. **Federal Register**, Vol. 47, No. 198, p. 45846

09–25–0143 Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID, Publ. **Federal Register**, Vol. 47, No. 198, p. 45847

09–25–0147 Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Heart, Lung, and Blood Institute, HHS/NIH/NHLBI, publ. **Federal Register**, Vol. 47, No. 198, p. 45849

09–25–0148 Contracted and Contract-Related Research: Records of Subjects in Clinical Epidemiological and Biomedical Studies of the National Institute of Neurological and Communicative Disorders and Stroke, HHS/NIH/NINCDS, , publ. **Federal Register**, Vol. 47, No. 198, p. 45850

09–25–0149 Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institute of General Medical Sciences, HHS/NIH/NIGMS, publ. **Federal Register**, Vol. 47, No. 198, p. 45852

09–25–0150 Record of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institute of Environmental Health Sciences, HHS/NIH/NIEHS, publ. **Federal Register**, Vol. 47, No. 198, p. 45853

09–25–0151 Administration: Alert Records Concerning Investigations or Determinations of Misconduct by Current or Potential Recipients of Funds for Biomedical Research, HHS/NIH/OD, publ. **Federal Register**, Vol. 48, No. 230, p. 53851

09–25–0152 Biomedical Research: Records of Subject in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR, publ. **Federal Register**, Vol. 47, No. 191, p. 43430

09–25–0153 Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD, publ. **Federal Register**, Vol. 48, No. 143, p. 00748

09–25–0154 Biomedical Research: Records of Subjects in Cancer Studies of the Division Resources, Centers and Community Activities, HHS/NIH/NCI, publ. **Federal Register**, Vol. 48, No. 227, p. 52981

09–25–0155 Congressional Biographies, HHS/NIH/OPPE, publ. **Federal Register**, Vol. 49, No. 247, p. 49730

09–25–0156 Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/NIGMS, publ. **Federal Register**, Vol. 50, No. 162, p. 33853

Health Resources and Services Administration

Inventory of Privacy Act Systems of Records

09–15–0001 DFEDH Health and Counseling Record, HHS/HRSA/BHCDA, publ. FR, Vol. 48, No. 230, p. 53884

09–15–0002 Records of Patients' Personal Valuables and Monies, HHS/HRSA/BHCDA, publ. FR, Vol. 48, No. 230, p. 53885

09–15–0003 Contract Physicians and Consultants, HHS/HRSA/BHCDA, publ. FR, Vol 48, No. 230, p. 53886

09–15–0004 Federal Employee Occupational Health Date System, HHS/HRSA/BHCDA publ. FR, Vol. 48, No. 230, p. 53886

09–15–0007 Patients Medical Records System PHS Hospitals/Clinics, HHS/HRSA/BHCDA, publ. FR, Vol. 48, No. 230, p. 53887

09–15–0008 Emergency Non–PHS Treatment Authorization File, HHS/

HRSA/BHCA, publ. Vol. 48, No. 230, p. 53890
09–15–0018 Unofficial Vital Records System, HHS/HRSA/IHS, publ. FR, Vol. 48, No. 48, p. 53891
09–15–0019 Health & Medical Records Systems, HHS/HRSA/BHCDA, publ. FR, Vol. 48, No. 230, p. 53892
09–15–0022 Accounts Receivable, HHS/HRSA/OA, publ. FR, Vol. 48, No. 230, p. 53897
09–15–0026 Medical Fellowships and Educational Loans, HHS/HRSA/OA, publ. FR, Vol. 48, No. 230, p. 53898
09–15–0027 National Health Service Corps (NHSC) and Indian Health Service (IHS) Pre-Application Recruitment and Provider File, HHS/HRSA/BHCDA, publ. FR, Vol. 48, No. 230, p. 53899
09–15–0028—PHS Clinical Affiliation Trainee Records, HHS/HRSA/BHCDA, publ. FR, Vol. 48, No. 230, p. 53900
09–15–0029 PHS Beneficiary-Contract Medical/Health Care Records, HHS/HRSA/BHCDA, publ. FR, Vol. 48, No. 230, p. 53901
09–15–0036 Indian Health Service Scholarship Program, HHS/HRSA/IHS, publ. FR, Vol. 49, No. 191, p. 38710
09–15–0037 PHS and National Health Service Corps (NHSC) Scholarship Program, HHS/HRSA/BHCDA, publ. FR, Vol. 48, No. 230, p. 53903
09–15–0038 Disability Claims of the Nursing Student Loan Program, HHS/HRSA/BHPr, publ. FR, Vol. 48, No. 230, p. 53905
09–15–0039 Disability Claims in the Health Professions Student Loan Program, HHS/HRSA/BHPr, publ. FR, Vol. 48, No. 230, p. 53906
09–15–0040 Health Professions Student Loan Repayment Program, HHS/HRSA/BHPr, publ. FR, Vol. 48, No. 230, p. 53907
09–15–0041 Health Professions Student Loan Cancellation, HHS/HRSA/BHPr, publ. FR, Vol. 48, No. 230, p. 53908
lation, HHS/HRSA/BHPr
09–15–0042 Physician Shortage Area Scholarship Program, HHS/HRSA/BHCDA, publ. FR, Vol. 48, No. 230, p. 53909
09–15–0043 Cuban Loan Program, HHS/HRSA/OA, publ. FR, Vol. 48, No. 230, p. 53910
09–15–0044 Health Education Assistance Loan (HEAL) Program, HHS/HRSA/BHPr, publ. FR, Vol. 48, No. 230, p. 53910
09–15–0045 HRSA Loan Repayment/Debt Management Records System, HHS/HRSA/OA, publ. FR, Vol. 49, No. 206, p. 42637
09–15–0046 Health Professions Planning and Evaluation, HHS/HRSA/OA, publ. FR, Vol. 48, No. 230, p. 53913
09–15–0050 National Research Service Awards, HHS/HRSA/BHPr, publ. FR, Vol. 48, No. 230, p. 53915
09–15–0052 Nurse Practitioner Traineeships, HHS/HRSA/BHPr, publ. FR, Vol. 48, No. 230, p. 53917

Food and Drug Administration

Inventory of Privacy Act Systems of Records

09–10–0002 Regulated Industry Employee Enforcement Records, HHS/FDA/ACMO, FR, Vol. 47, No. 198, Oct. 13, 1982, p. 45412–45414
09–10–0003 FDA Credential Holder File, HHS/FDA/EDRO, FR, Vol. 47, No. 198, Oct. 13, 1982, p. 45415
09–10–0004 Communications (Oral and Written) With the Public, HHS/FDA/ACMO, FR, Vol. 47, No. 198, Oct. 13, 1982, p. 45415–45416
09–10–0005 State Food and Drug Offical File, HHS/FDA/EDRO, FR, Vol. 47, No. 198, Oct. 13, 1982, p. 45416–45417
09–10–0007 Science Advisor Research Associate Program (SARAP), HHS/FDA/EDRO, FR, Vol. 47, No. 198, Oct. 13, 1982 p. 45417–45418
09–10–0008 Radiation Protection Program Personnel Monitoring System, HHS/FDA/CDRH, FR, Vol. 47, No. 237, Dec. 9, 1982, p. 55425–55426
09–10–0009 Special Studies and Surveys on FDA-Regulated Products, HHS/FDA/ACMO, FR, Vol. 47, No. 237, Dec. 9, 1982, p. 55426–55427
09–10–0010 Bioresearch Monitoring Information System, HHS/FDA, FR, Vol. 47, No. 198, Oct. 13, 1982, p. 45419–45420
09–10–0011 Certified Retort Operators, HHS/FDA/CFSAN, FR, Vol. 47, No. 198, Oct. 13, 1982, p. 45420–45421
09–10–0013 Employee Conduct Investigative Records, HHS/FDA/ACMO, FR, Vol. 47, No. 198, Oct. 13, 1982, p. 45422–45423
09–10–0015 Blood Donor for Tissue Typing Sera and Cell Analysis and Related Research, HHS/FDA/CDB/OB, FR, Vol. 47, No. 198, Oct. 13, 1982, p. 45423
09–10–0017 Epidemiological Research Studies of the Center for Devices and Radiological Health, HHS/FDA/CDRH, FR, Vol. 47, No. 198, Oct. 13, 1982, p. 45423–45425
09–10–0018 Employee Identification Card Information Record, HHS/FDA/ACMO, FR, Vol. 47, No. 198, Oct. 13, 1982, p. 45425

[FR Doc. 85–24274 Filed 10–9–85; 8:45 am]
BILLING CODE 4160–17–M

Notice Regarding Assessment of Cost of Collecting Delinquent Debts

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Debt Collection Act of 1982 (Pub. L. 97–365) and the Federal Claims Collection Standards (4 CFR Part 102) require that Federal agencies assess charges against delinquent debtors to cover administrative costs of collecting overdue accounts. The regulations at 4 CFR 102.13(d) permit Department of Health and Human Service (DHHS) agencies to assess the administrative costs of collecting overdue accounts based on either actual or average costs incurred. For ease of administration, Public Health Service (PHS) has decided to assess these charges on the basis of average costs.

FOR FURTHER INFORMATION CONTACT: Mr. James B. Salter, at (301) 443–2745.

SUPPLEMENTARY INFORMATION: PHS conducted a review to determine the average collection costs incurred by its agencies. Total costs ranged from approximately $42 to approximately $69 per account with the exception of the Health Resources and Services Administration (HRSA), where the costs were higher for some accounts because collection efforts are made by both the program and fiscal officies for certain programs with very complex repayment requirements. The average cost for all PHS agencies (including HRSA accounts collected only by the fiscal office) was $58.14. The average cost for HRSA accounts that are collected by both program and fiscal offices was $137.12. Since this average cost is based on a 90-day collection period, PHS determined that the average montly PHS cost of collecting delinquent debts (including HRSA accounts collected by the fiscal office) was approximately $20. The average monthly cost for collecting all other HRSA delinquent debts was approximately $45.

PHS is presently studying the feasibility of assessing additional administrative charges to recover the costs incurred when using a private collection agency and when referring accounts to agency claims officials and the Department of Justice. A determination will be made at a later date concerning how charges for such administrative costs will be assessed.

PHS determined that there was the need for flexibility to exclude from the policy those specific situations where normal trade practice results in the receipt of payments beyond the normal 30 day due date. Such cases include, for example, airline ticket refunds not

usually received for up to 60 days after the payment due date. This proposed policy will permit exclusion of such situations on a case by case basis.

Accordingly, based on the data described above, PHS has determined that the following policy shall apply:

1. For all delinquent accounts exceeding $100 (exclusive of interest) PHS agencies, with the exception noted below, shall assess a charge of $20 per account for each full 30-day period that an account remains delinquent. The charge shall be assessed at the end of each 30-day period of delinquency and be included in the same billing notice (or dunning letter) which sets forth the applicable interest charges. Agencies shall assess charges for administrative costs of collection for as long as they continue in-house collection efforts. However, it should be noted that it is departmental policy to cease in-house collection efforts after 90 days and refer accounts to a private collection agency or the appropriate agency claims official.

2. HRSA shall assess a charge of $45 per account for each full 30-day period of delinquency for accounts exceeding $100 (exclusive of interest) which are subject to collection efforts by both program (Bureau) offices and the Division of Fiscal Services under the following programs:

a. Health Professionals and Nursing Student Loan (repayment of Federal Capital Contributions by participating institutions)

b. Health Professions and Nursing Federal Capital Loans

c. Health Education Assistance Loans

d. National Health Service Corps Scholarships

e. National Health Service Corps Site Reimbursements

f. National Health Service Corps Start-up Loans

g. Physician Shortage Areas Scholarships

h. Health Maintenance Organization Loans

i. Health Facilities Loans

j. Hill-Burton Construction Grant Recoveries

Such charges shall be assessed for as long as HRSA continues in-house collection efforts. However, as indicated it is departmental policy to cease in-house collection efforts after an account has been delinquent for more than 90 days.

3. For all accounts of $100 or less (exclusive of interest) administrative costs shall not be assessed, for the following reasons:

a. The assessment of fixed charges of $20 would result in administrative cost becoming disproportionate to the original amount due for relatively small accounts.

b. The assessment of administrative costs as a percentage of the amount due would result in a complicated system that would be too burdensome to administer.

c. OMB Circular A-129 and the draft HHS claims collection regulations set a precedent for handling debts of $100 or less differently by excluding such debts from the procedures for referrals to credit reporting agencies.

d. PHS agencies typically have very few debts of $100 or less, so that the loss of revenue from such an exclusion would be minimal.

4. As provided in the Federal Claims Collection Standards, administrative costs may only be waived under criteria set forth in the Departmental regulations for the waiver of interest charges. 4 CFR 102.13(g). On May 2, 1985, the Department of Health and Human Services (DHHS) published a proposed rule to revise its regulation at 45 CFR Part 30 for the handling of debts, particularly overdue debts, owed to the United States. Until the Department's regulations are issued in final form, however, PHS will not grant waivers, except under its current authority to compromise claims. See 4 CFR Part 103. However, the policy to impose administrative costs will not apply to cases where no such costs are incurred by the agency, for example, cases of airline ticket refunds, which are routinely paid, but not by the payment due date. The applicability of this exception will be determined on a case-by-case basis.

5. Administrative costs may not be assessed on debts arising under a contract executed prior to, and in effect on, October 25, 1982 (the date of enactment of the Debt Collection Act of 1982), or on debts owed by State or local governments or Indian tribes unless authorized by statute, regulation or written agreement.

6. Interest may not be charged on administrative costs except where a new repayment agreement is established and the administrative costs are added to the principal amount due under the new agreement.

7. The administrative charges outlined above will be reviewed periodically to determine if changes are required in the dollar amounts to be assessed.

Dated: October 1, 1985.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations.

[FR Doc. 85-24261 Filed 10-9-85; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-85-803; FR-2149]

Delegation of Authority; Designating Attesting Officers

AGENCY: Office of the Secretary, Department of Housing and Urban Development.

ACTION: Delegation of Authority to Cause Department Seal To Be Affixed and To Authenticate Copies of Documents.

SUMMARY: This delegation of authority revises and updates designation of attesting officers to authenticate documents.

EFFECTIVE DATE: October 2, 1985.

FOR FURTHER INFORMATION CONTACT: David D. White, Assistant General Counsel for Administrative Law, Room 10254, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-7137 (This is not a toll-free number).

Section A—Authority Delegated

Each of the following employees of the Department of Housing and Urban Development is designated as Attesting Officer and is authorized to cause the seal of the Department of Housing and Urban Development to be affixed to such documents as may require its application and to certify that a copy of any book, record, paper, microfilm or other document is a true copy of that in the files of the Department:

1. Assistant Secretary for Housing—Federal Housing Commissioner.

2. Assistant Secretary for Legislation and Congressional Relations.

3. Assistant Secretary for Administration.

4. Assistant Secretary for Public and Indian Housing.

5. Assistant Secretary for Policy Development and Research.

6. Assistant Secretary for Community Planning and Development.

7. President, Government National Mortgage Association.

8. Inspector General.

9. General Counsel.

10. Manager, Solar Energy and Conservation Bank.

11. The Secretary to each Regional Administrator and the Secretary to each Regional Counsel.

12. Director, Mortgage Insurance Accounting and Servicing, Office of Finance and Accounting.

13. Deputy Assistant Secretary for Operations and Management.

Section B—Authority to Redelegate

The officials listed as numbers 1 through 11 in Section A as designated Attesting officers are authorized to redelegate to any employee of the Department the authority delegated to them in Section A.

Section C—Supersedure

This delegation revokes and supersedes the delegations of authority published at 36 FR 23835 (December 15, 1971) and amended at 37 FR 23468 (November 3, 1972) and further amended at 39 FR 40186 (November 11, 1974), 43 FR 24144 (June 2, 1978) and 44 FR 31322 (May 31, 1979).

Authority: Sec. 7b (d) and (g), Department of HUD Act, 42 U.S.C. 3535 (d) and (g)

Dated: October 2, 1985.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development

[FR Doc. 85-24278 Filed 10-9-85; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D-85-804; FR-2149]

Delegation of Authority; Microfilming of the Department's Records

AGENCY: Department of Housing and Urban Development, Office of the Secretary.

ACTION: Delegation of Authority.

SUMMARY: This delegation of authority revises and updates the designation of officials authorized to microfilm the Department's records.

EFFECTIVE DATE: October 2, 1985.

FOR FURTHER INFORMATION CONTACT: David D. White, Assistant General Counsel for Administrative Law, Room 10254, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-7137 (This is not a toll-free number).

Section A—Authority Delegated

The officials listed below are authorized to have the Department's records placed on microfilm, in accordance with 44 U.S.C. 3301 *et seq.*, and the standards promulgated by the Administrator of General Services.

1. Each Assistant Secretary.
2. General Counsel.
3. Inspector General.
4. President, Government National Mortgage Association.
5. Manager, Solar Energy and Conservation Bank.

Section B—Authority To Redelegate

All listed officials are authorized to redelegate to any employee of the Department any of the authority delegated in Section A.

Section C—Supersedure

This delegation supersedes the delegation published at 44 FR 31323, May 31, 1979.

Authority: (Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: October 2, 1985.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 85-24279 Filed 10-9-85; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

P R Spring Combined Hydrocarbon Lease Conversion; Availability of Final EIS

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement (FEIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, BLM has prepared an FEIS for the proposed P R Spring Combined Hydrocarbon Lease Conversion.

SUPPLEMENTARY INFORMATION: The FEIS supplements the draft EIS, which was published on May 20, 1985. Reviewed together, the draft and final EISs assess the environmental consequences of federal approval of converting existing oil and gas leases within the P R Spring and Hill Creek Special Tar Sand Areas (STSAs) to combined hydrocarbon leases. These leases are located in east-central Utah, including Grand and Uintah counties. The proposed lease conversions include the Beartooth A, Beartooth B, Bradshaw, Duncan, Enercor, Enserch, Farleigh, Kirkwood, Mobil, and Thompson projects. Site-specific and cumulative impacts of the 10 proposed actions and No-Action alternatives are analyzed. Cumulative impacts are those impacts that would occur as a result of the proposed actions plus other interrelated projects planned for development in the project areas during the analysis period.

Based on the issues and concerns identified during the scoping process, impacts to Water Resources, Socioeconomics, Air Quality, Soils and Vegetation, and Wilderness have been emphasized.

The FEIS consists of two sections. Section 1, Revisions and Corrections, shows changes made to the text, tables, maps, and figures as a result of comments received during the 60-day review period for the DEIS. Section 2, Consultation and Coordination, presents background information and then displays copies of the comment letters received during the review period. All comment letters are reprinted verbatim. The BLM responses to individual comments follow immediately after each letter.

The FEIS should not be considered as a decision document. Decisions on the requested BLM actions for the project will be based on the analysis in the DEIS and FEIS, public concerns and comments, and other multiple-use resource objectives or programs that apply to the project. Written comments received by November 12, 1985, which is the end of the 30-day FEIS review period, will be considered in the final decision making process. Please send your concerns about the project or other factors you feel should be considered in the decision to: Lloyd H. Ferguson, District Manager, Bureau of Land Management, 170 South 500 East, Vernal, Utah 84078.

A Record of Decision document that outlines the decision and the rationale for it will be prepared and released to the public soon after the close of the 30-day FEIS review period.

FOR FURTHER INFORMATION CONTACT: Robert E. Pizel, Project Leader, Division of EIS Services, Bureau of Land Management, 555 Zang Street, First Floor East, Denver, Colorado 80228, (303) 236-1080.

Copies of the FEIS may be obtained from the following locations:

Bureau of Land Management, Division of EIS Services, 555 Zang Street, First Floor East, Denver, Colorado 80228

Bureau of Land Management, Vernal District Office, 170 South 500 East, Vernal, Utah 84078

Bureau of Land Management, Utah State Office, CFS Financial Center, 324 South State, Suite 301, Salt Lake City, Utah 84111-2303.

In addition, the FEIS can be reviewed at the following Bureau of Land Management (BLM) offices:

Bureau of Land Management, Moab District Office, 125 West Second South, Post Office Box 970, Moab, Utah 84532

Bureau of Land Management, Office of Public Affairs, 18th and C Streets, NW, Room 5614, Washington, DC 20240.

Dated: September 13, 1985.

Lloyd H. Ferguson,

Vernal District Manager.

[FR Doc. 85-23098 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-DQ-M

[FES 85-42]

Availability of Final Environmental Impact Statement Supplement; Federal Coal Management Program

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act, notice is hereby given that the Bureau of Land Management has prepared a Final Environmental Impact Statement Supplement (EIS) to the 1979 Final Environmental Statement for the Federal Coal Management Program (FES). This EIS analyzes the impacts to the human environment of continuing the 1979 coal program, as modified since 1979 by regulatory, procedural and policy changes, and three alternatives to that program. The main thrust behind the decision to supplement the 1979 FES was threefold: (1) To update and assess market conditions forming the basis for the 1979 analysis; (2) to describe the changes made to the program in the past 5 years; (3) and to analyze impacts on the human environment of continuing this modified program and the program alternatives under projected market conditions for the years 1990, 1995 and 2000.

Continuing the coal program in its modified form is the Proposed Action in the EIS. Other programmatic alternatives considered in this EIS include: (1) Leasing by application, (2) preference right and emergency leasing and (3) no new Federal leasing.

ADDRESS: Bureau of Land Management (640), 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Andrew Strasfogel, (202) 343-4793.

SUPPLEMENTARY INFORMATION: Copies of the EIS are available upon request from the BLM at the above address.

Approved: October 4, 1985.

Bruce Blanchard,

Environmental Project Review.

Robert F. Burford,

Director.

[FR Doc. 85-24262 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-84-M

Mill Creek Wilderness Study Area, UT; Environmental Statement

October 4, 1985.

AGENCY: Bureau of Land Management, Moab, Utah.

ACTION: Notice of 30 day comment period on a draft Environmental Assessment analyzing impacts of a proposed action in Mill Creek Wilderness Study Area (WSA).

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Land Policy and Management Act, section 603, and the Bureau's Interim Management Policy, notice is hereby given of a 30-day public comment period on a draft Environmental Assessment starting with publication of this notice on the following action:

WSA name: Mill Creek.

WSA No.: UT-060-139A.

Proposed action: To allow Ivy Minerals Inc. to excavate one trench site with the dimensions of 1 yard deep by 10 yards wide by 10 yards long. The excavated 100 cu. yards will be transported off site to private ground to be concentrated by conventional gravity methods. Excavation and transport will be accomplished using a small loader and a dump truck. Only existing access routes will be used. The environmental assessment will analyze the impacts of the proposed activity, which is a continuation of an existing plan of operations. The reclamation plan consists of refilling, recontouring, and reseeding the trench upon completion of excavating operation.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Grand Resource Area, P.O. Box M, Moab, Utah 84532. A copy of the draft Environmental Assessment is available upon request.

Gene Nodine,

District Manager.

[FR Doc. 85-24353 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-DQ-M

[A 19270]

Arizona; Exchange of Mineral Estate Between the State of Arizona and the United States

October 2, 1985.

Notification is hereby given that the Federal mineral estate underlying the following described State lands in Cochise County has been conveyed to the State of Arizona by exchange under Section 206 of the Federal Land Policy and Management Act:

Gila and Salt River Meridian, Arizona

T. 13 S., R. 26 E.,
Sec. 9, SW¼;
T. 13 S., R. 28 E.,
Sec. 2, Lots 1 thru 4 incl., S½N½, S½;
T. 13 S., R. 29 E.,
Sec. 36, W½;
containing 1,119.72 acres in Cochise County.

In exchange for the above described mineral estate, the State of Arizona conveyed the following State-owned minerals underlying the surface of the following described Federal lands in Cochise and Graham Counties:

Gila and Salt River Meridian, Arizona

T. 6 S., R. 21 E.,
Sec. 2, Lots 1 thru 4, S½N½, S½;
T. 14 S., R. 27 E.,
Sec. 2, Lots 1 thru 4, S½N½, SW¼;
T. 14 S., R. 28 E.,
Sec. 16, S½SE¼;
containing 1,121.52 acres.

The exchange was based on approximately equal values.

At 9 a.m. on November 14, 1985, the reconveyed mineral estate of the lands described above will be open to location and entry under the United States mining laws. Appropriation under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriations, including attempted adverse possession under 30 U.S.C. 38 shall vest as rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes betwen rival locators over possessory rights since Congress has provided for such determinations in local courts.

The lands will remain closed under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-24342 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-32-M

[A-20348-G]

Exchange of Public Lands, Maricopa, Mohave, La Paz, Yuma, and Pima Counties, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

REALTY ACTION: Exchange of Public Lands, Maricopa, Mohave, La Paz, Yuma, and Pima Counties, Arizona.

BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

The following public land is being considered for 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

Aguila/Wenden/Salome Area

T. 8 N., R. 7 W.,
Secs. 1, 3, 10, 11–15, 22–27, 34, 35;
T. 6 N., R. 11 W.,
Secs. 8, 10, 17;
T. 6 N., R. 12 W.,
Secs. 16, 21, 24, 27;
T. 6 N., R. 13 W.,
Secs. 27, 28, 32;
T. 5 N., R. 12 W.,
Sec. 4;
T. 5 N., R. 13 W.,
Sec. 5.

The area described above aggregates 15,031.90 acres.

Central Arizona Project (CAP)/I–10 Corridor

T. 4 N., R. 15 W.,
Secs. 25, 36;
T. 4 N., R. 14 W.,
Sec. 32;
T. 4 N., R. 11 W.,
Secs. 30, 32;
T. 3 N., R. 15 W.,
Sec. 2;
T. 3 N., R. 12 W.,
Secs. 16, 27, 32;
T. 3 N., R. 11 W.,
Sec. 2;
T. 2 N., R. 8 W.,
Secs. 7, 13–15, 17, 18, 23, 24, 34;
T. 2 N., R. 7 W.,
Secs. 1–3, 11, 12, 15, 18–21, 30–32;
T. 2 N., R. 6 W.,
Secs. 1, 2, 7, 10–16, 22, 24;
T. 2 N., R. 5 W.,
Secs. 18, 19, 24;
T. 2 N., R. 4 W.,
Sec. 19;
T. 1 N., R. 6 W.,
Secs. 17, 18, 20;
T. 1 S., R. 7 W.,
Secs. 1, 12;
T. 1 S., R. 6 W.,
Secs. 4, 5.

In addition to the previously described lands the following lands are being considered for exchange, but are currently under withdrawal applications AR–031307, A–997, and A–1267. The segregation described in this notice will apply to the following described lands upon the termination of the withdrawal applications.

T. 3 N., R. 12 W.,
Secs. 27, 32, 36;
T. 3 N., R. 14 W.,
Secs. 2, 3, 11;
T. 7 N., R. 15 W.,
Secs. 28, 29, 33;
T. 6 N., R. 15 W.,
Secs. 4, 5;
T. 4 N., R. 14 W.,
Secs. 6, 7, 17, 18, 27, 34.

The area described above aggregates 24,720.88 acres.

Rainbow Valley Area

T. 1 S., R. 3 W.,
Secs. 24, 25;
T. 2 S., R. 2 W.,
Secs. 5.

The area described above aggregates 777.29 acres.

Topock Area

T. 16 N., R. 20½ W.,
Secs. 14, 15.

The area described above aggregates 710.00 acres.

Bullhead City Area

T. 19 N., R. 21 W.,
Secs. 20;
T. 20 N., R. 21 W.,
Secs. 4, 22.

The area described above aggregates 2,640.00 acres.

The total acreage of all areas aggregates 43,880.38 acres more or less. A complete list of legal descriptions for the lands listed in this notice is available at the Phoenix District Office and will be sent upon request.

Final determination on exchange 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 public lands, as described in this Notice, from appropriation under the public land laws, including the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregtion 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.

Dated: October 3, 1985.

Marlyn V. Jones,

District Manager.

[FR Doc. 85–24344 Filed 10–9–85; 8:45 am]

BILLING CODE 4310–32–M

[A–21348]

Exchange of Public Lands, Maricopa County, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

REALTY ACTION: Exchange of Public Lands, Maricopa County, Arizona.

The following public land is being considered for 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. 1 N., R. 3 W.,
Secs. 3, 7;
T. 2 N., R. 3 W.,
Secs. 14, 33, 34;
T. 1 N., R. 4 W.,
Secs. 1, 11, 12, 14;
T. 2 N., R. 4 W.,
Secs. 2, 4–10, 14, 15, 18, 19, 21, 26;
T. 3 N., R. 4 W.,
Secs. 4–9, 14, 17–21, 28–33;
T. 5 N., R. 4 W.,
Secs. 3, 10, 15, 22, 27, 28, 33, 34;
T. 2 N., R. 5 W.,
Secs. 1–19, 21–24;
T. 3 N., R. 5 W.,
Secs. 12–14, 20–36.

In addition to previously described lands, the following lands are being considered for exchange, but are currently under withdrawal applications AR–031307, A–997, and A–1267. The segregation described in this Notice will apply to the following described lands upon the termination of the withdrawal applications.

T. 4 N., R. 4 W.,
Secs. 8, 13, 14, 17–23, 28–31;
T. 3 N., R. 5 W.,
Secs. 17–20.

A complete list of legal descriptions for the lands listed in this Notice is available at the Phoenix District Office and will be sent upon request.

Final determination on exchange 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 public lands, as described in this Notice, from appropriation under the public land laws, including the mining laws, but not the mineral 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.

Dated: October 3, 1985.

Marlyn V. Jones,

District Manager.

[FR Doc. 85-24343 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-32-M

Cedar City District; Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cedar City District Grazing Advisory Board will be held on Thursday, November 14, 1985. The meeting will begin at 9:00 a.m. in the Long Valley Senior Citizens Center located in Orderville, Utah.

The agenda is as follows: (1) District Ear Tagging Policy; (2) Trespass Control Agreement; (3) D.I. Allotment Boundary Decision; (4) Contribution to study insect damage control on browse plants and General Board Business; and (5) At approximately 11:00 a.m. we will depart on a field tour of selected Advisory Board Funded Range Projects.

Grazing Advisory Board meetings are open to the public. Interested persons may make oral statements or file written statements for the Board's consideration. Oral statements will be received at 9:30 a.m. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, phone 801-586-2401, by November 12, 1985. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meetings will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: October 2, 1985.

Morgan S. Jensen,

District Manager.

[FR Doc. 85-24352 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-DQ-M

Susanville District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94-579 (FLPMA), that a meeting of the Susanville District Grazing Advisory Board will be held on November 26, 1985.

The meeting will begin at 10:00 a.m., at the Surprise Resource Area Office of the Bureau of Land Management, 602 Cessler Street, Cedarville, California.

The agenda will include a discussion of FY 86 grazing management program, range development program, a discussion of the Experimental Stewardship Program Report, a report about status of District Grazing Boards, a discussion of the method of requesting use of the Grazing Advisory Board funds, a report on the Wild Horse & Burro Program, a discussion about grazing fees and other items as appropriate.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 p.m. and 4:30 p.m. on November 26, 1985 or file a written statement for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California 96130, by November 20, 1985. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the board meeting will be maintained in the District Office, and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Ben F. Collins,

Associate District Manager.

[FR Doc., 85-24350 Filed 10-9-85 8:45 am]

BILLING CODE 4310-40-M

Ukiah District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a meeting.

SUMMARY: Pursuant to Pub. L. 94-579 and 43 CFR Part 1780, a meeting of the Ukiah District Advisory Council will be held to discuss future acquisitions and management plans for BLM lands along the Sacramento River, Tehama County, California.

DATES: The meeting will start at 10:00 a.m. Tuesday, November 19, 1985 and adjourn at 12:00 noon on Wednesday, November 20, 1985.

ADDRESSES: The meeting will be held on the ground and at the BLM Redding Resource Area Office, 355 Hemsted Drive, Redding, California.

FOR FURTHER INFORMATION CONTACT: Barbara Gibbons, Ukiah District Office, Bureau of Land Management, P.O. Box 940, 555 Leslie Street, Ukiah, California, 95482-0940, (707) 462-3873.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Interested persons may make oral or written statements to the council or submit written comments for the council's consideration. Opportunity for public comments will be provided at 10:00 a.m., Wednesday, November 20. Summary minutes of the meeting will be maintained by the Ukiah District Office and will be available for inspection and reproduction within 30 days of the meeting.

Dated: October 1, 1985

Van W. Manning,

District Manager.

[FR Doc. 85-24351 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-22-M

Resource Management Planning Areas; Phoenix District; Arizona

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare a category I amendment to Lower Gila North, Black Canyon, Middle Gila, and Silver Bell Planning Documents, Lower Gila and Phoenix Resource Areas, Phoenix District, Arizona.

SUPPLEMENTARY INFORMATION: In accordance with CFR 1610.2(c) and 1610.3-1(d), notice is hereby given of intent to prepare a planning amendment document. This notice also constitutes the scoping notice required by regulation for the National Environmental Policy Act (40 CFR 1507.7).

(1) Description of the proposed planning action: The proposed action is to amend the Lower Gila North Management Framework Plan (MFP) completed in December 1982, the Black Canyon MFP completed on June 3, 1974, the Middle Gila MFP completed on June 2, 1976, and the Silver Bell MFP completed on June 4, 1976. The Category I planning amendment will be based upon existing statutory requirements and policies and will carry out the requirements of the Federal Land Policy and Management Act of 1976 (FLPMA). The MFP amendment and accompanying Environmental Assessment (EA) will provide the basis for modifying the Land Tenure Adjustment sections of the MFP's to provide for exchange opportunities.

(2) Identification of the geographic area involved: The planning areas

involved within the Lower Gila and Phoenix Resource Areas are located within portions of Gila, La Paz, Maricopa, Pima, Pinal, and Yavapai Counties.

(3) General types of issues anticipated: The proposed amendment addresses changes in the Land Tenure Adjustment/Exchange sections of the existing MFP's.

(4) Disciplines to be represented and used to prepare the amendment: Lands, wildlife, botany, archaeology, geology, economics, range, and wilderness.

(5) The kind and extent of public participation opportunities to be provided: Public participation will be carried out through participation in several comment periods to be announced in the **Federal Register**, local newspapers, and BLM news releases. There is a specific comment period for the governor to inform and seek comments from state and local agencies.

(6) Times, dates, and locations scheduled or anticipated for public meetings, hearings, conferences, or getherings, as known at this time: No scheduling for public meetings has been planned. All public input will be handled through written comments.

(7) The names, title, address and telephone number of the Bureau of Land Management officials who may be contacted for further information: William T. Childress and Arthur E. Tower, Area Managers, 2015 W. Deer Valley Rd., Phoenix, Arizona 58027, Phone: (602) 863–4464.

(8) The location and availability of documents relevant to the planning process: Documents will be available for public review at the Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, Arizona.

Dated: October 3, 1965.

Marlyn V. Jones,

District Manager.

[FR Doc. 85–23454 Filed 10–9–85; 8:45 am]

BILLING CODE 4310-32-M

[W-90843]

Wyoming; Realty Action Noncompetitive Sale of Public Land in Sweetwater County

AGENCY: Bureau of Land Management, Interior.

ACTION: Direct Sale of Public Land in Sweetwater County, Wyoming.

SUMMARY: The following public lands have been examined and found suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at not less than the appraised fair market value. The lands will not be offered for sale until 60 days after the date of this notice.

Sixth Principal Meridian

T. 18 N., R. 104 W.,
Sec. 8: SW¼;
Sec. 10: SE¼.

The above-described lands, containing 320 acres, are proposed to be offered for direct sale to Chevron Chemical Company to accommodate present development and proposed future expansion of their fertilizer plant complex and associated gypsum storage ponds and rail spur.

The sale is consistent with the Bureau's planning system. The lands are not needed for any Bureau resource program and are not suitable for management by the Bureau or another Federal department or agency. After consulting with Sweetwater County officials and members of the public, it has been determined that the public interest would be served by offering the lands for sale.

All minerals except oil and gas and coal in the SE¼ of Section 8 and all minerals except oil and gas in the SW¼ of Section 10 will be offered for conveyance. The mineral interests being offered have no known mineral value. A bid on the property will also constitute application for conveyance of those mineral interests offered under the authority of section 209(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719(b)). The bid must be accompanied by a fifty dollar ($50.00) non-returnable filing fee to process the mineral conveyance.

The BLM must receive fair market value for the land sold and a bid for less than fair market value will be rejected. The BLM may accept or reject the offer, or withdraw any land or interest in the land for sale if the sale would not be consistent with FLPMA or other applicable law. Requests for information about the sale should be sent to BLM, Salt Wells Resource Area, P.O. Box 1170, Rock Springs, Wyoming 82902–1170 (Phone 307–362–7350).

The patent issued as the result of the sale will be subject to all valid existing rights and reservations of record and will contain a reservation to the United States for ditches and canals.

DATES: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902–1869. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Donald H. Sweep,

District Manager.

[FR Doc. 85–24345 Filed 10–9–85; 8:45 am]

BILLING CODE 4310-22-M

Idaho; Filing of Plat of Survey

The plats of survey of the following described land were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, on the dates hereinafter stated:

Boise Meridan

T. 2 N., R. 18 E., accepted August 22, 1985, officially filed September 4, 1985;
T. 14 N., R. 19 E., accepted September 3, 1985, officially filed September 17, 1985;
T. 21 N., R. 22 E., accepted September 3, 1985, officially filed September 17, 1985;
T. 6 S., R. 14 E., accepted September 12, 1985, officially filed September 25, 1985;
T. 19 N., R. 21 E., accepted September 11, 1985, officially filed September 25, 1985;
T. 33 N., R. 3 E., accepted September 18, 1985, officially filed September 25, 1985;
T. 34 N., R. 2 E., accepted September 18, 1985, officially filed September 26, 1985;
T. 34 N., R. 3 E., accepted September 18, 1985, officially filed September 26, 1985.

Except for and subject to valid existing rights, title to the following land passed to the State of Idaho upon acceptance of the plat of survey.

T 48 N., R. 2 E., Boise Meridian, accepted July 12, 1985, officially filed August 29, 1985.

The above plats represents surveys, dependent resurveys, and subdivisions of sections.

Inquiries about these lands should be addressed to Chief, Branch of Cadastral Survey, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706.

Sharron Deroin,

Chief, Land Services Section.

[FR Doc. 85–24346 Filed 10–9–85; 8:45 am]

BILLING CODE 4310-GG

New Mexico; Filing of Plat of Survey

October 1, 1985.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on October 1, 1985.

The dependent resurvey of a portion of the north boundary and a portion of the subdivision of section 6, and the survey of Lot 18 of Township 15 North, Range 8 East, New Mexico Principal Meridian, New Mexico, under Group 827 NM, was approved September 10, 1985.

This survey was requested by the District Manager in Albuquerque, New Mexico.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-24348 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-FB-

New Mexico; Filing of Supplemental Plat

October 2, 1985.

The supplemental plat described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on October 2, 1985.

The supplemental plat showing modified lottings in Section 1 of Township 6 North, Range 5 East, of the New Mexico Principal Meridian, New Mexico, was approved September 23, 1985.

This plat was requested by the Regional Forester, Forest Service, Region 3, Albuquerque, New Mexico.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-24347 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-FB-M

New Mexico; Filing of Plat of Survey

October 2, 1985.

The plats of surveys described below were officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on October 2, 1985.

The dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines and the subdivision of Section 5, T. 31 N., R. 10 W., NMPM, NM, under Group 831 NM, was approved September 16, 1985.

The dependent resurvey of a portion of the Third Standard Parallel North, through Range 11 West, a portion of the west boundary, a portion of the subdivisional lines and the subdivision of Section 6, T. 12 N., Range 11 W., NMPM, NM, under Group 832, NM, was approved September 16, 1985.

These surveys were requested by the District Manager, Albuquerque, New Mexico.

These plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-24349 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-FB-M

California; El Centro Resource Area Off-Road Vehicle Designation Decisions

AGENCY: Bureau of Land Management, Interior.

ACTION: Off-road vehicle route designation decisions to open, close, or limit use of routes of travel on public lands in the El Centro Resource Area.

SUMMARY: Notice is hereby given that final off-road vehicle route designation decisions have been made for public lands in a portion of the Imperial Valley South Access Guide area, in accordance with the authority and requirements of Executive Orders 11644 and 11989 and 43 CFR 8340. Routes affected by this decision are in the following two locations: the Yuha Desert Management Area located between County Highway S80 (Evan Hewes Highway) and the Mexican border, bounded on the east by agricultural lands and on the west by the Jacumba Mountains; and the East Mesa area south of State Highway 78 between the East Highline Canal and U.S. Navy Target 68. This decision supersedes portions of a previous decision issued May 12, 1983.

The majority of routes in the affected areas have been approved for use. However, some routes have been closed to all use by motorized vehicles, while other routes have been limited to through travel only, with no camping or overnight parking permitted along them. Maps showing open, closed, and limited routes are available from the BLM sources listed at the end of this notice.

Both written and oral public comments were evaluated in reaching these decisions. An initial 45-day comment period extended from February 22, 1985 to April 8, 1985. A public workshop was held in the El Centro Resource Area office on March 20, 1985 to provide for public review of the proposed route of travel decisions. These initial proposals were then revised based on public input, and preliminary final decisions were issued on July 9, 1985 with a public comment period extending to August 9, 1985. The preliminary final decisions are now being implemented without further revision.

DATE: These designations are effective upon publication of this notice and will remain in effect until rescinded or modified by the authorized officer. Enforcement of these decisions will be implemented as routes are signed or as maps are printed and made available to the public.

FOR FURTHER INFORMATION CONTACT:

Steve Nelson, Outdoor Recreation Planner, Bureau of Land Management, El Centro Resource Area, 333 South Waterman Avenue, El Centro, California 92243, (619) 352-5842, Hours: 7:45 a.m. to 4:30 p.m., Monday thru Friday.

Dave Mensing, District Outdoor Recreation Planner, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, California 92507, (714) 351-6402, Hours: 7:45 a.m. to 4:30 p.m., Monday thru Friday.

SUPPLEMENTARY INFORMATION: These vehicle route designations are enforceable under the authority provided in the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.), EO 11644 (Use of Off-Road Vehicle on the Public Lands), and 3 CFR 74.332 as amended by EO 11989, 42 FR 26959 (May 25, 1977). Any person who violates or fails to comply with the vehicle route designations as governed by 43 CFR Part 8341 is subject to arrest, conviction, and punishment pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than $1,000.00 and/or imprisonment for not longer than twelve months.

Dated: October 11, 1985.

H.W. Riecken,

Acting District Manager.

[FR Doc. 85-24355 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Development Operations Coordination Document; Shell Offshore, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD.

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 1967, Block 153, 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 September 30, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 1, 1985.

John L. Rankin,

Regional Director Gulf of Mexico OCS Region.

[FR Doc. 85-24334 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Sonat Exploration Co.

AGENCY: Mineral Management Service, Interior.

ACTION: Notice of the Recipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Sonat Exploration Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4203, Block 25, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 26, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 27, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-24335 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf, Eastern Gulf of Mexico, Oil and Gas Lease Sale 94 (December 1985); Clarification

On Monday, August 12, 1985, at 50 FR 32528 the proposed Notice of Sale for the Eastern Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 94 was published in the **Federal Register** as a matter of information to the public.

Maps 1 and 2, referenced in paragraph 12 of the proposed Notice, contain a drafting error inadvertently omitting 15 blocks which are, in fact, a part of the sale.

The blocks involved are: Official Protraction Diagram NH 17-7, Gainesville Blocks 574, 575, 576, 577, 619, 620, 621, 663, 664, 665, 708, 709, 752, 753, and 797. These blocks are available for leasing and are presently proposed to be offered for leasing at Sale 94.

Pursuant to section 19 of the Amendments to the Outer Continental Shelf Lands Act, Florida Governor Graham has been informed of this clarification.

Dated: October 4, 1985.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 85-24333 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Reclamation

Upper Gila Water Supply Study, Central Arizona Project, Arizona New Mexico; Public Meetings and Opportunity To Comment

On September 19, 1985, the Bureau of Reclamation issued a notice of intent to prepare an environmental impact statement (EIS) on the Upper Gila Water Supply Project, and indicated that public meetings would be scheduled in the near future to obtain suggestions and information from other agencies and the public on the scope of issues to be studied and addressed in the EIS. These meetings will be held on October 16, 1985, from 7 p.m. to 9 p.m. at Western New Mexico University, College Avenue, Silver City, New Mexico, in Light Hall; and on October 17, 1985, from 7 p.m. to 9 p.m. at Eastern Arizona College, 626 Church Street, Thatcher, Arizona, in the South Campus No. 2 Lecture Room. To accommodate those unable to attend the evening meetings, Bureau of Reclamation staff members will be available to answer questions earlier in the afternoon at each meeting location: 3 p.m. to 5 p.m. in Silver City, New Mexico, and 4 p.m. to 5:30 p.m. in Thatcher, Arizona.

A public information document, identifying the alternatives and significant environmental issues to be addressed in the EIS, will be mailed to everyone on the study mailing list and will be available at the public meetings.

Interested individuals who are not on the mailing list, but would like a copy or who want additional information on the public meetings should contact June Gibbons, Arizona Project Office, Bureau of Reclamation, P.O. Box 9980, Phoenix, Arizona 85024, Telephone (602) 870-2221).

Dated: October 3, 1985.

Richard Atwater,

Acting Commissioner.

[FR Doc. 85-24235 Filed 10-9-85; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-248 (Final)]

Certain Ethyl Alcohol From Brazil

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-248 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of certain ethyl alcohol,[1] provided for in items 427.88,[2] 430.10, 430.20, and 432.10 of the Tariff Schedules of the United States (TSUS), which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before December 2, 1985, and the Commission will make its final injury determination by January 21, 1986 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: September 24, 1985.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202-523-4612), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain ethyl alcohol from Brazil are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on February 25, 1985, by counsel on behalf of the Ad Hoc Committee of Domestic Fuel Ethanol Producers. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was threatened with material injury by reason of imports of the subject merchandise (50 FR 15236, April 17, 1985).

Participation in the Investigation

Persons wishing to partcipate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days afer the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report

A public version of the prehearing staff report in this investigation will be placed in the public record on November 26, 1985, pursuant to section 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on December 11, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m) on November 21, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:30 a.m. on November 26, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is December 6, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2)).

Written submission

All legal arguments economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on December 18, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before December 18, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential

[1] The ethyl alcohol (ethanol) included in this investigation is fuel grade ethyl alcohol (fuel ethanol).

[2] Fuel ethyl alcohol imported under TSUS item 427.88 is subject to additional duties under TSUS item 901.50.

submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority

This investigation is being conducted uder authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: October 7, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-24233 Filed 10-9-85; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-83 (Sub-No. 8)

Maine Central Railroad Co.; Abandonment in Cumberland, Sagadahoc, Lincoln and Knox Counties, ME; Findings

The Commission has issued a certificate authorizing the Maine Central Railroad Company to abandon its 52.12-mile rail line between Brunswich (milepost 33.79) and Rockland (milespost 33.79) in Cumberland, Sagadahoc, Lincoln and Knox Counties, ME. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any Financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 85-24242 Filed 10-9-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Modification of Final Judgment; Yoder Brothers, Inc.

Notice is hereby given that Yoder Brothers, Inc. ("Yoder"), has filed with the United States District Court for the Northern District of Ohio a motion to modify the final judgment in *United States* v. *Yoder Brothers, Inc.*, Civil No. C-70-931; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to modification of the Judgment, but has reserved the right to withdraw its consent for at least seventy days after the publication of this notice. The complaint in this case (filed on April 20, 1979) alleged that Yoder, the nation's dominant breeder of chrysanthemums and a leading propagator and distributor of chrysanthemum cuttings, had engaged in a private patent system covering new chrysanthemum varieties; had agreed with a competitor to limit customer solicitation; and had engaged in resale price maintenance in its distribution arrangements.

The judgment (entered March 15, 1972) enjoins Yoder from: (1) Entering into or maintaining any agreements with another breeder or propagator-distributor of chrysanthemum cuttings to: fix royalties or other terms or conditions of sale of cuttings; refuse to solicit customers or to allocate sales territories; boycott actual or potential competitiors; or hinder third parties from engaging in the business of breeding of propagating cuttings; (2) unilaterally placing customer or territorial restrictions upon purchasers of cutting, from refusing to deal with any indirect purchasers or from requiring indirect purchasers to report mutations; (3) requiring any purchasers of unpatented cuttings to pay a royalty or other charge for additional unpatent cuttings propagaged by the purchaser from unpatented cuttings; and (4) suggesting or requiring any distributor to adopt prices, discounts or other terms or conditions for the sale of cutting established by Yoder; terminating or threatening to terminate any distributor for its actual or alleged failure to adhere to suggested resale prices; refusing to sell to any distrubutor because he had not adhered to suggested resale prices; or printing or distributing price lists or sending invoices or bills directly to its distributors' customers.

The Department has filed with the court a memorandum setting forth the reasons the Department believes that modifiction of the judgment would seve the public interest. Copies of the Complaint and final judgment, Yoder's motion papers, the stipulation containing the government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7233, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone 202-633-2481), and at the Office of the Clerk of the United States District Court for the Northern District of Ohio, United States Courthouse, 201 Superior Avenue, Cleveland, Ohio 44114. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within sixty days, and will be filed with the court. Comments should be addressed to Alan L. Marx, Chief, General Litigation Section, Antitrust Division, Department of Justice, Washington, DC 20530 (telephone 202-724-6327).

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 85-24231 Filed 10-9-85; 8:45 am]

BILLING CODE 4410-01-M

Pursuant to the National Cooperative Research Act of 1984—NAHB Research Foundation; National Cooperative Research Act of 1984; Smart House Project

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), the NAHB Research Foundation, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Smart House Project and (2) the nature and objectives of the Smart House Project. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to single damages under specified circumstances. The second notification did not change the nature of the project; it only added certain new parties. Pursuant to section 6(b) of the Act, the identities of the parties to the Smart House Project, and its general areas of planned activitiy, are given below.

The Smart House Project is a joint venture project that will be implemented in a series of stages by separate agreements at each stage. The following parties have signed agreements to fund or otherwise participate in the first stage of the venture, which involves, among other things, organizational activities:

AMP Incorporated
Apple Computer, Inc.
Bell Communications Research, Inc.
Bell Northern Research Ltd.
Brand-Rex Company
Broan Mfg. Co., Inc.
Burndy Corporation
Carrier Corporation
Dukane Corporation
E.I. duPont de Nemours & Company (Inc.)
Electric Power Research Institute
Emerson Electric Co.
Gas Research Institute
General Electric Company
Honeywell Inc.
Landis & Gyr Metering, Inc.
Lennox Industries Inc.
NAHB Research Foundation, Inc.
North American Philips Consumer Electronics Corp.
Robertshaw Controls Company
Schlage Lock Company
Scott Instruments Corporation
Scovill Inc.
Siemens-Allis, Inc.
SLATER ELECTRIC, INC.
Sola Basic Industries, Inc.
Square D Company
Systems Control, Inc.
Whirlpool Corporation
The Wiremold Company

The Smart House Project will engage in activities the purpose of which will be to develop a coordinated home control and energy distribution system containing integral telecommunications and advanced safety features. The project is intended to design and develop a set of compatible products, including integrated power and signal cabling to tie home electrical products into a single power and communications network; communications-capable appliances, heating and cooling equipment, utility meters and home electrical and electronic products; electric power conditioning and conversion equipment; controllers and software to make logical decisions, issue control instructions, and regulate the distribution of energy, information and instructions throughout the network; monitoring and control devices to detect and neutralize malfunctions in energy distribution within the home; telephone and CATV interfaces to allow information to be passed to and from the homes over telephone and CATV lines; and input and output devices with which users can control and receive information from the network and the devices attached to it.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 85-24232 Filed 10-9-85; 8:45 am]

BILLING CODE 4410-01-M

Office of the Secretary

Lodging of a Consent Decree Pursuant to Section 301 of the Clean Water Act, 33 U.S.C. 1311; United States V. Shintech Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 17, 1985, a proposed Consent Decree in *United States* v. *Shintech Inc.*, Civil Action No. H-84-4931, was lodged with the United States District Court for the Southern District of Texas, Galveston Division. The proposed Consent Decree provides that Shintech Inc. attain and maintain substantial compliance with their National Pollutant Discharge Elimination System permit, and pay a civil penalty in the amount of $132,000 for past violations of the Clean Water Act.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Shintech Inc.*, D.J. Ref. 90-5-2-1-772.

The proposed Consent Decree may be examined at the office of the United States Attorney, Courthouse and Federal Building, 515 Rusk Avenue, Houston, Texas, and at the Region VI office of the Environmental Protection Agency, Interfirst Building 2, Room 2735, 1201 Elm Street, Dallas, Texas. Copies of the proposed Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resoures Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Departement of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-24312 Filed 10-9-85; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Judgment in United States v. Three Star Muffler et al.; Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on June 11, 1985 a proposed consent judgment in *United States* v. *Dependable Transmission Center, Inc., d/b/a/ Three Star Muffler, and Raymond Zedlitz*, Civil Action No. 84-2317-MA was lodged with the United States District Court for the Western District of Tennessee, Western Division. The complaint filed by the United States alleged that Three Star Muffler had violated the Clean Air Act by removing catalytic converters from motor vehicles and by installing exhaust piping on motor vehicles where catalytic converters were required. The complaint sought civil penalties and injunctive relief to restrain defendants from committing further violations. The consent judgment provides that defendants will pay a civil penalty for past violations, will be enjoined from further violations and will perform specified remedial actions and public services.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC. 20530, and should refer to *United States* v. *Dependable Transmission Center, Inc., d/b/a Three Star Muffler, and Raymond Zedlitz*, D.J. Ref. 90-5-2-1-558.

The proposed consent judgment may be examined at the office of the United States Attorney, 1026 Federal Office Building, Memphis, Tennessee 38103. Copies of the consent judgment may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1521, Ninth Street and Pennsylvania Avenue NW., Washington, DC. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.60 payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-24311 Filed 10-9-85; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 84-14]

Class Exemption for Plan Asset Transaction Determined by Independent Qualified Professional Asset Managers; Technical Correction

AGENCY: Department of Labor.

ACTION: Notice of Technical Correction.

SUMMARY: This document contains a notice of a technical correction of Prohibited Transaction Exemption 84-14 (49 FR 9494, March 13, 1984). That exemption permits various parties which are related to employee benefit plans to engage in transactions involving plan assets if, among other conditions, the assets are managed by "qualified professional asset managers" ("QPAMs") which are independent of the parties in interest and which meet specified financial standards. The technical amendment clarifies the scope of the definition of the term "affiliate" for purposes of section I(a) and Part II of the exemption.

EFFECTIVE DATE: December 21, 1982.

FOR FURTHER INFORMATION CONTACT: Mark A. Greenstein, Office of Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor, (202) 523-8971. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On March 13, 1984, the Department of Labor ("the Department") published in the Federal Register (49 FR 9494) a class exemption which, in general, permits various parties in interest with respect to an employee benefit plan to engage in transactions involving plan assets if the transaction is authorized by a QPAM and if certain other conditions are met. Part I of PTE 84-14 specifically provides relief for various parties in interest from the restrictions of section 406(a)(1) (A) through (D) of the Employee Retirement Income Security Act of 1974 (ERISA) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code. Section I(a) specifies that the exemption is not available with respect to the transaction if the party in interest involved in the transaction, or any "affiliate" of the party in interest, has (or during the immediately preceding year has exercised) the authority: (1) To appoint or terminate the QPAM as manager of any of the plan's assets, or (2) to negotiate the terms of the management agreement with the QPAM.

In defining the term "affiliate", section V(c)(3) of the exemption states that "[a] named fiduciary (within the meaning of section 402(a)(2) of ERISA) of a plan and an employer any of whose employees are covered by the plan are affiliates with respect to each other for purposes of section I(a)." This portion of the "affiliate" definition, in conjunction with the previously-described condition stated in section I(a) of the exemption, could be interpreted to mean that the relief provided by Part I of PTE 84-14 would not be available with respect to transactions involving any contributing employer of a multiemployer plan, even if the employer had no role in the selection of the named fiduciary and even if the conditions of Part I of the exemption otherwise are met. This was not the intent of the Department. In this respect, Example (5), set forth in the preamble to PTE 84-14 (49 FR 9496), states that Part I of the exemption is available to a contributing employer of a muliemployer plan if neither that employer nor any of its affiliates has the authority with respect to the plan of the kind described in section I(a) of the exemption.

In order to eliminate any uncertainty regarding the availability of the exemption for transactions similar to the one described in Example (5) (if the other applicable conditions are met), the Department is adopting a technical correction to the exemption. As corrected, section V(c)(3) of the exemption specifically states that a named fiduciary of a plan and an employer any of whose employees are covered by the plan will automatically be considered affiliates with respect to each other only if such employer, or an affiliate of such employer, has the authority, alone or shared with others, to appoint or terminate the named fiduciary or otherwise negotiate the terms of its employment agreement. For example, an employer or an affiliate would ordinarily have the authority to appoint or terminate the named fiduciary if such employer or its affiliate is a member of the board of trustees of a multiemployer plan which collectively appoints a named fiduciary. Also, since, section V(c)(3), as corrected, provides that affiliation between an employer and a named fiduciary is based on the employer's authority to appoint or terminate the named fiduciary (as opposed to the employer's exercise of that authority), an employer who has authority to appoint or terminate a named fiduciary, but who abstains from such a decision, would nonetheless be considered an affiliate of that named fiduciary for purposes of section I(a) and Part II of the exemption.

Technical Correction

Section V(c)(3) of Prohibited Transaction Exemption 84-14 (49 FR 9494) is hereby corrected to read as follows:

Part V—Definitions and General Rules

For the purposes of this exemption:

* * * * *

(c) For purposes of section I(a) and Part II, and "affiliate" of a person means—

* * * * *

(3) Any director of the person or any employee of the person who is a highly compensated employee, as defined in section 4975(e)(2)(H) of the Code, or who has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets. A named fiduciary (within the meaning of section 402(a)(2) of ERISA) of a plan and an employer any of whose employees are covered by the plan will also be considered affiliates with respect to each other for purposes of section I(a) if such employer or an affiliate of such employer has the authority, alone or shared with others, to appoint or terminate the named fiduciary or otherwise negotiate the terms of the named fiduciary's employment agreement.

* * * * *

Signed at Washington, D.C. this 7th day of October, 1985.

Alan Lebowitz,

Deputy Administrator for Program Operations, Office of Pension and Welfare Benefit Programs.

[FR Doc. 85-24337 Filed 10-9-85; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 85-67]

Intent To Grant an Exclusive Patent License; Power Controls International Pty., Ltd.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive Patent License.

SUMMARY: NASA hereby gives notice of intent to grant to Power Controls International Pty., Limited of Sydney, Australia, a limited exclusive, royalty-bearing license in Canada, Ireland, Japan, South Korea, Mexico, Singapore, Taiwan, Austria, Belgium, West

Germany, France, Great Britain, Italy, Luxembourg, Sweden, Switzerland, Demark, Norway and South Africa; for the foreign counterparts of U.S. Patent No. 4,052,648 entitled, "Power Factor Control System for AC Induction Motor"; U.S. Patent No. 4,433,276 entitled, "Three Phase Power Factor Controller"; U.S. Patent No. 4,404,511 entitled, "Motor Power Factor Controller With a Reduced Voltage Starter"; U.S. Patent No. 4,426,614 entitled, "Pulsed Thyristor Trigger Control Circuit"; U.S. Patent Application No. 450,319 entitled, "Three Phase Power Factor Controller With Induced EMF Sensing"; and U.S. Patent No. 4,459,528 entitled, "Phase Detector for Three Phase Power Factor Controller." The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentation. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this Notice must be received by December 9, 1985.

ADDRESS: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 453-2430.

Dated: October 3, 1985.

John E. O'Brien,

General Counsel.

[FR Doc. 85-24266 Filed 10-9-85; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-456 50-457; ASLBP No. 79-410-03-OL]

Commonwealth Edison Co.; Notice of Hearing

October 4, 1985.

Before Administrative Judges Herbert Grossman, Chairman, Dr. A. Dixon Callihan, Dr. Richard F. Cole.

In the matter of Commonwealth Edison Company (Braidwood Nuclear Power Station, Units 1 and 2).

Please take notice that at 9:30 a.m. on October 29, 1985 at the Will County Courthouse, at 14 West Jefferson Street, Joliet, Illinois 60431, the evidentiary hearing will commence on Rorem Contention 1(a), involving the dissemination of information to the public on evacuation or other protective measures in the event of a radiological emergency at the Braidwood Station. No other issues will be heard at this hearing.

The public is invited to attend. Limited appearance statements by members of the public not involved in the litigation will be heard at the Board's discretion, if time permits.

October 4, 1985, Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman, Administrative Judge.

[FR Doc. 85-24300 Filed 10-9-85; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Statement of Claimed Railroad Service.

(2) Form(s) submitted: UI-9, UI-23.

(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(4) Frequency of use: On occasion.

(5) Respondents: Individuals or households.

(6) Annual responses: 2,350.

(7) Annual reporting hours: 296.

(8) Collection description: When the railroad service and/or compensation on the Board's records is insufficient to qualify a claimant for unemployment or sickness benefits, the statements obtain the information needed to reconcile the compensation and/or service on record with that claimed by the employee.

Additional Information or comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202-395-6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 85-24303 Filed 10-9-85; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22508; File No. SR-PSE-85-28]

Self-Regulatory Organizations; Proposed Rule Change by the Pacific Stock Exchange Incorporated; Relating to the Listing and Trading of European Currency Unit Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 27, 1985, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested person.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") proposes to file for the listing and trading of options based on the European Currency Unit. The text of the complete rule change follows.

RULE XXII

European Currency Unit Options

Introduction

In general, the Rules of the PSE's Board of Governors applicable to the trading of options (Rules VI, XI, and XXI, shall be applicable to the trading of European Currency Unit ("ECU") Options. Rule XXII supplements or replaces those rules when required by the nature of the ECU Options. In cases where Rule XXII is silent on an issue, the applicable Section of the rules relating to stock and/or Index Options shall be read so as to apply to ECU Options.

Definitions

Sec. 1. (a) ECU. The ECU is a composite currency consisting of specified amounts of currencies of each

of the ten Member States of the European Economic Community ("EEC"). The value of each ECU is arrived at by applying the EEC definition included as Appendix A. to the most recent prices of the specified currencies.

(b) Put. The term "put" means an option contract under which the holder of the option has the right, in accordance with the terms of the option, to sell to the Options Clearing Corporation ("OCC") the U.S. Dollar equivalent of the number of ECU's covered by the option contract.

(c) Call. The term "call" means an option contract under which the holder of the option has the right, in accordance with the terms of the option, to purchase from the OCC the U.S. Dollar equivalent of the number of ECUs covered by the option contract.

(d) Exercise Price. The term "exercise price" in respect of any option contract means the stated price in dollar terms at which an ECU may be purchased or sold upon the exercise of the option.

(e) ECU Value. The "ECU value" shall be the EEC definition of ECU applied to the most recent International Bank Market quotes for the individual EEC currencies.

(f) Closing ECU Value. The term "closing ECU value" shall be the last ECU value reported by the Reporting Authority on a business day.

(g) Reporting Authority. The term "Reporting Authority" in respect to ECU shall mean the institution or reporting service designated by the Exchange as the official source for calculating and disseminating the ECU value.

(h) Expiration date. The term "expiration date" in respect to an ECU Option contract means the second business day immediately preceeding the third Wednesday of each month.

Designation of the Contract

Sec. 2. (a) The ECU is defined by the EEC.

(b) In the event the EEC elects to change the definition of the ECU, the Exchange may act to replace the old ECU definition reflecting such change.

(c) The Exchange has determined that the contract value shall be the equivalent value of 125,000 ECUs in U.S. Dollar terms, or, 125,000 times the ECU value as defined in Section 1 of this Rule.

Dissemination of Information

Sec. 3. (a) The Exchange shall assure that the ECU value is disseminated to the public after the close of business and from time to time on days on which ECU Options are traded on the Exchange.

Hours of Trading

Sec. 4. Options on the ECU shall trade from 5:30 a.m. until 11:30 a.m. Pacific Time.

Position Limits

Sec. 5. In determining compliance with Rule VI, Section 5, ECU Option contracts shall be subject to position limits as follows:

5,000 contracts

Exercise Limits

Sec. 6. In determining compliance with Rule VI, Section 6, ECU Option contracts shall be subject to the same exercise limits as the established position limits.

Terms of Option Contracts

Sec. 7. (a) The Exchange shall determine fixed point intervals of exercise prices for call and put options.

(b) The Exchange shall determine the expiration dates as provided in Rules VI, Section 4, except that the Exchange may establish expiration dates in no more than four consecutive months.

(i) Series of options having seven different expiration months; will normally be opened. Approximate date (in months) from initial listing shall be 1, 2, 3, 4, 6, 9, and 12. Additional months shall be opened as existing series expire in order to maintain the initially established cycles.

Bids and Offers

Sec. 8. (a) Bids and offers shall be expressed in terms of dollars per ECU. However, the first two decimals places shall be omitted from all bid and offer quotations for the ECU (e.g., a bid of .25 for an ECU option contract shall represent a bid to pay $.0025 for an ECU option contract—i.e., a premium of $312.50—for the option contract representing 125,000 ECUs.)

Fractional Changes for Bids and Offers

Sec. 9. Unless determined otherwise by the Options Floor Trading Committee, in the case of ECU option contracts, the minimum fractional change shall be $.0001.

Obligations of Market Makers

Sec. 10. (a) Section 79 of Rule VI, is applicable to the trading of ECU Option contracts with the following exceptions:

(1) Bidding and/or offering so as to create differences of no more than $.0004 between the bid and the offer for each option contract for which the bid is $.0040 or less, no more than $.0005 where the bid is more than $.0040 but does not exceed $0160, and no more than $.0006 where the bid is no more than $.0160, provided that the Options Floor Trading Committee may establish differences other than the above for one or more series of options. Additionally, the above bid-offer differential is not applicable to the longest term ECU series open for trading in each class. For such series, the bid-offer differential shall be twice those stated above.

(2) Section 79(b)(2), will not be applicable to the trading of ECU Options contracts. However, the Options Floor Trading Committee may establish guidelines for bidding below and/or offering above preceeding transactions, as it deems appropriate.

Trading Halts or Suspensions

Sec. 11. Trading on the Exchange in ECU Options shall be halted whenever the prices in EEC currencies whose weighted average exceeds 25% of the underlying ECU values become unavailable. Trading in an ECU Option shall also be halted whenever the Exchange deems such action appropriate in the interests of a fair and orderly market or to protect investors.

Trading in ECU Options of a class or series that has been the subject of a halt or suspension by the Exchange may resume if the Exchange determines that the conditions which led to the halt or suspension are no longer present, or that the interests of fair and orderly markets are best served by a resumption of trading.

Trading Rotations

Sec. 12. The provisions of Rule VI, Section 36, regarding trading rotations shall apply to ECU Options, except as otherwise provided in Rule XXII. The opening rotation for ECU options shall be held as soon as practicable after 5:30 a.m., Pacific Time, and when prices for currencies composing a weighted value of 50% of the ECU are available through the vendor. The Order Book Official shall open first those series which have the nearest expiration. Thereafter the Order Book Official shall open the remaining series in a manner he deems appropriate under the circumstances. One and one half hour after the opening rotation, trading shall be subject to Section 11, of this Rule, unless the Exchange determines it is in the public interest to suspend trading at an earlier time.

Margin

Sec. 13. Rule XI, Section 2(d)(D)(i)(7), shall apply.

Settlement

Sec. 14. Rule XXI, Section 17, shall apply.

Exercise of Option Contracts

Sec. 15. The ECU contract shall be a European option and therefore will be exercisable only on the last day of trading.

Limitation of Liability

Sec. 16. The Exchange shall have no liability for damages, claims, losses or other expenses caused by any errors, omissions or delays in the calculating or disseminating of the ECU value.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The proposed rule change is designed to permit trading on the PSE of an option on the European Currency Unit ("ECU"). The purpose of the PSE ECU Option is to provide a contract which will allow investors to hedge the risk of fluctuations in currency exchange rates. Currently, contracts only exist to hedge the risk of specific currency exchange rates/changes relative to the U.S. Dollar. There does not exist any option product that will afford the investor an opportunity to hedge risk against the composite currency and the official unit of the European Economic Community ("EEC") Monetary System.

The limitation in currently available products is that although they are useful if a hedger's risk is limited to one currency, they are less useful if the hedger's exposure is related to a more generalized currency risk. Moreover, because of the increased utilization of the ECU in the interbank foreign exchange market and in international trade and financing, the need for this additional hedging device is present. The Pacific Stock Exchange Incorporated believes that the PSE ECU Option contract will allow investors to establish hedge positions relative to their current and future foreign currency exposure.

The purpose of the proposed ECU Options rules as they apply to the PSE ECU Options are set forth below:

Sec. 1. This section sets forth the definitions which are essential to the establishment, pricing, trading and settlement of ECU Options.

The "ECU value" shall be the actual numeric result of applying the specified EEC definition to the EEC foreign currency prices. The ECU value shall provide the basis for determining the dollar amounts a purchaser or seller of the ECU Option will receive or deliver upon exercise.

The expiration date is the same as existing currency options.

Sec. 2. The European Economic Community ("EEC") has specified the currencies and weights that comprise an ECU. Accordingly, the PSE's option contract shall be equivalent to the ECU as determined by the EEC. In the event the EEC alters the composition or weights the PSE may elect to replace the old contract with the new currency.

The "ECU value" as defined in Section 2(c) of Rule XXII, shall be the U.S. Dollar value of 125,000 ECUs, with the value of each ECU arrived at by applying the EEC definition to foreign currency prices supplied to the vendor. These prices are quotes from a variety of large international banking and currency trading sources.

Sec. 3. This section provides that the ECU value will be widely disseminated during those times in which the options on the ECU are traded. This section also provides that the closing ECU value will be disseminated through a major daily business periodical.

Sec. 4. The PSE believes that the options on the ECU should be available for trading during the hours when futures on foreign currencies and options on foreign currencies are available for trading in the United States.

Sec. 5. The PSE ECU contract represents a new kind of trading instrument in the foreign currency area. It is in consideration of these new features that the PSE requests a lower position limit initially. It is the PSE's belief that after an initial period, during which investors familiarize themselves with the contract, the position limits should be raised to the 10,000 contract level.

Sec. 6. The PSE believes exercise limits should be identical with position limits. The alternative could cause unforseen distortions in prices and/or markets.

Sec. 7. The PSE believes that the current exercise price intervals for its Technology Index options are applicable and appropriate to its ECU Options. The expiration dates are designed to match existing Foreign Currency Options.

Sec. 8. Bids or offers for ECU Options will be expressed in the same terms as bids and offers for other foreign currency options. The PSE believes that the communication and/or dissemination of bids and offers would be facilitated by the dropping of two decimal places.

Sec. 9. The PSE believes that a minimum fractional change of $.0001 is consistent with the trading of existing foreign currencies.

Sec. 10. The PSE wishes to affirm the obligations of market makers but make relevant bid-offer differentials.

Sec. 11. Trading on the Exchange in the ECU Option will be halted when quotations in 25% of the weighted ECU value of the currencies comprising the ECU become unavailable. The PSE believes that this policy will provide adequate protection for investors. The PSE shall also halt trading in the ECU Options whenever it is necesssary for the maintenance of a fair and orderly market or to protect investors.

Trading in the ECU Options shall be resumed if the conditions which led to the halt or suspension are no longer present or the interests of a fair and orderly market are best served by a resumption of trading.

Sec. 12. The PSE believes that trading rotations for the ECU should be conducted in a similar manner to that which is used for other stock and index options.

Sec. 13. The PSE believes the margin standards currently applied to Foreign Currency options should be applied to ECU Options.

Sec. 14. The PSE believes that the cash settlements procedure and rationale is specifically applicable to ECU Options.

Sec. 15. The PSE, in questioning individuals within the industry, believes that a European style option will better serve the requirements of hedgers.

Sec. 16. The PSE does not believe that, while exercising reasonable diligence, it should be liable for such errors, omissions or delays.

The proposed rule change is consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 which provides that the Rules of the Exchange be designed to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received. However, the proposed rule change was considered and approved by the New Products Committee.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 5 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 31, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 4, 1985.

John Wheeler,

Secretary.

Appendix A

As of March 1, 1985, the ECU was defined (pursuant to Council Regulation (EEC) No. 9227/84) as the sum of the following amounts of these currencies:

Country	Amount of each currency
West German Mark	.719
French Franc	1.310
United Kingdom Pound	.0878
Irish Pundt	.00871
Italian Lira	140.
Belgian Franc	3.71
Dutch Guilder	.256
Luxembourg Franc	.140
Greek Drachma	1.150
Danish Krone	.219

[FR Doc. 85-24253 Filed 10-9-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting and Recordkeeping Requirement Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish notice in the **Federal Register** that the agency has made such a submission.

DATE: Comments must be received on or before October 25, 1985. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible.

Copies: Copies of forms, request for clearance (S.F. 83s), supporting statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Richard Vizachero, Small Business Administration, 1441 L St., NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538

OMB Reviewer: David Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7231

Information Collections Submitted for Review

Title: Contractors' Subcontracting Program/Plan Compliance Review Report
Form No.: SBA 745, 745A
Frequency: On occasion
Description of Repondents: The forms are used to collect data for evaluating and determining large business concerns' compliance with subcontracting requirements contained in Federal contracts, pursuant to section 8(d) of the Small Business Act as amended by Pub. L. 95-507.
Annual Responses: 7,200
Annual Burden Hours: 32,400
Type of Request: Reinstatement

Title: Management Training Report
Form No.: SBA 888
Frequency: At the time of the training
Description of Respondents: This form is completed by the course instructor to collect information on the types of clients attending SBA Cosponsored training programs and information on the nature, content and the durations of program.
Annual Responses: 12,000
Annual Burden Hours: 1,000
Type of Request: Extension

Title: International Trade Inquiry
Form No.: SBA 1482
Frequency: On occasion
Description of Respondents: Information is collected from small businesses which have obtained financial assistance. It will be used by SBM management assistance counselors for the purpose of referring other small businesses requiring such financial assistance to SBIC's able to provide it.
Annual Responses: 600
Annual Burden Hours: 300
Type of Request: New

Dated: October 4, 1985.

Cheryl Ann Robinson,

Acting Chief, Information Resources Development Section.

[FR Doc. 85-24275 Filed 10-9-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/895]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group on Radio Communications; Meeting

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct an open meeting on October 31, 1985, at 9:30 AM in Room

8236 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of the meeting is to give a debriefing of the 30th Session of the Subcommittee on Radiocommunications of the International Maritime Organization held in London, October 14–18. In particular the Working Group will discuss the following topics:

—Maritime Distress System

—Digital Selective Calling

—Satellite Emergency Position Indicating Radio Beacons (EPIRBs)

—Preparations for the International Telecommunication Union (ITU) World Administrative Radio Conference (WARC) for Mobile Telecommunications

—Preparations for International Radio Consultative Committee (CCIR) Study Group 8

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Richard Swanson, U.S. Coast Guard Headquarters (G–TPP–3/63), 2100 Second Street SW., Washington, D.C. 20593. Telephone: (202) 426–1231.

Dated: October 4, 1985.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 85–24243 Filed 10–9–85; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 945]

Schedule of Cost Comparison Studies

In accordance with OMB Circular A–76 (Revised), Performance of Commercial Activities, Supplement, Part I, Chapter 1, Secton C.,l.,b., this notice announces a revised schedule of cost comparison studies for the Department of State. The studies will be scheduled for fiscal years 1986 through 1987.

For further information, contact A–76 Coordinator, Office of Management Operations, Room 7427, Department of State, Washington, DC 20520, Tel. (202) 632–0470.

Donald K. Petterson,

Acting Director, Office of Management Operations.

October 1, 1985.

DEPARTMENT OF STATE PRODUCTIVITY REVIEW LIST

Series	Orginal code	Name of activity	Description of activity	FTE's	Review start	Review length
303 305	273211 273212	Pouch Service (OC/P)	Preparation and dispatch of unclassified diplomatic pouches (Washington, D.C.and Newington, VA).	32	6/85	4–6 months.
303 334 336	281234	Automated Records Branch (CA/PPT)	Process passport applications including microfilming and indexing (Washington, D.C.).	50	7/85	6 months.
5703	273211 273300 20920	Operation of Motor Vehicles	Vehicle Operations for the Office of Communications and the central motor pool (Washington, D.C.).	22	10/85	4 months.
305	Various	Mail & File Services	Mail distribution and file maintenance at locations throughout Washington, D.C. and Rosslyn, Va.	181	4/86	6–8 months.
334	Various	Systems Analysis	Systems managers and analysis who assist and advise domestic offices and overseas posts on effective use of computers. (Washington, D.C.).	11	10/86	4 months.
301 303 4402 4417	273125	Communications Reproduction Branch (OC/T)	Operation of automated printing and reproduction facility (Washington, D.C.)	19	10/86	Do.
356	Various	Data Transcription	Data transcribers who serve as members of passport processing and adjudication teams in U.S. Passport agencies.	272	1/87	6 months.

[FR Doc. 85–24339 Filed 10–9–85; 8:45 am]

BILLING CODE 4710–35–M

DEPARTMENT OF TRANSPORTATION

[Docket 43006]

Pan Aviation Fitness Investigation; Notice of Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on October 29, 1985, at 10:00 a.m. (local time) in Room 5332, Nassif Building, 400 7th Street SW., Washington, D.C. 20590, before the undersigned administrative law judge.

Dated at Washington, D.C., October 7, 1985.

Ronnie A. Yoder

Administrative Law Judge.

[FR Doc. 85–24259 Filed 10–9–85; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[CGD 85–082]

Houston/Galveston Navigation Safety Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of the eleventh meeting of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, November 21, 1985 at U.S. Coast Guard Base Galveston at the end of Ferry Road on Fort Point, Galveston, Texas. The meeting is scheduled to begin at 9:30 a.m. and end at approximately 5:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order
2. Discussion of previous recommendations made by the Committee
3. Reports of Subcommittees
   A. Inshore Waterway Management
   B. Offshore Waterway Management
4. Discussion of Subcommittee Reports
5. Presentation of any additional new items for consideration of the Committee
6. Adjournment

The purpose of this Advisory Committee is to provide recommendations and guidance to the Commander, Eighth Coast Guard District on navigation safety matters afffecting the Houston/Galveston Area.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navitation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide his/her name, address, and, if applicable, the organization he/she is representing. Any member of the public

may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander D. F. Withee, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, telephone number (504) 589-6901.

Dated: October 7, 1985.

L.C. Kindbom,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 85-24288 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Natrona County International Airport, Casper, WY; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Natrona County International Airport (CPR) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for CPR under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before March 29, 1986.

DATES: The effective date of the FAA's determination on the CPR noise exposure maps and of the start of its review of the associated noise compatibility program is October 1, 1985. The public comment period ends October 25, 1985.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM-611, 17900 Pacific Hwy S., C-68966, Seattle, WA 98168.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps for CPR are in compliance with applicable requirements of Part 150, effective October 1, 1985. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before March 29, 1986. This notice also announces the availability of this program for public review and comment.

Under section 103 on Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

CPR submitted to the FAA on June 5, 1985, noise exposure maps, descriptions and other documentation which were produced during an airport Noise Compatibility Study. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by CPR. The specific maps under consideration are Figures 10 and 11 in the submission. The FAA has determined that these maps for CPR are in compliance with applicable requirements. This determination is effective on October 1, 1985. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for CPR, also effective on October 1, 1985. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before March 29, 1986.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise

compatibility program are available for examination at the following locations:

Federal Aviation Administration, Independence Avenue, SW, Room 615, Washington, DC

Federal Aviation Administration, Airports Division, ANM-600, 17900 Pacific Hwy S., C-68966, Seattle, Washington 98168

Natrona County International Airport, Casper, Wyoming

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington, October 1, 1985.

George C. Paul,

Acting Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 85-24237 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: City of Norfolk, VA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the City of Norfolk, Virginia.

FOR FURTHER INFORMATION CONTACT: George E. Kirk, Jr., District Engineer, Federal Highway Administration, P.O. Box 10045, Richmond, Virginia 23240-0045, telephone (804) 771-2380.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Virginia Department of Highways and Transportation (VDH&T), will prepare an environmental impact statement (EIS) on a proposal to provide improved traffic flow within the Route 460 Corridor in the City of Norfolk from Interstate Route 264 to the vicinity of Brambleton Avenue and Yarmouth Street. The proposal will also provide better regional access to the underdeveloped, as well as developed, areas in downtown Norfolk.

Alternatives under consideration include (1) taking no action (no build), (2) mass transit, (3) Transportation System Management (improving existing streets), and (4) build alternatives based on three general alignments which are: St. Paul's Boulevard-Brambleton Avenue (including ramp connections to I-264); Waterside Drive-Boush Street; and Brambleton Avenue (including ramp connections to I-264).

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations and citizens who have previously expressed interest in this proposal. No formal scoping meeting is planned at this time. The Draft EIS will be available for public and agency review and comment. Following publication of the Draft EIS, a public hearing will be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions concerning this proposed action and the Draft EIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local review of Federal and Federally assisted programs and projects apply to this program.

Issued on: October 4, 1985.

George E. Kirk, Jr.,

District Engineer, Richmond, Virginia.

[FR Doc. 85-24315 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[BS-Ap-No. 2476]

Union Pacific Railroad Co.; Public Hearing

The Union Pacific Railroad Company has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance of the automatic block signal system between Salina, Kansas, and Oakley, Kansas. This proceeding is identified as FRA Block Signal Application Number 2476.

After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on December 5, 1985, in Hearing Room A, Fourth Floor of the Kansas State Office Building at 915 Harrison Street in Topeka, Kansas.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA rules of practice (49 CFR Part 211.25), by a representative designated by the FRA.

The hearing will be a non-adversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, D.C. on October 4, 1985.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 85-24304 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-06-M

Research and Special Programs Administration

Hazardous Materials; Applications for Exemptions

[FR Doc. 85-24240 Filed 10-9-85; 8:45 am]

BILLING CODE 4160-01-M

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, D.O.T.

ACTION: List of applicants for exemption.

SUMMARY: In accordance with the procedures governing the application for, the processing of, exemptions for the Department of Transportation's Hazard Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazard Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATE: Comment period closes November 11, 1985.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Docket Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9513-N	American Cyanamid Company, Wayne, NJ	49 CFR 173.377	To authorize shipment of organic phosphate compound mixture, dry, classed as a poison B, in non-DOT specification pneumatic bulk trailers. (Mode 1.)
9514-N	Control Data Corporation, Minneapolis, MN	49 CFR 173.306(e)	To authorized used refrigerating units containing dichlorodifluoromethane classed as an nonflammable gas, to be shipped fully charged when incorporated into a computer system. (Mode 1.)
9515-N	Leake Oil Company, Inc., St. Francisville, LA	49 CFR 173.119, 178.341-5	To authorize shipment of gasoline, classed as a flammable liquid, in cargo tanks comparable to DOT Specification 306 except there is not internal valve or remote closure. (Mode 1.)
9516-N	Union Carbide Corporation, Danbury, RD	49 CFR 173.302, 173.304, 173.328, 173.336, 173.337.	To authorize shipment of certain poisonous and flammable nonliquefied compressed gases in DOT Specification 3AL fiberglass wrapped cylinders by cargo vessel. (Mode 3.)
9517-N	Conroe Aviation Service, Inc., Conroe, TX	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of various class A explosives not permitted for air shipment. (Mode 4.)
9518-N	Hawthorne Aviation Inc., Hawthorne, NV	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of various Class A, B, and C explosives not permitted for air shipment. (Mode 4.)
9519-N	Transchem, Inc., South Bend, IN	49 CFR 173.119, 173.125, 173.266, Part 173, Subpart F.	To manufacture, mark and sell non-DOT specification polyethylene portable tanks of 250 or 350 gallon capacity in a steel frame, for shipment of certain flammable, corrosive or oxidizer liquids. (Modes 1, 2.)
9520-N	Atlantic Richfield Company, Pasadena, CA	49 CFR 173.315	To ship bromotrifluoromethane, classed as compressed gas, in non-DOT specification steel portable tanks. (Modes 1, 3.)
9521-N	Ashland Oil, Inc., Dublin, OH	49 CFR 173.119	To authorize shipment of cement roofing liquid, classed as a flammable liquid in DOT Specification 5 gallon capacity 37A containers. (Mode 1.)
9522-N	Faber Industries S.p.A., Cividale, Italy	49 CFR 173.302	To manufacture, mark and sell non-DOT specification cylinders patterned after DOT Specification 3T with exceptions for shipment of methane and natural gas. (Mode 1.)
9523-N	Faber Industrie S.p.A., Cividale, Italy	49 CFR 173.302	To manufacturing, mark and sell DOT Specification 3HT cylinders containing compressed air for other than aircraft use. (Modes 1, 3.)
9524-N	Natico, Inc., Chicago, IL	49 CFR 178.116	To manufacture, mark and sell non-DOT specification 55 gallon capacity drums similar to DOT Specification 17E except for offset top and bottom heads of 20 guage thickness for shipment of those commodities authorized in DOT Specification 17E 20/18 gauge drum. (Modes 1, 2, 3.)
9525-N	American Cyanamid Company, Wayne, NJ	49 CFR Part 173, Subpart D, E	To ship pyroforic liquids, other flammable liquids, class B poison liquids and flammable solids in non-DOT specification welded steel cylinders patterned after DOT Specification 3E. (Modes 1, 3, 4.)
9526-N	Exxon Chemicals Americas, Baton Rouge, LA	49 CFR 174.67	To authorize the intermittent unloading of bromine from tank cars with connections attached after unloading and tanks temporarily unattended.
9527-N	Carolina Aircraft, Corporation, Ft. Lauderdale, FL.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), Part 107, Appendix A.	To authorize carriage of various class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
9528-N	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.120(b)	To authorize shipment of nonself propelled Aerospace Ground Equipment with fuel tanks no more than ¾ full. (Modes 1, 2.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 3, 1985.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-24302 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, Reserch and Special Programs Administrator, D.O.T.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATE: Comment period closes October 28, 1985.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of Exemption
2709-X	Atlantic Research Corp., Camden, AR.	2709
3569-X	NL McCullough/NL Industries, Inc., Houston, TX.	3569
4291-X	Kerr-McGee Chemical Corp., Oklahoma City, OK.	4291
4453-X	Armstrong Explosives Co., New Galilee, PA.	4453
4453-X	Belmont Mine Supply Co., Inc., Flushing, OH.	4453
4453-X	Austin Powder Co., Cleveland, OH	4453
4453-X	Kentucky Powder Co., Lexington, KY	4453
4453-X	Northern Ohio Explosives, Inc., Forest, OH.	4453
4453-X	Strawn Explosives, Inc., Dallas, TX	4453
4453-X	Wampum Distributing Co., New Galilee, PA.	4453
4453-X	Wampum Hardware Company, New Galilee, PA.	4453
4453-X	Wampum Supplies Co., New Galilee, PA.	4453

Application No.	Applicant	Renewal of Exemption
4453-X	Alamo Explosives Company, Inc., Houston, TX.	4453
4453-X	Wampum Manufacturing Co., New Galilee, PA.	4453
4453-X	A. M. Contracting, Grove City, PA	4453
5243-X	Austin Powder Co., Cleveland, OH	5243
6016-X	Harvey Welding Supplies, Pittsburgh, PA.	6016
6614-X	Continental Chemical Co., Sacramento, CA.	6614
6801-X	Phillips Petroleum Co., Bartlesville, OK.	6801
6974-X	Tavco, Inc., Chatsworth, CA	6974
6984-X	Appalachian Explosives, Inc., Romney, WV.	6984
7052-X	Halliburton Services, Duncan, OK	7052
7052-X	Martin Marietta Corp., Denver, Co	7052
7052-X	National Aeronautics and Space Administration, Washington, DC.	7052
7052-X	Power Conversion, Inc., Elmwood Park, NJ.	7052
7052-X	Honeywell, Inc., Horsham, PA	7052
7071-X	Philip A. Hunt Chemical Corp., West Paterson, NJ.	7071
7607-X	Engineering-Science, Fairfax, VA	7607
7607-X	Ecology and Environment, Inc., Buffalo, NY.	7607
7694-X	Applied Companies, Woodland Hills, CA.	7694
7694-X	Borg-Warner Fluid Controls, Van Nuys, CA.	7694
7741-X	Bell Aerospace Textron, Buffalo, NY (See Footnote 1).	7741
8180-X	Rohm and Haas Co., Philadelphia, PA.	8180
8207-X	Rexnord, Inc., Commerce City, CO	8207
8230-X	G. Fredrick Smith Chemical Co., Columbus, OH.	8230
8279-X	Hamler Industries, Inc., Chicago Heights, IL.	8279
8287-X	Rohm and Haas Co., Philadelphia, PA.	8287
8307-X	U.S. Department of Energy, Washington, DC.	8307
8377-X	Teledyne McCormick Selph, Hollister, CA.	8377
8645-X	Wampum Supplies Co., New Galilee, PA.	8645
8645-X	Wampum Manufacturing Co., Senecaville, OH.	8645
8645-X	Wampum Distributing Co., New Galilee, PA.	8645
8645-X	Northern Ohio Explosives, Inc., Forest, OH.	8645
8645-X	Belmont Mine Supply Co., Inc., Flushing, NY.	8645
8645-X	Armstrong Explosives Co., Kittanning, PA.	8645
8645-X	A & M Contracting, Grove City, PA	8645
8657-X	Celanese Chemical Company, Inc., Dallas, TX.	8657
8718-X	Structural Composites Industries, Inc., Pomona, CA (See Footnote 2).	8718
8720-X	Applied Environments Corp., Woodland Hills, CA.	8720
8735-X	Letica Corp., Rochester, MI (See Footnote 3).	8735
8779-X	Acme Resin Corp., Forest Park, IL	8779
9016-X	Van Leer Verpackungen GmbH, Hamburg, West Germany.	9016
9080-X	Henderson's Welding and Manufacturing Corp., Seminole, TX.	9080
9097-X	Certified Tank Manufacturing, Inc., Wilmington, CA.	9097
9101-X	RCA Corp., Princeton, NJ (See Footnote 4).	9101
9106-X	The Ensign-Bickford Co., Simsbury, CT.	9106
9130-X	Hydrotech Chemical Corp., Marietta, GA.	9130
9144-X	Cajun Bag & Supply Co., Crowley, LA.	9144
9161-X	Honeywell, Inc., Horsham, PA	9161
9431-X	U.S. Department of Defense, Falls Church, VA (See Footnote 5).	9431

[1] To renew and to authorize an alternate type tank assembly.
[2] To authorize increase in service pressure limit of cylinders and to allow the addition of another fiber material for construction.
[3] To renew and authorize certain flammable liquids as an additional hazard class.
[4] To renew and authorize an additional model rocket motor.
[5] To authorize cargo aircraft only as additional mode of transportation.

Application No.	Applicant	Parties to exemption
3109-P	General Dynamics, East Camden, AR.	3109
4453-P	Explosives, Inc., Clarksburg, WV	4453
4453-P	Hilltop Energy, Inc., Lisbon, OH	4453
6530-P	AGA Gas, Inc., Cleveland, OH	6530
6530-P	AGL Welding Supply Co., Inc., Clifton, NJ.	6530
6759-P	Explosives, Inc., Clarksburg, WV	6759
6861-P	U.S. Department of Defense, Falls Church, VA.	6861
7052-P	Syntron, Inc., Houston, TX	7052
8013-P	Union Carbide Corp., Danbury, CT	8013
8445-P	Aqua-Tech, Inc., Port Washington, WI.	8445
8526-P	Ken-Dale Express, Inc., Cleveland, OH.	8526
8938-P	Big Three Industries, Inc., Houston, TX.	8938
9066-P	BMW of North America, Inc., Montvale, NJ.	9066
9490-P	National Refrigerants, Inc., Radnor, PA.	9490

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 3, 1985.

J.R. Grothe, Chief,

Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-24303 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-60-M

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission Public Diplomacy; Meeting

October 1, 1985.

The United States Advisory Commission on Public Diplomacy will conduct a meeting in Room 600, 301 4th Street, SW. on October 16 from 10:00 am to 3:00 pm.

The meeting will be closed to the public because it will involve a discussion of classified information relating to security procedures at Agency overseas operations and posts. (5 U.S.C. 552b(c)(1)) Premature disclosure of this information is likely to significantly frustrate implementation of proposed Agency action, because there will be a discussion of future Agency policy and programs. (5 U.S.C. 522b(c)(9)(B))

Please call Gloria Kalamets, (202) 485-2468 for further information.

Dated: October 1, 1985.

Charles Z. Wick,

Director.

[FR Doc. 85-24313 Filed 10-9-85; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 197
Thursday, October 10, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 40101, October 1, 1985.

PREVIOUS ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, October 7, 1985.

CHANGES IN THE MEETING:

(1) One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added: Legislative proposals regarding delayed availability of funds. (This item was originally announced for a closed meeting on September 30, 1985.)

(2) Addition of the following closed item to the meeting: Request from an outside organization for funding.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: October 7, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-24397, Filed 10-8-85; 1:07 pm]

BILLING CODE 6210-01-M

2

LEGAL SERVICES CORPORATION

Committee on the Provisions for the Delivery of Legal Services

TIME AND DATE: Meeting will commence at 9:00 a.m., Friday, October 18, 1985 and continue until 2:00 p.m.

PLACE: Ramada Inn North, 2900 North Monroe Street, Regency Three Room, Tallahassee, Florida 32303.

STATUS OF MEETING: Open.

1. Approval of Agenda
2. Approval of Minutes—June 28, 1985
3. Report from the Office of Field Services—Status of the Interest on Lawyers' Trust Accounts Program

CONTACT PERSON FOR MORE INFORMATION: Dan Rathbun, Office of Field Services (202) 272-4080.

Date issued: October 7, 1985.

D. Clifford Crook III,

Assistant to the President, Chief-of-Staff.

[FR Doc. 85-24319 Filed 10-7-85; 4:27 pm]

BILLING CODE 6820-35-M

3

LEGAL SERVICES CORPORATION

Operations and Regulations Committee Meeting—Tentative Agenda

TIME AND DATE: Meeting will commence at 9:30 a.m., Friday, October 25, 1985 and continue until all official business is completed.

PLACE: Capitol Holiday Inn, Lewis Room, 500 C Street, SW., Washington, DC.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Questioned Costs—Proposed 45 CFR 1630
   —Report from the Office of Monitoring, Audit and Compliance
   —Report from the Office of the General Counsel
   —Public comment
3. Recommendations to Board on proposed 45 CFR Part 1630 (Questioned Costs)
4. Other Regulations Adopted after April 27, 1984

CONTACT PERSON FOR MORE INFORMATION: Thomas A. Bovard, Office of the General Counsel, (202) 272-4010.

Dated issued: October 7, 1985.

D. Clifford Crook III,

Special Assistant to the President, Chief-of-Staff.

[FR Doc. 85-24320 Filed 10-7-85; 4:27 pm]

BILLING CODE 6820-35-M

4

PAROLE COMMISSION

TIME AND DATE: Monday, October 28, 1985—9:00 a.m. to 1:00 p.m.

PLACE: 1718 Peachtree St. NW., Atlanta, Georgia 30309.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 24 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Analyst, National Appeals Board, United States Parole Commission, (301) 492-5987.

Dated: October 7, 1985.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[FR Doc. 85-24401 Filed 10-8-85; 2:05 pm]

BILLING CODE 4410-01-M

5

PAROLE COMMISSION

PLACE: 1718 Peachtree St. NW., Atlanta, Georgia 30309.

DATE AND TIME:

Tuesday, October 29, 1985—(9:00 a.m. to 5:30 p.m.

Tuesday, October 30, 1985—(9:00 a.m. to 5:30 p.m.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of open business meeting of July 23 and 24, 1985 and open conference call meeting of August 29, 1985.
2. Reports from the Chairman, Vice Chairman, Commissioners, Legal, Research, Case Operations, and the Administrative Section.
3. Presentation on Supervision by CUSPO Carlos Juenke and SUSPO Richard Miklic of the Southern District of Florida.
4. Inter-regional Cross Training
5. Withdrawal of Warrants
6. Public Law CTC Placement—removal of 120 day limitation
7. Form F-2
8. Presentation by Members of the Georgia Parole Board

Consent Agenda

The following items are placed on the Commission's Consent Agenda. A request to discuss a particular item must be received by October 24, 1985. Items for which no such request is received shall be deemed adopted and will not be discussed at the meeting.

9. Amendments to the Rules and Procedures Manual (Edition of 10/85) referred to in Chairman Baer's memorandum dated 9/3/85.

CONTACT PERSON FOR MORE INFORMATION: Peter B. Hoffman, Director of Research, United States Parole Commission, (301) 492-5980.

Dated: October 7, 1985.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[FR Doc. 85-24402, Filed 10-8-85; 2:05 pm]

BILLING CODE 4410-01-M

Federal Register

Thursday
October 10, 1985

Part II

Department of Energy

Southeastern Power Administration

Notice of Order Confirming and Approving Power Rates on an Interim Basis; Georgia-Alabama Projects' Rates

DEPARTMENT OF ENERGY

Southeastern Power Administration

Order Confirming and Approving Power Rates on an Interim Basis

AGENCY: Department of Energy, Southeastern Power Administration (SEPA).

ACTION: Notice of Approval on an Interim Basis of Georgia-Alabama Projects' Rates.

SUMMARY: On September 30, 1985, the Deputy Secretary confirmed and approved, on an interim basis, twelve replacement Rate Schedules, GA-1-A, GA-2-A, GU-1-A, GAMF-2-E, ALA-1-E, ALA-3-A, MISS-1-E, MISS-2-A, SC-1-E, SC-2-E, CAR-1-F and SCE-1-A, for Georgia-Alabama Projects' power. The rates were approved on an interim basis through September 30, 1990, and are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATE: Approval of rates on an interim basis is effective on October 1, 1985.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Director, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635

J. Emerson Harper, Office of Management and Review, CE-60, Department of Energy, James Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. 20585

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by Order issued December 17, 1984, in Docket No. EF84-3011 confirmed and approved Wholesale Power Rate Schedules GAMF-1-D, GAMF-2-D, ALA-1-D, MISS-1-D, SC-1-D, SC-2-D, CAR-1-E and CAR-2-D through September 30, 1985. Rate Schedules GA-1-A, GA-2-A, GU-1-A, MISS-2-A and MISS-3-A replace Rate Schedule GAMF-1-E; Rate Schedule GAMF-2-E, ALA-1-E, GAMF-1-D, MISS-1-E, SC-1-E, SC-2-E and CAR-1-F replace Rate Schedules GAMF-2-D, ALA-1-D, MISS-1-D, SC-1-D, SC-2-D and CAR 1-E. SCE-1-A is a new rate schedule for perference customers in the South Carolina Electric & Gas Company area, and Rate Schedule CAR-2-D is eliminated.

Issued in Washington, D.C., September 30, 1985.

Danny J. Boggs,

Deputy Secretary.

SUPPLEMENTARY INFORMATION:

Order Confirming and Approving Power Rates on an Interim Basis

In the Matter of: Southeastern Power Administration—Georgia-Alabama Projects' Power Rates; Rate Order No. SEPA-21.

Pursuant to sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (SEPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-108, effective December 14, 1983 (48 FR 55664, December 14, 1983), the Secretary of Energy delegated to the Administrator the authority to develop power and transmission rates, and delegated to the Deputy Secretary the authority to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Administrator under the delegation. This rate order is issued pursuant to the delegation to the Deputy Secretary

Background

Power from the Georgia-Alabama System of Projects is presently sold under Wholesale Power Rate Schedules GAMF-1-D, GAMF-2-D, ALA-1-D, MISS-1-D, SC-1-D, SC-2-D, CAR-1-E and CAR-2-D. All of these rate schedules were approved by the Federal Energy Regulatory Commission (FERC) on December 17, 1984, for a period ending September 30, 1985.

Public Notice and Comment

Opportunities for public review and comment on the Rate Schedules proposed for use during the period October 1, 1985, through September 30, 1990, were announced by Notice published in the **Federal Register** on April 8, 1985, and all customers were notified by mail. A Public Information and Comment Forum was held in Atlanta, Georgia, on May 16, 1985, and written comments were invited by the Notice through July 9, 1985. Oral comments were presented at the forum and written comments were received prior to July 9, 1985. There were thirteen substantive comments received. All comment were evaluated by SEPA.

Discussion

System Repayment

An examination of SEPA's system power repayment study, prepared in July 1985, for the Georgia-Alabama System of Projects, reveals that over the five year rate review period with an average annual revenue increase of $26,244,000 over the current revenues shown in a July 1985 SEPA repayament study, all system power costs are paid within their repayment life. Additionally, Rate Schedules GA-1-A, GA-2-A, GU-1-A, GAMF-2-E, ALA-1-E, ALA-3-A, MISS-1-E, MISS-2-A, SC-1-E, SC-2-E, CAR-1-F and SCE-1-A are designed so as to produce revenue adequate to recover all system power costs on a timely basis. The Administator of SEPA has certified that the rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles.

Rate Design

There were eight major areas considered in designing rates.

1. The contractual arrangements in the western portion provide for a phased-in approach to implementing the policy. The transmission charge that the four companies, (Georgia, Alabama, Mississippi and Gulf Power Companies) are charging SEPA are lower than full cost of service rates as part of a total package of benefits provided over the term of the contract. The rates are designed to allow the preference customers in the western portion to retain the benefits from the lower than cost of service rates.

2. Preference customers requested that rates be designed to allow the direct pass through of transmission charges to the affected perference customers. This would allow groups of preference customers who are able to provide their own transmission at costs below the cost of the present facilitating utility, to receive the direct benefits from those reduced costs. The rates have been designed to pass the transmission charges directly to the affected preference customer.

3. The amount of generation costs allocated to capacity and energy was studied. Various methods were considered. SEPA chose to use a formula similar to that recommended by the National Association of Regulatory Utility Commissioners, which considers generation under critical water conditions to represent capacity, and the difference in critical and average water conditions to represent energy. The percentages of generation costs were calculated to be seventy percent for capacity and thirty percent for energy.

4. Southeastern considered who should pay other transmission costs where power is transmitted over

multiple systems and thereby creating multiple transmission charges. These rates contain another transmission rate which spreads the cost of transmitting power from the project to the border of another transmitting system, the cost of transmitting the power across a transmitting system, and other miscellaneous transmission type costs, to all of the preference customers in the Georgia-Alabama System.

5. Marketing of power in the eastern portion of the System anticipates that all benefits and costs are allocated to preference customers at this time.

6. The two generation and transmission cooperatives receive power in monthly quantities which they schedule against the private utility companies who schedule the project generation. Alabama Electric Cooperative receives 91 megawatts of capacity plus a pro rata share of the energy as generated. South Mississippi Electric Power Association receives 61 megawatts of capacity plus specified energy quantities.

7. Preference customers, except South Mississippi Electric Power Association, will receive credit for a designated percentage of the energy generated at the projects.

8. The sale of dump energy and standby capacity has been eliminated.

Environmental Impact

SEPA has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded with Departmental concurrence that, because the increased rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates, including studies, and other supporting materials is available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Office of the Director of Management and Review, James Forrestal Building, 1000 Independence Avenue, SW., Room 6C036, Washington, D.C. 20585.

Submission to the Federal Energy Regulatory Commission

The rates hereinafter confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period beginning October 1, 1985, and ending no later than September 30, 1990.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 1985, attached Wholesale Power Rate Schedules GA-1-A, GA-2-A, GU-1-A, GAMF-2-E, ALA-1-E, ALA-3-A, MISS-1-E, MISS-2-A, SC-1-E, SC-2-E, CAR-1-F and SCE-1-A. The rate schedules shall remain in effect on an interim basis through September 30, 1990, unless such period is extended or until the FERC confirms and approves them or substitute rate schedules on a final basis.

Issued in Washington, D.C., this 30th day of September 1985.

Danny J. Boggs,

Deputy Secretary.

United States Department of Energy

Southeastern Power Administration

Wholesale Power Rate Schedule GA-1-A

Availability: This rate schedule shall be available to public bodies (any one of which is hereinafter called the Customer) in Georgia, owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and the Georgia Power Company (hereinafter called the Company), or Municipal Electric Authority of Georgia (hereinafter called MEAG).

Applicability: This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge.—Per kilowatt of total contract demand for the period:	
October 1985 through May 1988	$1.59
June 1988 through September 1990	$1.74
Energy Charge: Mills per kilowatt-hours	4.88
Other Transmission Charge: Per kilowatt of total contract demand	$0.20
Transmission Charge.—Per kilowatt of total contract demand for the period:	
October 1985 through May 1986	$.48
June 1986 through May 1987	$.74
June 1987 through May 1988	$.95
June 1988 through May 1989	$1.25

From June of 1989 through September 1990 the amount of transmission charge will be the cost of service charge that MEAG charges Southeastern Power Administration, less $.11 per kilowatt for use of facilities revenues from the Southern Companies.

In addition, if the MEAG arranges to provide the transmission services at rates lower than those included in this rate schedule for periods from October 1985 through May 1989, those reduced charges will be passed through to the customers and will become effective on the date that the lower charge to Southeastern is effective.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately ot its individual delivery points served from the Company's system.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service: The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that

which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption: When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}}$$

October 1, 1985.

Wholesale Power Rate Schedule GA–2–A

Availability: This rate schedule shall be available to cooperatives (any one of which is hereinafter called the Customer) in Georgia, owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and the Georgia Power Company (hereinafter called the Company), or Oglethorpe Power Corporation (hereinafter called OPC).

Applicability: This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge.—Per kilowatt of total contract demand for the period:	
October 1985 through May 1988	$1.59
June 1988 through September 1990	$1.74
Energy Charge: Mills per kilowatt-hours	4.88
Other Transmission Charge: Per kilowatt of total contract demand	$0.20
Transmission Charge.—Per kilowatt of total contract demand for the period:	
October 1985 through May 1986	$0.48
June 1986 through May 1987	$0.74
June 1987 through May 1988	$0.95
June 1988 through May 1989	$1.25

From June of 1989 through September 1990 the amount of transmission charge will be the cost of service charge that OPC charges Southeastern Power Administration, less $.11 per kilowatt for use of facilities revenues from the Southern Companies.

In addition, if the OPC arranges to provide the transmission services at rates lower than those included in this rate schedule for periods from October 1985 through May 1989, those reduced charges will be passed through to the customer and will become effective on the date that the lower charge to Southeastern is effective.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service: The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption: When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customers' system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}}$$

October 1, 1985.

Wholesale Power Rate Schedule GU–1–A

Availability: This rate schedule shall be available to cooperatives (any one of which is hereinafter called the Customer) in Florida, owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and, respectively, the Gulf Power Company, (hereinafter called the Company).

Applicability: This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Burford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge.—Per kilowatt of total contract demand for the period:	
October 1985 through May 1988	$1.59
June 1988 through September 1990	$1.74
Energy Charge: Mills per kilowatt-hours	$4.88
Other Transmission Charge: Per kilowatt of total contract demand	$0.20

Transmission Charge.—Per kilowatt of total contract demand for the period:

October 1985 through May 1986	$0.47
June 1986 through May 1987	$0.72
June 1987 through May 1988	$0.91
June 1988 through May 1989	$1.22

From June of 1989 through September 1990 the amount of transmission charge will be the cost of service charge that the Company charges Southeastern Power Administration less $.11 per kilowatt for use of facilities revenues from the Southern Companies.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service: The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so during, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption: When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}}$$

October 1, 1985.

Wholesale Power Rate Schedule GAMF-2-E

Availability: This rate schedule shall be available to the Georgia Power Company, the Alabama Power Company, the Mississippi Power Company, and the Gulf Power Company (any one of which is hereinafter called the Company).

Applicability: This rate schedule shall be applicable to electric capacity available from the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters, and Richard B. Russell Projects (hereinafter called the Projects) and sold under contract between the Government and the Company.

Character of Service: Electric capacity and energy delivered to the Company will be three-phase alternating current at a nominal frequency of 60 Hertz and will be delivered at mutually agreeable points in the vicinity of the Projects' power stations at approximately 115,000 volts, except that delivery from the Hartwell and Carters Projects will be at approximately 230,000 volts or at points of interconnection between the Companies.

Monthly Rate: The monthly rate for capacity sold under this rate schedule shall be:

Capacity Charge: $1.59 per kilowatt per billing month for monthly dependable capacity made available to the Company for its own use.

Monthly dependable capacity is the monthly capacity, specified by contract, which based on past water records would be available for scheduling by the Companies within the energy limitations also specified by contract, except during the worst water period of record and except for a few minor short-term reductions under flood conditions.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor: The Company shall take capacity and energy from the Government at such power factor as will best serve the Company's system from time to time, provided that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably interferes with the delivery of capacity and energy by the Government to the Company and to its other customers.

Service Interruption: When delivery of capacity to the Company is interrupted or reduced due to conditions on the Government's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}}$$

October 1, 1985.

Wholesale Power Rate Schedule ALA-1-E

Availability: This rate schedule shall be available to the Alabama Electric Cooperative, Incorporated (hereinafter called the Cooperative).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters, and Richard B. Russell Projects and sold under contract between the Cooperative and the Government.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at the Walter F. George Project or other points of interconnection between the Cooperative and Alabama Power Company.

Monthly Rate: The monthly rate for capacity, energy, and other transmission sold under this rate schedule shall be:

Capacity Charge: Per kilowatt of total contract demand	$1.59
Energy Charge: Mills per kilowatt-hour for scheduled energy	4.88
Other Transmission Charge: Per kilowatt of contract demand	$0.20

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor: The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption: When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}}$$

October 1, 1985.

Wholesale Power Rate Schedule ALA–3–A

Availability: This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in Alabama, owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and the Alabama Power Company (hereinafter called the Company).

Applicability: This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge.—Per kilowatt of total contract demand for the period:	
October 1985 through May 1988	$1.59
June 1988 through September 1990	$1.74
Energy Charge: Mills per kilowatt-hours	4.88
Other Transmission Charge: Per kilowatt of total contract demand	$0.20
Transmission Charge.—Per kilowatt of total contract demand for the period:	
October 1985 through May 1986	$0.36
June 1986 through May 1987	$0.60
June 1987 through May 1988	$0.73
June 1988 through May 1989	$1.00

From June of 1989 through September 1990 the amount of transmission charge will be the cost of service charge that Alabama Power Company charges Southeastern Power Administration, less $.11 per kilowatt for use of facilities revenues from the Southern Companies.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service: The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption: When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}}$$

October 1, 1985.

Wholesale Power Rate Schedule MISS–1–E

Availability: This rate schedule shall be available to the South Mississippi Electric Power Association (hereinafter called the Customer) in Mississippi, owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and the Mississippi Power Company (hereinafter called the Company), or Alabama Electric Cooperative, Inc. (hereinafter called AEC).

Applicability: This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge.—Per kilowatt of total contract demand for the period:	
October 1985 through May 1988	$1.59
June 1988 through September 1990	$1.74

Energy Charge: Mills per kilowatt-hours	4.88
Other Transmission Charge: Per kilowatt of total contract demand	$0.20
Transmission Charge.—Per killowatt of total contract demand for the period:	
October 1985 through May 1986	$0.17
June 1986 through May 1987	$0.29
June 1987 through May 1988	$0.40
June 1988 through May 1989	$0.55

From June of 1989 through September 1990 the amount of transmission charge will be the cost of service charge that AEC charges Southeastern Power Administration, less $.11 per kilowatt for use of facilities revenues from the Southern Companies.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the Customer and the customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service: The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption: When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}}$$

October 1, 1985.

Wholesale Power Rate Schedule MISS–2–A

Availability: This rate schedule shall be available to cooperatives (any one of which is hereinafter called the Customer) in Mississippi, owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and, respectively, the Mississippi Power Company, (hereinafter called the Company).

Applicability: This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge.—Per kilowatt of total contract demand for the period:	
October 1985 through May 1988	$1.59
June 1988 through September 1990	$1.74
Energy Charge: Mills per kilowatt-hours	$4.88
Other Transmission Charge: Per kilowatt of total contract demand	$0.20
Transmission Charge.—Per kilowatt of total contract demand for the period:	
October 1985 through May 1988	$0.24
June 1986 through May 1987	$0.38
June 1987 through May 1988	$0.48
June 1988 through May 1989	$0.64

From June of 1989 through September 1990 the amount of transmission charge will be the cost of service charge that the Company charges Southeastern Power Administration less $.11 per kilowatt for use of facilities revenues from the Southern Companies.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less five and one-half (5.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service: The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption: When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly Capacity Charge}}{\text{Number of days in billing month}}$$

Wholesale Power Rate Schedule SC–1–E

Availability: This rate schedule shall be available to the South Carolina Public Service Authority (hereinafter called the Customer).

Applicability: This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Clarks Hill and Richard B. Russell Projects and sold under

appropriate contracts between the Government and the Customer.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at a nominal voltage of 115,000 volts at the 115 kv bus of the Project Power Plant. The actual operation voltage of the Government shall, within the limits of good operating practice, be suitable for operation with the Customer's system.

Monthly Rate: The monthly rate for capacity, energy and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge.—Per kilowatt of total contract demand for the period	$1.59
Energy Charge: Mills per kilowatt-hours	4.88
Other Transmission Charge: Per kilowatt of total contract demand	$.20

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Customer.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Power Factor: The Customer shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption: When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly Capacity Charge}}{\text{Number of days in billing month}}$$

October 1, 1985.

Wholesale Power Rate Schedule SC-2-E

Availability: This rate schedule shall be available to any of the following whose requirements or a portion thereof the Government shall contract to supply by delivery from the South Carolina Public Service Authority's (hereinafter called the Authority) system: a municipality or county located in part or completely within the Authority's service area, owning its own transmission or distribution system, and desiring to purchase capacity and energy from the Government for resale to the public in its territory; Central Electric Cooperative, Incorporated; or an electric cooperative not a member of Central, operating under the laws of the State of South Carolina, and located in part or completely within the service area of the Authority desiring to purchase capacity and energy from the Government for resale to ultimate consumers under the provisions of said laws (any one of such municipalities, counties, or cooperatives is hereinafter called the Customer).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Clarks Hill or the Richard B. Russell Projects (hereinafter called the Projects) and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Authority's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule shall be:

Capacity Charge: Per kilowatt of total contract demand	$1.66
Energy Charge: Mills per kilowatt-hour	4.88
Other Transmission Charge: Per kilowatt of total contract demand	$.20
Transmission Charge: Per kilowatt of total contract demand	$1.45

The transmission rate is subject to annual adjustment on July 1, and will be computed subject to the formula A attached to the Government-Authority contract.

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Authority (less two (2) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month: The billing month for power sold under this rate schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service: The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Authority on its side of the delivery point.

Service Interruption: When the energy delivery to the Customer's system for the account of the Government is reduced or interrupted and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly Capacity Charge}}{\text{Number of days in billing month}}$$

October 1, 1985.

Wholesale Power Rate Schedule CAR-1-F

Availability: This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be wheeled pursuant to contract between the Duke Power Company (hereinafter called the Company) and the Government.

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Hartwell, Clarks Hill, and Richard B. Russell Projects (hereinafter called the Projects) and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customers on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedue shall be:

Capacity Charge: Per kilowatt of total contract demand $1.59

This amount will be adjusted for reserves and losses of 18.28% giving a rate of $1.95 for the period from October 1, 1985, through the termination of the present Government-Company contract. The rate will then be adjusted for the reserves and losses as finally determined by the replacement Government-Company contract to be implemented when four units are available at the Richard B. Russell Project.

Energy Charge: Mills per kilowatt-hours 4.88

Other Transmission Charge: Per kilowatt of total contract demand ..... $.20

Transmission Charge: Per kilowatt of total contract demand $1.62

The initial Transmission Charge will be adjusted to the amount determined by the replacement Government-Company contract when implemented at the time four units are available at the Richard B. Russell Project. The rate is subject to annual adjustment on January 1 and will be computed subject to the formula in Appendix A attached to the Government-Company contract.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the customer and the customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less six and one-half (6.5) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service: The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

October 1, 1985.

Wholesale Power Rate Schedule SCE–1–A

Availability: This rate schedule shall be available to the public bodies and cooperatives (any one of which is hereinafter called the Customer) in South Carolina, owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and the South Carolina Electric & Gas Company (hereinafter called the Company).

Applicability: This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Clarks Hill, Hartwell, and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate: The monthly rate for capacity, energy, transmission and other transmission sold under this rate schedule for the periods specified shall be:

Capacity Charge: Per kilowatt of total contract demand $1.59

This amount will be adjusted for reserves and losses as finally determined by the Government-Company contract

Energy Charge: Mills per kilowatt-hours 4.88

Other Transmission Charge: Per kilowatt of total contract demand $0.20

Transmission Charge: Per kilowatt of total contract demand ..... $—

The initial transmission charge will be inserted upon completion of negotiations with the Company. The rate is subject to annual adjustment on June 1 of each year and will be computed subject to the formula in Appendix A attached to the Government-Company contract.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less ————(——) percent losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service: The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

October 1, 1985.

[FR Doc. 85–24224, Filed 10–9–85; 8:45 am]

BILLING CODE 6450–01–M

Federal Register

Thursday
October 10, 1985

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 121

Protective Breathing Equipment; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 24792; Notice No. 85-17]

Protective Breathing Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to update the regulations concerning protective breathing equipment (PBE) by: (1) Incorporating the airplane certification requirements applicable to PBE in § 25.1439 of the Federal Aviation Regulations (FAR) into § 121.337, the operating rule requiring PBE applicable to air carriers and commercial operators who operate aircraft having a passenger seating configuration, excluding any pilot seat, of more than 30 seats or a payload capacity of more than 7,500 pounds; (2) incorporating the standards for PBE in Technical Standards Order-C99 (TSO-C99) into § 121.337 by reference; (3) requiring that PBE must allow interphone communications from each of two flight crewmember stations in the pilot compartment to at least one normal flight attendant station in each passenger compartment; (4) requiring the performance by Part 121 crewmembers of an approved firefighting drill using PBE; (5) requiring that additional PBE determined by airplane passenger seating configuration be easily accessible and conveniently located within 3 feet of each required hand fire extinguisher in passenger compartments of airplanes operated under Part 121; and (6) clarifying certain current emergency drill requirements. This action was prompted by recommendations of the National Transportation Safety Board (NTSB) which found during an accident investigation that smoke goggles forming a part of certain PBE used by several air carriers did not adequately protect the flightcrew and that some goggles restricted the user's vision and their ability to carry out their duties in an emergency.

DATE: Comments must be received on or before February 10, 1986.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 24792, 800 Independence Avenue, SW., Washington, D.C. 20591. One may deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Ave., SW., Washington, D.C. 20591. All comments must be marked "Docket No. 24792." Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Riviere, Project Development Branch, AFO-240, Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426-8096.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments and by commenting on the possible environmental, energy, or economic impact of this proposal. The comments should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All comments received, as well as a report summarizing any substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection both before and after the closing date for making comments.

Before taking any final action on the proposal, the Administrator will consider any comments made on or before the closing date for comments. The proposal may be changed in light of comments received.

The FAA will acknowledge receipt of a comment if the commenter submits with the comment a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24792." When the comment is received, the postcard will be dated, time stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202)426-8058. Requests should be identified by the docket number of this proposed rule. Persons interested in being placed on a mailing list for future proposed rules should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Protective breathing equipment (PBE) consists of a full face mask attached to an oxygen supply or a face mask, including smoke goggles, attached to an oxygen supply. Rules requiring operators conducting air carrier operations outside of the United States to have such equipment installed in their aircraft were originally included in § 41.24(c) of the Civil Air Regulations (CAR), which became effective on October 21, 1949. The basic requirements of the early standards were that the equipment be designed to prevent the person wearing the equipment from breathing noxious gases. Such standards were also a part of the type certification basis for older aircraft, and they still are applicable.

Subsequent amendments to the transport category airplane type certification requirements resulted in the current PBE requirements set forth in § 25.1439 of the FAR. That rule specifies the airplane compartment configurations for which PBE is required, establishes performance standards for the equipment, and specifies the oxygen supply requirements for such equipment. Under the rule, PBE is required in an airplane if there are cargo compartments or isolated separate compartments, including upper and lower lobe galleys, into which the flightcrew may enter during flight. Performance requirements in this rule specify that PBE must be designed to protect the flightcrew from smoke, carbon dioxide, and other harmful gases; that the PBE must also include suitable covering for eyes, nose, and mouth; and that a specified amount of oxygen must be supplied.

On July 11, 1973, a Boeing 707 (B-707) airplane made a forced landing short of the runway at Paris, France, as the result of a cabin fire started by a cigarette in a rear lavatory waste bin. Intense fire, smoke, and poisonous gases spread throughout the aircraft, with the result that only 11 of the 134 occupants survived the landing. Investigation indicated that the use of upgraded PBE meeting the revised standards contained in TSO-C99 could have permitted these flight attendants using such upgraded equipment to extinguish the fire in flight and thus might have saved more lives.

On November 3, 1973, a fatal accident occurred in Boston, Massachusetts, involving a B-707 freighter airplane. Investigation of this accident prompted the NTSB to evaluate PBE used by a number of air carriers. The NTSB reported that smoke goggles used by several air carriers did not adequately protect crewmembers from smoke and

that certain smoke goggles in use appreciable restricted the wearer's vision. The NTSB recommended that all transport category aircraft, regardless of date of certification, be required to comply with current § 25.1439 and that all smoke goggles presently in use be inspected to ensure that they comply with § 25.1439.

On June 2, 1983, an in-flight fire occurred in the aft lavatory in the passenger compartment of a Douglas DC-9 airplane en route to Montreal, Canada. The crew was unable to control the fire and requested an emergency descent and air traffic control clearance to the nearest available airport. The crew successfully landed the airplane at Covington, Kentucky. Soon after passenger and crewmember egress from the airplane commenced, dense smoke rapidly spread through the passenger compartment, apparently making it impossible for 23 of the 41 passengers on board to find their way to emergency exits. The FAA's analysis of this accident results in the conclusion that a number of those passengers who perished might have survived if certain cabin safety improvements under consideration at that time by this agency had been adopted. One of those improvements is the proposal contained in this rulemaking which would require additional PBE for use by crewmembers in passenger compartments of airplanes. It is conceivable that, had the airplane been equipped with the additional PBE proposed by this notice, the use of the additional PBE by the flight attendants involved could have aided them in leading more of the passengers who perished to available exits for egress from the airplane.

On October 31, 1983, the NTSB issued two safety recommendations pertinent to this rulemaking. Safety Recommendation A-83-74 recommends that the FAA "require that protective breathing equipment, including smoke goggles, currently carried aboard transport category airplanes to comply with 14 CFR 25.1439 and 14 CFR 121.337 which do not meet the minimum performance standard prescribed in Technical Standard Order (TSO) C99 or equivalent be replaced with equipment which meets the standards." Safety Recommendation A-83-75 recommends that the FAA "amend 14 CFR 121.337 to prescribe a minimum number of portable protective breathing apparatus with full face masks which will be carried in the passenger compartment of transport category airplanes readily accessible to cabin attendants and flightdeck crew." The FAA, for the most part, agrees with these two NTSB safety recommendations and, except for rulemaking currently under consideration to upgrade § 25.1439, has incorporated them into the proposals to follow in this notice.

The current requirement (§ 121.337) for PBE used by Part 121 operators provides that the flightcrew be protected from smoke, carbon dioxide, and other harmful gases. However, that requirement provides too general an operational standard for the FAA to guage compliance. The requirement for "protection" is actually composed of several different criteria, of which the most significant is the amount of contamination that can be tolerated by the eyes and lungs without unduly impairing a crewmember's vision or breathing.

The FAA conducted a survey of reports concerning human physiological limitations resulting from 15-minute exposures to contaminants likely to be present in aircraft fires. The results of this survey show that contaminant concentrations in the air of 5 percent for breathing and 10 percent for eye contact are the maximum acceptable levels for 15 minutes of exposure to crewmembers. These standards are currently incorporated in material referenced in TSO-C99.

Using these concentration levels as standards of performance, the FAA tested a number of oxygen mask-smoke goggle combinations. The tests showed that many of these PBE units permitted in excess of the 5 and 10 percent contaminant concentration levels.

In general, minimum performance standards established by the FAA are issued in the form of TSO's. Until recently, TSO's were included within the Federal Aviation Regulations (Part 37); they are now issued as nonregulatory material but continue to provide a basis for approval of materials, parts, and appliances. Minimum standards for PBE were just recently developed and are contained in TSO-C99. The FAA proposes to incorporate this TSO by reference in § 121.337, and compliance with its standards will thereby be made mandatory. The Office of the Federal Register will be requested to approve this incorporation by reference before any final rule is issued as a result of this NPRM. TSO-C99 incorporates by reference the Society of Automotive Engineers (SAE) Aerospace Standard (AS) 8031, "Personal Protective Devices for Toxic and Irritating Atmospheres, Air Transport Crew Members," dated June 1980. SAE AS 6031 incorporates by reference SAE AS 452A, "Oxygen Mask Assembly, Demand and Pressure Breathing, Crew," dated October 20, 1965. Copies of SAE AS 8031 and AS 452A may be purchased from the Society of Automotive Engineers, Inc., Department 331, 400 Commonwealth Drive, Warrendale, PA 15096. A copy of TSO-C99 may be reviewed at any FAA Regional Office and Engineering and Manufacturing District Office. Requests for a copy of TSO-C99 may be sent to the Federal Aviation Administration, ATTN: Ms. Bobbie Smith, AWS-110, 800 Independence Avenue, SW., Washington, D.C. 20591.

In addition to proposing that the standards of TSO-C99 and § 25.1439 be incorporated in the operating rule, § 121.337, the FAA is proposing that PBE be required in several locations in aircraft operated under Part 121; that an approved firefighting drill using PBE be performed by all crewmembers; that additional PBE be installed in aircraft operated under Part 121; that, for passenger compartments, PBE be easily accessible and conveniently located within 3 feet of each hand fire extinguisher required by 14 CFR 121.309; and that certain emergency drill requirements in Part 121 be clarified. These proposals result from accidents mentioned previously where smoke and noxious gases may have impaired crewmembers when fighting cabin fires and when assisting passengers to evacuate the aircraft and, as previously noted, NTSB recommendations A-83-74 and A-83-75, which state that a minimum number of PBE units should be prescribed to be carried aboard transport category aircraft and that PBE carried aboard those aircraft should be required to comply with §§ 25.1439 and 121.337 and TSO-C99.

As a result of studies and recommendations, the FAA recently adopted rules that will result in the addition of fire-blocking layers in aircraft seat cushions, smoke detectors in lavatories and galleys, and additional and improved fire extinguishers in aircraft operated under Part 121, in addition to those items proposed in this notice.

The FAA has carefully evaluated the cost and benefits to this proposal and has concluded that the lives saved are in addition to any lives that have previously been accounted for in other cabin safety initiatives.

The benefits of the PBE proposal are those lives saved and injuries prevented by improved crewmember visual and respiratory protection and active crewmember firefighting response in a potentially catastrophic in-flight fire. In contrast, the benefits of related FAA cabin safety initiatives are those lives

saved and injuries prevented by passive fire protection countermeasures in both in-flight and post-crash fires. Smoke detection devices, fire retardant materials, and improved passenger egression measures are passive in nature and independent of crewmember activation. The PBE proposal enhances the effectiveness of passive fire protection initiatives by providing an active countermeasure against the hazards of in-flight fires. With respect to this, the benefits attributed to the proposal represent an increase in the savings to the general public above the cost of lives and injuries already cited in other related FAA initiatives.

Discussion of the Proposed Rule

Section 121.337(a)

The FAA proposes to combine the existing requirements of § 121.337, the minimum standards to TSO–C99, and the standards of § 25.1439 into a revised § 121.337 and make air carriers and commercial operators who conduct operations under the operating rules of Part 121 responsible for meeting these requirements.

At present, most of the PBE requirements are contained in the aircraft certification rule, § 25.1439. That rule specifies equipment requirements for PBE designed to protect crewmembers while fighting fires on aircraft in accessible compartments. Standards for PBE are found in TSO–C99, which is not a part of the FAR. The FAA proposes to combine the equipment requirements of § 25.1439 and the standards of TSO–C99 by incorporating that document by reference in a revised operating rule, § 121.337. This would consolidate the requirements now found in several regulations and TSO–C99.

Section 121.337 (b), (c), and (d)

These sections would combine certain requirements now contained in § 121.337 and selected portions of § 25.1439.

Proposed § 121.337(b) would combine the requirements now found in § 121.337(a) concerning pressurized cabin airplanes with PBE requirements in § 25.1439 (b)(1) through (b)(6).

Proposed § 121.337(b)(4) would require that PBE, while in use, must allow the flightcrew to use the radio equipment and to communicate with each other while at their assigned duty stations. The proposal would add a new requirement that the equipment must also allow interphone communications from each of two flight crewmember stations in the pilot compartment to at least one normal flight attendant station in each passenger compartment. This requirement is necessary in those instances where the flightcrew needs prompt information concerning the efficacy of firefighting actions or smoke elimination procedures to determine the proper course of action to take if a passenger compartment fire cannot be readily extinguished or smoke in the passenger compartment cannot be readily removed.

Proposed § 121.337(b)(7) would require that PBE with a fixed or portable oxygen supply must be conveniently located in the cockpit and be easily accessible for immediate use by each required flight crewmember at his/her assigned duty station. Since some older aircraft do not have the built-in ducting for a fixed oxygen supply, the FAA is proposing a new requirement to provide for PBE with a portable oxygen supply to be used at each flight crewmember duty station.

Proposed § 121.337(b)(8) (i) through (iv) would consist of the requirements currently specified in § 25.1439(a) plus several additional requirements.

Proposed § 121.337(b)(8)(i) would require that one PBE with a portable oxygen supply be located for use in each Class A, B, and E cargo compartment (as defined in § 25.857) that is accessible to crewmembers during flight. Proposed § 121.337(b)(8)(ii) would require that one PBE with a portable oxygen supply must be provided in each upper and lower lobe galley for each crewmember expected to be in these areas during any operation. Proposed § 121.337(b)(8)(iii) would require that one additional PBE with a portable oxygen supply must be provided on the flight deck. Proposed § 121.337(b)(8)(iv) would require that each PBE with a portable oxygen supply for use in the passenger compartment must be easily accessible and conveniently located within 3 feet of each hand fire extinguisher required by § 121.309. Locating the PBE and hand fire extinguisher within 3 feet of each other would provide crewmembers with easy access to both items of equipment should an emergency arise.

A proposed new § 121.337(e)(1) would be added to provide that each item of PBE having a fixed oxygen supply must be checked and determined to be operating properly before each flight crewmember who might use the equipment takes off in that aircraft for his/her first flight of the day. The PBE must be checked by the flight crewmember who will use the equipment to ensure that the equipment is functioning, fits properly, and is connected to appropriate oxygen supply terminals and that the oxygen supply and pressure are adequate for its use.

A proposed new § 121.337(e)(2) would be added to require that each item of PBE located at other than flight crewmember duty stations and having a portable oxygen supply must be checked by the responsible crewmember and determined to be operating properly before he/she takes off in that aircraft for the first flight of the day. The PBE must be checked by the crewmember designated by the certificate holder in its operations manual to ensure that the equipment is properly stowed and serviceable and that the oxygen supply is fully charged.

Concerning PBE located at flight crewmember duty stations having either a fixed or portable oxygen supply, each flight crewmember must check that the PBE is functioning properly by turning on the oxygen supply and checking for proper oxygen flow in the mask and related equipment. Each flight crewmember must check his/her PBE at his/her duty station for proper fit. Concerning PBE having a portable oxygen supply that is located at other than flight crewmember duty stations, crewmembers must check to see that the PBE is properly stowed, ensure that it is serviceable by checking the mask visually, and establish, by checking the oxygen tank gauge, that the oxygen pressure is adequate for its use.

Proposed § 121.337(b) would also require that, after a date 1 year after the effective date of this proposed amendment, no person may operate a transport category airplane unless PBE meeting the requirements of proposed § 121.337 is provided for flight crewmember use. The 1-year period is intended to allow certificate holders lead time to schedule the aircraft modifications necessary for compliance to coincide with major maintenance inspections and to develop appropriate maintenance and crewmember procedures and instructions. The FAA specifically requests comments on the adequacy of this 1-year implementation period.

Section 121.417

Proposed § 121.417(c) would be amended by reorganizing current § 121.417(c) to clarify and specify that certain emergency drills are required to be "performed" by crewmembers and that certain other emergency drills are required to at least be "observed" by crewmembers. Additionally, current § 121.417(c) would be reorganized to clarify and specify which emergency drills are to be accomplished at different points in time (drill periods). The first drill period is delineated in proposed § 121.417(c)(1). Under that proposal,

one-time emergency drills would be required to be accomplished during initial training. The second drill period is delineated in proposed § 121.417(c)(2). Under that proposal, additional, different emergency drills would be required to be accomplished during initial training and once each 24 calendar months during recurrent training. Proposed § 121.417(c) would delete from current § 121.417(c) the term "participate in" and add the term "observe" in its place. Proposed § 121.417(c) would clarify and specify the requirement in current § 121.417(c) that each crewmember must accomplish certain emergency training drills using those items of installed emergency equipment for each type of aircraft in which he/she is to serve.

Proposed § 121.417(f) would, for the purposes of this section, add definitions for "perform" and "observe." "Perform" would mean accomplishing a prescribed emergency drill using established procedures involved in the drill, and "observe" would mean to watch without participating actively in the drill.

Proposed § 121.417(c)(1)(i) contains a new one-time emergency drill requirement that would be performed during initial training. This requirement provides that a crewmember must perform at least one approved firefighting drill using at least one type of installed hand fire extinguisher, appropriate for the type of fire to be fought, while using the type of installed PBE required by § 121.337. The hand fire extinguisher and PBE would be required to be of the types carried aboard the airplanes on which the crewmember is to serve.

The purpose of this training is to acquaint each crewmember with one of the types of firefighting equipment available on the airplanes on which he or she will be serving, how to activate that equipment, and how the fire retardant reacts with a fire. Additionally, this drill is a confidence builder that permits those being trained to wear and use the equipment while fighting a fire and to gain confidence that the equipment could be used effectively in a real-life emergency situation.

If the proposal in this notice is adopted as a final rule, the FAA will publish an advisory circular or Air Carrier Operations Bulletin describing one method of accomplishing an approved firefighting drill.

Proposed § 121.417(c)(1)(ii) is based on the current requirements in § 121.417(c) and (c)(4). The proposal clarifies the current requirements that the performance of the emergency evacuation drill, including the use of a slide, is a one-time emergency drill requirement for all crewmembers and is to be performed during the initial training period delineated in proposed § 121.417(c) described above. The proposal specifically provides that each crewmember must perform an emergency evacuation drill, with each person egressing the aircraft or approved training device using at least one type of installed emergency evacuation slide. The crewmember may either observe the aircraft exits being opened in the emergency mode and the associated slide/raft pack being deployed and inflated, or perform the tasks resulting in the accomplishment of these actions.

Proposed § 121.417(c)(2) is the same as current § 121.417(c), which requires that each crewmember must perform additional emergency drill requirements during initial training and once each 24 calendar months during recurrent training.

Proposed §§ 121.417(c)(2)(i)(A) through (D) are the same as current §§ 121.417(c) (1) through (3) and (5), respectively, with two exceptions. Proposed § 121.417(c)(2)(i)(B) would require operation of installed hand fire extinguishers while current § 121.417(c)(2) requires the operation of each type of fire extinguisher. Proposed § 121.337(c)(2)(i)(C) would clarify the emergency drill requirement in current § 121.417(c)(3) pertaining to each type of emergency oxygen system to include PBE.

Proposed §§ 121.417(c)(2)(i)(E) through (E)(6) are the same as current §§ 121.417(c)(6), (6) (i), (ii), (iii), (iv), (viii), and (ix), respectively. However, proposed §§ 121.417(c)(2)(ii)(A) would add the words "if applicable" to the language of current § 121.417(c)(6)(v) to indicate that the drill would be required to be accomplished if the certificate holder engages in extended overwater operations without holding a deviation authorizing extended overwater operations without the emergency equipment required by § 121.339 of this part.

Proposed §§ 121.417(c)(2)(ii), A through D, are the same as current §§ 121.417(c)(6)(v), (vi), and (vii) and (c)(4), respectively, except for use of the new term "observe" rather than the deleted term "participate in" discussed above. The proposal would make it clear that crewmembers would be permitted to observe the drills specified in those paragraphs rather than having to participate in them during the initial and recurrent training periods delineated in proposed § 121.417(c)(2) described above.

Proposed § 121.417(d) is a new provision which would require, in pertinent part, that 1 year after the effective date of the proposed rule, no crewmember may serve in operations under this part unless the crewmember has performed the firefighting drill prescribed by § 121.417(c)(1)(i).

Regulatory Evaluation

This section summarizes the preliminary industry cost impact and benefit assessment of an NPRM to amend Part 121 of the FAR to upgrade the level of protection for the traveling public against the hazards of in-flight fires. The NPRM proposes to adopt new standards for PBE and to establish the operating certificate holder as the party responsible for providing PBE. The NPRM also proposes to adopt new and more stringent firefighting training requirements for all crewmembers.

The NPRM, in part, is a result of a recommendation by the NTSB which found during an accident investigation that PBE (smoke goggles) used by several air carriers did not adequately protect the flightcrew and that some smoke goggles restricted the user's vision. The action to increase crewmembers' firefighting training was prompted by the FAA's awareness of several fatal in-flight fires in aircraft of U.S. manufacture operated by foreign carriers and by the alarming number of cabin fire and smoke-in-the-cabin incidents recorded in recent years.

The methods and assumptions used in this analysis to prepare cost and benefit estimates for the proposed changes to §§ 121.337 and 121.417 have been developed by the FAA. The estimates of economic impacts for the NPRM changes to the PBE and fire training requirements have been constructed from unit cost and other data obtained from air carriers, industry trade associations, and manufacturers and are based on the best information available to the FAA. These estimates are subject to change before the close of the public comment period if better information becomes available.

The present value of the PBE proposal cost, including the cost of maintenance and installation, is estimated to be approximately $25.5 million. The present value of the total cost of requiring that Part 121 crewmembers perform at least one approved firefighting drill has been estimated to be $35.5 million.

Benefits of the PBE and firefighting training proposal will be the prevention of potential fatalities, injuries, and property damage resulting from fires originating in the flight deck and in other areas in the passenger cabin.

Quantification of these benefits is made difficult by the relatively limited number of in-flight cabin fire accidents. No major cabin fire accidents have occurred in U.S. air carrier passenger operations. During the last 10 years, only three major in-flight fires have occurred in worldwide operations in which the proposed countermeasures may have been effective in averting an accident. When such accidents have occurred, however, the results have been catastrophic. To allow for the uncertainty inherent in predicting future accidents when historical data are limited, a risk analysis has been performed. The risk analysis generates a probability distribution of the potential benefits which may be realized from accidents avoided as a result of the proposed amendments.

A comparison of the probability distribution of potential benefits and estimated costs of each proposal is summarized in Tables 1 and 2. Averages of the possible benefit and benefit/cost ratio outcomes weighed by the probability of each outcome, are also indicated as the expected benefit/cost ratio for each proposal. All values have been discounted at the 10 percent discount rate prescribed by the Office of Management and Budget over the 10-year period of this analysis.

For the purpose of this analysis, the FAA has calculated the cost of additional time required for crewmember firefighting training on the basis of an assumed average additional 3 hours of compensable time per trainee. This has been done to account only for the assumed additional time imposed by regulation and to compensate for the minority of air carriers that currently have firefighting training and will not incur a cost as a result of this proposal. More detailed information is needed regarding additional labor and operating costs imposed by the new firefighting requirements on air carriers for the evaluation of any final rule that may result from this proposal. Therefore, the FAA solicits data, views, etc., relating to the economic impact of the proposed amendments to § 121.417. Specific comments regarding § 121.417 are requested as follows:

1. Cost estimates of the additional time and labor hours required to comply with the rule.
2. Estimates of cost associated with additional materials and facilities to comply with the new requirements.
3. Names of carriers currently conducting firefighting training.
4. Number and type of crewmembers currently receiving firefighting training.
5. Frequency and location of firefighting training.
6. Types of combustibles used in firefighting training.
7. Current crewmember training activities which may be displaced to accommodate firefighting training programs at no additional cost to the carrier.
8. Suggestions pertaining to alternative methods of accomplishing the objectives of the proposal (to increase protection against the hazards of in-flight fires for the traveling public).

The proposed amendments will have a significant economic impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis has been included in the regulatory evaluation.

TABLE 1.—PROBABILITY DISTRIBUTION OF BENEFIT/COST RATIOS FOR PROTECTIVE BREATHING EQUIPMENT (PBE)

Benefit (millions)	Benefit/cost ratio	Probability[1] (in percent)
0	0	100
$9.4	.35	75
$18.0	.68	50
$25.5 (breakeven)	1.0	31
$28.6	1.1	25
$85.9	3.2	0

[1] That the Protective Breathing Equipment Proposal Will Equal or Exceed the Benefit/Cost Ratio the Benefit/Cost Ratio Shown at Left.

Note.—Expected Benefit/Cost Ratio=.84 (based on expected benefit of $21.5 million). Cost of Protective Breathing Equipment for 1985–1994—$25.5 million.

As shown above, using FAA standard economic values, there is a 25 percent probability that the benefits of the rule will exceed its costs. The expected benefit/cost ratio of .84 is based on an expected benefit of $21.5 million. However, the benefit value of $21.5 million is influenced by the value assigned to a life saved. The FAA value of a statistical life used in the evaluation was $650,000. There is much controversy over the value of a statistical life. For example, M.J. Bailey[1] has a range of estimates from $37,500 to $4,500,000. It is useful to examine the potential benefit that would result when a higher estimate of cost per life saved is applied. If a value in excess of $790,000 is assigned as the value of a statistical life, the expected benefits of the rule will exceed its costs.

TABLE 2.—PROBABILITY DISTRIBUTION OF BENEFIT/COST RATIOS FOR FIREFIGHTING TRAINING

Benefit (millions)	Benefit/cost ratio	Probability[1] (in percent)
0	0	100
$17.5	.49	75
$33.4	.94	50
$35.5 (breakeven)	1.0	46
$56.5	1.6	25
$133.6	3.7	0

[1] That the Firefighting Training Proposal Will Equal or Exceed the Benefit/Cost Ratio Shown at Left.

Note.—Expected Benefit/Cost Ratio=1.1 (based on expected benefit of $39.3 million). Cost of Firefighting Training for 1985–1994—$35.5 million.

[1] *Reducing Risks to Life. Measurement of the Benefits*, M.J. Bailey, American Enterprise Institute, Studies in Government Regulation, 1980, Washington, D.C.

Regulatory Flexibility Determination

The FAA has determined that under the criteria of the Regulatory Flexibility Act (RFA) of 1980, the amendment to §§ 121.337 and 121.417 proposed in this NPRM will have a significant economic impact on a substantial number of small entities. The RFA requires agencies to specifically review rules which may have a "significant economic impact on a substantial number of small entities." The FAA has recently adopted criteria and guidelines[2] for rulemaking officials to apply when determining if a proposed rule has a significant economic impact on a substantial number of small entities and guidance for the conduct of regulatory flexibility analysis and reviews.

Small Entities Affected

The proposed amendments to both § 121.337 and § 121.417 affect small air carriers which are regulated by Part 121 and operate aircraft having more than 30 passenger seats or a payload capacity of more than 7,500 pounds. The FAA order prescribing small entity size standards identifies a small air carrier as one with nine or fewer operating aircraft. According to FAA data for the period ended July 1, 1984, there were 47 air carriers subject to the rules of Part 121 that operated 9 aircraft or fewer. These 47 carriers are the small entities affected by the proposed rules in this NPRM.

Analysis of Economic Impact on Small Carriers

The FAA's thresholds for significant economic impact vary according to the equipment type operated and the kind of service provided. The annualized cost threshold for scheduled carriers is $47,506 or $85,070 depending on whether the fleet operated includes aircraft having 60 or fewer seats. However, the threshold for nonscheduled air carriers is only $3,314. The average impact for cost imposed by the proposed

[2] U.S. Department of Transportation, FAA Order 2100.14

amendments to § 121.337 is estimated by multiplying the average number (4) of aircraft per carrier by the aggregate cost of equipping one aircraft with the PBE required by the proposal. The cost of equipping one aircraft with PBE is estimated to be $5,730. Therefore, the average impact in the first year of the regulation on scheduled carriers would be ($5,730 × 4) $22,920 which is below the threshold established for air carriers. On the other hand, the equipping of one aircraft at an estimated cost of $5,730, for the first year the rule is in effect, will exceed the $3,314 threshold for unscheduled carriers. Thus, all affected small unscheduled carriers will incur a significant economic impact as a result of the proposed amendment to § 121.337.

The cost impact of the proposed amendment to § 121.417 is derived by multiplying the total cost of training one crewmember times the assumed number of flight-deck and cabin personnel of a small carrier operating four aircraft. The FAA assumes the average number of flight-deck and cabin personnel for a passenger air carrier with 4 airplanes is 44 persons. Flight-deck personnel are assumed to be 30 and flight attendants 14. The cost to train flight-deck personnel is (30 × $652) $19,560 and the cost to train cabin attendants is (14 × $132) $1,848. Therefore, the average impact the first year is $21,408, which exceeds the $3,314 annualized threshold for small unscheduled carriers. Thus, all unscheduled carriers will incur a significant economic impact as a result of the proposed amendment to § 121.417. This number exceeds ⅓ of the 47 affected small entities, which FAA has determined to be a substantial number. Thus, the proposed rule at implementation will have a significant economic impact on a substantial number of small entities. Therefore, in accordance with the terms of the RFA a regulatory flexibility analysis is required.

Initial Regulatory Flexibility Analysis

In keeping with the requirements of sections 603 (b) and (c) of the RFA, the following analysis examines the proposed rule and its effect on small entities.

Reasons for Agency Action

The intent of the NPRM is to increase the level of safety to the traveling public by ensuring that crewmember performance and flight safety are not impaired by the presence in the aircraft of smoke and other toxic byproducts of in-flight fires. The NPRM requires that PBE standards be improved and that each crewmember receive initial training in fighting a fire. These higher standards are required for safety since most current PBE have been found not to provide a safe level of eye and respiratory protection and most crewmembers are not trained in fire-fighting techniques.

Objectives of and Legal Basis of the Rule

The objective of the NPRM is to provide an increased margin of safety against the hazards of in-flight fires. The objective of the proposals is discussed in detail in the preamble to this NPRM.

The legal basis of the proposal is sections 313(a), and 601 through 610 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) and 1421 through 1430); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.45.

Description of Affected Small Entities

The entities affected are Part 121 certificate holders operating nine or fewer aircraft. These entities are discussed in detail above.

Requirements for Compliance With the Rule

The NPRM requires compliance with the proposed amendments 1 year after the effective date of implementation of the rule. Compliance involves equipping each aircraft with PBE that will meet the minimum performance standards of TSO–C99 and requiring that each crewmember undergo firefighting training while wearing an approved PBE during initial emergency training.

Overlap of the Rule With Other Federal Rules

There are no other Federal rules which duplicate, overlap or conflict with the proposal.

Alternatives to the Proposals

Section 121.337—Protective Breathing Equipment

Alternative 1. Require that only flight-deck PBE be modified to meet TSO–C99 standards.

This alternative would eliminate the requirement that PBE be located within 3 feet of every fire extinguisher location required by § 121.309 and would result in considerable savings to small carriers. Flight-deck PBE, both fixed oxygen supply and one portable unit, would be available to the flight-deck crew. The portable unit would enable a first officer or flight engineer to fight a fire in another location of the airplane.

On the negative side, portable PBE would not be available to cabin attendants to assist them in performing tasks critical to the protection of passengers in the presence of in-flight fires.

This alternative is rejected because it denies passengers the margin of additional safety against the hazards of in-flight fires provided by flight attendant personnel.

Alternative 2. Require a 3-year compliance period for small air carriers.

This alternative would lessen the immediate economic impact of the proposal which requires compliance with the rule 1 year from the effective date of its implementation. The protracted compliance period would enable small carriers more easily to absorb the cost of compliance because PBE can be gradually purchased over a 3-year span.

Against this alternative, the public which uses the services of small air carriers has a right to a level of safety equal to that afforded travelers using large air carriers. In this same context, some passengers may have no choice but to use the smaller carriers.

This alternative is rejected because all members of the traveling public should be equally protected against the hazards of in-flight fires, and the proposal is required for the safety of the general public.

Section 121.337—Crewmember Emergency Training

Alternative 1. Require only that small air carrier flight deck crewmembers be required to undergo firefighting training to satisfy the requirements of the rule.

This alternative would save small carriers the compliance cost of having to train their flight attendant personnel.

On the negative side, cabin attendants would not benefit from the training which is intended to increase the entire crew's level of firefighting proficiency and thus enhance safety.

This alternative is rejected because recurrent training in actual firefighting procedures is the most effective means of maintaining crewmember proficiency against the hazards of in-flight fires.

Alternative 2. Require that only cabin attendant personnel be trained in firefighting procedures.

This alternative would save small carriers the cost of training flight-deck personnel and may potentially result in additional savings because flight-deck crewmembers would be available to continue revenue operations without disruption.

On the other hand, flight-deck crewmembers would not be familiar with firefighting procedures in case of flight-deck fires or fires in other locations of the airplane for which their assistance may be required.

This alternative is rejected because safety requires that flight-deck personnel be proficient in extinguishing fires whether in the cockpit or other parts of the airplane.

Trade Impact Assessment

This proposal, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States. The proposal primarily affects Part 121 certificate holders and places the operating certificate holder as the party responsible for the provision of acceptable PBE.

Thus, both domestic and foreign manufacturers would not be affected by the proposals. Since most Part 121 operators compete domestically for passenger revenues with other U.S. operators, the proposal will not cause a competitive fare disadvantage for U.S. carriers.

Conclusion

Under the terms of the RFA, the FAA has reviewed these proposals to determine what impact they may have on small entities. The proposals included in this notice will have a significant economic impact on a substantial number of small entities. The FAA finds, however, that there are no alternatives to these proposals which would provide the traveling public with an equivalent level of safety against the hazards of in-fligth fires provided by the proposals contained in this notice.

These proposals, if adopted, are not likely to result in an annual effect on the economy of $100 million or more, or a major increase in costs for consumers; industry; or Federal, State, or local government agencies. Accordingly, it has been determined that these are not major proposals under Executive Order 12291. In addition, the proposals, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

Since the proposals concern a matter on which there is a substantial public interest, the FAA has determined that this action is significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

A draft regulatory evaluation of the proposals, including a Regulatory Flexibility determination and Trade Impact Assessment, has been placed in the regulatory docket. A copy may be obtained by contacting the person identified under the **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 121

Aviation safety, Safety, Air carriers, Air transportation, Aircraft, Airplanes, Airworthiness directives and standards, Transportation, Common carriers.

The Proposed Rule

Accordingly, the Federal Aviation Administration proposes to amend Part 121 of the Federal Aviation Regulations (14 CFR Part 121) as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for Part 121 is revised to read as follows:

Authority: Secs. 313(a), 314, 501, 601 through 610, and 1102 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355, 1401, 1421 through 1430, and 1502); 49 U.S.C 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.45.

2. By revising the title and text of § 121.337 to read as follows:

§ 121.337 Protective breathing equipment.

(a) The certificate holder shall furnish protective breathing equipment meeting the equipment, oxygen, and communication requirements contained in paragraph (b) of this section and the minimum performance standards of TSO–C99, Protective Breathing Equipment.

(b) *Pressurized cabin airplanes.* After (a date 1 year after the effective date of this proposed amendment), no person may operate a transport category airplane unless protective breathing equipment meeting the requirements of this section is provided as follows:

(1) *General.* The equipment must protect the flightcrew from the effects of smoke, carbon dioxide, or other harmful gases while on flight-deck duty and must protect crewmembers while combatting fires on board the aircraft from the effects of smoke, carbon dioxide, or other harmful gases.

(2) The equipment must include—

(i) Masks covering the eyes, nose, and mouth; or

(ii) Masks covering the nose and mouth plus accessory equipment to cover the eyes.

(3) That part of the equipment protecting the eyes must ensure that the wearer's vision is not impaired to the extent that crewmember duties cannot be accomplished and must allow corrective glasses to be worn.

(4) The equipment, while in use, must allow the flightcrew to use the radio equipment and to communicate with each other while at their assigned duty stations. The equipment must also allow crewmember interphone communications for each of two flight crewmember stations in the pilot compartment to at least one normal flight attendant station in each passenger compartment.

(5) Oxygen requirements are as follows:

(i) The equipment must supply protective oxygen to each crewmember for 15 minutes at a pressure altitude of 8,000 feet with a respiratory minute volume of 30 liters per minute BTPD (body temperature conditions, at ambient pressure, dry, 37 °C) (98.6 °F).

(ii) If a demand oxygen system is used, a supply of 300 liters of free oxygen at 70 °F (21 °C) and 760 mm Hg. pressure meets the requirements of paragraph (5)(i) of this section.

(iii) If a continuous flow protective breathing system is used (including a mask with a standard rebreather bag), a flow rate of 60 liters per minute at 8,000 feet (45 liters per minute at sea level) and a supply of 600 liters of free oxygen at 70 °F (21 °C) and 760 mm Hg. pressure meet the requirements of paragraph (5)(i) of this section.

(6) The oxygen equipment must also meet the requirements of paragraphs (b) and (c) of §25.1441 of this chapter.

(7) Protective breathing equipment with a fixed or portable oxygen supply meeting the requirements of this section must be conveniently located on the flight deck and be easily accessible for immediate use by each required flight crewmember at his/her assigned duty station.

(8) Protective breathing equipment with a portable oxygen supply meeting the requirements of this section must be easily accessible and conveniently located for immediately use by crewmembers, other than flight crewmembers, as follows:

(i) One for use in each Class A, B, and E cargo compartment (as definded in § 25.857 of this chapter) that is accessible to crewmembers in the compartment during flight;

(ii) One in each upper and lower lobe galley for each crewmember expected to be in these areas during any operation;

(iii) One on the flight deck; and

(iv) In the passenger compartment, one located within 3 feet of each hand fire extinguisher requried by § 121.309.

(c) *Nonpressurized cabin airplanes.* The requirements of paragraphs (a) and (b) of this section apply to nonpressurized cabin airplanes if the Administrator finds that it is possible to obtain a dangerous concentration of smoke or carbon dioxide or other harmful gases in the flight-deck area in

any attitude of flight that might occur when the airplane is flown in accordance with either normal or emergency procedures.

(d) *Nonpressurized cabin airplanes with a built-in carbon dioxide fire extinguisher system in a fuselage compartment.* Each certificate holder operating a nonpressurized cabin airplane that has a built-in carbon dioxide fire extinguisher system in a fuselage compartment shall provide protective breathing equipment meeting the requirements of paragraphs (a) and (b) of this section for the flight crewmembers except where—

(1) Not more than 5 pounds of carbon dioxide would be discharged into any compartment in accordance with established fire control procedures; or

(2) The carbon dioxide concentration at each flight crewmember station has been determined in accordance with § 25.1197 of this chapter and has been found to be less than 3 percent by volume (corrected to standard sea level conditions).

(e) *Euipment preflight.* (1) Each item of protective breathing equipment having either a fixed or portable oxygen supply must be checked and determined to be operating properly before each flight crewmember takes off in that aircraft for his/her first flight of the day. The protective breathing equipment must be checked by the flight crewmember who will use the equipment to ensure that the equipment is functioning, fits properly, and is connected to appropriate oxygen supply terminals and that the oxygen supply and pressure are adequate for its use.

(2) Each item of protective breathing equipment located at other than flight crewmember duty stations having a portable oxygen supply must be checked by the responsible crewmember and determined to be operating properly before he/she takes off in that aircraft for his/her first flight of the day. The PBE must be checked by the crewmember designated by the certificate holder in its operations manual to ensure that the equipment is properly stowed and serviceable and the oxygen supply is fully charged.

3. By amending § 121.417 by revising paragraph (c), by redesignating paragraph (d) as (e), and by adding paragraphs (d) and (f) to read as follows:

§ 121.417 Crewmember emergency training.

* * * * *

(c) Each crewmember must accomplish the following emergency training during the following training periods, using those items of installed emergency equipment for each type of aircraft in which he/she is to serve (Alternate recurrent training required by § 121.433(c) may be accomplished by approved pictorial presentation or demonstration):

(1) *One-time emergency drill requirements to be accomplished during initial training.* Each crewmember must perform—

(i) At least one approved firefighting drill using at least one type of installed hand fire extinguisher, appropriate for the type of fire to be fought, while using the type of installed protective breathing equipment required by § 121.337; and

(ii) An emergency evacuation drill, with each person egressing the aircraft or approved training device using at least one type of installed emergency evacuation slide. The crewmember may either observe the aircraft exits being opened in the emergency mode and the associated exit slide/raft pack being deployed and inflated, or perform the tasks resulting in the accomplishment of these actions.

(2) *Additional emergency drill requirements to be accomplished during initial training and once each 24 calendar months during recurrent training.* Each crewmember must—

(i) Perform the following emergency drills and operate the following equipment:

(A) Each type of emergency exit in the normal and emergency modes, including the actions and forces required in the deployment of the emergency evacuation slides;

(B) Each type of installed hand fire extinguisher;

(C) Each type of emergency oxygen system to include protective breathing equipment;

(D) Donning, use, and inflation of individual flotation means, if applicable; and

(E) Ditching, if applicable, including but not limited to, as appropriate:

(*1*) Cockpit preparation and procedures;

(*2*) Crew coordination;

(*3*) Passenger briefings and cabin preparation;

(*4*) Donning and inflation of life preservers;

(*5*) Use of life-lines; and

(*6*) Boarding of passengers and crew into a raft or a slide/raft pack.

(ii) Observe the following drills:

(A) Removal from the airplane (or training device) and inflation of each type of life raft, if applicable;

(B) Transfer of each type of slide/raft pack from one door to another;

(C) Deployment, inflation, and detachment from the airplane (or training device) of each type of slide/raft pack; and

(D) Emergency evacuation including the use of slide.

(d) After (1 year after the effective date) no crewmember may serve in operations under this part unless that crewmember has performed the firefighting drill prescribed by paragraph (c)(1)(i) of this section.

* * * * *

(f) For the purposes of this section, "perform" means accomplishing a prescribed emergency drill using established procedures which stress the skill of those persons involved in the drill and "observe" means to watch without participating actively in the drill.

Issued in Washington, DC, on October 2, 1985.

William T. Brennan,

Acting Director of Flight Standards.

[FR Doc. 85-24234 Filed 10-9-85; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
October 10, 1985

Part IV

Postal Service

39 CFR Parts 310 and 320

Restrictions on Private Carriage of Letters; Proposed Clarification and Modification of Definition and of Regulations on Extremely Urgent Letters; Proposed Rule

POSTAL SERVICE

39 CFR Parts 310 and 320

Restrictions on Private Carriage of Letters; Proposed Clarification and Modification of Definition and of Regulations on Extremely Urgent Letters

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: In October, 1979 the Postal Service adopted regulations suspending the operation of the Private Express Statutes for extremely urgent letters. 44 FR 61181. Experience since that time has shown that, for letters sent to other countries, the limitations on the suspension have not been observed in a fully satisfactory way.

Large numbers of international letters originated by American firms are being shipped privately to foreign countries for deposit in the mails of those countries. This carriage, which is typically performed for less than the amount of U.S. postage for international air mail, has the effect of diverting from the United States Mails letters which are not extremely urgent, thereby depriving the Postal Service of revenues in a manner not intended when the suspension was proposed and adopted. While this practice has developed ostensibly under the suspension, the Postal Service has interpreted those of its regulations which create the suspension as not allowing this practice. In order to provide further notice of its intention under this suspension, and to leave no room for question as to the circumstances under which extremely urgent letters may be carried outside the mails wholly within the United States and within the United States when being sent between the United States and a foreign country, the Postal Service is proposing and modifying language for certain sections of Parts 310 and 320.

DATE: Comments must be received on or before November 12, 1985.

ADDRESS: Written comments should be addressed to the General Counsel, Law Department, United States Postal Service, Washington, DC 20260–1113. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, in Room 5128, 955 L'Enfant Plaza, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles D. Hawley (202) 245–4584.

SUPPLEMENTARY INFORMATION: The Private Express Statutes are a revenue protection measure designed to make it possible for the United States to have a universal postal system charging uniform rates. The suspension of the Statutes for extremely urgent letters recognizes a public interest in the availability of a lawful alternative means for the private carriage of letters of extreme urgency on post routes without payment of postage. The regulations which create and define this narrowly-drawn suspension establish two tests for determining, for the purposes of the suspension, whether a letter is extremely urgent. One test, known as the "loss of value" test, provides that a letter is extremely urgent if it is delivered within a short, specified period of time after dispatch *and* if the value or usefulness of the letter would be lost or greatly diminished if not delivered within that period. 39 CFR 320.6(b)(1). The other test, called the "cost" test, provides that a letter will be conclusively presumed to be extremely urgent if the amount paid to the carrier for the carriage is $3.00 or is twice the amount of applicable U.S. postage for First-Class Mail, whichever is the greater. 39 CFR 320.6(c). We think it reasonable to conclude that if a person is willing to pay a premium price for private carriage, the letters are extremely urgent to him and that he is not employing the private carrier merely to obtain lower rates.

For letters carried wholly within the United States, these alternative tests have, for the most part, worked satisfactorily. But for international letters the experience has been less satisfactory. Since the adoption of the suspension for extremely urgent letters, private carriers have begun to offer to American firms that send substantial numbers of international letters a mailing service which makes use of foreign postal systems but altogether bypasses the United States Mails.

Although carriers offering this service purport to be acting under the authority of the suspension for extremely urgent letters, their activities are completely inconsistent with both its intent and its terms. Typically, the carrier transports those letters to a selected foreign country where the letters are entered into the mails, with the carrier making no effort to limit the service to letters of extreme urgency as required by the test of § 320.6(b), or to present it as a premium, expedited service with rates that satisfy the alternative test of § 320.6(c). Furthermore, it cannot reasonably be said of letters that are entered into the mail stream of a foreign postal administration for delivery as ordinary mail that, as a class, they are in fact extremely urgent: that term presupposes the taking of extraordinary steps to ensure particularly rapid delivery.

In order to ensure that the practices with respect to the private international shipment and carriage of letters are consistent with the Private Express Statutes and the Postal Service's implementing instructions, we wish to make clear the extent to which the Private Express Statutes apply to international shipments of letters, to eliminate special treatment under the "loss of value" test for shipments to and from United States locations outside the 48 contiguous States, to limit the suspension with respect to international shipments to those satisfying the "cost" test, and to clarify the meaning within the "cost" test of the provision permitting the aggregation of letters. Amendments to several provisions of parts 310 and 320 are therefore proposed.

The first of these amendments would clarify the territorial scope of the Statutes by adding the phrase "within the United States" to the definition in § 310.1(d) of "post routes," over which letters may not be carried except in compliance with the Private Express Statutes. It would also add a new paragraph to that subsection to provide explicit notice that carriage of letters over post routes within the United States in the course of a shipment to or from another country, as well as carriage that begins and ends within the United States, if governed by the Statutes. As used in this definition, United States has the same meaning as in 18 U.S.C. 5: "all places and waters, continental or insular, subject to the jurisdiction of the United States. . . ."

The Private Express Statutes have been consistently applied to the domestic segment of international shipments. In some instances of overseas carriage from cities on the borders of the United States this domestic segment may be for a short part of the total distance which the letters travel on their way to a foreign destination, as for example from downtown Los Angeles to Los Angeles International Airport and then by air to the territorial limit of the United States. For that segment, however, the shipment travels over post routes no less than if it began in the Midwest and were carried for a thousand miles within the United States. The revenue protection purpose of the Statutes, moreover, requires their application in each instance, since the private carriage in each instance diverts from the United States Mails letters which the Postal Service would otherwise carry.

The second of these amendments would eliminate the special treatment for letters sent to, from, or between States or territories of the United States other than the 48 contiguous States, under the "loss of value" test of extreme urgency, provided by § 320.6(b)(2) and (3). Since its adoption, the regulatory scheme has sought to accommodate all shipments of extremely urgent letters under this test to and from locations outside the 48 contiguous States by deeming as "delivered" and "dispatched" outgoing and incoming letters, respectively, at the last and first points of carriage within the 48 contiguous States. For example, under the present rule, a letter going overseas via a carrier leaving the country directly from Kennedy International Airport in New York, which is dispatched before noon within 50 miles of the Airport, must be in the hands of the overseas carrier within 6 hours or by the close of the carrier's business day and must also be of such a nature that its value is lost or substantially diminished if it is not "delivered" to the carrier within that time period. This provision was included because of concern that the time periods allowed for delivery within the 48 contiguous States would not realistically permit carriage under this test to more distant locations. The relationship, however, between the time of its "delivery" to, or "dispatch" by, the carrier and its value or usefulness to the real addressee, which is a key element of this test, has always been artificial and several years of experience with the suspension have not rendered it any more realistic. We are unaware, moreover, of any practice which has developed based upon this provision with respect to carriage either to areas of the United States other than the 48 contiguous States or to foreign countries. Nor are we aware of any instance in which the unavailability of the "loss of value" test would unduly prejudice international carriers and shippers seeking to come within the terms of the suspension. We consider that the time period for deliveries at a distance of more than 50 miles is not unreasonable for United States locations outside the 48 contiguous States, and so we are proposing to delete the existing provisions of (b)(2) and (3) which provide special treatment for these shipments.

For international shipments, we have concluded that the practical difficulty of monitoring compliance with any time period militates against continuing the availability of this "loss of value" test. We doubt, moreover, that many international shipments of letters which are in fact extremely urgent are carried at a charge which would not fully satisfy the "cost" test. We propose, therefore, to amend (b)(2) and (3) to provide that the "loss of value" test will not apply to shipments to foreign countries.

The final amendment would revise the text of subsection (c) which sets forth the elements of the "cost" test. We have found that, in the typical offerings of private overseas mailing services, the alternative "cost" test is not being met by the payment of a premium rate for private carriage. The United States postage which is made the standard of comparison for this "cost" test is that for First-Class Mail, a domestic mail category with rates that are substantially lower than those for international mail. For example, the rate of postage for the first half-ounce of most international air mail is 44¢ which is already twice the 22¢ charged for the first ounce of domestic First-Class Mail. If this standard of comparison were the only element of the "cost" test, it might allow letters to be carried to locations outside the United States at a discount from the truly comparable international rate, rather than at a premium. We have not found it is necessary, however, to use the international air mail rate as the standard for this element of the test, because the second element, the $3.00 per-letter minimum charge, when properly applied, appears to provide an adequate "floor," in this context as well as in the domestic mail context. It is our assessment that the $3.00 per-letter requirement, when clarified as we propose, will continue to serve as sufficient premium to assure that the letters are extremely urgent, or at least that they are so considered by the sender. We will continue to monitor the practices of persons engaged in international carriage, however, and will initiate changes in the basis for the cost comparison if this becomes necessary to protect postal revenues.

The $3.00 per-letter requirement, however, is being improperly applied because of a misinterpretation of the following provision in § 320.6(c):

> If a single shipment consists of a number of letters that are picked up together at a single origin and delivered together to a single destination, the applicable U.S. postage may be computed for purposes of this paragraph [320.6(c)] as though the shipment constituted a single letter of the weight of the shipment.

This provision is designed to permit the aggregation of letters under very limited circumstances for the purpose of applying the cost test. The limited character of its application is important, however, because the provision goes to the heart of the test's operation. By consolidating the separate letters being carried into a smaller number of "letters," aggregation has the practical effect of reducing the amount of postage that would be due.* [This is so because postage for First-Class Mail is based on one-ounce increments of weight. Few letters weigh exactly an once, and if several are weighed together, the total will be fewer ounces than the sum of the number of individual letters counted as one ounce each.] and so of reducing the amount that the carrier must charge to satisfy the twice-the-postage element of the test.

It also greatly erodes the effect of the other element. If the minimum charge per letter could be measured against one or a few consolidated "letters", rather than numerous individual letters, the $3.00 requirement would be rendered useless as a standard for determining urgency.

The aggregation provision is intended to apply only to a person or firm that sends a number of its letters to a group of ultimate or final recipients who are at a single address. The expansive interpretation that has been suggested, however, would apply the provision to any shipment of letters which have in common only that they are being carried together for that particular part of their journey. It would apply, for example, even to a shipment of letters addressed to individual ultimate recipients at numerous overseas locations, which an agent in the United States sends to a cooperating agent in a foreign country. In such an instance, the ultimate recipients of the letters do not reside or do business at one address, but may be located in dozens, perhaps even hundreds, of places.

If this interpretation were accepted, the exception would swallow the general rule: virtually any number of letters addressed to unrelated ultimate recipients at different locations could be aggregated for purposes of cost comparison. This would completely subvert the cost test. The Postal Service manifestly did not intend such a self-defeating provision and has consistently rejected this interpretation. Since the adoption of this suspension, it has written a number of advisory opinions, pursuant to 39 CFR 310.6, interpreting the provision as applicable only when the letters are ultimately intended for the same person or firm.

Even though the Postal Service considers that the interpretation of § 320.6(c) which it has followed is the only reasonable construction in light of the purpose of the suspension, it wishes, by amendment here proposed, to clarify the terms of the suspension so as to

leave no doubt as to the conditions which must be met if letters are to be carried, without payment of postage, whether wholly within the United States or within the United States in the course of shipment between the United States and a foreign country.

Because § 320.6(c) makes no distinction between international shipments of letters and wholly domestic shipments, the proposed amendment to the aggregation rule will, of course, apply to both in the same way. We think that the principle stated in the clarifying amendment is sound as applied to both.

Technically, the final amendment would subdivide § 320.6(c) into three paragraphs, although making only one change in the text of the present subsection (c). This change, in the second sentence, which is proposed subparagraph (c)(ii), would substitute the phrase, "letters that are sent together from the same point of origin for delivery together to the same ultimate destination", in place of the current phrase, "letters that are picked up together at a single origin and delivered together to a single destination". It would be followed by three examples, intended to illustrate the application of this provision and to establish, even more plainly than at present, that letters intended to be delivered to different persons at different locations may not be treated as a single letter for purposes of cost comparison when they are sent together for mailing or other intermediate handling. The Postal Service does not consider this as a change in the substance of the suspension but rather as a clarification of the rule which has been in effect since adoption of the suspension in 1979.

List of Subjects in 39 CFR Parts 310 and 320

Postal Service, Computer technology, Advertising.

In view of the above considerations, the Postal Service proposes to amend 39 CFR Parts 310 and 320 as follows:

PART 310—ENFORCEMENT OF THE PRIVATE EXPRESS STATUTES

1. The authority citation for Part 310 continues to read as follows:

Authority: 39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699.

2. In § 310.1 paragraph (d) is revised to read as follows:

§ 301.1 Definitions.

* * * * *

(d)(1) "Post routes" are routes on which mail is carried by the Postal Service within the United States, and includes post roads as defined in 39 U.S.C. 5003, as follows:

(i) The waters, of the United States, during the time the mail is carried thereon;

(ii) Railroads or parts or railroads and air routes in operation;

(iii) Canals, during the time the mail is carried thereon;

(iv) Public roads, highways, and toll roads during the time mail is carried thereon; and

(v) Letter-carrier routes established for the collection and delivery of mail.

(2) The carriage of letters over post routes within the United States as a part of a shipment which begins or ends in another country is governed by the Private Express Statutes and these regulations in accordance with their terms.

PART 320—SUSPENSION OF THE PRIVATE EXPRESS STATUES

3. The authority citation for Part 320 is revised to read as set forth below, and the authority citations following all the sections in Part 320 are removed.

Authority: 39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699.

4. In § 320.6 paragraphs (b) and (c) are revised to read as follows:

§ 320.6 Suspension for extremely urgent letters.

* * * * *

(b)(1) For letters dispatched within 50 miles of the intended destination, delivery of those dispatched by noon must be completed within 6 hours or by the close of the addressee's normal business hours that day, whichever is later, and delivery of those dispatched after noon and before midnight must be completed by 10 A.M. of the addressee's next business day. For other letters, delivery must be completed within 12 hours or by noon of the addressee's next business day. The suspension is available only if the value or usefulness of the letter would be lost or greatly diminished if it is not delivered within these time limits. For any part of a shipment of letters to qualify under this paragraph (b), each of the letters must be extremely urgent.

(2) The suspension under this paragraph (b) is not available for letters sent to or from locations in foreign countries.

(c)(1) It will be conclusively presumed that a letter is extremely urgent and is covered by the suspension if the amount paid for private carriage of the letter is at least three dollars or twice the applicable U.S. postage for First-Class Mail (including priority mail) whichever is the greater.

(2) If a single shipment consists of a number of letters that are sent together from the same point of origin for delivery together to the same ultimate destination, the applicable U.S. postage may be computed for purposes of this paragraph (c) as though the shipment constituted a single letter of the weight of the shipment.

Example (i) A regional office of a commercial firm sends a number of letters from its various departments together in a single envelope to various departments in the firm's home office. The regional and home offices are each located in a single building with a single address. This shipment may be treated as a single letter for purposes of this subparagraph (2).

Example (ii) A commercial firm sends in a single envelope a number of letters to an agent in a European country for deposit in the mails of that country. The letters are intended for persons at different addresses. This shipment may not be treated as a single letter because the agent is not the ultimate destination of the individual letters.

Example (iii) A commercial firm in one city sends a number of individually addressed letters in a single envelope to a branch office in another city for delivery by its own regular employees throughout the metropolitan area of that city. This shipment may not be treated as a single letter because, as in example (ii), the branch office is not the ultimate destination of the individual letters. The result is not changed by the fact that their carriage out of the mails from the branch office to the individual addressees is lawful under the *Letters of the carrier* exception. § 310.3(b).

(3) If not actually charged on a letter-by-letter or shipment-by-shipment basis, the amount paid may be computed for purposes of this paragraph on the basis of the carrier's actual charge divided by a *bona fide* estimate of the average number of letters or shipments during the period covered by the carrier's actual charge.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 85–24244 Filed 10–9–85; 8:45 am]

BILLING CODE 7710–12–M

Federal Register

Thursday
October 10, 1985

Part V

Environmental Protection Agency

Assessment of 1,3-Butadiene as a Potentially Toxic Air Pollutant; Notice of Intent

ENVIRONMENTAL PROTECTION AGENCY

[ADL-FRL-2865-8]

Assessment of 1,3-Butadiene as a Potentially Toxic Air Pollutant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to List Under section 112 of the Clean Air Act and Solicitation of Information.

SUMMARY: This notice describes the results of EPA's preliminary assessment of 1,3-butadiene as a potentially toxic air pollutant. Based on the health and preliminary risk assessment described in today's notice, EPA now intends to add 1,3-butadiene to the list of hazardous air pollutants for which it intends to establish emission standards under section 112(b)(1)(A) of the Clean Air Act (CAA). The EPA will decide whether to add 1,3-butadiene to the list only after studying possible techniques that might be used to control emissions of 1,3-butadiene and after further assessing the public health risks. The EPA will add 1,3-butadiene to the list if emission standards are warranted.

Through this notice, the Agency is also soliciting information on source and emissions data and potential health effects. This notice does not preclude any State or local air pollution control agency from specifically regulating emission sources of 1,3-butadiene nor does it have any effect on the regulation of 1,3-butadiene as a volatile organic compound in order to attain the national ambient air quality standards (NAAQS) for ozone.

ADDRESSES: Submit comments (duplicate copies are preferred) by December 9, 1985 to: Central Docket Section (A-130), Environmental Protection Agency, Attn: Docket No. A-85-14, 401 M Street SW., Washington, DC 20460. The Central Docket Section is located at the offices of the U.S. Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street SW., Washington, DC. The docket may be inspected between 8:00 a.m. and 4:30 p.m. on weekdays, and a reasonable fee may be charged for copying.

Availability of Related Information

The Mutagenicity and Carcinogenicity Assessment for 1,3-butadiene document (MCAD) (EPA-600/8-85-004A) is available through the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. The cost is $28.00. Information on the availability of the MCAD is available from ORD Publications, CERI-FR, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268 (Telephone: 513-684-7562 commercial/684-7562 FTS).

FOR FURTHER INFORMATION CONTACT: Robert Schell, Pollutant Assessment Branch (MD-12), Strategies and Air Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711 (telephone: 919-541-5645 commercial/629-5645 FTS).

SUPPLEMENTARY INFORMATION:

Background

1,3-Butadiene (CAS No. 106-99-0) is a colorless gas produced as a coproduct in the production of ethylene by oxidative dehydrogenation of n-butenes, or by dehydrogenation of n-butanes. 1,3-Butadiene ranked 36th in U.S. domestic chemical production in 1984. It is used as an intermediate in the production of polymers, elastomers, and other chemicals. The major use of 1,3-butadiene is in the manufacture of styrene-butadiene rubber (synthetic rubber). Some 1,3-butadiene products are as follows: automobile tires, high impact plastic used in automobiles, appliance parts and pipes, and synthetic fibers. In addition, 1,3-butadiene is used as an intermediate to produce a variety of industrial chemicals. (C & EN, 1982, 1984, 1985 a,b). 1,3-Butadiene was considered for action under section 4(f) of the Toxic Substances Control Act (TSCA), (January 5, 1984, 49 FR 845) and the Agency initiated regulatory action by publishing an advance notice of proposed rulemaking (ANPR; May 15, 1984, 49 FR 20524). It was subsequently decided that appropriate regulatory action for workplace exposure could best be effected by the Occupational Safety and Health Administration (OSHA). The occupational standard is currently 1000 parts per million (ppm) (8-hour Time Weighted Average). Any action by OSHA will be evalucated for its potential impact on levels of 1,3-butadiene in the ambient air.

Due to its volatility 1,3-butadiene is primarily an air contaminant. It has been detected in cigarette smoke, incineration products of fossil fuels, gasoline vapor, and automotive exhaust (Miller, 1978). The atmospheric residence time is estimated to be approximately 4 hours (Cupitt, 1985). Because of potential adverse health effects associated with 1,3-butadiene exposure, EPA initiated a review to determine the potential impact on public health from exposure to 1,3-butadiene in the ambient air. The results of this review were used to determine if 1,3-butadiene should be regulated under the CAA. As an early step in this review, a comprehensive document was prepared that summarizes the scientific literature on mutagenic and carcinogenic effects of 1,3-butadiene exposure. It was reviewed at a public meeting of the Environmental Health Committee of the Science Advisory Board (SAB) on April 10, and 11, 1985. The SAB is an independent group of recognized scientists and technical experts that provide scientific advice to the Administrator. The SAB concurred with the major findings of the MCAD, including the finding that there is sufficient evidence from the animal data to consider that 1,3-butadiene is probably carcinogenic in humans. A transcript of the SAB meeting is available for inspection and copying at the U.S. Environmental Protection Agency, Committee Management Staff (contact Janet Workcuff), A-101, Room 2515, 401 M Street, SW, Washington, DC 20460 (telephone: 202-382-5036 commercial/382-5036 FTS).

Health Effects

Carcinogenicity: For regulatory purposes, the effect of greatest emphasis, both because of the seriousness of the effect and because of the strength of the evidence, is cancer. Epidemiologic studies of the potential health hazards associated with 1,3-butadiene exposure are limited. A few are suggestive of increased cancer risk, but overall the data are inconclusive. The assessment document concluded that the epidemiologic data were inadequate for assessing risk.

Two lifetime inhalation carcinogenicity studies have been carried out in mice and rats. There was a marked increase in the incidences of primary tumors in both species, both sexes, and at multiple organ sites. Tumor sites involved were different in mice and rats among exposed groups. In addition, the severity of the cancers was also widely different; in rats exposed to 1,000 and 8,000 ppm no increase in mortality secondary to cancer was observed, and there was no early termination of the experiment (Hazelton Laboratories Ltd., 1981). In contrast, the mouse study using 625 and 1250 ppm exposure levels had to be terminated at 60-61 weeks instead of the planned 104 weeks because of excessive deaths from cancer among the exposed mice (National Toxicology Program, 1984).

The MCAD concludes that the evidence for carcinogenicity would place 1,3-butadiene into Group B2, according to the proposed EPA classification scheme (November 23, 1984, 49 FR 46294). This indicates that there is inadequate evidence from epidemiologic studies and sufficient

evidence from animal studies for classification as a probable human carcinogen. The 95 percent upper limit unit risk for 1,3-butadiene is estimated from the mouse study to be 2.8×10^{-4} $(\mu g/m^3)$-1, meaning that if a person were exposed to 1 microgram per cubic meter $(\mu g/m^3)$ for 70 years, the increased probability of getting cancer is not likely to exceed 2.8 chances in 10,000.

Systemic Toxicity: Regarding acute and subchronic health effects, the available literature reports that the noncarcinogenic, nonmutagenic, nonteratogenic toxicity of 1,3-butadiene is relatively low. Symptoms resulting from exposures to 2000, 4000, and 8000 ppm for 6 to 8 hours are lethargy, drowsiness and irritation to mucous membranes. Little data are available for subchronic effects. Increased salivation and depressed weight gain have been reported in laboratory animals exposed to 4000, 6000, and 8000 ppm for several months (Cote, 1985a).

Limited data are available regarding systemic toxicity subsequent to chronic exposures. However systemic, nonteratogenic toxicity in the mouse and rat long-term cancer bioassays appears minimal. 1,3-Butadiene has been associated with birth defects in one study in laboratory animals at high dose exposures. Currently, the evidence for carcinogenicity is more substantial than for teratogenicity or systemic toxicity subsequent to chronic exposure (Cote, 1985a).

Sources and Emissions

The United States' design production capacity was approximately 1.8 million megagrams (Mg) in 1984. The actual production in 1984 was approximately 1.4 million megagrams. Total U.S. use was approximately 2.6 million megagrams. Substantial amounts are imported. The major uses of 1,3-butadiene include styrene-butadiene rubber (40%), polybutadiene rubber (20%), other rubber products (neoprene and nitrile) (10%), hexamethylenediamine (10%) and other miscellaneous products including resins (20%) (Miller, 1978; C & EN November 1982, May 1985). Annual emissions from all industrial 1,3-butadiene sources are estimated to be 5200 megagrams per year (Mg/Yr) (see Table 1). These emissions arise primarily from process vents and fugitive sources (e.g., pumps, valves, flanges).

Public Exposure

There are little ambient monitoring data available for 1,3-butadiene. Reported monitoring data range from 2.5 to 22.5 $\mu g/m^3$ in urban air (Neligan, 1962; Lonneman et al., 1979). Public exposure was estimated using two models. The Human Exposure Model (HEM) was used to estimate annual average ambient air concentrations. Input data for modeling were provided by industry subsequent to EPA's request for information under section 114 of the Clean Air Act. Approximately 52 million people are estimated to live within 50 kilometers of industrial 1,3-butadiene sources (Cote, 1985b). Modeling each plant separately, as was done here, may tend to underestimate maximum risk of the most exposed individuals and overestimate the total number of exposed individuals in areas where more than one plant exists. Also a preliminary analysis was conducted to screen for possible short-term exposures. This analysis used worst case meteorological conditions in a conservative screening model.

Risk to Public Health

Approximately 19 cancer cases nationwide are preliminarily estimated to result from exposure to ambient concentrations of 1,3-butadiene from industrial emissions. The preliminary estimate of lifetime risk to the most exposed person is 3.0 chances in 10 (see Table 2). These estimates are based on the 95% upper limit unit risk number and the results of the HEM exposure modeling analysis.

TABLE 1.—SUMMARY OF INDUSTRIAL 1,3-BUTADIENE EMISSIONS

Product	Percentage of production	Number of plants	Emissions (Mg/Yr)
1,3-Butadiene (producers)	NA	16	1,700
Styrene—butadiene rubber (SBR)	40	20	2,000
Polybutadiene rubber (PBR)	20	8	600
Nitrile and neoprene rubber	10	7	300
Others (e.g., adiponitrile production and acrylonitrile-butadiene-styrene products)	30	10	600
Total emissions			5,200

Sources.—Cote (1985b), C & EN (1982), Miller (1978).

TABLE 2.—EXPOSURE/RISK ASSESSMENT

Product	Maximum individual risk (concentration × unit risk)	Aggregate incidence (cases/yr.)
1,3-Butadiene (producers)	3.0×10^{-1}	5.2
Styrene-butadiene rubber	7.6×10^{-2}	10.0
Polybutadiene rubber	4.1×10^{-3}	0.5
Nitrile and neoprene rubber	2.4×10^{-2}	2.2
Others (e.g., adiponitrile production and acrylonitrile-butadiene-styrene products	$3.4^5 \times 10^{-3}$	0.6
Total		18.5

Source.—Cote (1985b).

The short-term exposure modeling indicated that ambient concentrations near 1,3-butadiene sources, resulting from continuous routine emissions, would not be expected to produce noncarcinogenic, nonteratogenic health effects. Short-term concentrations estimates are 130 ppm for 15 minutes and 69 ppm for 8 hours. Two thousand ppm for 7 hours was identified as a lowest observed effect level in humans and was used for comparison with modeled estimates (Cote, 1985b).

The preliminary risk assessment results, associating increased public health risk with the inhalation of 1,3-butadiene from the ambient air, suggest further study by the Agency is warranted. The Agency will continue to examine the potential for all health effects in its assessment of public health risks associated with exposure to 1,3-butadiene.

There are a number of assumptions underlying these estimates that can yield either over-or underestimates of the risk posed by 1,3-butadiene. Further study and assessment will not likely narrow the uncertainities associated with some of the inputs to the risk assessment or yield an improvement in some of these assumptions (e.g., the carcinogenic potency of a chemical estimated through the use of a mathematical model for extrapolating high-exposure animal studies to the much lower concentrations present in the ambient air). There are other inputs to the risk estimates which are very preliminary at the current stage of assessment and which will be substantially refined through further study. The primary example of this is the source information: number and types of sources, their locations, emission rates, stack parameters, variability of emissions, etc. Current source information is based on engineering estimates, data obtained under section 114 of the CAA and other readily available information in the literature. This information, in many cases, will be improved though plant visits and source tests. The Agency has concluded that the preliminary risk estimates presented here are sufficient to warrant further study for possible regulation. The Agency will improve these estimates, particularly with respect to emissions and exposure, before making a final decision on whether to add the pollutant to the list under section 112.

State of intent

Section 112(b)(1)(A) of the CAA defines hazardous air pollutants as air pollutants that contribute to morality or serious irreversible, or incapacitating reversible illness. Section 112(b)(1)(A)

provides that the Administrator shall maintain" . . . a list which includes each hazardous air pollutant for which he intends to establish an emission standard under this section." In deciding whether to establish such emission standards for carcinogens, EPA considers both public health risks and the feasibility and reasonableness of control techniques [e.g., June 6, 1984, 49 FR 23522; 23498; 23558) (emission standards for benzene)].

Based on the health and preliminary risk assessment described in today's notice, EPA now intends to add 1,3-butadiene to the section 112(b) (1)(AA) list. The EPA will decide whether to add 1,3–butadiene to the list only after studying possible techniques that might be used to control emissions and after further improving the assessment of the public health risks. The EPA will add 1,3-butadiene to the list if emission standards are warranted. The EPA will publish this decision in the **Federal Register.**

If standards are not warranted under section 112 of the Clean Air Act, the Agency will consider other options as described in EPA's report "A Strategy to Reduce Public Health Risks from Air Toxics," June 1985. For example, in that strategy EPA described other approaches for dealing with routine releases of toxic air pollutants from stationary sources such as working with State or local air pollution control agencies to address problems that do not warrant federal regulatory action but which account for elevated risks in some areas.

Standards Development Process

The following discussion has been prepared to provide the reader with an explanation of the standards development process and the timing of the process. The standards development process involves two phases, each taking about two years. The first phase is the identification of the emission sources and the need and ability to control those sources. The second phase involves Agency decisionmaking and public review prior to a final action.

During the first phase, EPA identifies the sources that are significant emitters of the pollutant and the specific emission points within each source and then determines the quantities of pollution emitted, the alternative control systems available, and their cost and effectiveness in reducing emissions and associated public health risks. A set of alternative regulations is developed and the environmental, economic, and energy impacts, as well as public health risks, are evaluated.

The first phase requires investigation of the many different ways in which a candidate pollutant can be emitted and controlled. Within a source category there is wide variation in designs, sizes, and processes. This variation affects the emission rates, the public health risks, and the cost and controllability of the pollutant. Assessment of source emissions and controls is further complicated by the fact that emissions are not necessarily contained in stacks or ducts (i.e., some are fugitive emissions), and emission test programs are technically difficult and costly.

The decisionmaking and review phase involves a series of EPA internal and external activities. Prior to publication of proposed rules, the Agency reviews all of the technical, cost, and exposure/risk data and makes decisions on the level of standards. The data and conclusions are reviewed publicly by an independent technical advisory committee. The standard is proposed for public comment. The comment period is open a minimum of two months and a public hearing is held, if requested. Following the comment period, Agency technical staff reviews the comments and resolves technical issues, an activity that often requires obtaining and analyzing new data.

Call for Information

Information is requested on source and emissions data, and potential health effects of 1,3-butadiene, as well as other compounds that may be emitted from 1,3-butadiene facilities. People with information to submit on a voluntary basis should either provide this information by December 9, 1985 or notify the Agency by December 9, 1985 that they will be providing this information. Information should be submitted in duplicate to the Central Docket Section (A–130), Environmental Protection Agency, Attn: Docket No. A–85–14, 401 M Street, SW., Washington, DC 20460.

Miscellaneous

1,3-Butadiene will be listed as a hazardous substance under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) section 101(14) if 1,3-butadiene is listed as a hazardous air pollutant. Pursuant to CERCLA section 102(b), the statutory Reportable Quantity (RQ) for 1,3-butadiene would be listed as one (1) pound until adjusted by regulation. For additional information on CERCLA hazardous substance reporting, (May 25, 1983, 48 FR 23552 and April 4, 1985, 50 FR 13456–13522).

Pursuant to CERCLA section 103(a), any person in charge of a vessel or an offshore or an onshore facility shall, as soon as he has knowledge of any release (other than a federally-permitted release or normal application of a pesticide) of a hazardous substance from such vessel or facility in a quantity equal to or exceeding the RQ determined in any 24-hour period, immediately notify the National Response Center (NRC); (800–424–8802; in the Washington, DC metropolitan area at 202–426–2675). Since this notice is only an Intent to List, it poses no additional burden on the regulated community.

Under Executive Order 12291, EPA must judge whether this action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it imposes no additional regulatory requirements on States or sources. This proposal was submitted to the Office of Management and Budget (OMB) for review. Any written comments from OMB and any EPA responses are available in the docket. Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it imposes no new requirements. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980.

Dated: October 1, 1985.

Lee Thomas,

Administrator.

[FR Doc. 85–24272 Filed 10–9–85; 8:45 am]

BILLING CODE 6560–50–M

Reader Aids

Federal Register

Vol. 50, No. 197

Thursday, October 10, 1985

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

39953-40180.....1
40181-40324.....2
40325-40474.....3
40475-40796.....4
40797-40954.....7
40955-41126.....8
41127-41328.....9
41329-41468.....10

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 85-15 of July 12, 1985.....40183

Memorandums:

September 30, 1985.....40321

Executive Orders:

11145 (Continued by EO 12534).....40319
11183 (Continued by EO 12534).....40319
11287 (Continued by EO 12534).....40319
11776 (Continued by EO 12534).....40319
12131 (Continued by EO 12534).....40319
12190 (Continued by EO 12534).....40319
12196 (Continued by EO 12534).....40319
12216 (Continued by EO 12534).....40319
12296 (Continued by EO 12534).....40319
12332 (Revoked by EO 12534).....40319
12335 (Revoked by EO 12534).....40319
12345 (Continued by EO 12534).....40319
12367 (Continued by EO 12534).....40319
12369 (Revoked by EO 12534).....40319
12382 (Continued by EO 12534).....40319
12395 (Revoked by EO 12534).....40319
12399 (Superseded by EO 12534).....40319
12400 (Revoked by EO 12534).....40319
12401 (Revoked by EO 12534).....40319
12412 (Revoked by EO 12534).....40319
12421 (Revoked by EO 12534).....40319
12426 (Revoked by EO 12534).....40319
12428 (Revoked by EO 12534).....40319
12433 (Revoked by EO 12534).....40319
12439 (Revoked by EO 12534).....40319
12462 (Amended by EO 12533).....40317
12468 (Revoked by EO 12534).....40319
12489 (Superseded by EO 12534).....40319
12499 (Revoked by EO 12534).....40319
12502 (Revoked by EO 12534).....40319
12532 (See EO 12535).....40325
12533.....40317
12534.....40319
12535.....40325

Proclamations:

5368.....59953
5369.....59955
5370.....59957
5371.....40181
5372.....40323
5373.....40797
5374.....40955
5375.....40957
5376.....40959
5377.....41329
5378.....41331
5379.....41333

5 CFR

530.....40178
531.....40178
536.....40178
540.....40178

Proposed Rules:

531.....40865
532.....40979

7 CFR

51.....40185, 40961
29.....41127
354.....40186
917.....40961
989.....40475, 40476
1822.....39959
1864.....40187
1872.....39959
1930.....39959
1944.....39959
1951.....39959, 39967
1980.....39959

Proposed Rules:

51.....40200
701.....40980
958.....40981
981.....40562
982.....40200
1140.....40982
1772.....40865

8 CFR

100.....40327
103.....40327
212.....41314
238.....40799, 40962

9 CFR

50 40962
78 40799
91 40328
92 ..... 40477, 40801

10 CFR

9 ..... 40329, 41127
50 41128

11 CFR

2 39968
3 39968

12 CFR

210 41335
211 39974
265 40329
338 39986

Proposed Rules:

303 41361
309 41361

13 CFR

Proposed Rules:

121 40032

14 CFR

39 ..... 39990, 40188, 40189, 40802, 40803, 41129, 41130 41336
71 ..... 40035, 30046, 40190, 40479
73 40191
91 41326

Proposed Rules:

39 ..... 40034, 40201, 40202, 40562, 40866, 40867
61 40982
71 ..... 40035, 40036, 40203, 40564, 40566, 40868
121 41452

15 CFR

371 41131
376 39993
377 41131
379 39993
399 ..... 39993, 41131

16 CFR

Proposed Rules:

1632 40869

17 CFR

12 40330
31 40963
190 40963
200 40479
239 40479
240 41337
249 40479
259 40479
269 40479
270 40479
274 40479

Proposed Rules:

230 41162
240 41162
249 41162
260 41162

18 CFR

2 40332
32 40347
33 40347
34 40347
35 40347
36 40347
45 40347
101 40347
152 40332
154 40332
157 40332
271 ..... 40192, 40193, 40359, 40361
284 40332
292 40347
375 ..... 40332, 40347
381 ..... 40332, 40347

Proposed Rules:

35 41164
290 41164

19 CFR

113 40361
141 40361
172 40361
177 40364

Proposed Rules:

101 40962

20 CFR

302 39993

21 CFR

175 40964
178 40964
510 ..... 40965, 41134, 41340
522 40965
540 41134
558 ..... 39994, 40521, 41340
561 41341
1304 40522

Proposed Rules:

182 40204
186 40204
201 40405
211 40405
348 40260
514 40405
559 40405
884 40950

22 CFR

41 41315
208 39994

24 CFR

27 41344
203 40194
251 40195
990 40196

26 CFR

51 ..... 39998, 40966, 40971
602 ..... 39998, 40966, 40971

Proposed Rules:

1 ..... 40205, 40983
602 40983

27 CFR

178 40523

Proposed Rules:

9 41364

28 CFR

0 40196
2 40365–40374
50 40524
503 40104
527 40105
540 40106

Proposed Rules:

540 40113–40115
544 40116

29 CFR

500 40974
1960 40268

Proposed Rules:

1601 41135
1627 40870

30 CFR

Ch. VII 40375

Proposed Rules:

250 40405
256 40406
700 41365
701 41365
785 41365
817 41365
827 41365
942 41164

32 CFR

169a 40804
706 40526
806b 40197

33 CFR

100 40829–40831
117 ..... 40832, 41345
165 ..... 40832, 41345–41347

Proposed Rules:

117 ..... 40407, 40871, 41366

36 CFR

Proposed Rules:

7 40567

37 CFR

201 40833

39 CFR

10 41135
601 40376

Proposed Rules:

310 41462
320 41462

40 CFR

52 ..... 40377, 41348
60 40158
62 ..... 41136, 41137
81 ..... 41138, 41139
152 41143
163 41143
164 41143
165 41143
166 41143
167 41143
169 41143
170 41143
171 41143
172 41143
173 41143
180 ..... 41144, 41349
191 40003
271 ..... 40377, 40526
421 41144
434 41296
455 40672

Proposed Rules:

52 40872
60 40280
152 40408
158 40408
228 ..... 40274, 40568
261 ..... 40292, 41125
264 40412
265 40412
435 40983
716 40874

41 CFR

101–20 41145
101–45 41145

42 CFR

405 40168
420 40003

43 CFR

3480 40197

44 CFR

1 40004
2 40004
5 40004
6 40004
8 40004
9 40004
10 40004
11 40004
12 40004
59 40004
64 41146
205 40004
300 40004
301 40004
303 40004
304 40004
311 40004
350 40004
351 40004

45 CFR

205 40120
305 40120

46 CFR

69 40008

Proposed Rules:

2 40413
160 40036
281 40876

47 CFR

Ch. I 40379
0 40012
1 ..... 40012, 40836, 41151, 41153
2 40016
21 41154
25 ..... 40019, 40862
43 ..... 41151, 41153
69 41350
73 ..... 40012, 40021, 40022, 40395, 41155
74 40012
76 ..... 40012, 40836
78 ..... 40012, 40862
81 40023
83 ..... 40023, 40863
87 40023
90 ..... 40975, 40976
94 40976

Proposed Rules:
2 ..... 40880, 41170, 41366
73 ..... 40414, 40415, 41176
81 41170
83 41170
87 41177

48 CFR

208 41156
213 41157
217 41157
252 ..... 41156, 41157
702 40528
705 40976
706 ..... 40528, 40976

Proposed Rules:
27 ..... 40416, 40984
31 41179
52 ..... 40416, 40984
227 41180
252 41180
514 41180
515 41180
528 41180
532 41180
552 41180
716 41367
752 41367
815 40420

49 CFR

172 41092
173 41092
386 40304
509 40023
531 40528
533 40398
571 41356
1002 ..... 40024, 41158
1003 ..... 40027, 40029
1043 40029
1047 40549
1171 40029

Proposed Rules:
23 40422
391 40040
571 41368
1039 40984
1312 40985

50 CFR

20 41359
604 40977
611 40977
630 41159
651 40558
654 41159
661 41159
663 41159
671 41159
675 40977
681 40558

Proposed Rules:
17 40424
641 40206

List of Public Laws

Last List October 9, 1985

Note: This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

S. 1689/Pub. L. 99-117

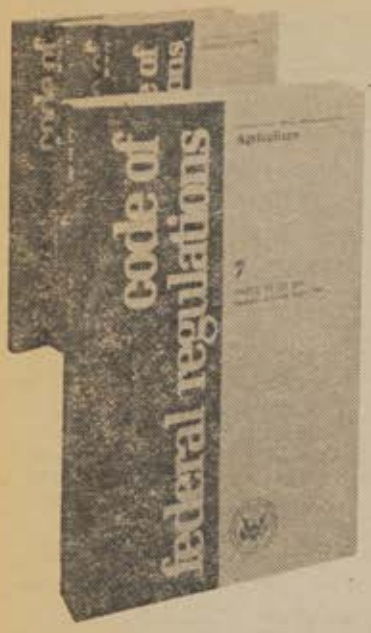
To amend various provisions of the Public Health Service Act. (Oct. 7, 1985; 99 Stat. 491) Price: $1.00

S.J. Res. 115/Pub. L. 99-118

To designate 1985 as the "Oil Heat Centennial Year". (Oct. 7, 1985; 99 Stat. 496) Price: $1.00

H.R. 1042/Pub. L. 99-119

To grant a Federal charter to the Pearl Harbor Survivors Association. (Oct. 7, 1985; 99 Stat. 498) Price: $1.00



Just Released

Code of Federal Regulations

Revised as of July 1, 1985

Quantity	Volume	Price	Amount
_____	Title 34—Education (Part 400–End) (Stock No. 822-004-00113-6)	$18.00	$_____
_____	Title 38—Pensions, Bonuses, and Veterans' Relief (Parts 0–17) (Stock No. 822-004-00118-7)	16.00	_____
_____	Title 40—Protection of Environment (Parts 425–699) (Stock No. 822-004-00129-2)	13.00	_____
_____	Title 41—Public Contracts and Property Management (Chap. 201–End) (Stock No. 822-004-00134-9)	5.50	_____
		Total Order	$_____

A cumulative checklist of CFR issuances appears every Monday in the Federal Register in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____ Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐–☐

Order No._____

VISA®

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		

9

9202