1-7-86
Vol. 51 No. 4
Pages 577-718

Federal Register

Tuesday
January 7, 1986

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

Selected Subjects

CONTINUED INSIDE

Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records 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.

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How To Cite This Publication: Use the volume number and the page number. Example: 51 FR 12345.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: January 17; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Howard Landon 202-523-5227 (Voice)
Melanie Williams 202-523-5229 (TDD)

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington and on an annual basis in Federal regional cities. Dates and locations will be announced later.

NOTE: There will be a sign language interpreter for hearing impaired persons at this briefing.

Contents

Federal Register

Vol. 51, No. 4

Tuesday, January 7, 1986

Editorial Note: Effective January 2, the table of contents will appear in a different format. Presidential documents will now be listed alphabetically under the P's instead of at the beginning of the table of contents. The page number for an entry will be carried on the right at the end of the entry. This new format will simplify production procedures for both the table of contents and the **Federal Register Index.**

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.

Federal Register
Vol. 51, No. 4
Tuesday, January 7, 1986.

Presidential Documents

Title 3—

The President

Executive Order 12540 of December 30, 1985

Adjustments of Certain Rates of Pay and Allowances

By the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered as follows:

Section 1. In accordance with the Supplemental Appropriations Act, 1985 (Public Law 99–88; 99 Stat. 293, 310), Executive Order No. 12496 of December 28, 1984, is amended by replacing Schedule 7 attached thereto with the corresponding new Schedule 7 attached hereto. The rates of pay so established are effective on the first day of the first applicable pay period beginning on or after January 1, 1985.

Sec. 2. In accordance with section 601 of the Department of Defense Authorization Act, 1986 (Public Law 99–145)—

(a) Section 4 of Executive Order No. 12496 is amended to read as follows:

"Sec. 4. *Pay and Allowances for Members of the Uniformed Services.* Pursuant to the provisions of section 601 of the Department of Defense Authorization Act, 1986, the rates of monthly basic pay (37 U.S.C. 203(a)), the rates of basic allowance for subsistence (37 U.S.C. 402), and the rates of basic allowance for quarters (37 U.S.C. 403(a)) are adjusted as set forth at Schedule 8 attached hereto and made a part hereof, for members of the uniformed services.".

(b) Executive Order No. 12496 is further amended by replacing Schedule 8 attached thereto with the corresponding new Schedule 8 attached hereto. The rates of pay and allowances so established are effective on October 1, 1985.

Sec. 3. Section 5 of Executive Order No. 12496 is amended to read as follows:

"Sec. 5. *Effective Dates.* The adjustments in rates of pay under sections 1 through 3 of this Order, as set forth at Schedules 1 through 7 attached hereto, are effective on the first day of the first applicable pay period beginning on or after January 1, 1985. The adjustments in rates of monthly basic pay and allowances for subsistence and quarters for members of the uniformed services under section 4 of this Order, as set forth at Schedule 8 attached hereto, are effective on October 1, 1985.".

Ronald Reagan

THE WHITE HOUSE,
December 30, 1985.

Billing code 3195-01-M

SCHEDULE 7--JUDICIAL SALARIES

Chief Justice of the United States	$108,400
Associate Justices of the Supreme Court	104,100
Circuit Judges	83,200
District Judges	78,700
Judges of the Court of International Trade	78,700
Judges of the United States Claims Court	70,200
Bankruptcy Judges	68,400

SCHEDULE 8--PAY AND ALLOWANCES OF THE UNIFORMED SERVICES
Part I--Monthly Basic Pay
(Years of service computed under 37 U.S.C. 205)

Pay Grade	Commissioned Officers						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
0-10 1/	$5221.50	$5405.40	$5405.40	$5405.40	$5405.40	$5612.70	$5612.70
0-9	4627.80	4749.00	4850.10	4850.10	4850.10	4973.40	4973.40
0-8	4191.60	4317.00	4419.60	4419.60	4419.60	4749.00	4749.00
0-7	3483.00	3719.70	3719.70	3719.70	3886.20	3886.20	4111.80
0-6	2581.50	2836.20	3021.90	3021.90	3021.90	3021.90	3021.90
0-5	2064.60	2424.60	2592.00	2592.00	2592.00	2592.00	2670.60
0-4 2/	1740.30	2119.20	2260.50	2260.50	2302.50	2404.20	2568.00
0-3 2/	1617.30	1808.10	1932.90	2138.70	2241.00	2321.70	2447.10
0-2 2/	1410.30	1540.20	1850.10	1912.50	1952.70	1952.70	1952.70
0-1 2/	1224.30	1274.70	1540.20	1540.20	1540.20	1540.20	1540.20

Pay Grade	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
0-10 1/	$6042.30*	$6042.30*	$6474.60*	$6474.60*	$6907.80*	$6907.80*	$7338.30*
0-9	5180.40	5180.40	5612.70	5612.70	6042.30*	6042.30*	6474.60*
0-8	4973.40	4973.40	5180.40	5405.40	5612.70	5837.70*	5837.70*
0-7	4111.80	4317.00	4749.00	5075.40	5075.40	5075.40	5075.40
0-6	3021.90	3124.50	3618.60	3803.70	3886.20	4111.80	4459.50
0-5	2814.00	3002.70	3227.10	3412.50	3515.70	3638.40	3638.40
0-4 2/	2712.60	2836.20	2960.70	3042.60	3042.60	3042.60	3042.60
0-3 2/	2568.00	2631.30	2631.30	2631.30	2631.30	2631.30	2631.30
0-2 2/	1952.70	1952.70	1952.70	1952.70	1952.70	1952.70	1952.70
0-1 2/	1540.20	1540.20	1540.20	1540.20	1540.20	1540.20	1540.20

1/ While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, basic pay for this grade is $8,097.00* regardless of cumulative years of service computed under section 205 of title 37, United States Code.

2/ Does not apply to commissioned officers who have been credited with over 4 years' active service as enlisted members and/or as warrant officers.

* Basic pay is limited to the rate of basic pay payable for level V of the Executive Schedule, which is $5,724.90 per month.

Pay Grade	Commissioned Officers credited with over 4 years' active duty as an enlisted member and/or warrant officer					
	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14
O-3	$2138.70	$2241.00	$2321.70	$2447.10	$2568.00	$2670.60
O-2	1912.50	1952.70	2014.50	2119.20	2200.20	2260.50
O-1	1540.20	1645.20	1705.80	1767.60	1829.10	1912.50

	Over 16	Over 18	Over 20	Over 22	Over 26
O-3	$2670.60	$2670.60	$2670.60	$2670.60	$2670.60
O-2	2260.50	2260.50	2260.50	2260.50	2260.50
O-1	1912.50	1912.50	1912.50	1912.50	1912.50

Pay Grade	Warrant Officers						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
W-4	$1647.60	$1767.60	$1767.60	$1808.10	$1890.30	$1973.70	$2056.50
W-3	1497.30	1624.50	1624.50	1645.20	1664.70	1786.20	1890.30
W-2	1311.60	1419.00	1419.00	1460.40	1540.20	1624.50	1686.00
W-1	1092.90	1253.10	1253.10	1357.50	1419.00	1479.90	1540.20

	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
W-4	$2200.20	$2302.50	$2383.20	$2447.10	$2526.00	$2610.60	$2814.00
W-3	1952.70	2014.50	2074.50	2138.70	2221.80	2302.50	2383.20
W-2	1747.80	1808.10	1871.40	1932.90	1994.10	2074.50	2074.50
W-1	1604.10	1664.70	1726.20	1786.20	1850.10	1850.10	1850.10

Pay Grade	Enlisted Members						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9 1/	-----	-----	-----	-----	-----	-----	$1916.40
E-8	-----	-----	-----	-----	-----	$1607.40	1653.30
E-7	$1122.30	$1211.40	$1256.40	$1300.20	$1344.90	1387.50	1431.90
E-6	965.40	1052.40	1096.20	1143.00	1185.30	1228.50	1273.80
E-5	847.20	922.50	966.90	1009.20	1075.20	1119.00	1163.70
E-4	790.50	834.60	883.50	952.20	989.70	989.70	989.70
E-3	744.60	785.10	816.90	849.30	849.30	849.30	849.30
E-2	716.40	716.40	716.40	716.40	716.40	716.40	716.40
E-1 2/	639.00	639.00	639.00	639.00	639.00	639.00	639.00
E-1 3/	590.70	590.70	590.70	590.70	590.70	590.70	590.70

	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
E-9 1/	$1959.90	$2004.30	$2050.20	$2095.80	$2136.60	$2249.10	$2467.80
E-8	1696.50	1740.90	1786.50	1827.90	1872.90	1983.00	2204.10
E-7	1476.30	1543.20	1587.00	1631.40	1652.70	1763.70	1983.00
E-6	1339.20	1381.20	1425.60	1447.50	1447.50	1447.50	1447.50
E-5	1206.30	1228.50	1228.50	1228.50	1228.50	1228.50	1228.50
E-4	989.70	989.70	989.70	989.70	989.70	989.70	989.70
E-3	849.30	849.30	849.30	849.30	849.30	849.30	849.30
E-2	716.40	716.40	716.40	716.40	716.40	716.40	716.40
E-1 2/	639.00	639.00	639.00	639.00	639.00	639.00	639.00
E-1 3/	590.70	590.70	590.70	590.70	590.70	590.70	590.70

1/ While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $2,999.40 regardless of cumulative years of service computed under section 205 of title 37, United States Code.

2/ Applies to personnel who have served 4 months or more on active duty.

3/ Applies to personnel who have served less than 4 months on active duty.

Part II--Basic Allowance for Subsistence Rates

Officers (per month): $109.37

Enlisted Members (per day):

	E-1 (less than 4 months' active duty)	All Other Enlisted
When on leave or authorized to mess separately:	$4.82	$5.21
When rations-in-kind are not available:	$5.45	$5.89
When assigned to duty under emergency conditions where no messing facilities of the United States are available:	$7.21	$7.80

Part III--Monthly Basic Allowance For Quarters Rates

Pay Grade	Without dependents		With dependents
	Full rate 1/	Partial rate 2/	
Commissioned officers:			
O-10	$553.50	$50.70	$680.70
O-9	553.50	50.70	680.70
O-8	553.50	50.70	680.70
O-7	553.50	50.70	680.70
O-6	507.90	39.60	617.40
O-5	479.40	33.00	568.80
O-4	439.50	26.70	519.90
O-3	355.80	22.20	433.50
O-2	286.50	17.70	371.70
O-1	245.70	13.20	333.30
Warrant officers:			
W-4	$402.90	$25.20	$467.40
W-3	340.20	20.70	418.20
W-2	306.00	15.90	390.90
W-1	258.90	13.80	340.80
Enlisted members:			
E-9	$324.90	$18.60	$442.80
E-8	300.90	15.30	412.50
E-7	256.80	12.00	383.70
E-6	228.00	9.90	348.00
E-5	210.90	8.70	309.30
E-4	183.00	8.10	267.30
E-3	177.60	7.80	245.70
E-2	150.90	7.20	245.70
E-1	137.40	6.90	245.70

1/ Payment of the full rate of basic allowance for quarters at these rates to members of the uniformed services without dependents is authorized by title 37, United States Code, and part IV of Executive Order 11157, as amended.

2/ Payment of the partial rate of basic allowance for quarters at these rates to members of the uniformed services without dependents who, under 37 U.S.C. 403(b) or 403(c), are not entitled to the full rate of basic allowance for quarters, is authorized by 37 U.S.C. 1009(d) and part IV of Executive Order 11157, as amended.

[FR Doc. 86-444
Filed 1-6-86; 12:04 pm]
Billing code 3195-01-C

Presidential Documents

Executive Order 12541 of December 30, 1985

Amending Executive Order 11157 as it Relates to a Basic Allowance for Quarters While on Sea Duty

By the authority vested in me by Section 403(j)(1) of title 37, United States Code, and in order to define the term "sea duty," it is hereby ordered as follows:

Section 1. Section 401, Part IV, of Executive Order No. 11157 of June 22, 1964, as amended, is further amended:

(a) by adding at the end of subsection (c) of section 401, Part IV, the following sentence:

"Duty for less than three months is not considered to be sea duty. Duty for more than three months under temporary orders which provide for return to the member's same permanent station is not considered sea duty.".

(b) by striking all of subsection (f).

Sec. 2. This Executive Order shall be effective as of January 1, 1986.

Ronald Reagan

THE WHITE HOUSE,
December 30, 1985.

[FR Doc. 86-445
Filed 1-6-86; 12:05 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12542 of December 30, 1985

President's Blue Ribbon Commission on Defense Management

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended, it is hereby ordered that Section 2(c) of Executive Order No. 12526 is amended by deleting "December 31, 1985" as the date for submission of the Commission's conclusions and recommendations on the procurement section of its study and inserting in lieu thereof "February 28, 1986.".

Ronald Reagan

THE WHITE HOUSE,
December 30, 1985.

[FR Doc. 86-446
Filed 1-6-86; 12:06 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 51, No. 4
Tuesday, January 7, 1986

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 54

Change in the Form of Official Certificates for Meat and Meat Products Graded and Certified Under the Meat Grading and Certification Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends §54.14 of the regulations governing the grading and certification of meats, prepared meats, and meat products (7 CFR 54.14) by converting daily agricultural products grading and acceptance certificates and biweekly agricultural products grading certificates to weekly agricultural products grading and acceptance certificates. These new weekly certificates will reduce certificate preparation and processing costs and will facilitate computer processing.

EFFECTIVE DATE: January 7, 1986.

FOR FURTHER INFORMATION CONTACT: Eugene M. Martin, Chief; Meat Grading and Certification Branch; Livestock and Seed Division; Agricultural Marketing Service, USDA; 14th Street and Independence Avenue, SW., Room 2638–S; Washington, DC 20250. (Telephone: 202/382–1113.)

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

This action was reviewed under USDA procedures established to implement Executive Order 12291 and was classified as a nonmajor rule pursuant to sections 1(b) (1), (2), and (3) of that Order. Accordingly, a regulatory impact analysis is not required. This action also was reviewed under the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.)*. The Administrator of the Agricultural Marketing Service has determined that the rule will not have a significant economic impact on a substantial number of small entities. The change to weekly agricultural products grading and acceptance certificates is expected to reduce certificate preparation time, certificate processing costs, and interface with the planned implementation of the Agency's updated automated data processing (ADP) program. This change will result in significant cost savings which, in turn, will enable the Agency to provide more cost-effective service to the industry.

Background

The Agricultural Marketing Act of 1946, as amended, 7 U.S.C. 1621 *et seq.*, authorizes the Secretary of Agriculture to provide voluntary Federal meat grading and certification services to facilitate the orderly marketing of meat and meat products and to enable consumers to obtain the quality of meat they desire. The Act also provides the Secretary of Agriculture with the authority to promulgate such orders, rules, and regulations that the Secretary deems necessary to carry out the provisions of the Act. Under this authority, the Agricultural Marketing Service prepares and issues agricultural products grading and acceptance certificates. These certificates supplement marks of identification as futher testament that officially indentified meat and meat products comply with all applicable standards, specifications, and regulations. Additionally, these certificates serve as the basic documents for assessing charges for services performed for the meat industry and are the primary sources of data on the scope and volume of grading and certification work performed. The Agency currently uses three types of certificates: (1) Biweekly agricultural products grading certificates, (2) daily agricultural products grading and acceptance certificates, and (3) weekly agricultual products acceptance certificates.

The Agency has successfully used the daily and biweekly certificates for many years. The continued use of daily certificates would be inconsistent with the Agency's cost-reduction efforts and its efforts to reduce paperwork. Additionally, in those situations where daily certificates are required, the weekly certificate can and will be used as a daily certificate. Further, the present design of the daily certificate makes its adaptation to a new automated data processing (ADP) system difficult. Even through the use of the biweekly certificate has reduced the number of certificates meat graders prepare and the related preparation time and processing costs, this certificate restricts revenue flow and causes other delayed billing problems. These delayed billing problems occur when the end of the biweekly period coincides with the National Finance Center's closing date for the monthly billing period and results in a 6-week delay in receipt of income for services. Additionally, these delayed billings do not facilitate prompt corrections of billing errors. Further, since the biweekly certificate is mailed every other week, clerical work load is heavy every other week, rather than being evenly distributed. Finally, the biweekly certificate does not lend itself for use as a products acceptance certificate because of the limited space available for written product descriptions and/or required special statements.

Comments

On September 17, 1985, the Agricultural Marketing Service published in the **Federal Register** (50 FR 37663) a proposal to convert its daily agricultural products grading and acceptance certificates and biweekly agricultural products grading certificates to weekly agricultural products grading and acceptance certificates. The proposed rule was published with a request for comments as a means of providing full public participation in the rulemaking process. Comments on this amendment were requested by October 17, 1985. During the 30-day comment period, the Agency received one letter in response to the proposed rule from a meat association.

Discussion of Comments

The comment supports the efforts to reduce and contain costs by using a weekly form rather than a daily form. The commenter did request that any person or firm receive a grading or acceptance certificate daily when required. However, the weekly form of the certificate will accommodate daily usage when required by the

circumstances. Therefore, the Agency is eliminating biweekly and daily certificates and replacing them with weekly agricultural products grading and acceptance certificates. The weekly acceptance certificate has been used successfully on a test basis. The Agency's reason for converting all certificates to weekly certificates is threefold. First, the weekly certificates will significantly reduce time spent by meat graders in preparing certificates. The anticipated decrease in certificate preparation time will directly reduce the Agency's certificate processing costs. Second, with only minor changes, the format of the weekly certificate will be compatible with the Agency's ADP system, which is scheduled for implementation in the near future. The new ADP system is expected to reduce the Agency's certificate processing costs, improve billing accuracy, and facilitate billing adjustments. Third, the weekly certificate provides a more evenly distributed clerical work load in the Agency's field offices, which will result in more efficient utilization of field clerical personnel.

In conclusion, Federal meat graders prepare agricultural products certificates covering approximately 14 billion pounds of meat graded and certified annually. The Agency expects to reduce the certificate preparation and processing costs of agricultural products certificates to facilitate the Agency's efforts to provide voluntary Federal meat grading and certification services at the least cost. In addition, the new weekly certificates will be compatible with the planned ADP system and will eliminate the need to revise the daily and biweekly certificates to facilitate computer processing.

Therefore, the daily agricultural products grading and acceptance certificates and biweekly agricultural products grading certificates will be replaced with weekly agricultural products grading and acceptance certificates.

Pursuant to the authority in 5 U.S.C. 553, it has been determined that other public procedure and notice with respect to these amendments are impractical and unnecessary, and good cause is found for making these amendments effective as a final rule less than 30 days after publication of this document in the **Federal Register.**

Accordingly, the section of the regulations appearing in 7 CFR Part 54 relating to official certificates for Federal grading and certification of meats, prepared meats, and meat products is amended as set forth below:

List of Subjects in 7 CFR Part 54

Meat and meat products, Grading and certification, Beef, Veal, Lamb, and Pork.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for Part 54 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, as amended; 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622, 1624).

2. 7 CFR 54.14(b) is revised to read as follows:

§ 54.14 Official certificates.

* * * * *

(b) *Form.* The following forms (Figures 1 and 2) constitute forms of official certificates for products under the regulations. Where weight is certified, the word "Not" shall be deleted from the phrase "Wts. Not Verified."

BILLING CODE 3410-02-M

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

AGRICULTURAL PRODUCTS GRADING CERTIFICATE

WEEK BEGINNING			APPLICANT (Name, City and State)	CERTIFICATE NO.
CY	MONTH	DAY		G-
SUB C. NO. 3 3	5 0	0 7 2	APPLICANT NO. ▶ 4 4	

This certificate is receivable by all officers and all courts of the United States as prima facie evidence of the truth of the statement therein contained. *(This certificate does not excuse failure to comply with any of the regulatory laws enforced by the U. S. Department of Agriculture.)*

DESCRIPTION OF PRODUCT	CODES ON REVERSE: SPECIES	CAR./CUT	QUALITY	YIELD		SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	TOTAL
					SLAUGHT.								
					DAILY PIECES GRADED								

I CERTIFY that in compliance with the Federal Meat Grading Regulations (7 CFR 54 Subpart A, as amended) under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627), I examined the product or products described above, at the time and place stated, and found that at said time and place the class, grade, and other quality thereof were as stated above and such product or products complied with any specifications listed, with any qualifications noted above.

The conduct of all services and the licensing of grading personnel under the regulations governing such services shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

SIGNATURE OF GRADER	WTS. NOT VERIFIED	EQUIP. CODE

			SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	TOTAL
TRAVEL TIME ▶			4	4	4	4	4	4	4	4
CHARGES	Base Hours	L 1	4	4	4	4	4	4	4	4
	Premium Hours	L 2	4	4	4	4	4	4	4	4
	Holiday Hours	L 3	4	4	4	4	4	4	4	4
	Per Diem Days	L 6	4	4	4	4	4	4	4	4
	Miles	L 7								
	Total Other Exp.	Z 7	$	$	$	$	$	$	$	$

FORM LS-5-2 (2-85) *Replaces Forms LS-5-2 (10-81) and LS-5 (10-81), which are obsolete.*

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

AGRICULTURAL PRODUCTS ACCEPTANCE CERTIFICATE

WEEK BEGINNING — CY | MONTH | DAY

APPLICANT (Name, City and State)

CERTIFICATE NO. A-

SUB C. NO. 3 3 2 0 0 7 2

APPLICANT NO. 4 4

This certificate is receivable by all officers and all courts of the United States as prima facie evidence of the truth of the statement therein contained. *(This certificate does not excuse failure to comply with any of the regulatory laws enforced by the U.S. Department of Agriculture.)*

SHIPPER OR SELLER (Name, City and State)

RECEIVER OR BUYER (Name, City and State)

LOCATION (City and State)

DESCRIPTION OF PRODUCT ☐ ACCEPTED ☐ REJECTED ☐ OTHER	SPECIFICATION & ITEM NO.	WEIGHT RANGE	GRADE OR OTHER QUALITY	CODE	SUNDAY Units	SUNDAY Lbs.	MONDAY Units	MONDAY Lbs.	TUESDAY Units	TUESDAY Lbs.	WEDNESDAY Units	WEDNESDAY Lbs.	THURSDAY Units	THURSDAY Lbs.	FRIDAY Units	FRIDAY Lbs.	SATURDAY Units	SATURDAY Lbs.	TOTAL

I CERTIFY that in compliance with the Federal Meat Grading Regulations (7 CFR 54 Subpart A, as amended) under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627), I examined the product or products described above, at the time and place stated, and found that at said time and place the class, grade, and other quality thereof were as stated above and such product or products complied with any specifications listed, with any qualifications noted above.

The conduct of all services and the licensing of grading personnel under the regulations governing such services shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

SIGNATURE OF GRADER

WTS. NOT VERIFIED: EQUIP. CODE

CHARGES			SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	TOTAL
	TRAVEL TIME		4	4	4	4	4	4	4	4
	Base Hours	L 1	4	4	4	4	4	4	4	4
	Premium Hours	L 2	4	4	4	4	4	4	4	4
	Holiday Hours	L 3	4	4	4	4	4	4	4	4
	Lab Fee	L 4	$	$	$	$	$	$	$	$
	Per Diem Days	L 6	4	4	4	4	4	4	4	4
	Miles	L 7								
	Total Other Expenses	Z 7	$	$	$	$	$	$	$	$

FORM LS-5-3 (2-85) *Replaces Forms LMGS-5-3 (4-83) and LMGS-5-1 (5-83), which are obsolete.*

BILLING CODE 3410-02-C

* * * * *

Done at Washington, DC, December 27, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86-96 Filed 1-7-86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 463

[Docket No. ERA-R-79-19]

Annual Reports From States and Non-Regulated Utilities on Progress in Considering the Ratemaking and Other Regulatory Standards Under the Public Utility Regulatory Policies Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice and availability of Form ERA-166.

SUMMARY: Sections 116 and 309 of the Public Utility Regulatory Policies Act of 1978 (PURPA) require State regulatory authorities and certain nonregulated utilities to submit to the Department of Energy (DOE) annual reports on their progress in considering ratemaking and other regulatory standards established by Titles I and III of PURPA. Under the present DOE regulations (10 CFR Part 463), as amended, each of the reporting entities must file an annual report by February 28, 1986, covering the calendar year 1985 reporting period. All reports are to be made on Form ERA-166.

DATE: Reports are due by February 28, 1986.

ADDRESS: All completed Forms ERA-166 should be addressed to: Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Form ERA-166, Room GA-045, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Steven Mintz, Office of Fuels Programs, Economic Regulatory Administration, U.S. Department of Energy, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585, Phone (202) 252-9506.

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 1979 (44 FR 47264, August 13, 1979), DOE issued a rule (10 CFR Part 463) setting forth the manner in which State regulatory authorities and certain nonregulated gas and electric utilities are required to report on their consideration of the ratemaking and other regulatory standards established by sections 111(d), 113(b), and 303(b) of the Public Utility Regulatory Policies Act of 1978 (PURPA).

On August 4, 1982 (47 FR 33679), DOE amended Part 463 by revising subsections 463.3 (a) and (c). The revised rule requires the reporting entities to file their annual reports on February 28 of each year. Each annual report must cover the immediately preceding calendar year (for example, the report due on February 28, 1986, shall cover the period January 1, 1985–December 31, 1985).

II. The Report Form

The Form ERA-166 is identical to the form published on December 31, 1984 (49 FR 50910) except for date changes and one reporting change. The reporting change is that if data from the previous reporting period for Parts II and III have not changed, check the boxes provided at the top of pages 35, 36 and 43. It was approved by the Office of Management and Budget (OMB Control Number 1903-0060), and is being sent to each electric and gas utility listed in appendices A and B of ERA **Federal Register** notice [Docket No. ERA-R-79-43B] which was published on December 30, 1985. Copies of this form are also available upon request from this office at the address referenced in this announcement.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 *et seq.*))

Issued in Washington, DC, on December 31, 1985

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-295 Filed 1-6-86; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563b

[No. 85-1216]

Conversion Proxy Solicitation; Correction

Dated: December 26, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; technical correction.

SUMMARY: On April 30, 1985, the Federal Home Loan Bank Board ("Board") adopted a regulation that provided alternative procedures for the solicitation of proxies from members of mutual insured institutions converting to the stock form of organization (50 FR 20555, May 17, 1985). The resolution (No. 85-320), because of a typographical error, mislabeled Item 1, Notice of Meeting, as "Item 2." This action corrects that error.

EFFECTIVE DATE: June 11, 1985.

FOR FURTHER INFORMATION CONTACT: Diane P. Menefee, Paralegal Specialist, Corporate and Securities Division (202) 377-7059, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

List of Subjects in 12 CFR Part 563b

Savings and loan associations, Securities.

PART 563b—[AMENDED]

Accordingly, the Board hereby amends Part 563b, Subchapter D, Chapter V, of Title 12 of the Code of Federal Regulations as set forth below.

1. The authority for 12 CFR Part 563b continues to read:

Authority: Section 5 of the Home Owner's Loan Act, as amended, 12 U.S.C. 1464; sections 402, 403 and 407 of the National Housing Act, as amended, 12 U.S.C. 1725, 1726, 1730; Reorg. Plan No. 3 of 1947, 3 CFR, 1943-48 Comp., p. 1071

2. On Page 20558 in the **Federal Register** of May 17, 1985, in the amendment for § 563b.101 change the references to "Item 2" to read "Item 1".

§ 563b.101 Form PS—Proxy Statements.

* * * * *

Item 1—Notice of Meeting * * *

* * * * *

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-89 Filed 1-6-86; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 529

Certain Other Dosage Form New Animal Drugs Not Subject to Certification; Isoflurane

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Anaquest, Division of BOC, Inc., providing for use of isoflurane for induction and

maintenance of general anesthesia in horses. Additionally, the list of sponsors of approved applications in the regulations is amended to reflect a change in sponsor address for Anaquest, Division of BOC, Inc.

EFFECTIVE DATE: January 7, 1986.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Anaquest, Division of BOC, Inc., 100 Mountain Ave., Murray Hill, NJ 07974, has filed NADA 135–773 for AErrane™ (isoflurane), an inhalation anesthetic. The drug is for induction and maintenance of general anesthesia in horses. The NADA is approved and the regulations amended to reflect the approval. The basis of approval is discussed in the freedom of information summary. Additionally, the sponsor has informed the agency of a change in address. The regulations are amended to reflect this change.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

List of Subjects

21 CFR Part 510

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

21 CFR Part 529

Animal drugs.

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 529 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 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) in the entry for "Anaquest, Division of BOC, Inc.," and in paragraph (c)(2) in the entry "010019" by revising the sponsor's address to read "100 Mountain Ave., Murray Hill, NJ 07974."

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR Part 529 is revised to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

4. By adding new § 529.1186 to read as follows:

§ 529.1186 Isoflurane.

(a) *Specifications.* The drug is a clear, colorless, stable liquid containing no additives or chemical stabilizers. It is nonflammable and nonexplosive.

(b) *Sponsor.* See No. 010019 in § 510.600(c) of this chapter.

(c) *Conditions of use.*—(1) *Amount.* For induction of surgical anesthesia: 3 to 5 percent isoflurane (with oxygen) for 5 to 10 minutes. For maintenance of surgical anesthesia: 1.5 to 1.8 percent isoflurane (with oxygen).

(2) *Indications for use.* For induction and maintenance of general anesthesia in horses.

(3) *Limitations.* Administer by inhalation; not for use in horses sensitive to halogenated agents; increasing depth of anesthesia may increase hypotension and respiratory depression; use less than usual amounts of nondeploarizing relaxants; use with vaporizers producing predictable percentage concentrations; not for use in horses intended for food; Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: December 30, 1985.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86–213 Filed 1–6–86; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Salinomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by A.H. Robins Co. providing for use of a premix containing salinomycin to make a finished feed for beef cattle fed in confinement for slaughter for increased rate of weight gain and improved feed efficiency.

EFFECTIVE DATE: January 7, 1986.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: A.H. Robins Co., 1405 Cummings Dr., P.O. Box 26609, Richmond, VA 23261, filed NADA 137–654 to provide for use of a 30-gram-per-pound salinomycin (salinomycin sodium biomass) premix to make a 5-gram-per-ton cattle feed for increased rate of weight gain and improved feed efficiency and a 5- to 10-gram-per-ton finished cattle feed for improved feed efficiency. The feeds are for beef cattle being feed in confinement for slaughter. The NADA is approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information (FOI) summary.

In addition, both this NADA and a supplement to NADA 128–686 (salinomycin premix for use in broiler feeds) provide for revised premix assay limits of 95 to 115 percent of labeled amount. The regulations are further amended to reflect the revised premix assay limits.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers

Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

List of Subjects in 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, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. 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.

2. In § 558.550 by revising paragraph (b) and by redesignating paragraph (c)(2) as (c)(3) and by adding new paragraph (c)(2) to read as follows:

§ 558.550 Salinomycin.

* * * * *

(b) *Assay limit.* Premix: 95 to 115 percent of labeled amount. Finished feed: 80 to 120 percent of labeled amount of drug.

(c) * * *

(2) *Cattle.* (i)(*a*) *Amount per ton.* Salinomycin, 5 grams (0.00055 percent).

(*b*) *Indications for use.* Increased rate of weight gain and improved feed efficiency.

(*c*) *Limitations.* Feed only to cattle being fed in confinement for slaughter. Feed continuously in complete feed to provide 50 to 60 milligrams of salinomycin per head per day. May be fatal if accidentally fed to adult turkeys or horses.

(ii)(*a*) *Amount per ton.* Salinomycin, 5 (0.00055 percent) to 10 (0.0011 percent) grams.

(*b*) *Indications for use.* Improved feed efficiency.

(*c*) *Limitations.* Feed only to cattle being fed in confinement for slaughter. Feed continuously in complete feed to provide 50 to 120 milligrams of salinomycin per head per day. May be fatal if accidentally fed to adult turkeys or horses.

* * * * *

Dated: December 30, 1985.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86–212 Filed 1–6–86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. R–85–1559; FR–2165]

Recognition of Substantially Equivalent Laws

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Rule-related notice.

SUMMARY: Title 24, Part 115 of the Code of Federal Regulations describes the procedure for recognition of State and local fair housing laws that provide rights and remedies, for alleged discriminatory housing practices, that are substantially equivalent to those provided by the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) ("the Act"). This notice advises that a determination has been made that the fair housing law of each named state or locality, on its face, is substantially equivalent to the Act. The notice seeks public comment on this determination and on present or past performance of the agency administering and enforcing the State and local law. The Department will consider all comments submitted in making its determination as to whether the State or local law provides rights and remedies which are substantially equivalent to the Act.

DATES: Comments due: February 6, 1986.

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

FOR FURTHER INFORMATION CONTACT: Steven J. Sacks, Director, Federal, State and Local Programs Division, Room 5214, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 426–3500. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On August 9, 1984 (49 FR 32042), the Department published a final rule that revised 24 CFR Part 115 to enable the Department to add or remove recognition of substantially equivalent laws through publication of a rule-related notice in the **Federal Register**. The purpose of this notice is to advise the public, in accordance with 24 CFR 115.6(b), that the laws of the following jurisdictions have, on their face, been determined to be substantially equivalent. The jurisdictions are: (1) Hazel Crest, Illinois; (2) Arlington County, Virginia; and (3) Rockland County, New York.

The evaluation of the laws of these jurisdictions to date has been conducted in accordance with 24 CFR 115.3(c). Under § 115.3(c), analysis of the adequacy of a State or local fair housing law "on its face" is intended to focus on the meaning and intent of the text of the law as distinguished from the effectiveness of its administration. Accordingly, the analysis is not limited to the literal text of the law, but must take into account necessary relevant matters of State and local law, or interpretations of the fair housing law by competent authorities.

Section 115.2 provides for two separate inquiries: (a) Whether the State or local law, on its face, provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in the Act, and (b) whether the current practices and past performance of the appropriate State or local agency charged with administration and enforcement of such law demonstrates that in operation, the State or local law in fact provides rights and remedies which are substantially equivalent to those provided in the Act.

Today's notice invites interested persons and organizations, during the next 30 days, to file written comments relevant to the determination whether the current practices and past performance of the State or local agency charged with administration and enforcement of the fair housing law of each of these jurisdictions demonstrate that, in operation, the law in fact

provides rights and remedies substantially equivalent to those provided in the Act. This notice also invites comments on the Department's determination as to the adequacy of the law on its face.

In accordance with 24 CFR 50.20(k), this notice is not subject to the environmental assessment requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4332.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this notice would not have a significant economic impact on a substantial number of small entities. The rule only carries out the Department's statutory responsibility as set out in section 810(c) of the Fair Housing Act, 42 U.S.C. 3610(c).

Accordingly, public comment is solicited in accordance with 24 CFR 115.6(b) with respect to the following jurisdictions:

Localities

Hazel Crest, Illinois
Arlington County, Virginia
Rockland County, New York

Dated: December 30, 1985.

W. Scott Davis,

General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 86-223 Filed 1-6-86; 8:45 am]

BILLING CODE 4210-28-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-85-1564; FR-2180]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, (HUD).

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This Notice amends the listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by further increasing the limits of three previously designated high-cost areas. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

EFFECTIVE DATE: January 7, 1986.

FOR FURTHER INFORMATION CONTACT: For single family: Brian Chappelle, Director, Single Family Development Division, Room 9270, Telephone (202) 755-8720. For manufactured homes: Christopher Peterson, Director, Office of Title I Insured Loans, Room 9160, Telephone, (202) 755-6880; 451 Seventh Street, SW., Washington, DC 20410. (Telephones are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1710-1749) authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured home lots, and manufactured homes, combination manufactured homes and lots. The NHA, as amended by the Housing and Community Development Act of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, section 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam, and Hawaii.

The Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181, November 30, 1983) (1983 Act) further amended HUD's insuring authority. Of particular interest here are (1) the authorization to insure condominiums in high-cost areas at the same levels as the high-cost limits for one-family residences insured under section 203(b) of the National Housing Act; and (2) the authorization to increase maximum loan limits under the Title I loan insurance program for combination manufactured home and lot loans and for individual lot loans in high-cost areas, so long as the percentage increase in the maximum loan limit does not exceed the percentage increase made to a one-family residence in the area authorized under section 203(b) of the NHA.

The Department implemented these provisions of the 1983 Act in related documents published in the **Federal Register** on April 11, 1984 (see 49 FR 14332, 14335, 14336), effective May 22, 1984. These documents also amended the Department's rules to codify the procedure of announcing high-cost mortgage limits for single family residences, condominiums, combination manufactured homes and lots and manufactured home lots by notice in the **Federal Register** (see April 11, 1984 documents, amending 24 FR 201.1504, 203.18b, 203.29, 234.27, and 234.49). In addition, the documents codified the procedure whereby a party may request an alternative mortgage limit (see the same sections cited above).

On May 22, 1984, the Department published a revised list of areas eligible for "high-cost" mortgage limits, which contained several new features (see 49 FR 21520). First, there was no separate listing for condominium units, since these limits are now the same as those for other one-family residences. Second, the listing included instructions on how to compute the high-cost imits for combination manufactured homes and lots and individual lots, and specified the special high-cost amounts for manufactured homes, combination manufactured homes and lots and individual lots insured in Alaska, Guam, and Hawaii. And, third, it made changes to the list based on a new definition of "metropolitan area."

On December 6, 1984 (49 FR 47657), May 8, 1985 (50 FR 19341), July 24, 1985 (50 FR 30154), and November 6, 1985 (50 FR 45993), the Department published amendments to the "high-cost" mortgage amounts that added additional areas and further increased the limits of several previously designated high-cost areas.

This Document

Today's document further increases the limits for Summit County, Colorado, Eagle County, Colorado, and Fauquier County, Virginia.

These amendments to the high-cost areas appear in two parts. Part I explains high-cost limits for mortgages insured under Title I of the National Housing Act. Part II lists any changes for single family residences insured under sections 203(b), and 234(c) of the National Housing Act.

Accordingly, the Commissioner hereby amends the list of high-cost mortgage limits by further increasing the limits for Summit County, Colorado, Eagle County, Colorado, and Fauquier County, Virginia, as set forth in Part II of the following Table:

National Housing Act High-Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. *Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam, and Hawaii)*: To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example, Summit County, Colorado, has a one-family limit of $90,000. The combination home and lot

loan limit for Summit County is $90,000x.80 or $72,000.

B. *Section 2(b)(1)(E). Lot only (excluding Alaska, Guam, and Hawaii).* To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, Summit County, Colorado, has a one-family limit of $90,000. The lot only loan limit for Summit County is $90,000x.20, or $18,000.

C. *Section 2(b)(2). Alaska, Guam, and Hawaii limits:* The maximum dollar limits for Alaska, Guam, and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1). Accordingly, the dollar limits for Alaska, Guam, and Hawaii are as follows:

1. For manufactured homes, $56,700. ($40,500x140%).

2. For combination manufactured homes and lots: $75,600. ($54,000x140%).

3. For lots only: $18,900. ($13,500x140%).

II. TITLE II: UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
Region VIII; HUD Field Office—Denver, CO				
Summit County ..... Eagle County	$90,000	$101,300	$122,650	$142,650
Region III; HUD Field Office—Richmond, VA				
Fauquier County.....	77,900	87,700	106,600	123,000

Dated: December 30, 1985.

Janet Hale,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 86-222 Filed 1-6-86; 8:45 am]

BILLING CODE 4210-27-M

Government National Mortgage Association

24 CFR Part 300

[Docket No. N-85-1576; FR-2182]

List of GNMA Attorneys-in-Fact

AGENCY: Government National Mortgage Association, HUD.

ACTION: Rule-related notice.

SUMMARY: This document updates the current list of persons appointed attorneys-in-fact by the Government National Mortgage Association (GNMA). Attorneys-in-fact are authorized to act for GNMA by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs. These appointments assist GNMA in carrying out its responsibilities under the National Housing Act.

EFFECTIVE DATE: January 7, 1986.

FOR FURTHER INFORMATION CONTACT: John Maxim, Associate General Counsel, Insured Housing and Finance, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755-6274. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Government National Mortgage Association (GNMA) periodically approves staff members of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) to be delegated signatory authority to act in GNMA's behalf as attorneys-in-fact.

Until recently, lists of persons appointed to act have appeared in the Code of Federal Regulatons (see 24 CFR 300.11 (c) and (d), 1983 edition). In related documents published on August 12, 1983 (see 48 FR 36572, 36573) GNMA announced that it was removing these lists from the CFR, changing the procedure of announcing appointments to a notice document, and publishing a complete list of persons currently appointed to act as attorneys-in-fact. The rule removing the lists from the CFR, as well as the complete list of attorneys-in-fact, was effective on October 11, 1983. Additional changes to the list of persons appointed attorney-in-fact were published on December 29, 1983 (48 FR 57371); May 29, 1984 (49 FR 22278); August 27, 1984 (49 FR 33872); November 15, 1984 (49 FR 45128); September 16, 1985 (50 FR 37523); and December 5, 1985 (50 FR 49842).

This notice today announces changes to the list of persons authorized to act as attorneys-in-fact. The changes include additions to and deletions from the Federal National Mortgage Association list. To enhance the usability of these notices, the Department has decided to republish the entire list of attorneys-in-fact each time changes are made.

Accordingly, the following lists represent all persons currently appointed as attorneys-in-fact delegated signatory authority to act in GNMA's behalf:

I. Staff members of the Federal National Mortgage Association, a government-sponsored private corporation, appointed attorneys-in-fact.

Name	Region
Leo E. Abueg	Los Angeles, CA.
Charlotte Adelman	Los Angeles, CA.
Robert E. Allen	Los Angeles, CA.
Angelina P. Alleva	Philadelphia, PA.
Ellen W. Allison	Atlanta, GA.
Pam Andrus	Los Angeles, CA.
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Frances E. Bennett	Atlanta, GA.
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James R. Blakley	Los Angeles, CA.
Ann Blount	Atlanta, GA.
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E.P. Carr	Atlanta, GA.
James S. Cash	Atlanta, GA.
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Sherry L. Williamson	Atlanta, GA.
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II. Staff members of the Federal Home Loan Mortgage Corporation, created under the laws of the United States, appointed attorneys-in-fact.

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George E. Delgado	Arlington, VA.
James L. Garrison	Arlington, VA.
C. Gordon Gray	Chicago, IL.
Ken Halterman	Dallas, TX.
Philip N. Harrington	Washington, DC.
Carl Hillis	Dallas, TX.
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Ronald Morck	Atlanta, GA.
Randall M. Nay	Dallas, TX.
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Robert K. Ostengaard.	Los Angeles, CA.
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Dated: December 30, 1985.

Glenn R. Wilson, Jr.,

President, Government National Mortgage Association.

[FR Doc. 86-224 Filed 1-6-86; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 19, 240, 245, 270, 285, and 295

[T.D. AFT-219]

Implementation of Form 5000.24, Excise Tax Return

Correction

In FR Doc. 85-29762 beginning on page 51386 in the issue of Tuesday, December 17, 1985, make the following corrections:

1. On page 51387, in the second column, in **Paragraph 2**, in the third line, "whenever" should read "wherever".

2. Also on page 51387, in the second column, the line before **Paragraph 3** should read "§ 19.46 [Amended]".

3. On page 51388, in the third column, in **Paragraph 6**, in the third line, "whenever" should read "wherever".

4. On page 51389, in the first column, **Paragraph 13** and its text should appear after the last line of § 240.901(c).

5. Also on page 51389, in the first column, in **Paragraph 1**, in the fourth line of the authority, "5571" should read "5671".

6. On page 51389, in the second column, in **Paragraph 3**, in the table of contents, in § 245.227, "Form 5000.2" should read "Form 5000.24".

7. On page 51389, in the second column, in **Paragraph 4**, in the third line, "245.227g" should read "245.117g".

8. On page 51389, in the second column, in **Par. 2**, in the third line, "U.S.C. 778" should read "U.S.C 2778".

9. On page 51390, in the third column, in **Paragraph 1**, in the second line, "Part 296" should read "Part 295".

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket RM 85-7]

Compulsory License for Cable Systems; Policy Decision Announcing Temporary Waiver of Time Limit for Refunds Where Cable Operators Paid Both the Minimum Fee and the 3.75% Fee

AGENCY: Copyright Office, Library of Congress.

ACTION: Policy Decision.

SUMMARY: The Copyright Office has determined that Space L of Form CS/SA-3 for accounting periods 1983-1, 1983-2, and 1984-1 misinstructed cable system operators to add the minimum fee to the 3.75% fee in the calculation of the total royalty fee when, in fact, the minimum fee should be applied against the 3.75% fee in that calculation. This misinstruction may have caused a small number of system operators to overpay cable compulsory license royalty fees pursuant to 17 U.S.C. 111(d). The Office, in this special case temporarily will waive the 60-day refund limitation in 37 CFR 201.17(j)(3) of the Office's regulations and will consider claims for refunds for any accounting period from period 1983-1 through period 1985-1 if a system operator has overpaid royalties because he or she failed to apply the minimum fee against the 3.75% fee in Space L of Form CS/SA-3 or SA3 (Long Form).

DATES: System operators must file a request for refund based upon this policy decision no later than March 3, 1986.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559, Telephone: (202) 287-8380.

SUPPLEMENTARY INFORMATION:

1. Background

Section 111(c) of the Copyright Act of 1976, title 17 of the United States Code, establishes a compulsory licensing system under which cable systems may make secondary transmission of copyrighted works. The compulsory license is subject to various conditions, including the requirement under section 111(d)(2) that cable systems deposit statutory royalties and statements of account with the Copyright Office. On June 27, 1978, the Copyright Office announced in the **Federal Register** the adoption of Statement of Account forms to be filed by cable systems in fulfillment of that condition. Cable systems whose semiannual gross receipts for secondary transmissions totaled $160,000 or more were to file Form CS/SA-3.

Since 1978, the Copyright Office has issued amended forms several times, including amendments of CS/SA-3. Of relevance to this Notice, the Copyright Office issued an amended version of Form CS/SA-3,[1] in 1984-1 [2] to be filed with royalty payments due beginning with the first accounting period in 1983, to implement the CRT's October 20, 1982 rate adjustment.[3] The 1984-2 version [4] contained technical and clarifying amendments in light of the Copyright Office's experience under the 1984 regulation concerning the implementation of the CRT's 1982 rate adjustment. (49 FR 26722). In the most recent amendment of the forms, the Office redesignated the amended Form CS/SA-3 as SA3 (Long Form).[5]

Each of the above-described Statement of Account forms includes a space designated as Space L and entitled "Copyright Royalty Fee." In this space the cable operator calculates the "minimum fee" which cable systems filing a Form CS/SA-3 or SA3 must pay pursuant to section 111(d)(2)(B)(i) of the Copyright Act regardless of whether they carried any distant stations. The operator also calculates in this space the fee payable pursuant to section 111(d)(2)(B)(ii)(iv) for carriage of distant signals. In the earliest Forms CS/SA-3 this fee was referred to as the "DSE fee." However, in the 1984-1 version of Form CS/SA-3, which was issued in response to the CRT's 1982 rate adjustment, this fee was redesignated as the "base rate fee." This version of Form CS/SA-3 also included in Space L lines to reflect the calculation of the "3.75% fee" and the "syndicated exclusivity surcharge" payable pursuant to the 1982 rate adjustment.

In the earliest versions of Form CS/SA-3, the cable operator was instructed to enter as the total royalty fee payable for the accounting period either the minimum fee *or* the DSE fee, whichever is larger. This is in accordance with section 111(d)(2)(B)(i) of the Copyright Act, which allows the minimum fee to be "applied against" or offset by any DSE fee owed by a cable system. In the 1984-1 version of Form CS/SA-3, the cable operator was instructed to calculate the total royalty fee by adding the syndicated exclusivity surcharge, the 3.75% fee and the larger of the base rate or the minimum fee.

Subsequent to the issuance of the 1984-1 version of Form CS/SA-3, the Copyright Office considered the issue of whether, in the unusual case where a cable system *incurs no base rate fee but does incur a 3.75% fee*, the minimum fee should be applied against the 3.75% fee under section 111(d)(2)(B)(i) of the Copyright Act. The Office determined that the minimum fee should be applied against the 3.75% fee in such a case. The Office finds that the legislative history behind the minimum fee makes clear that Congress intended that the minimum fee be applied against a fee payable for *any* distant signal equivalent.[6] Accordingly, when Form CS/SA-3 was amended in the second half of 1984, the Office specified in Block L that if a cable operator listed the minimum fee as being larger than the base rate fee, the minimum fee should *not* be added to the total royalty fee if the 3.75% fee exceeds the minimum fee.

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[1] This version of CS/SA-3 was printed in dark brown ink and applied to cable systems whose semiannual gross receipts for secondary transmissions were $214,000 or more. The form was used in accounting periods 1983-1, 1983-2 and 1984-1.

[2] The designation "1984-1" means that the form was first issued in the Spring of 1984.

[3] This rate adjustment was published in the **Federal Register** (47 FR 52146) on November 19, 1982, and upheld on appeal by the Court of Appeals for the D.C. Circuit in *NCTA* v. *CRT*, 724 F.2d 176 (D.C. Cir. 1983). The adjustment became effective March 15, 1983 by virtue of the Congressional appropriations to implement the adjustment. Continuing appropriations for Fiscal Year 1983, Pub. L. No. 97-377, 143, 96 Stat. 1830, 1916-17 (1982).

This particular action made two types of rate adjustments: a surcharge on certain distant signals to compensate copyright owners for the carriage of syndicated programming formerly prohibited by the FCC's syndicated exclusivity rules ("syndicated exclusivity surcharge") and an adjustment raising the royalty rate to 3.75% of gross receipts per additional distant signal equivalent resulting from carriage of distant signals not generally permitted to be carried under the FCC's distant signal rules (the "3.75% rate").

[4] This version of CS/SA-3 was printed in red ink and applied to cable systems whose semi-annual gross receipts were $214,000 or more. The form was used only for accounting period 1984-2, i.e., the second half of 1984.

[5] SA3 is printed in blue ink and applies to cable systems whose semiannual gross receipts for secondary transmissions are $292,000 or more.

[6] The House report accompanying the Copyright Act of 1976 explains Congress' intent in creating the minimum fee: "Every cable system pays .675 of 1 percent of its gross receipts for the privilege of retransmitting distant non-network programing *such amount to be applied against the fee, if any, payable under the computation for 'distant signal equivalents.'* . . . The purpose of this initial rate, applicable to all cable systems in this class, is to establish a basic payment, whether or not a particular cable system elects to transmit distant non-network programing. It is not a payment for the retransmission of purely "local" signals, as is evident from the provision that *it applies to and is deductible from the fee payable for any 'distant signal equivalents.'* " (Emphasis added.) H.R. Rep. 94-1476, 94th Cong., 2d Sess. 96.

2. Policy Decision To Waive Temporarily the Refund Time Limit

The Copyright Office received a request for a refund of royalty fees paid by a cable system for accounting periods 1983–1, 1983–2 and 1984–1. The cable system's representative noted that the system overpaid royalties in those accounting periods because it exactly followed the instructions on Form CS/SA–3 and paid *both the minimum fee and the 3.75% fee.* He argues that although the 60-day refund period provided for in 37 CFR 201.17(j)(3) of the Copyright Office regulations had elapsed, the Office should issue refunds where operators paid both the minimum and the 3.75% fee for the 1983 and 1984 [7] accounting periods because the Copyright Office Form CS/SA–3 incorrectly instructed cable system operators to pay both fees, and procedural due process and basic fairness require that the refund requests be honored.

The Copyright Office has now determined that in view of the fact that Space L of the 1984–1 version of Form CS/SA–3 misinstructed cable operators to add both the minimum fee and the 3.75% fee in determining the total royalty fee, the Office in this special case will temporarily waive its 60-day refund limitation. The Office will consider claims for refunds of royalties overpaid for accounting periods 1983–1, 1983–2 and 1984–1 where the minimum fee was not applied against the 3.75% fee in Space L of Form CS/SA–3, if the request for refund is made by March 3, 1986.

Furthermore, the Office acknowledges that cable operators routinely filing Statement of Account forms in accounting periods subsequent to the 1984–1 period might have failed to note the correction in Space L and might have continued to miscalculate the royalty fee. Accordingly, the Office will waive its refund period limitation in this case also and consider claims for refunds where system operators overpaid royalties by failing to apply the minimum fee against the 3.75% fee for accounting periods 1984–2 and 1985–1, even though the Office's forms for those periods were not misleading.

Any cable system that is entitled to a refund based upon the foregoing decision should file its request for refund with the Copyright Office no later than March 3, 1986. A deadline for refund requests is appropriate for reasons of administrative efficiency and because the Copyright Royalty Tribunal has begun a proceeding to distribute the 1983 cable royalty pool.

(17 U.S.C. 111; 702)

List of Subjects in 37 CFR Part 201

Cable television, Copyright, Copyright Office.

Dated: December 23, 1985.

Ralph Oman,

Register of Copyrights.

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 86–149 Filed 1–6–86; 8:45 am]

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[7] The cable system s representative argues that there should be a refund of fees overpaid in accounting period 1984–2, even though the Form CS/SA–3 for that accounting period was corrected, because there was no independent notification of the form change, and some operators who had routinely completed Form CS/SA–3 failed to notice the printed exception notice on the form, and overpaid royalties for the 1984–2 period as well

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL 2949–9]

California State Implementation Plan Revision; NO_x Control Measures for Two California Air Pollution Control Districts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve one South Coast Air Quality Management District (AQMD) rule and one Bay Area AQMD rule which control nitrogen oxide (NO_x) emissions. These revisions are approvable because they will, at a minimum, contribute to the attainment and maintenance of the national ambient air quality standards and are otherwise consistent with the Clean Air Act.

DATE: This action is effective February 6, 1986.

ADDRESSES: Copies of the revisions are available for public inspection during normal business hours at the EPA Region 9 office and at each of the following locations:

EPA Library, Public Information Reference Unit, Environmental Protection Agency, 401 "M" Street, SW., Washington, DC 20460

Office of the Federal Register, 1100 "L" Street, NW., Rom 8401, Washington, DC.

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95814

Bay Area Air Quality Management District, 939 Ellis Street, San Franciso, CA 94109

South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731.

FOR FURTHER INFORMATION CONTACT: James C. Breitlow, Chief, State Implementation Plan Section, A–2–3, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–7641 FTS: 454–7641.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1983 (48 FR 12108) EPA published a notice of proposed rulemaking concerning several rules to control NO_x emissions including the South Coast AQMD Rule 1112, which controls NO_x emissions from cement kilns. On January 6, 1984, the District revised Rule 1112. Because EPA had not yet taken final action on the previously submitted rule, it opted to propose the newly revised rule for approval and inclusion in the California SIP. This proposal was published on October 24, 1984 (49 FR 42748). At the same time, EPA proposed to approve a control measure for NO_x emissions from fan-type residential central furnaces in the Bay Area AQMD (BAAQMD Regulation 9, Rule 4). Today's action pertains to the two rules addressed in the October 24, 1984 notice of proposed rulemaking. Copies of EPA's evaluations of the control measures are available in the Region 9 office listed above.

Public Comments

Comments were received from the following organizations:

Landels, Ripley and Diamond
California Portland Cement Company
Southwestern Portland Cement Company
Kaiser Cement Corporation
Lone Star Industries, Inc.
Conoco, Inc.
Western Oil and Gas Association
Pillsbury, Madison and Sutro
Portland Cement Association
Lehigh Portland Cement Company

Comments were received in response to both proposal notices (March 23, 1983 and October 24, 1984).

A summary of the comments relevant to the October 24, 1984 proposal and EPA's response is provided below. For further detail on the comments and EPA's response please refer to EPA's Supplemental Response to Comments which is available at the EPA Region IX Office listed above. The Agency also received a Petition to Reopen the Rulemaking on Rule 1112, dated June 4, 1985 on behalf of Gifford Hill and

Company, Inc. That petition is denied for the reasons described below.

Several commenters expressed similar concerns regarding the proposed rulemaking. The comments opposed approval of South Coast Air Quality Management District Rule 1112, "Emissions of Oxides of Nitrogen from Cement Kilns," as a revision to the California State Implementation Plan (SIP). The rule limits NO_x emissions to 3.1 pounds of NO_x per ton of clinker produced, beginning July 1, 1986. The rule also requires the South Coast AQMD to conduct a public hearing in January 1986, to review the rule's emission limit and compliance date. A summary of comments submitted as a result of the proposed rulemakings and EPA's response to the comments follows:

Comment: EPA cannot approve Rule 1112 because it violates State law. State law requires adoption only of emission limits that reflect best available technological practice and further provides that a SIP for the South Coast Air basin shall only include those provisions necessary to meet the requirements of the Clean Air Act. In order for EPA to determine that Rule 1112 is legally enforceable, it must necessarily evaluate Rule 1112 for compatibility with the emission limitations achievable with RACT. Rule 1112 does not reflect RACT. Moreover, it is not necessary to attain the NO_2 standards in Riverside and San Bernardino Counties because the standard has been achieved there.

Response: Section 110(a)(3) of the Act allows, and indeed requires, EPA to limit its assessment of a SIP revision to a comparison of the revision with the criteria in section 110(a)(2). The only relevant criteria, which is set forth in section 110(a)(2)(F), is whether the State has provided adequate assurances that it has authority to carry out its State implementation plan. Thus, EPA need not independently investigate and determine whether a State has the necessary authority. Rather, it may rely upon facially adequate statements in the State submission, determining only whether any commenters have rebutted those statements. To obtain an independent determination a commenter must go to the State courts, not EPA. EPA's role is to defer to State determinations of authority. See 42 U.S.C. 7401(a)(3), 7407(a); *Appalachian Power Co.* v. *EPA*, 579 F.2d 846, 854–55 (4th Cir. 1978); *Sierra Club* v. *Indiana-Kentucky*, 716 F.2d 1145 (7th Cir. 1983); *Indiana & Michigan Electric Co.* v. *EPA*; 509 F.2d 839 (7th Cir. 1975).

The resolution of the California Air Resources Board (CARB) adopting Rule 1112 as a SIP provision and the submission of Rule 1112 to EPA for approval by CARB in and of itself provides sufficient assurance that the State has authority to carry out Rule 1112 absent a clear showing to the contrary by any commenters. Despite the objections of the commenter, Rule 1112 does not appear on its face to be inconsistent with State law.

The commenter maintains that California Health and Safety Code section 40440(a) provides that the South Coast Air Quality Management District may only require sources to apply emission limits that reflect the best available technological practice. However, the commenter appears to be referring to language in an earlier version of section 40440(a). The current version of section 40440(a), which has been in effect since 1980, provides the "the south coast district board shall adopt rules and regulations that are not in conflict with State and Federal laws and rules and regulations that reflect the best available technological and administrative practices." The commenter has cited no Federal or State laws, regulations, or rules reflecting best available technological and administrative practices with which Rule 1112 would be in conflict even if it were more stringent than RACT, and EPA is aware of no such laws, regulations, or rules. Section 172 of the Clean Air Act requires RACT, as a *minimum* in all nonattainment areas but does not preclude States from adopting measures more stringent than RACT. (See Section 116, and *Union Electric Co.* v. *EPA*, 427 U.S. 246 (1976)). Hence, State laws or regulations requiring measures more stringent than RACT do not conflict with Section 172.

Moreover, even assuming some State provision did prohibit measures that were not reasonably available, EPA believes that Rule 1112 would not be inconsistent with State law. The Board of the South Coast Air Quality Management District determined that Rule 1112 established emission limits that could be achieved by reasonably available control technology and this finding was not reversed by the CARB. EPA believes that it may rely upon factual findings, such as determinations of reasonably available control technology, that are made by the State for purposes of evaluating the consistency of SIP provisions with State law.

The commenter further claims that Rule 1112 is inconsistent with California Health and Safety Code section 40460(d) which provides that the State implementation plan for the South Coast Air Basin shall only include those provisions necessary to meet the requirements of the Clean Air Act. However, the commenter has provided no compelling reason to conclude that Rule 1112 conflicts with that provision. The CARB concluded in the resolution adopting Rule 1112 that the rule is necessary to meet the requirements of the Clean Air Act. Since the CARB is the State agency with ultimate responsibility for adoption and implementation of State implementation plans, its conclusions are to be accorded great deference for purposes of determining whether SIP provisions are consistent with State law. This is particularly true because its conclusions that Rule 1112 is necessary to meet the requirements of the Clean Air Act is supported by the apparent purpose of the rule.

The State has apparently adopted Rule 1112 for sources in Riverside and San Bernardino Counties not only to satisfy the RACT requirements of Section 172, but also as part of a regional approach for achieving and maintaining the national ambient air quality standards for NO_2 in the South Coast Air Basin. In a recent resolution dated April 25, 1985 the CARB indicated that it would request EPA to redesignate from nonattainment to attainment Riverside and San Bernardino counties upon submittal to EPA of an approvable NO_2 control strategy for the South Coast Air Basin. In that resolution, CARB indicated that any such redesignation would not result in changes to NO_2 control requirements in those counties. It further found that continued control of NO_2 emissions in the South Coast Air Basin at current or more stringent levels is needed to prevent adverse air quality impacts on concentrations of NO_2. In addition, a document prepared by CARB staff as well as a resolution by the SCAQMD Board, dated May 17, 1985, indicate that the existing NO_x limits were intended to be a regional approach for achieving and maintaining the standards for NO_2 in the South Coast Air Basin. The CARB staff concluded that NO_2 sources subject to Rule 1112 in the eastern basin (i.e., Riverside and San Bernardino counties) contributed to some degree to NO_2 concentrations in Los Angeles County and therefore control of those sources should be part of the solution to the NO_2 nonattainment problem in Los Angeles County. Thus, it is apparent that the State considers Rule 1112 to be necessary to meet requirements of the Clean Air Act other than the RACT requirements of Part D, especially the requirement for maintenance of the Federal standards.

The commenter maintains that EPA is required to independently determine whether Rule 1112 represents RACT in order to determine if the rule is enforceable under State law. For the reasons just given, whether Rule 1112 is more stringent than RACT need not be addressed for purposes of determining whether it is consistent with State law. In any event, even if that issue were relevant, as explained above, EPA may appropriately rely upon the State findings that Rule 1112 reflects RACT for purposes of determining whether the rule is consistent with state law. Whether Rule 1112 is more stringent than RACT is not relevant as a federal matter. Under section 172(b) of the Act, EPA need only determine whether an emission limit is at least as stringent as RACT. EPA believes that Rule 1112 is at least as stringent as RACT, a conclusion the commenter does not dispute.

Comment: EPA cannot approve Rule 1112 because it is uncertain and therefore unenforceable.

Response: The commenter's objection is based primarily on the fact that the existing emission limits and compliance date in Rule 1112 may be changed upon the outcome of further study, including a January 1986 public hearing. However, even regulations or ordinances that are contingent upon the determination of certain facts or the happening of certain conditions or contingencies specified therein have been found valid and constitutional. *Fireman's Benevolent Association* v. *Santa Ana*, 336 P.2d 273 (Cal. App. 1959); *Ross* v. *Board of Retirement*, 206 P.2d 903 (Cal. App. 1949); *Nilva* v. *United States*, 320 U.S. 81 (1942).

Moreover, Rule 1112 simply requires the State and its authorized representatives to take measures the State and its representatives would in any event be free to take without such a requirement—i.e., holding a hearing and modifying the Rule if appropriate. The mere fact that Rule 1112 requires a reevaluation that could be conducted voluntarily does not make its substantive provisions invalid.

Comment: The approval statement should make clear that the rule is essentially a demonstration endeavor subject to possible revision.

Response: EPA agrees and believes that the structure and language of the rule makes that clear.

Comment: EPA should defer action on Rule 1112 until an amendment has been considered by the South Coast AQMD in 1986, since the limits may be determined to be technically infeasible at the hearing.

Response: If the rule is amended as a result of the January 1986 hearing, and submitted as a SIP revision, EPA will review the revised rule and all available information and proceed with rulemaking on the revised control measure. No comments were received on the Bay Area AQMD Regulation 9, Rule 4.

Summary of Gifford-Hill Petition: The California Air Resources Board (CARB) has committed to request EPA to redesignate Riverside, San Bernardino, and Orange counties to attainment for NO_2 when the South Coast Air Quality Management District (SCAQMD) submits its No_2 control strategy to EPA for approval, which is scheduled for August 31, 1985. The State agencies have recognized that those areas have attained and maintained the federal NO_2 standard for the past six years under existing requirements. Furthermore, emissions from Riverside and San Bernardino Counties have been shown to contribute no more than one percent on an annual basis to NO_2 concentrations in Los Angeles County. Thus, the limit in Rule 1112 is unnecessary to attain and maintain the federal NO_2 standard. If the three counties are designated as attainment for NO_2, no RACT provisions would be required under Section 172 of the Clean Air Act. Because California's air quality statute provides that the State Implementation Plan for the South Coast Air Basin shall only include those provisions necessary to meet the requirements of the Clean Air Act, if the three counties are designated as attainment for NO_2, no RACT provisions would be allowed under State law. Thus, the redesignation proposed may eliminate the basis for Rule 1112 and is of central relevance to EPA's rulemaking on Rule 1112.

EPA should either reopen the rulemaking by providing the public with notice and an opportunity to coment on the State agencies' recent actions or should defer action on Rule 1112 until after the State agencies take final action on their redesignation proposal and until SCAQMD has completed its technical evaluation of Rule 1112 in 1986. In support of this request, Gifford-Hill maintains that if EPA acts without considering the recent developments in this matter, it may waste considerable administrative resources processing only a temporary goal that is never made into a final emission standard as a part of a nonattainment SIP. Moreover the State agencies' recent action presents significant new information that raise significant additional questions concerning the legal and technical basis for SCAQMD Rule 1112.

Response: The State has not withdrawn Rule 1112. Therefore, the mere possibility that the State may request redesignation for Riverside, San Bernardino, and Orange Counties is not grounds for deferring action on the rule. Any such redesignation is speculative at this point.

Moreover, the CARB and the SCAQMD have both indicated in their resolutions that any redesignation of the three counties now being considered for such action would not result in any changes in NO_2 control requirements in those counties and will not affect the current regional approach for controlling NO_2 in the South Coast Air Basin, a nonattainment area which also includes Los Angeles County. Thus, the State intends that Rule 1112 continue to be applicable to Riverside, San Bernardino, and Orange Counties even if those Counties are redesignated.

Accordingly, the possibility of future redesignation of the three Counties is irrelevant. This is particularly true since there is no indication that redesignation will affect the rule's approvability. Rule 1112 would not appear on its face to be invalid under State law after a redesignation. As already discussed, the State has apparently adopted Rule 1112 as part of a regional approach for achieving and maintaining the NAAQS for NO_2 in the South Coast Air Basin. NO_2 emissions from the east basin (Riverside and San Bernardino Counties) appear to contribute to approximately 1% of the NO_2 concentration in the Los Angeles County nonattainment area. Rule 1112 would reduce this contribution and thus appears to be necessary for maintenance of the Federal standards.

EPA Action

EPA is taking final action under Section 110 and Section 172 of the Clean Air Act to approve the following rule, submitted on April 19, 1984 since it strengthens the SIP, is at least as stringent as RACT, and could contribute to the attainment and maintenance of the ambient NO_2 standard:

South Coast AQMD

Rule 1112—Emissions of Oxides of Nitrogen from Cement Kilns

EPA is taking final action under Section 110 to approve the following rule, submitted on April 19, 1984, because the revision does not affect the attainment or maintenance of the National Ambient Quality Standard (NAAQS) for NO_2.

Bay Area AQMD

Regulation 9, Rule 4
NO_x-Fan-Type Residential Central Furnaces

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).) Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Nitrogen dioxide, Incorporation by reference, Intergovernmental relations.

Dated: December 11, 1985.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

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

Subpart F—California

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.220 paragraph (c) is amended by adding paragraphs (154)(vi)(B) and (154)(vii)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(154) * * *

(vi) * * *

(B) Amended Regulation 9, Rule 4 adopted December 7, 1983.

(vii) * * *

(B) New Rule 1112, adopted January 8, 1984.

[FR Doc. 86–161 Filed 1–6–86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-02; Notice 03]

Federal Motor Vehicle Safety Standards; Brake Hoses

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

ACTION: Final rule.

SUMMARY: This notice amends the air brake hose adhesion test of Federal Motor Vehicle Safety Standard No. 106, *Brake Hoses*. The adhesion test is included in FMVSS No. 106 to assure that the various layers of an air brake hose do not separate in service. The test measures the force required to separate adjacent layers of a brake hose. This rule amends the standard to exclude the force levels recorded during the initial and final 20 percent of the testing from the calculation of adhesion value. The agency believes that those data should be excluded because they can be artificially influenced by variables other than the actual adhesion of the brake hose layers. This rule also changes the test apparatus used to measure adhesion value. The new apparatus, a tension-type machine, is more widely used by test laboratories than the pendulum-type apparatus currently referenced in the standard, and provides more valid and consistent data.

This rulemaking action commenced in response to a petition for rulemaking submitted by the B.F. Goodrich Company.

EFFECTIVE DATE: This amendment is effective July 7, 1986. In addition, this rule provides for an optional immediate effective date.

ADDRESS: Submit petitions for reconsideration to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vernon Bloom, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, (202–426–2153.)

SUPPLEMENTARY INFORMATION: On February 18, 1982, the agency published a notice (47 FR 7293) granting a petition for rulemaking submitted by the B.F. Goodrich Company (Goodrich) and requesting comments on the issues raised by the petition. Goodrich's petition concerned technical changes to the adhesion test for air brake hoses set forth in Federal Motor Vehicle Safety Standard (FMVSS) No. 106, *Brake Hoses*. That company requested the agency to adopt two changes to the adhesion test: (1) That adhesion value, i.e., for force required to separate adjacent layers of a brake hose, be determined by an averaging technique rather than by the current method of using the minimum force recorded during the test; and, (2) that the force levels recorded in separating the layers of the brake hose at the beginning and end of the test be disregarded.

Comments were received on the advantages and disadvantages of specifying an average adhesion value and disregarding portions at the ends of the test chart. After considering those comments, the agency concluded that the current method of determining adhesion value by an absolute minimum value furthers the interests of safety. Accordingly, in a notice of proposed rulemaking (NPRM) issued in May 1985, NHTSA terminated further rulemaking as to that portion of Goodrich's petition requesting that an averaging technique be used. (50 FR 21090; May 22, 1985.) However, that notice also announced that the agency had tentatively determined that a portion of the test chart should be excluded from the calculation of adhesion value, and proposed to revise S8.6.4 to set this excluded portion at the first and last 20 percent of the adhesion test chart.

Testing Brake Hose Adhesion

The adhesion test is included in FMVSS No. 106 to ensure that the various layers of a brake hose do not separate in service. Low adhesion in brake hoses can result in the build-up of air between plies. The trapped air can cause inward ballooning of the hose, resulting in slow reaction of the brakes served, or a complete malfunction due to the hose conduit being blocked altogether.

The first step of the adhesion test procedure is to cut a specimen of brake hose, one inch or more in length. The specimen is then cut longitudinally along its entire length to the level of contact with a lower layer. The layer to be tested is peeled back along the longitudinal cut so as to create a flap large enough to be attached to a test apparatus. The test apparatus applies tension in a direction essentially perpendicular to the axis of the brake hose so as to separate, i.e., unroll, the layer being tested from the rest of the brake hose. A chart is produced which has inches of separation as one coordinate and applied tension as the other. Paragraph S7.3.7 requires that, except for hose reinforced by wire, an air brake hose must withstand a tensile force of eight pounds per inch of length before the adjacent layers separate. Paragraph S8.6.4 of the standard provides that adhesion value—i.e., the force required to separate adjacent layers of a brake hose—is "the minimum force recorded on the portion of the chart corresponding to the actual separation of the part being tested."

Disregarding Force Levels at Beginning and End of Test

Goodrich requested that the force levels recorded on the beginning and end of the test chart be disregarded because adhesion between layers might be disturbed during sample preparation, and because samples can distort near the end of the test, resulting in erratic values. The February 1982 notice requested comments on this issue. Several comments were received, all of which have been discussed in the May 1985 NPRM.

Most of the commenters agreed that an excluded area at each end of the test curve was necessary, but were divided as to how much of the chart should be disregarded. Porter and Aeroquip agreed with Goodrich that the beginning and end of the chart should be excluded because those portions are affected by variables resulting from sample preparation. Goodyear stated that the initial and final 20 or 25 percent of the test chart could be spurious because of distortion or mechanical effects, and believed that amending the standard to exclude those portions would be reasonable and acceptable. Midland Ross and Blue Bird commented that disregarding the beginning and end of the adhesion test chart has merit, but that 20 percent on either side was too much to exclude.

After considering those comments, the agency proposed a change to Standard No. 106 along the lines suggested by Goodrich. (50 FR at 21092.) NHTSA believed that an excluded area at each end of the test curve might be necessary because the end points on the test curve appeared to vary considerably depending on the sensitivity of the recording device and variation of sample preparation. A 20 percent exclusion zone was proposed since the agency believed that this area would not result in any safety problems and would cover the portions of the chart which were artificially influenced by variables other than the actual adhesion of the hose layers. This change was intended to ensure that the remaining portion of the test chart corresponds more accurately to the actual adhesion value of a brake hose specimen.

Goodyear was the only commenter to the NPRM. That company concurred with the proposed changes and reiterated its belief that the initial and final 20 or 25 percent of the adhesion test trace could be spurious because of distortion or mechanical effects, and should therefore be excluded.

This rule amends paragraph S8.6.4(a) of Standard No. 106 to specify that the actual separation of the part of the brake hose being tested shall be determined by excluding the portion of the chart which corresponds to the initial and final 20 percent of the separation distance along the chart's displacement axis. NHTSA has concluded that this excluded area would cover the portions of the chart which are artificially influenced by variables other than the actual adhesion of the hose layers, and that safety would not be negatively affected by this change.

As explained in the NPRM, each air brake hose tested for compliance with Standard No. 106 must meet the adhesion test requirement regardless of the specimen tested. Disregarding 20 percent at the beginning and end of the chart yields test results for 60 percent of the test specimen. This does not mean that 40 percent of the hose is not tested to the adhesion requirements of the standard. Multiple specimens of the brake hose can be oriented on the test apparatus so that test results for the entire circumference of the hose can be obtained. Several one inch long test specimens are usually cut from a single piece of hose. These additional samples are each individually cut axially in preparation for the adhesion test. Another hose specimen, adjacent to the original specimen, can be tested for compliance, with the cut made at a different point from the original. The portion of the air brake hose falling within the 40 percent range that was disregarded in the first test can thus be included in the portion of the hose tested for compliance in a subsequent test.

Test Apparatus

Paragraph S8.6.1 of FMVSS No. 106 currently references a pendulum type test apparatus in the adhesion test procedure. The NPRM proposed to reference a tension-type test apparatus in its place. The tension-type apparatus is commonly available and widely used in brake hose testing laboratories. This type of machine is a constant-speed, pulling device whose rate of pull can be set to that required in the standard. A load cell is utilized to measure the resistive load of the bonded layers of hose as they are separated by the machine.

Goodyear, the only commenter to the NPRM, concurred with this change. Since NHTSA believes that the tension-type apparatus is widely used and provides more valid and consistent data than the pendulum apparatus, this rule amends S8.6.1 as proposed.

Effective Date

These amendments are effective July 7, 1986. In addition, this rule provides for an optional immediate effective date. The agency finds good cause for an optional immediate effective date since the amendments clarify the method of calculating the actual adhesion value of a brake hose. Further, there is good cause for specifying an optional immediate effective date for use of the tension-type test apparatus since most, if not all, compliance testing is presently done on this machine. The alternative effective date of 180 days after publication of this rule in the **Federal Register** would provide adequate leadtime for any users presently testing with a pendulum or inclination balance type apparatus.

Analysis of Regulatory Impacts

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 also determined that the economic and other effects of this rulemaking action are so minimal that a full regulatory evaluation is not required. NHTSA believes that the implementation of this rule would not increase the costs or burdens for any party.

Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. The agency believes that few of the brake hose manufacturers would qualify as small businesses. Any brake hose manufacturers that do qualify as small businesses might benefit to a small extent by the changes made by this rule, since excluding the end portions of the adhesion test chart discounts artificial test results which can invalidate test data. Also, the change to a tension-type testing apparatus references a machine that is more commonly used and that yields more accurate results than the current pendulum apparatus. This rule will not impose any new cost requirements or result in significant cost impacts for 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 and new motor vehicle equipment. However, these entities will not be affected by the revisions made by this rule since the changes will not significantly affect the price of brake hoses. For the reasons stated above, I hereby certify that this rule will not have a significant economic impact on a substantial number of small

entities, and that a regulatory flexibility analysis is, therefore, not required.

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.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

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

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

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.106 Standard No. 106, Brake hoses.

2. Paragraph S8.6.1 is revised to read as follows:

S8.6.1 *Apparatus.* A tension testing machine that is power-driven and that applies a constant rate of extension is used for measuring the force required to separate the layers of the test specimen. The apparatus is constructed so that:

(a) The recording head includes a freely rotating form with an outside diameter substantially the same as the inside diameter of the hose specimen to be placed on it.

(b) The freely rotating form is mounted so that its axis of rotation is in the plane of the ply being separated from the specimen and so that the applied force is perpendicular to the tangent of the specimen circumference at the line of separation.

(c) The rate of travel of the power-actuated grip is a uniform one inch per minute and the capacity of the machine is such that maximum applied tension during the test is not more than 85 percent nor less than 15 percent of the machine's rated capacity.

(d) The machine produces a chart with separation as one coordinate and applied tension as the other.

3. Paragraph S8.6.4(a) is revised to read as follows:

S8.6.4(a) The adhesion value shall be the minimum force recorded on the chart excluding that portion of the chart which corresponds to the initial and final 20 percent portion along the displacement axis.

Issued on December 31, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 86-179 Filed 1-6-86; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 51, No. 4
Tuesday, January 7, 1986

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

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Conditions for Obtaining or Withholding Official Services

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is proposing to amend its regulation on Refusal of Official Services by adding procedures for assessing and collecting civil penalties. The amendment would facilitate the use of the regulation by incorporating certain authority granted under the United States Grain Standards Act. Other miscellaneous nonsubstantive changes are being made to facilitate use of the regulations.

DATE: Comments must be submitted on or before February 6, 1986.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Staff, USDA, FGIS, Room 0667 South Building, 14th Street and Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., (address above), telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the inspection and weighing services do not meet the requirements for small entities.

Proposed Action

FGIS proposes to amend its regulations on Refusal of Official Services by incorporating into the regulations the civil penalty provisions of section 10 of the United States Grain Standards Act (Act) (7 U.S.C. 86). Section 10 states, in relevant part, that in addition to, or in lieu of, criminal penalties under section 14 of the Act or the refusal of official services, a civil penalty, not to exceed $75,000 for each such violation, may be assessed against any person who has knowingly committed any violation of section 13 of the Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain. Before a civil penalty is assessed, the Service must provide the person with an opportunity for a hearing. Failure to pay the penalty may result in civil action by the Attorney General. The title of § 800.50 would be revised to more accurately reflect the contents of the section and minor nonsubstantive revisions would be made in paragraphs (a) and (b) to improve clarity.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export and Grain.

Accordingly, it is proposed that Part 800 be amended as follows:

PART 800—GENERAL REGULATIONS CONDITIONS FOR OBTAINING OR WITHHOLDING OFFICIAL SERVICES

1. The authority citation for Part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

2. Section 800.50 is amended by revising the title and paragraphs (a) and (b), and by adding paragraphs (d), (e), and (f) to read as follows:

§ 800.50 Refusal of official services and civil penalties.

(a) *Grounds for refusal.* Any or all services available to an applicant under the Act may be refused, either temporarily or indefinitely, by the Service for causes prescribed in section 10 (a) of the Act. Such refusal by the Service may be restricted to the particular facility of applicant (if not a facility) found in violation or to particular type of service, as the facts may warrant. Such action may be in addition to, or in lieu of, criminal penalties or other remedial action authorized by the Act.

(b) *Provision and procedure for summary refusal.* The Service may, without first affording the applicant (hereafter in this section "respondent") a hearing, refuse to provide official inspection and Class X or Y weighing services pending final determination of the proceeding whenever the Service has reason to believe there is cause as prescribed in Section 10 of the Act for refusing such official services and considers such action to be in the best interest of the official services system under the Act; provided that within 7 days after refusal of such service, the Service shall afford the respondent an opportunity for a hearing as provided under paragraph (c) of this section. Pending final determination, the Service may terminate the temporary refusal if alternative managerial, staffing, financial, or operational arrangements satisfactory to the Service can be and are made by the respondent.

* * * * *

(d) *Assessment of civil penalties.* Any person who has knowingly committed any violation of section 13 of the Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain may be assessed a civil penalty not to exceed $75,000 for each such violation as the Administrator determines is appropriate to effect compliance with the Act. Such action may be in addition to, or in lieu of, criminal penalties under Section 14 of the Act, or in addition to, or in lieu of, the refusal of official services authorized by the Act.

(e) *Provisions for civil penalty hearings.* Before a civil penalty is assessed against any person, such person shall be afforded an opportunity for a hearing in accordance with the provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 CFR 1.130 *et seq.*) At the discretion of the Service,

prior to initiation of formal adjudicatory proceedings, the respondent may be given an opportunity to express views on the action proposed by the Service in an informal conference before the Administrator of the Service. If, as a result of such an informal conference, the Service and the respondent enter into a consent agreement, no formal adjudicatory proceedings shall be initiated.

(f) *Collection of civil penalties.* Upon failure to pay the civil penalty, the Service may request the Attorney General to file civil action to collect the penalty in a court of appropriate jurisdiction.

Dated: December 20, 1985.

Kenneth A. Gilles,

Administrator.

[FR Doc. 86-141 Filed 1-6-86; 8:45 am]

BILLING CODE 3410-EN-M

Rural Electricfication Administration

7 CFR Part 1788

REA Fidelity and Insurance Requirements

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR Chapter XVII, REA Regulations, by adding a new Part 1788, REA Fidelity and Insurance Requirements for Electric and Telephone Borrowers, §§ 1788.1 through 1788.58 to the Code of Federal Regulations. This Part revises REA policies and procedures presently set forth in REA Bulletin 114-2:414-1, Minimum Insurance and Fidelity Coverages for Electric and Telephone Borrowers. This Bulletin will be rescinded final issuance of Part 1788.

In addition to codifying the bulletin, the proposed revision would reduce the requirements on borrowers to report to REA multiple Insurance Expiration Forms and will improve the insurance programs of the borrowers and the contractors, engineers, and architects who perform service to the REA borrowers.

DATE: Public comments must be received by REA no later than March 10, 1986.

ADDRESS: Submit written comments to Mr. William E. Davis, Director, Borrower Accounting and Services Division, Rural Electricfication Administration, Room 1226, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 382-9450.

FOR FURTHER INFORMATION CONTACT: Mr. John V. Montague, Chief, Borrowers' Insurance Staff, Rural Electrification Administration, Room 1219, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 382-9455. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Electrification Act, as amended (7 U.S.C., 901 et seq.), REA proposes to amend 7 CFR Chapter XVII, REA Regulation, by adding a new Part 1788, REA Fidelity and Insurance Requirements for Electric and Telephone Borrowers, §§ 1788.1 through 1788.58. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as: (1) 10.850, Rural Electrification Loans and Loan Guarantees; (2) 10.851, Rural Telephone Loans and Loan Guarantees; and (3) 10.852, Rural Telephone Bank Loans.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping provisions that are included in this proposed rule have been sent to the Office of Management and Budget (OMB) for review and approval.

Background

The proposed of this action is to establish a revised procedure requiring REA borrowers to furnish a single annual certification at the close of each calendar year. This will reduce the requirement on borrowers to furnish to REA completed Insurance Expiration Notice forms at various renewal dates. This proposed rule will assist electric and telephone borrowers to be in compliance with REA insurance requirements when utilizing new casualty insurance forms being introduced by the insurance industry. These new policy forms and methods of providing protection necessitate revision of REA insurance requirements.

In view of the above, REA proposes to add a new part 1788, REA Fidelity and Insurance Requirements for Electric and Telephone Borowers, Sections 1788.1 through 1788.58, to 7 CFR Chapter XVII. It will read as follows:

PART 1788—REA FIDELITY AND INSURANCE REQUIREMENTS FOR ELECTRIC AND TELEPHONE BORROWERS

Subpart A—General Policies and Procedures

Subpart B—Specific REA Minimum Requirements

Subpart C—Insurance for Contractors, Engineers, and Architects

Sec.
1788.51 Contract requirements.
1788.52 Bond requirements.
1788.53 Acceptable sureties.
1788.54 Borrower options.
1788.55 Builders' risk policy.
1788.56 Major equipment insurance.
1788.57 Compliance with contracts.
1788.58 Providing REA evidence.

Authority: 7 U.S.C. 901–950(b) and 7 U.S.C. 1921 et seq.

Subpart A—General Policies and Procedures

§ 1788.1 General.

This part sets forth general Rural Electrification Administration (REA) policy and requirements for minimum insurance and fidelity coverage for electric and telephone borrowers and provides information for borrowers to meet those requirements.

§ 1788.2 Policy.

(a) *Specific coverages required.* REA mortgage provisions require that borrowers procure specific minimum insurance and fidelity coverage and that they maintain this coverage as long as the loan or guaranteed loan remains unpaid.

(b) *Evidence of coverage.* Borrowers shall furnish REA satisfactory evidence that required insurance and fidelity coverage is being continuously maintained.

(c) *Excess coverage.* Borrowers may purchase insurance or fidelity coverage in excess of the REA requirements.

(d) *Borrower responsibility.* Procurement of insurance and fidelity coverage is the primary responsibility of the borrower.

(1) The borrower shall purchase required coverages from companies of the borrower's choice, provided the companies selected are licensed to do business in the state, or states, in which the borrower operates.

(2) The required insurance and fidelity bond coverage shall be in accordance with acceptable insurance industry types of bonds and policies.

(3) If a borrower fails to purchase or maintain the required insurance and fidelity coverages, the mortgagees may place required insurance and fidelity coverage on behalf and in the name of the borrower. The borrower shall pay the cost for this coverage, as provided in the loan documents.

(e) *Losses not covered.* In the event of a loss not covered because of a deductible provision in an insurance policy the borrower should treat the loss as an expense in the year in which it occurs if provision has not been made for such losses in an insurance reserve account. If an insurance reserve has been established, the amount of the loss should be charged directly against that account. Ordinarily, losses not covered because of a deductible provision can be absorbed as current operating costs. A reserve account may be established to provide for losses which would be excluded because of a deductible and the following guidelines are recommended:

(1) The reserve balance at any one time should not exceed the total of the deductibles in the borrower's insurance policies.

(2) The annual credit to the reserve account should not exceed one-tenth of the maximum reserve balance, as set forth above, or a lesser amount needed to maintain the reserve at the maximum level.

(3) No reserve should be considered for losses to outside plant or for other coverages not required by REA.

(4) Accounts used for such reserves shall be as specfied in the applicable Uniform System of Accounts.

§1788.3 Certification of insurance coverage.

Borrowers shall furnish written evidence to REA within sixty (60) days of the close of each calendar year stating that during such year all insurance required by this Part 1788 was in force and renewals have been obtained for all policies. The annual certification will be subject to audit verification.

§1788.4 New borrowers' procedure.

New borrowers shall furnish REA, by letter, a schedule of their insurance policies in force, showing the name of the insurance company, specific type of policy, policy number, expiration date, and the amounts of coverage. In the case of fire insurance policies, new borrowers shall specify amounts of coverage (building, contents) and a complete description of the locations. For workers' compensation, in those states where a state agency administers the workers' compensation fund, new borrowers shall provide the file or account number in lieu of a policy number.

§1788.5 REA Endorsements required.

(a) Each insurance policy, other than fidelity bonds or policies, purchased by borrowers to meet the requirements of REA shall contain the following REA Endorsement:

The insurer agrees with the Rural Electrification Administration as follows:

i. That this endorsement forms apart of the original policy.

ii. Changes in policy forms or endorsements, as a result of approval by a regulatory authority, will be submitted to the Rural Electrification Administration prior to use for a borrower of said Administration.

iii. That it will mail to said Administration, at least 10 days before the effective date therof, notice of cancellation or termination of said policy.

iv. That each endorsement subsequently issued will become a part of said original policy.

(b) When the REA Borrower is a subsidiary of parent corporation, REA requires the following endorsement for policies covering subsidiary companies be included as a part of each public liability and fire policy.

The Insurer agrees with the Rural Electrification Administration, as follows:

i. That this endorsement forms a part of the original policy.

ii. Changes in policy forms or endorsements, as a result of approval by a regulatory authority, will be submitted to the Rural Electrification Administration prior to use for a borrower to said Administration.

iii. That it will mail to said Administration, at least ten days before the effective date thereof, notice of cancellation or termination of said policy, or cessation of coverage for any reason of any affiliate or subsidiary of the assured which is a borrower from the administration.

iv. That each endorsement subsequently issued will become a part of said original policy.

(c) In the case of a cooperative or mutual organization, REA requires that the following: "Endorsement Waiving Immunity From Tort Liability" be included as a part of each public liability, owned, nonowned, hired automobile, and aircraft liability, employers' liability policy, and boiler policy:

The Insurer agrees with the Rural Electrification Administration that such insurance as is afforded by the policy applies subject to the following provisions:

i. The company agrees that it will not use, either in the adjustment of claims or in the defense of suits against the Insured, the immunity of the Insured from tort liability, unless requested by the Insured to interpose such defense.

ii. The Insured agrees that the waiver of the defense of immunity shall not subject the company to liability of any portion of a claim, verdict or judgment in excess of the limits of liability stated in the policy.

iii. The company agrees that if the Insured is relieved of liability because of its immunity, either by interposition of such defense at the request of the Insured or by voluntary action of a court, the insurance applicable to the injuries on which such is based, to the extent to which it would otherwise have been available to the Insured, shall apply to officers and imployees of the Insured in their capacity as such; provided that all defenses other than immunity from tort liability which would be available to the company but for said immunity in suits against the Insured or against the company

under the policy shall be available to the company with respect to such officers and employees in suits against such officers and employees or against the company under the policy.

§ 1788.6 Analysis of deductibles.

When deductibles are considered, careful analysis should be given to the size of the deductible and its effect on the financial position of the borrower. A periodic review should be made of the policy to determine the economy and advisability of continuing the deductible. REA provides assistance in specific cases, as requested.

§ 1788.7 Specialized requirements.

Borrowers with specialized requirements or equipment, such as nuclear facilities, private generation connection, hydro, solar, wind, watercraft, and aircraft, or who do not operate their own systems, will be advised of REA insurance requirements in each specific case.

§ 1788.8 Procedure for fidelity notices and claims.

Upon discovery by the borrower or REA of any fraudulent or dishonest act of any officer, employee, or collection agent, the borrower shall notify the bonding company of such discovery promptly in writing. Such notice, a copy of which shall be sent immediately to REA, shall be given on behalf of both the borrower and REA. If a proof of loss is filed, it shall also be filed on behalf of both the borrower and REA. A copy of the proof of loss, if any, shall be sent immediately to REA by the borrower.

§ 1788.9 Recovering claims.

The borrower shall, when necessary to protect all rights under the fidelity bond, initiate suit against the insurance company to recover all claims.

§ 1788.10 Reporting accidents.

Borrowers shall promptly provide the insurance company providing coverage a written report of all accidents involving injury to persons, damage to the property of others, or direct damage to the insured property of the borrower and forward at the same time a copy of all reports except those involving only employees of the borrower to REA.

§ 1788.11 Reporting claims to REA.

The borrower shall furnish REA a copy of any claim submitted to an insurance company seeking recovery of loss for damage or destruction of property.

§ 1788.12 Use of insurance proceeds.

In the event of damage, loss, or destruction of property mortgaged to the government covered by insurance, the borrower shall repair or replace the damaged, lost, or destroyed property so that the property is in substantially the same condition as before the damage, loss, or destruction. Unless mortgagees direct otherwise, the proceeds of the insurance shall be used for that purpose.

§ 1788.13 Technical assistance.

REA will assist borrowers in the development of their insurance programs and provide technical assistance to meet their individual insurance needs.

§ 1788.14 Negotiation assistance.

REA will negotiate directly with insurance companies to assist in the development of standard forms to resolve questions of classifications of operations and rates and to facilitate the settlement of claims.

§ 1788.15 Insurance management.

REA will provide assistance to borrower management to develop an insurance program that provides the needs of the individual organization, based on an analysis of risks and to obtain comparative costs of the insurance.

§ 1788.16 Package-type policies.

REA recommends that borrowers secure broad form, package-type policies (special multi-peril, combined fire, and boiler), when possible, combining all or as many as possible of the various coverages into a single policy to reduce the number of policies issued by individual insurance companies and to avoid any question between the insurance companies about responsibility.

§ 1788.17 Obtaining minimum cost.

Borrowers should request proposals from several companies, both stock and mutual, for initial and renewal of insurance policies to obtain a minimum cost for their insurance. Borrowers should maintain an accurate loss record for all insurance coverages to establish trends and evaluate the effect of losses on premiums.

§ 1788.18 Type of policies.

REA recommends term policies, either 1- or 3-years, for insuring buildings, contents, stock, and equipment and reporting policies for insuring fluctuating material inventories.

§ 1788.19 Telephone building rates.

Telephone borrowers should investigate the possibility of having the building fire rate applied to both the buildings and contents in those states that permit the single rate. Buildings and contents coverages should be combined in the same policy.

§ 1788.20 Coinsurance recommended.

REA recommends coinsurance where it is available. In accepting a policy with a coinsurance clause, the insured agrees to maintain insurance in an amount equal to at least a percentage of the actual cash value stated in the coinsurance clause.

§ 1788.21 Advantageous fire rates.

To eliminate delays and costly alterations, and to secure the most advantageous fire rates for buildings (generation plants, headquarters buildings, etc.) borrowers should have plans and specifications for buildings reviewed by the state fire rating bureau, the insurance agent of record, or competent, independent consultant for their recommendations.

Subpart B—Specific REA Minimum Requirements

§ 1788.22 General.

This subpart sets forth specific REA minimum requirements for insurance and fidelity coverages for electric and telephone borrowers.

§ 1788.23 Officers and employees.

Borrowers shall provide fidelity coverage for each officer and employee based on the estimated annual gross revenue of the borrower.

§ 1788.24 Types of coverage.

(a) A new Commercial Crime Policy came into use January 1, 1986. This new policy form should be used in lieu of the Blanket Position Bond or Comprehensive 3D policies. Under this new Commercial Crime Policy the amounts of coverage required are as follows:

Annual gross revenue	Amounts of coverage
Less that $200,000	$50,000
$200,001 to $400,000	100,000
$400,001 to $600,000	250,000
$600,001 to $800,000	300,000
$800,001 to $1,000,000	400,000
$1,000,001 and over	500,000

(b) The Rural Electrification Administration Endorsement, Exhibit A, is necessary on all separate policies or where the fidelity coverage is added to a package policy. For municipal borrower, a public employees' blanket bond covering employees and officers responsible for activities of the REA-financed facilities is acceptable.

§ 1788.25 Collection agents.

Each collection agent of the borrower shall be included in the bond for not less than $2,500, or 10 percent of the highest amount collected annually by any one collection agent, whichever is greater. When banks are designated as collection agents, borrowers shall advise REA regarding any special arrangements for fidelity coverage. When annual gross revenues for a previous twelve-month period exceed the limit for the amount of fidelity coverage maintained, the borrower shall increase the coverage to the required amount.

§ 1788.26 When revenues exceed $1 million.

When annual gross revenues exceed $1 million, REA recommends that borrowers obtain additional excess fidelity insurance.

§ 1788.27 Single bond provisions.

When the borrower is one of several affiliated companies and this coverage is provided by naming the borrower as one of several insureds under a single policy, the joint insured paragraph under general or insuring agreements shall be amended to include provisions of the fidelity rider in Exhibit B.

§ 1788.28 Responsibilities of borrowers.

(a) *Termination of fidelity coverage.* The new Comprehensive Crime Policy provides for fidelity coverage on a term basis. Borrowers should renew on a timely basis.

(b) *Effect of fraudulent or dishonest acts.* Upon discovery by the borrower or REA of any fraudulent or dishonest act of any officer or employee, fidelity coverage for this person is automatically cancelled, but remains in effect for all other officers and employees not in collusion with this person. Therefore, borrowers must notify their fidelity insurer of the discovery.

(c) *Effect of borrower's inaction.* Upon discovery of a dishonest act, the borrower's inaction, by its failure to report such acts, whether motivated by restitution or the apparent insignificance of the amount involved, or for any other reason, can affect more than merely the validity of the present claim; it may bar some future loss of real significance caused by the same person.

(d) *Avoiding future risks.* To avoid this risk of future uninsured loss, the borrower shall obtain written assurance of continued coverage for that individual by the same or another bonding company.

(e) *Disclosure of dishonest acts.* Assurance of continued coverage, to be effective, requires the borrower to make full disclosure to the bonding company of the dishonest or fraudulent acts. This disclosure, however, need not be of the same degree required to establish a claim under a proof of loss or conviction of a false report violation.

§ 1788.29 Disbursement of recovered sums.

Sums recovered under any fidelity bond by the borrower for a loss of funds advanced under the notes or recovered by the government for any loss under such bond shall, unless otherwise directed by the mortgages, be applied to the prepayment of indebtedness pro rata on the notes secured by the mortgage or to construct or acquire facilities, approved by the mortgages, which will become part of the mortgaged property.

§ 1788.30 Requirements of coverage.

Workers' compensation and employers' liability insurance covering all employees of the borrower shall be maintained by borrowers in amounts required by law. If the borrower or any of its employees is not subject to the workers' compensation laws of the state, or states, in which the borrower conducts its operations, then its workers' compensation policy shall provide voluntary compensation coverage to the same extent as though the borrower and its employees were subject to such laws. The policy shall include:

(a) Occupational disease liability.

(b) Employers' liability insurance.

(c) "Additional medical" coverage of not less than $10,000 in those states where full medical coverage is not statutory.

When employers' liability insurance is provided by a separate policy issued to a cooperative or mutual organization, it shall include "Endorsement Waiving Immunity From Tort Liability." See § 1788.5(c).

§ 1788.31 Limits required.

REA requires that public liability insurance be maintained covering the ownership liability and all operations of the borrower with limits for bodily injury or death of not less than $1 million each occurrence—$1 million aggregate per policy period and with limits for property damange of not less than $1 million per occurrence and $1 million aggregate for the policy period. Borrowers have the option to purchase a $1 million single limit coverage for bodily injury and property damage. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

§ 1788.32 Contractual liability insurance.

Contractual liability insurance shall be included as part of the public liability policy when the borrower executes an agreement or contract in which it assumes additional liability. The provisions of any "hold harmless" agreement should be referred to the borrower's insurance company for specific references in the policy.

§ 1788.33 Provision on explosives.

When explosives are used by employees of the borrower, the property damage exclusion clause for blasting shall be deleted.

§ 1788.34 Buried plant provision.

Borrowers contemplating construction of buried plant shall immediately obtain an endorsement from their insurance carrier deleting the exclusion in the standard public liability insurance policy which provides that the policy does not apply to injury to, or destruction of, wires, pipes, conduits, mains, sewers, or other similar property below the surface of the ground if the injury or destruction is caused by, or occurs during, the use of mechanical equipment for the purpose of excavating or drilling. For electric borrowers the rating classification includes this coverage automatically.

§ 1788.35 Appliance sales coverage.

When there are retail sales, repair, or installations of electrical appliances involved in borrowers' operations, borrowers shall purchase product liability coverage.

§ 1788.36 Railroad right-of-way exclusion.

General liability policies in use contain a restriction pertaining to easement agreements involving construction on or adjacent to a railroad which are not automatically covered. Where construction is on a railroad right-of-way under an easement, borrowers shall purchase a general liability policy that specifically includes this necessary insurance coverage.

§ 1788.37 Pollution exclusion.

Liability policy forms exclude coverage for "bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, release or escape of pollutants. Borrowers may wish to discuss this exclusion with their insurance companies.

§ 1788.38 Liability requirements.

REA requires borrowers have liability insurance on all motor vehicles, trailers, semitrailers, and aircraft used in the conduct of the borrower's business,

semitrailers, and aircraft used in the conduct of the borrower's business, whether owned, nonowned, or hired by the borrower, with bodily injury limits of not less than $1 million for each person and $1 millilon for each occurrence, and property damage limits of $1 million for each occurrence; in connection with aircraft liability, also passenger bodily injury limits of $1 million per person and $1 million for each occurrence.

§1788.39 Comprehensive requirements.

REA requires borrowers have comprehensive or separate fire, theft, and windstorm insurance on all owned motor vehicles, trailers, and aircraft having a unit value in excess of $1,000. The amount of coverage shall not be less than the actual cash value of the property insured.

§1788.40 Coverage requirement.

(a) Borrowers shall have fire insurance, including the extended coverage endorsement, on each building and its contents, and on each storage location of materials, supplies, poles, and crossarms having a value at any one location in excess of $5,000, or in excess of 1 percent of the total plant value, whichever is larger. Such coverage shall be in an amount of not less than 80 percent of the current cost to replace the property new, less depreciation.

(b) Surveys should be conducted periodically, every two years at a minimum, to establish property values on an actual cash value basis.

§1788.41 REA endorsement.

When the borrower is one of several affiliated companies and the coverage is provided by naming the borrower as one of several insureds under a single policy, the policy shall be amended to include the provisions of the REA Endorsement in § 1788.5(b).

§1788.42 Types of fire insurance policies.

A fire insurance policy may be written on the following basis:

(a) Specified amount basis.

(b) Blanket form basis.

(c) Monthly reporting form basis. The reporting type of policy should include the limit of liability for each location. Whenever it appears that the value at any one location may exceed the limit of liability included in the policy, an endorsement to the policy should be promptly secured increasing the limit of liability for that particular location.

(d) Inland Marine Floater basis. Floater form policies on an all-risk basis are recommended to provide coverage for construction equipment, radio/telephone equipment, and pay stations furnished for use by subscribers and located on their premises or vehicles, and for radio or telephone equipment installed in borrowers' vehicles, for equipment being transported, and for materials stored at various locations.

§1788.43 Coverage requirement.

Borrowers shall purchase and maintain flood insurance for buildings in flood hazard areas to the extent available and required under the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973 (Pub. L. 93-234). The insurance should cover, in addition to the building, any machinery, equipment, fixtures, and furnishings contained in the building

§1788.44 Endorsements required.

The National Flood Insurance Program provides for a standard flood insurance policy; however, other existing insurance policies which provide flood coverages may be used where flood insurance is available in lieu of the standard flood insurance policy. Such policies, in order to satisfy the insurance requirements of section 102 of the Flood Disaster Protection Act of 1973, should be endorsed to provide:

(a) That the insurer give 30 days written notice of cancellation or nonrenewal to the insured with respect to the flood insurance coverage. To be effective, such notice must be mailed to both the insured and the lender or Fedeal agency and must include information as to the availability of flood insurance coverage under the National Flood Insurance Program, and

(b) That flood insurance coverage offered by the insurer is at least as broad as the coverage offered by the Standard Flood Insurance Policy.

§1788.45 Coverage requirement.

Electric borrowers having steam generating facilites shall maintain boiler and machinery insurance. Electric borrowers having internal combustion, gas turbine or hydro-generating facilities shall maintain machinery insurance. The limit for each accident shall not be less than the actual current cash value of the property of the borrower and of the adjacent property that would be damaged by explosion or breakdown of the insured object.

§1788.46 Suspension notice.

The standard REA Endorsement, see § 1788.5(a), should be amended to provide written notice of suspension to REA in the event of suspension of coverage.

§1788.47 Annual inspection report.

Borrowers shall provide REA a copy of the annual inspection report by the insurance company's engineer.

§ 1788.48 Modifications considered.

When requested by the borrower and if loan security is not jeopardized, REA will consider modifying the boiler and machinery insurance requirements for those borrowers with special or unusual circumstances, such as limited planned annual use of generating facilities, or where the value of generating facilities at a location is less than $1 million.

Subpart C—Insurance for Contractors, Engineers and Architects

§ 1788.49 General.

This part sets forth REA policy on minimum insurance requirements for contractors, engineers, and architects performing work under contracts with borrowers, and requirements for bonds to be furnished by contractors.

§ 1788.50 Policy requirements.

(a) Contractors, engineers, and architects performing work for borrowers under construction, engineering and architectural service contracts shall obtain insurance coverage, as required in § 1788.51, and maintain it in effect until work under the contracts is completed.

(b) Contractors entering into construction contracts with borrowers shall furnish a contractors' bond, except as provided for in §1788.52, covering all of the contractors' undertaking under the contract.

(c) Borrowers shall make sure that their contractors, engineers, and architects comply with the insurance and bond requirements of their contracts.

§ 1788.51 Contract requirements.

Contracts entered into between borrowers and contractors, engineers, and architects shall provide that they take out and maintain throughout the contract period insurance of the following types and minimum amounts:

(a) Worker' compensation and employers' liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

(b) Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

(c) Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million per occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

§ 1788.52 Bond requirements.

Construction contracts for facilities in amounts in excess of $100,000 shall require contractors to secure a contractors' bond on a form approved by the Administrator attached to the contract in a penal sum of not less than the contract price, which is the sum of all labor and materials including owner-furnished materials installed in the project. On line extension contracts under which work will be done in sections and no section will exceed a total cost of $100,000, the borrower may waive the requirement for a contractors' bond.

§ 1788.53 Acceptable sureties.

Surety companies providing contractors' bonds shall be listed as acceptable sureties in the U.S. Department of Treasury Circular No. 570. A copy of the executed bond shall be furnished REA. For construction contracts, other than buildings, amounting to $100,000 or less, the borrower shall determine whether a contractors' bond is required.

§ 1788.54 Borrower options.

For construction contracts for buildings amounting to $100,000 or less, the borrower has the option to require the contractors to furnish:

(a) A contractors' bond, as described in Sections 1788.52 and 1788.53, or

(b) A builders' risk policy.

§ 1788.55 Builders' risk policy.

The builders' risk policy shall be on a completed value form, effective from the date equipment or material is first delivered to the building site, and shall name both the borrower and the contractors as insureds.

(a) The policy shall insure against loss by fire or lightning and the named perils in the extended coverage endorsement.

(b) The amount of coverage shall be not less than the actual cash value of the property constructed, including all materials to be used in the construction and stored at the site, whether furnished by the borrower or the contractor.

§ 1788.56 Major equipment insurance.

When a borrower contracts for the installation of major equipment by other than the supplier or for the moving of major equipment from one location to another, REA recommends that these contracts require the contractor to furnish the borrower with an installation floater policy. The policy should cover all risks of damage to the equipment until completion of the installation contract.

§ 1788.57 Compliance with contracts.

It is the responsibility of the borrower to make sure, before the commencement of work, that the engineer, architect, and the contractor have insurance which complies with their contract requirements. Compliance with contract requirements should be a certificate signed by a representative of the insurance company, including a provision that no change in, or cancellation of, any policy listed in the certificate will be made without prior written notice to the borrower.

§ 1788.58 Providing REA evidence.

When REA shall specifically so direct, the borrower shall also require the engineer, the architect, or the contractor to forward to REA evidence of compliance with their contract requirements. The evidence shall be in the form of a certificate of insurance signed by a representative of the insurance company and include a provision that no change in, or cancellation of, any policy listed in the certificate will be made without the prior written notice to the borrower and to REA.

Exhibit A—Rural Electrification Administration Endorsement

The Rural Electrification Administration Endorsement, Exhibit A, is necessary on all separate policies or where the fidelity coverage is added to a package policy. For a municipal borrower, a public employees' blanket bond covering employees and officers responsible for activities of the REA-financed facilities is acceptable.

Policy Number: ——— Commerical Crime

This endorsement applies to all forms forming part of the Commerical Crime Policy.

Employee Dishonesty Coverage Form

The Employee Dishonesty Coverage Form is amended by deleting the Cancellation As To Any Employee section and by substituting the following:

Cancellation as to Any Employee

Coverage for any Employee shall be deemed cancelled (a) immediately upon discovery by you, or by any of your partners or officers thereof not in collusion with such Employee, or by the Administration of any dishonest act on the part of such Employee (b) at 12:01 a.m., standard time upon the effective date specified in a written notice served upon you and the Administration or sent by registered mail to you and the Administration.

Crime General Provisions Form

B. General Conditions

1. Section 4 is replaced by the following:

Duties in the Event of Loss: After you or the Rural Electrification Administration of the United States of America (the Administration) discover a loss or situation that may result in a loss of, or loss from damage to, Covered Property either you or the Administration must:

a. Notify us as soon as possible.

b. Submit to examination under oath at our request and give us a signed statement of answers.

c. Give us a detailed, sworn proof of loss within four months.

d. Cooperate with us in the investigation and settlement of any claim.

Prior discovery of loss by you shall not affect the right of the Administration to notify us of loss, and to file proof of loss even though such prior discovery by you may have occurred more than four months prior to the discovery of the loss by the Administration.

2. Section 6 is replaced by the following:

Legal Action Against Us: You or the Administration may not bring legal action against us involving loss:

a. Unless all the terms of this insurance have been complied with.

b. Until 60 days after proof of loss has been filed with us.

c. Unless brought within two years from the date the loss is discovered by you or the Administration.

3. Section 16 is replaced by the following:

Territory: This insurance covers only acts committed or events occurring within the United States of America, U.S. Virgin Islands, Puerto Rico, Canal Zone, Guam, Micronesia, or Canada.

A new section 19 is added to read as follows:

Any action, approval or consent which by the provisions of this Policy is required to be taken or signed by the Administration shall be effective if taken or signed by the Administrator of the Administration or by his authorized representative.

A new section 20 is added to read as follows:

Discovery by you shall be deemed to mean discovery by any officer or employee of the Insured not in collusion with the employee responsible for the loss discovered, and discovery by the Administration shall be

deemed to mean discovery by any employee, agent or attorney of the Administration not in collusion with the employee responsible for the loss discovered.

C. General Definitions

"Employee" also includes non-salaried officers and collection agents in your service.

Common Policy Conditions

A. Cancellation

1. Paragraph 2 is replaced by the following:

We may cancel this policy by mailing or delivering to the first Named Insured and to the Administration written notice of cancellation at least:

a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or

b. 30 days before the effective date of cancellation if we cancel for any other reason.

A new section G is added to read as follows:

G. Notices.

1. It is agreed that settlement of any claim under this Policy shall be made check or draft payable to you, but no settlement shall be made without prior written approval of the Administration. It is further agreed if you cancel this Policy, the Administration may, within ten days after we receive such notice from you, advise us that the cancellation notice is inoperative. In such case, coverage shall continue as if such notice of cancellation had never been sent. Notices, approvals, and requests by the provisions of this Policy shall be sent as follows:

a. To us, at our home office.

b. To you, addressed to you at the city or town at which your principal office is located.

c. To the Administration, addressed to the Rural Electrification Administration, United States Department of Agriculture, South Building, Washington, DC 20250.

Exhibit B—Fidelity Rider

To be attached to and form a part of Policy Number —— issued to ————.

It is agreed that:

1. Loss recoverable under the attached Policy and sustained by a named Insured which is a borrowing corporation of the Rural Electrification Administration shall be payable to the first named Insured for the use and benefit of such borrowing corporation until such corporation is reimbursed in full for such loss.

2. Discovery of such loss as set forth in Section 5, Joint Insured, shall be deemed to mean knowledge or discovery of such loss by such borrowing corporation.

3. Discovery of such loss by the Insured or by any partner or officer thereof not in collusion with such employee as set forth in the Additional Condition Section, CANCELLATION AS TO ANY EMPLOYEE, shall be deemed to mean discovery by such borrowing corporation or any officer thereof not in collusion with such employee.

4. This rider is effective simultaneously with the Policy.

Accepted: ————————————

Dated: December 4, 1985.

Harold V. Hunter

Administrator.

[FR Doc. 86-241 Filed 1-6-86; 8:45 am]

BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 85-134]

Importation of Poultry Hatching Eggs

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of comment period for proposed rule.

SUMMARY: A document published in the **Federal Register** on November 5, 1985, proposed to amend the import regulations for poultry (1) by deleting the quarantine requirement for poultry eggs for hatching imported into the United States from countries designated as free of viscerotropic velogenic Newcastle disease (VVND) and (2) by clarifying the period of quarantine for certain poultry eggs for hatching and the poultry therefrom by providing that poultry eggs for hatching imported from any country not designated as VVND-free be quarantined from time of arrival at the port of entry and that the poultry from such eggs be quarantined for not less than 30 days following hatch. This document extends the comment period for this proposed rule for an additional 60 days. The extension of the comment period is needed to allow industry representatives and other interested persons adequate time in which to prepare comments.

DATE: Written comments must be received on or before March 7, 1986.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 82-107. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. S.S Richeson, Chief Staff Veterinarian, Import/Export Animals and Products Staff, VS, APHIS, USDA, Room 843, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8172.

SUPPLEMENTARY INFORMATION: On November 5, 1985, the Department published in the **Federal Register** (50 FR 45918-45919) a document which proposed to amend the import regulations for poultry (1) by deleting the quarantine requirement for poultry eggs for hatching imported into the United States from countries designated as free of viscerotropic velogenic Newcastle disease (VVND), and (2) by clarifying the period of quarantine for certain poultry eggs for hatching and the poultry therefrom by providing that poultry eggs for hatching imported from any country not designated as VVND-free be quarantined from time of arrival at the port of entry and that the poultry from such eggs be quarantined for not less than 30 days following hatch.

The proposed rule provided for receipt of comments on or before January 6, 1986. An industry representative has requested additional time to review the proposal and offer substantive comments. It has been determined that additional time is needed to provide industry representative and other interested persons an adequate opportunity to provide meaningful comments. Therefore, the comment period is extended for an additional 60 days. Accordingly, any additional written comments must be received on or before March 7, 1986.

Done at Washington, DC, this 2d day of January 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-280 Filed 1-6-86; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Docket No. R-0558]

Proposals to Reduce Federal Reserve Float

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Extension of comment period.

SUMMARY: On November 18, 1985, the Board requested comment on several proposals to reduce Federal Reserve float. (50 FR 47752, Nov. 20, 1985) were due by December 30, 1985. Acting pursuant to delegated authority, 12 CFR 265.2(a)(6), the Acting Secretary of the Board has extended the comment period for 30 days.

DATE: Comments must be received by February 3, 1986.

FOR FURTHER INFORMATION CONTACT: Florence M. Young, Adviser (202/452-3955) or William S. Brown, Manager

(202/452-3760) Division of Federal Reserve Bank Operations; or Joseph R. Alexander, Attorney, Legal Divisoin (202/452-2489).

By order of the Acting Secretary of the Board, acting pursuant to delegated authority, 12 CFR 265.2(a)(6), December 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-181 Filed 1-6-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 73

[Airspace Docket No. 85-ASO-16]

Proposed Revocation, Realignment and Establishment of Restricted Areas; North Carolina

Correction

In FR Doc. 85-29623, beginning on page 51260 in the issue of Monday, December 16, 1985, make the following correction:

On page 51261, second column, in the paragraph headed **The Proposals**, fifteenth line, "R-5113" should read "R-5313".

BILLING CODE 1505-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 423

Regulatory Flexibility Act Review of the Trade Regulation Rule for Care Labeling of Textile Wearing Apparel and Certain Piece Goods as Amended

AGENCY: Federal Trade Commission.

ACTION: Request for comments.

SUMMARY: In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and a published Plan for Periodic Review of Commission Rules, (46 FR 35118 (1981)), the Federal Trade Commission is soliciting comments and data on whether the Trade Regulation Rule for Care Labeling of Textile Wearing Apparel and Certain Piece Goods as amended (Care Labeling Rule) has had a significant economic impact on a substantial number of small entities and if it has, whether the rule should be amended to minimize any significant economic impact on small entities.

DATES: Comments and data must be received on or before March 10, 1986.

ADDRESS: Comments and data should be sent to Secretary, Federal Trade Commission, Washington, DC 20580. Submissions should be marked "Care Labeling RFA Comments".

FOR FURTHER INFORMATION CONTACT: Earl Johnson, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, DC 20580. Tel (202) 376-2891.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act requires the Federal Trade Commission to conduct a periodic review of rules issued by the Commission which have or will have a significant economic impact upon a substantial number of small entities.

The Care Labeling Rule was published in December, 1971. The rule requires manufacturers and importers of textile wearing apparel and piece goods sold for the purpose of making textile wearing apparel to attach labels which disclose information for cleaning and care of each product.

The rule is intended to assist consumers in making informed purchase decisions concerning the care characteristics of competing products and to enable consumers and cleaners to avoid product damage caused by the use of improper cleaning procedures.

The rule was amended on May 20, 1983 (48 FR 22733). The amendment requires a more complete statement of the care procedure and establishes a standard for the accuracy of each care procedure on a label. The amendment also provides a glossary of standardized care terminology that can be used.

The objective of this periodic review is to determine whether any part of the rule has had a significant economic impact on a substantial number of small entities and, if so, whether any such impact can be reduced consistent with the objectives of the rule.

For the purposes of this review the Commission poses the following questions for public comment. It is requested that the factual data, (e.g., economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with these comments.

(1) Has the rule had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive economic impact.

(2) Is there a continued need for the rule?

(3) What burdens, if any, does compliance with any specific part of the rule place on small entities?

(4) What changes, if any, should be made to the rule which would minimize the economic impact on small entities?

(5) To what extent does the rule overlap, duplicate, or conflict with other federal, state and local governmental rules?

(6) Have technology, economic conditions, or other factors changed in the area affected by the rule since its promulgation in 1971 and amendment in 1983 and, if so, what effect do these changes have on the rule or those covered by it?

List of Subjects in 16 CFR Part 423

Federal Trade Commission, Clothing, Labeling, Textiles, Trade practices.

By Direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-261 Filed 1-6-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors, and Disability Insurance Benefits, Supplemental Security Income for the Aged, Blind, and Disabled; Payment of Certain Travel Expenses

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: These proposed regulations reflect sections 201(j), 1631(h) and 1817(i) of the Social Security Act as added by section 310 of Pub. L. 96-265 which became effective June 9, 1980. That law provides permanent authority for the payment by the Secretary of certain travel expenses to: (1) Individuals who attend medical examinations requested by a State disability determination agency or by the Social Security Administration (SSA) in connection with disability determinations, (2) parties, their representatives, and all reasonably necessary witnesses who attend certain reconsideration interviews in connection with disability claims, and (3) parties, their representatives, and all reasonably necessary witnesses who attend hearings held before an administrative law judge.

These regulations also reflect the series of appropriation acts for the Department of Health and Human Services which cover the period after September 30, 1981. These laws limit payment of travel expenses in title XVI

to cases where travel is more than 75 miles.

DATES: We will consider your comments if we receive them no later than February 6, 1986.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver them to the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Office of Regulations, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7519.

SUPPLEMENTARY INFORMATION: The proposed regulations describe the policies and procedures applicable to payment by SSA or the State disability determination agency of travel expenses to claimants, their representatives and reasonably necessary witnesses in certain proceedings. The proposed regulations specify what we mean by "the most economical and expeditious means of transportation appropriate to such person's health condition" and "travel expenses, either on an actual cost or commuted basis." In addition, the proposed regulations specify that travel expenses are payable for travel to undergo medical examinations requested by a State disability determination agency or SSA in connection with disability claims under title II or XVI of the Social Security Act (the Act), for attendance at title II or XVI disability hearings to reconsider determinations of cessation of disability based on medical factors, and for attendance at title II or XVI hearings on any subject held before administrative law judges. Reimbursement for travel to hearings is limited to expenses for travel within the United States. (U.S.).

The proposed regulations provide that travel expense payments made by SSA will be determined by the same rates and conditions that govern travel expenses for Federal employees as authorized by 41 CFR 101–7. The proposed regulations also provide that travel payments made by a State agency will be determined according to the applicable State reimbursement rates and procedures. This follows our established policy under which the States determine rates of payment for medical and other services necessary to make determinations of disability, as well as travel expenses.

Who May Be Reimbursed

In §§ 404.999b and 416.1496 we specify who may be eligible for reimbursement:

(1) We explain that individuals may be reimbursed for travel expenses incurred when we or the State agency request a medical examination (consultative examination, see §§ 404.1517 and 416.917) in connection with a claim for disability benefits.

(2) Section 310 of Pub. L. 96–265 provides for payment of travel expenses for "reconsideration interviews." We interpret the statements of congressional intent in the House of Representatives Conference Report on Pub. L. 96–265 as meaning that these payments are for travel expenses for face-to-face reconsideration interviews before a decisionmaker on medical issues, in the event such a reconsideration procedure should be adopted. H.R. Rep. 944, 96th Cong., 2d Sess., 60 (1980).

Subsequently, sections 4 and 5 of Pub. L. 97–455, enacted on January 12, 1983, established a face-to-face hearing before a decisionmaker at the reconsideration level in title II cases in which the issue is cessation of the disability based on medical factors. Accordingly, we indicate in our regulations on these hearings (which we call disability hearings) and in these proposed regulations that disability beneficiaries, their representatives and all reasonably necessary unsubpoenaed witnesses will be reinbursed for travel to disability hearings.

(3) Claimants, their representatives, and all reasonably necessary unsubpoenaed witnesses may be reinbursed for travel expense to attend hearings on any title II or XVI issue before an administrative law judge.

These regulations do not apply to subpoenaed witnesses in either kind of hearing. They are paid the same fees and allowances they would receive if they had been subpoenaed by a Federal district court (§§ 404.916(b)(1), 404.950(d), 416.1416(b)(1), and 416.1450(d)).

Travel Distance

Prior to the enactment of section 310 of Pub. L. 96–265, we limited payment of the claimant's, representative's, or unsubpoenaed witness's travel expenses for title II and title XVI hearings to cases where the distance from the person's residence of office (whichever he or she travels from) to the hearing site was more than 75 miles. This remains our policy for travel expenses for both disability hearings and administrative law judge hearings. (There is no 75-mile requirement for reimbursement for travel for medical examinations.)

The intent of this policy is to reconcile, as best as possible, the conflicting goals of preventing more than minimal financial hardship to claimants in exercising their appeal rights and of conserving available funds. It is also to avoid handling reimbursement claims that are small in comparison to the cost to us of handling them.

The original authority for reimbursing travel expenses was provided each year in the appropriation act for the Department of Health and Human Services (HHS). Upon enactment of section 310 of Pub. L. 96–265 which added sections 201(j), 1631(h), and 1817(i) to the Social Security Act, we received permanent authority for payment of these travel expenses. This law, by itself, provides that in title XVI cases, the Secretary shall pay for travel expenses regardless of the distance traveled. However, the law still gives the Secretary discretionary authority with respect to payment of title II travel costs.

From June 9, 1980 (the effective date of Pub. L. 96–265) to September 30, 1981, our policy was to pay title XVI travel expenses without a distance limitation as directed by this permanent authority. Then, however, Congress limited the requirement in Pub. L. 96–265 by specifying, in a series of appropriation acts effective after September 30, 1981, that travel in title XVI cases must be more than 75 miles before reimbursement can be made.

Our policy, therefore, has been to apply the 75-mile limit in title XVI cases for the time periods specified in these appropriation acts.

The Committee on Ways and Means of the House of Representatives has urged the Social Security Administration to "re-examine the current requirement that a beneficiary must travel at least 75 miles in order to qualify for travel reimbursement as this standard may be inappropriate in many locations in this country." H.R. Rep. 618, 98th Cong. 2d Sess. 19 (1984). We continue to believe the requirement is appropriate. Moreover, we are required by the current appropriation act for HHS to continue to apply it in title XVI cases.

In title II cases, on the other hand, since section 201(j) authorizes but does not mandate payment of travel expenses, such payment and any limitation on it is a matter of policy. We think it would be clearly inappropriate to apply a more liberal reimbursement rule in title II cases, in which there is

less reason to presume the financial need that can be presumed in title XVI cases.

What Travel Expenses Are Reimbursable

Reimbursement may be made for ordinary as well as unusual costs of travel. In §§ 404.999c and 416.1498, we explain what constitutes ordinary travel expenses and what constitutes unusual travel expenses. We also list what we consider the generally acceptable priority order of the modes of transportation considered to be the most economical and expeditious means appropriate to the person's condition of health. These sections also explain (1) when first-class air travel is permitted, (2) that reimbursement rates may vary not only for different modes of transportation, but also depending upon whether we or the State agency makes reimbursement, and (3) what is meant by the individual's condition of health.

If a change in the location of a disability or administrative law judge hearing is made at the claimant's request from the location SSA or the State agency selected to one farther from the claimant's residence, any additional travel expenses will not be reimbursed. This is because the claimant has had the opportunity to incur lower travel expenses and has chosen the different site presumably for his or her own convenience.

The regulations (§§ 404.903 and 416.1403) also explain that determinations of payment (and amount) or nonpayment of travel expenses incurred are not initial determinations. Therefore, these determinations are not subject to the administrative review process and they are not subject to judicial review.

When and How To Claim Reimbursement

Usually reimbursement is made, upon the traveler's request, by the State agency or by us after the trip. Sections 404.999d and 416.1499 explain the circumstances under which advance payments may be made.

Effect on Medicare

These rules on travel reimbursement, like Subpart J of Part 404 generally, will also apply to persons claiming certain benefits under title XVIII of the Act (Medicare), as provided by 42 CFR 405.701(c). We are adding a reminder of that fact to § 404.900(a). This proposed regulation does not apply to provider reimbursement determinations and appeals procedures.

Executive Order 12291—These proposed regulations do not meet any of the criteria for a major regulation as defined in Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act—Sections 404.999d and 416.1499 of this proposed rule contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose, whose name appears in the preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20503, Attention: Desk Officer for HHS.

Regulatory Flexibility Act—We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities. The regulations apply directly only to individuals. Any indirect impact on small entities that provide transportation services will be too small and diffuse to be significant. Therefore, a regulatory flexibility analysis as required in Public Law 96-354, the Regulatory Flexibility Act of 1980, is not necessary.

(Catalog of Federal Domestic Assistance Program Nos. 13.802—Social Security Disability Insurance; 13.803—Social Security Retirement Insurance; 13.805—Social Security Surviors' Insurance; 13.807—Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Death benefits; Disability benefits, Old-Age, Survivors and Disability Insurance.

20 CFR Part 416

Administrative practice and procedure; Age; Blind; Disability benefits; Public assistance programs; Supplemental Security Income (SSI).

Dated: June 28, 1985.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: September 23, 1985.

Margaret M. Heckler,

Secretary of Health and Human Services.

Part 404 and Part 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

PART 404—[AMENDED]

1. The authority citation for Part 404, Subpart J is revised to read as follows:

Authority: Secs. 201, 205, and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, 53 Stat. 1368, 49 Stat. 647 (42 U.S.C. 401, 405, and 1302), unless otherwise noted.

2. Section 404.900 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 404.900 Introduction.

(a) *Explanation of the administrative review process.* This subpart explains the procedures we follow in determining your rights under title II of the Social Security Act. The regulations describe the process of administrative review and explain your right to judicial review after you have take all the necessary administrative steps. These procedures apply also to persons claiming certain benefits under title XVIII of the Act (Medicare); see 42 CFR 405.701(c). The administrative review process consists of several steps, which unsually must be requested within certain time periods and in the following order:

* * * * *

3. Section 404.903 is amended by adding a new paragraph (n) to read as follows:

§ 404.903 Administrative actions that are not initial determinations.

* * * * *

(n) Determining whether (and the amount of) travel expenses incurred are reimbursable in connection with proceedings before us.

4. An undesignated center heading and new §§ 404.999a through 404.999d are added to Subpart J of Part 404 to read as follows:

Payment of Certain Travel Expenses

§ 404.999a Payment of certain travel expenses—general.

When you file a claim for Social Security benefits, you may incur certain travel expenses in pursuing your claim. Sections 404.999b–404.999d explain who may be reimbursed for travel expenses, the types of travel expenses that are reimbursable, and when and how to claim reimbursement. Generally, the agency that requests you to travel will be the agency that reimburses you.

§ 404.999b Who may be reimbursed.

(a) The following individuals may be reimbursed for certain travel expenses—

(1) You, when you attend medical examinations upon request in connection with disability determinations; these are medical examinations requested by the State agency or by us when additional medical evidence is necessary to make a disability determination (also referred to as consultative examinations, see § 404.1517);

(2) You, your representative (see § 404.1705(a) and (b)), and all unsubpoenaed witnesses we or the State agency determines to be reasonably necessary who attend disability hearings; and

(3) You, your representative, and all unsubpoenaed witnesses we determine to be reasonably necessary who attend hearings on any claim for benefits before an administrative law judge.

(b) Sections 404.999a–404.999d do not apply to subpoenaed witnesses. They are reimbursed under §§ 404.950(d) and 404.916(b)(1).

§ 404.999c What travel expenses are reimbursable.

Reimbursable travel expenses include the ordinary expenses of public or private transportation as well as unusual costs due to special circumstances.

(a) Reimbursement for ordinary travel expenses is limited—

(1) To the cost of travel by the most economical and expeditious means of transportation appropriate to the individual's condition of health as determined by the State agency or by us, using the following priority order unless the individual shows that the means he or she proposes to use is the most economical and expeditious means appropriate to his or her condition of health—

(i) Common carrier (air, rail, or bus);

(ii) Privately owned vehicles;

(iii) commercially rented vehicles and other special conveyances;

(2) If air travel is necessary, to the coach fare for air travel between the specified travel points involved unless first-class air travel is authorized in advance by the State agency or by the Secretary in instances when—

(i) Space is not available in less-than-first-class accommodations on any scheduled flights in time to accomplish the purpose of the travel;

(ii) First-class accommodations are necessary because you, your representative, or reasonably necessary witness is so handicapped or otherwise impaired that other accommodations are not practical and the impairment is substantiated by competent medical authority;

(iii) Less-than-first-class accommodations on foreign carriers do not provide adequate sanitation or health standards; or

(iv) The use of first-class accommodations would result in an overall savings to the government based on economic considerations, such as the avoidance of additional subsistence costs that would be incurred while awaiting availability of less-than-first-class accommodations.

(b) Unusual travel costs may be reimbursed but must be authorized in advance and in writing by us or the appropriate State official, as applicable, unless they are unexpected, in which cases we or the State agency must determine their reasonableness and necessity and must approve them before payment can be made. Unusual expenses that may be covered in connection with travel include, but are not limited to—

(1) Ambulance services;

(2) Attendant services;

(3) Meals;

(4) Lodging; and

(5) Taxicabs.

(c) If we reimburse you for travel, we apply the rules in §§ 404.999b–404.999d and the same rates and conditions of payment that govern travel expenses for Federal employees as authorized under 41 CFR 101–7. If a State agency reimburses you, the reimbursement rates shall be determined by the rules in §§ 404.999b–404.999d and that agency's rules and regulations and may differ from one agency to another and also may differ from the Federal reimbursement rates.

(1) When public transportation is used, reimbursement will be made for the actual costs incurred, subject to the restrictions in paragraph (a)(2) of this section on reimbursement for first-class air travel.

(2) When travel is by a privately owned vehicle, reimbursement will be made at the current Federal or State mileage rate specified for that geographic location plus the actual costs of tolls and parking. However, the amount of reimbursement for travel by privately owned vehicle cannot exceed the cost of the most economical public transportation for travel between the same two points.

(3) Sometimes your health condition dictates a mode of transportation different from the most economical and expenditious. Usually, the most economical and expenditious means of transportation will be in the order of priority listed in paragraphs (a)(1)(i)–(iii) of the section. In order for your health to require a mode of transportation different from what would be considered the most economical and expeditious means of travel, you must be so handicapped or otherwise impaired as to require special transportation arrangements and the condition must be substantiated by competent medical authority.

(d) For travel to a hearing—

(1) Reimbursement is limited to travel within the U.S. For this purpose, the U.S. includes the U.S. as defined in § 404.2(c)(6) and the Northern Mariana Islands.

(2) We or the State agency will reimburse you, your representative, or an unsubpoenaed witness only if the distance from the person's residence or office (whichever he or she travels from) to the hearing site exceeds 75 miles.

(3) If a change in the location of the hearing is made at your request from the location we or the State agency selected to one farther from your residence or office, neither your additional travel expenses nor the additional travel expenses of your representative and witnesses will be reimbursed.

§ 404.999d When and how to claim reimbursement.

(a) Generally, you will be reimbursed for your expenses only after your trip. You must submit to us or the State agency, as appropriate, an itemized list of what you spent and supporting receipts to be reimbursed. Arrangements for special means of transportation and related unusual costs may be made only if we or the State agency authorizes the costs in writing in advance of travel, unless the costs are unexpected. In the latter case, we or the State agency must determine their reasonableness and necessity and must approve them before payment may be made. Neither we nor the State agency usually advance funds for travel. However, travel advances may be authorized if you request prepayment and show that the requested advance is reasonable and necessary. If you receive prepayment, you must, within 20 days after your trip, provide to us or the State agency, as appropriate, an itemized list of your actual travel costs and submit supporting receipts. We or the State agency will require you to pay back and balance of the advanced amount that exceeds any approved travel expenses within 20 days after you are notified of the amount of that balance. (State agencies may have their own time limits in place of the 20-day periods in the preceding two sentences.)

(b) You may claim reimbursable travel expenses incured by your representative for which you have been billed by your representative, except that if your

representative makes a claim for them to us or the State, he or she will be reimbursed directly.

PART 416—[AMENDED]

5. The authority citation for Part 416, Subpart N is revised to read as follows:

Authority: Secs. 1102, 1631, and 1633 of the Social Security Act, 49 Stat. 647, 86 Stat. 1475, 86 Stat. 1478 (42 U.S.C. 1302, 1383, and 1383b).

6. Section 416.1403 is amended by adding a new paragraph (a)(9) to read as follows:

§ 416.1403 Administrative actions that are not initial determinations.

(a) * * *

(9) Determining whether (and the amount of) travel expenses incurred are reimbursable in connection with proceedings before us.

* * * * *

7. An undesignated center heading and new §§ 416.1495 through 416.1499 are added to Subpart N of Part 416 to read as follows:

Payment of Certain Travel Expenses

§ 416.1495 Payment of certain travel expenses—general.

When you file a claim for supplemental security income (SSI) benefits, you may incur certain travel expenses in pursuing your claim. Sections 416.1496 through 416.1499 explain who may be reimbursed for travel expenses, the types of travel expenses that are reimbursable, and when and how to claim reimbursement. Generally, the agency that requests you to travel will be the agency that reimburses you.

§ 416.1496 Who may be reimbursed.

(a) The following individuals may be reimbursed for certain travel expenses—

(1) You, when you attend medical examinations upon request in connection with disability determinations; these are medical examinations requested by the State agency or by us when additional medical evidence is necessary to make a disability determination (also referred to as consultative examinations, see § 416.917);

(2) You, your representative (see § 416.1505 (a) and (b)), and all unsubpoenaed witnesses we or the State agency determines to be reasonably necessary who attend disability hearings; and

(3) You, your representatives, and all unsubpoenaed witnesses we determine to be reasonably necessary who attend hearings on any claim for SSI benefits before an administrative law judge.

(b) Sections 416.1495–416.1499 do not apply to subpoenaed witnesses. They are reimbursed under §§ 416.1450(d) and 416.1416(b)(1).

§ 416.1498 What travel expenses are reimbursable.

Reimbursable travel expenses include the ordinary expenses of public or private transportation as well as unusual costs due to special circumstances.

(a) Reimbursement for ordinary travel expenses is limited—

(1) To the cost of travel by the most economical and expeditious means of transportation appropriate to the individual's condition of health as determined by the State agency or by us, using the following priority order unless the individual shows that the means he or she proposes to use is the most economical and expeditious means appropriate to his or her condition of health—

(i) Common carrier (air, rail, or bus);

(ii) Privately owned vehicles;

(iii) Commercially rented vehicles and other special conveyances;

(2) If air travel is necessary, to the coach fare for air travel between the specified travel points involved unless first-class air travel is authorized in advance by the State agency or by the Secretary in instances when—

(i) Space is not available in less-than-first-class accommodations on any scheduled flights in time to accomplish the purpose of the travel;

(ii) First-class accommodations are necessary because you, your representative, or reasonably necessary witness is so handicapped or otherwise impaired that other accommodations are not practical and the impairment is substantiated by competent medical authority;

(iii) Less-than-first-class accommodations on foreign carriers do not provide adequate sanitation or health standards; or

(iv) The use of first-class accommodations would result in an overall savings to the government based on economic considerations, such as the avoidance of additional subsistence costs that would be incurred while awaiting availability of less-than-first-class accommodations.

(b) Unusual travel costs may be reimbursed but must be authorized in advance and in writing by us or the appropriate State official, as appropriate, unless they are unexpected, in which case we or the State agency must determine their reasonableness and necessity and must approve them before payment can be made. Unusual expenses that may be covered in connection with travel include, but are not limited to—

(1) Ambulance services;

(2) Attendant services;

(3) Meals;

(4) Lodging; and

(5) Taxicabs.

(c) If we reimburse you for travel, we apply the rules in §§ 416.1496 through 416.1499 and the same rates and conditions of payment that govern travel expenses for Federal employees as authorized under 41 CFR 101–7. If a State agency reimburses you, the reimbursement rates shall be determined by the rules in §§ 416.1496; through 416.1499 and that agency's rules and regulations and may differ from one agency to another and also may differ from the Federal reimbursement rates.

(1) When public transportation is used, reimbursement will be made for the actual costs incurred, subject to the restrictions in paragraph (a)(2) of this section on reimbursement for first-class air travel.

(2) When travel is by a privately owned vehicle, reimbursement will made at the current Federal or State mileage rate specified for that geographic location plus the actual costs of tolls and parking. However, the amount of reimbursement for travel by privately owned vehicle cannot exceed the cost of the most economical public transportation for travel between the same two points.

(3) Sometimes your health condition dictates a mode of transportation different from the most economical and expeditious. Usually, the most economical and expeditious means of transportation will be in the order of priority listed in paragraphs (a)(1)(i) through (iii) of this section. In order for your health to require a mode of transportation different from what would be considered the most economical and expeditious means of travel, you must be so handicapped or otherwise impaired as to require special transportation arragements and the conditon must be substantiated by competent medical authority.

(d) For travel to a hearing—

(1) Reimbursement is limited to travel within the U.S. For this purpose, the U.S. includes the U.S. as defined in § 416.120(c)(10).

(2) When the travel is performed after September 30, 1981, we or the State agency will reimburse you, your representative, or an unsubpoenaed witness only if the distance from the person's residence or office (whichever he or she travels from) to the hearing site exceed 75 miles.

(3) If a change in the location of the hearing is made at your request from the location we or the State agency selected to one farther from your residence or office, neither your additional travel expenses nor the additional travel expenses of your representative and witnessess will be reimbursed.

§ 416.1499 When and how to claim reimbursement.

(a) Generally, you will be reimbursed for your expenses only after your trip. You must submit to us or the State agency, as appropriate, an itemized list of what you spent and supporting receipts to be reimbursed. Arrangements for special means of transportation and related unusual costs may be made only if we or the State agency authorizes the costs in writing in advance of travel, unless the costs are unexpected. In the latter case, we or the State agency must determine their reasonableness and necessity and must approve them before payment may be made. Neither we nor the State agency usually advance funds for travel. However, travel advances may be authorized if you request prepayment and show that the requested advance is reasonable and necessary. If you receive prepayment, you must, within 20 days after your trip, provide to us or the State agency, as appropriate, an itemized list of your actual travel costs and submit supporting receipts. We or the State agency will require you to pay back any balance of the advanced amount that exceeds any approved travel expenses within 20 days after you are notified of the amount of that balance. (State agencies may have their own time limits in place of the 20-day periods in the preceding two sentences.)

(b) You may claim reimbursable travel expenses incurred by your representative for which you have been billed by your representative, except that if your representative makes a claim for them to us or the State, he or she will be reimbursed directly.

[FR Doc. 86-279 Filed 1-6-86; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[LR-214-82]

Treatment of Qualified Real Estate Agents and Direct Sellers as Nonemployees; Determination of Employer Liability for Certain Employment Taxes; Information Reporting of Direct Sales and Payments of Remuneration for Services

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the Employment Tax Regulations under section 3508, relating to the treatment of qualified real estate agents and direct sellers as nonemployees for Federal income and employment tax purposes, and under section 3509, relating to the determination of employer liability for income tax withholding and employee social security taxes where the employer treated an employee as a nonemployee for purposes of such taxes. It also contains proposed amendments to the Income Tax Regulations under section 6041A, relating to information reporting of direct sales and payments of remuneration for services. Sections 3508, 3509, and 6041A were added to the tax law by sections 269, 270, and 312, respectively, of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 551, 553, 601). The regulations would provide the public with the guidance needed to comply with the applicable tax law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 10, 1986. The regulations under section 3508 are proposed to be effective for services performed after Decembr 31, 1982, and the regulations under section 6041A are proposed to be effective for payments and sales made after December 31, 1982. The regulations under section 3509 are proposed to be effective for any income and employee social security taxes required to be deducted and withheld, except with respect to asessments made before January 1, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-214-82), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Robert E. Shaw of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) (202-566-3297), not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The determination of whether an individual is an employee or independent contractor for Federal tax purposes is important for several reasons. Wages paid to employees generally are subject to social security taxes imposed on the employer and the employee under the Federal Insurance Contributions Act (FICA) and to unemployment taxes imposed on the employer under the Federal Unemployment Tax Act (FUTA). Compensation paid to independent contractors is subject to the tax on self-employment income (SECA), but not to FICA or FUTA taxes. The SECA is generally paid only by self-employed individuals. In addition, Federal income tax must generally be withheld from compensation paid to employees but not from compensation paid to independent contractors.

Except for sections 3121(d)(3) and 3306(i), which establish categories of statutory employees for social security and Federal unemployment tax purposes, prior to the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, the determination of an individual's status as an employee or independent contractor generally was made under common-law (*i.e.*, nonstatutory) rules. Under the common-law test, an individual generally is an employee if the person for whom the individual performs services has the right to control and direct that individual, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. Thus, the most important factor under the common law is the degree of control, or right of control, which the employer has over the manner in which the work is to be performed.

The Service applies various factors that have evolved from the common law to determine whether the requisite control exists. Because of the difficulty that often arises in applying these factors, several bills introduced in both the House and the Senate during 1982 set forth statutory "safe-harbor" tests which, if satisfied with respect to an individual, would result in that individual being classified as an independent contractor. The proposed safe-harbor requirements, generally applicable to post-1982 services, related

to: (1) Control of hours worked, (2) place of business, (3) investment or income fluctuation, (4) written contract and notice of tax responsibilities, and (5) the filing of required returns. S.Rep. No. 97–494, 97 Cong., 2d Sess. 364 (1982). Workers who did not meet the safe-harbor tests still would have had their employment tax status determined under the common-law rules.

In enacting the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), Congress rejected the broader safe-harbor tests proposed by these bills and instead partially resolved the employee-independent contractor controversy by creating two categories of statutory nonemployees—qualified real estate agents and direct sellers. Thus, notwithstanding the common-law rules, an individual is an independent contractor for services that satisfy the statutory requirements of section 3508. Other employment situations generally must continue to be evaluated under common-law principles.

In response to the serious tax deficiencies that may arise when a worker erroneously treated as an independent contractor is reclassified as an employee, Congress enacted section 3509, which fixes an employer's liability for income tax withholding and employee social security taxes generally at a fraction of the amount of taxes which should have been deducted and withheld. Section 3509 provides relief to employers who would otherwise be liable for the full amount of such taxes which should have been deducted and withheld and provides a sanction for an employer's erroneous treatment of a worker in situations in which the employer would otherwise be able to escape liability for such taxes under the statutory offset provisions of sections 3402(d) and 6521.

To assure increased compliance by direct sellers with the income tax law, Congress added section 6041A (section 312 of the Tax Equity and Fiscal Responsibility Act of 1982) which, in addition to other requirements, imposes an obligation on direct sellers of consumer products to report gross sales totalling $5,000 or more in a calendar year to any buyer for resale in the home or some place other than a permanent retail establishment. Congress also provided a penalty for failure to file this return (section 6652) and a penalty for failure to furnish certain statements (section 6678).

Explanation of Provisions

In General

The proposed regulations provide that an individual performing services as a qualified real estate agent or a direct seller will not be treated as an employee and the service-recipient will not be treated as an employer for Federal income and employment tax purposes. In order to qualify for such treatment substantially all the remuneration paid by a service-recipient to an individual for services as a real estate agent or direct seller must be directly related to sales or other output and such services must be performed pursuant to a written contract providing that such individual will not be treated as an employee for Federal tax purposes.

The proposed regulations make clear that a statutory employee (that is, an individual treated as an employee under section 321(d)(3) of the Code) who also qualifies as a nonemployee under section 3508 will be treated as a nonemployee for FICA, FUTA, and Federal income tax withholding purposes with respect to services described in section 3508. For example, an agent-driver (statutory employee) who qualifies as a direct seller (statutory nonemployee) will be treated as a nonemployee for FICA, FUTA, and income tax withholding purposes with respect to services performed as a direct seller. The regulations also make clear that the written contract requirement is not met unless the contract specifically states that the individual will not be treated as an employee for Federal tax purposes. For this purpose, it is not sufficient that the contract merely states that the individual will not be treated as an employee.

"Substantially All" Remuneration Requirement

Section 3508 requires in order for an individual to be treated as a qualified real estate agent or a direct seller substantially all of the remuneration received for services as a real estate agent or direct seller must be directly related to sales or other output. The proposed regulations provide that the "substantially all remuneration" test is satisfied with respect to services performed as a real estate agent or direct seller if at least 90 percent of the total remuneration received during the calendar year by the individual for services performed as a real estate agent or direct seller is directly related to sales or other output rather than to the number of hours worked. The proposed regulations also provide rules for applying the "directly related to sales or other output" requirement to pooled remuneration arrangements, remuneration received in advance of sales or performance, and remuneration dependent on the productivity of others.

Direct Sellers

A direct seller is any salesperson who, in addition to meeting the "substantially all" remuneration and written contract requirements, sells consumer products, either directly or though a middleperson (*i.e.*, a buyer) for ultimate resale, in the home or in a place other than in a permanent retail establishment. The proposed regulations defined "consumer product" as any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed). This definition corresponds to the definition provided in 15 U.S C. 2301, and the limitation to tangible property is consistent with others definitions of consumer products found in the United States Code (15 U.S.C. 2052; 18 U.S.C. 1365; 42 U.S.C. 6291). The proposed regulations define "permanent retail establishment" as any business operating in or from a structure or facility which remains stationary for a substantial period of time to which consumers go to purchase consumer goods. The proposed regulations also clarify that vendors operating within, or on the grounds of, a permanent structure or facility such as a sports arena or amusement park are considered to operate in a permanent retail establishment for purposes of section 3508. Thus, the term "direct seller" may include door-to-door salespersons of not only products traditionally thought of as consumer products (*e.g.*, personal toiletry items, vacuum cleaners, kitchen products) but also products which require installation or construction on the consumer's property (*e.g.*, residential swimming pools, aluminum siding, kitchen cabinets, storm windows, insulation, carpeting) and products not used in or around the home. The term also includes salespersons who sell consumer goods directly to consumers through an exchange medium other than a permanent retail establishment (*e.g.*, mobile meal wagons or street vendors). The term does not include door-to-door salespersons of intangible products (*e.g.*, insurance, cable television subscription).

Persons who provide services generally are not direct sellers. For example, persons who provide services that do not involve the use of a product (*e.g.*, polltakers) or services that involve parts or materials which are incidental to providing services (*e.g.*, painting, carpet cleaning, septic tank cleaning, lawn care, pest control services, or appliance repair) are considered service providers rather than direct sellers.

Services of Real Estate Agent and Direct Seller

The proposed regulations provide that the services performed as a direct seller are activities generally associated with the sale of consumer products in the home or otherwise than in a permanent retail establishment. These services include activities that are necessary to increase the sale efforts of other individuals, such as providing motivation, encouragement, training, recruitment, or counseling. Installation services performed by a direct seller in connection with the sale of a consumer product generally are not service performed by a direct seller. However, the proposed regulations provide that installation services rendered by a seller in conjunction with the sale of a consumer product will be service performed as a direct seller if the value of the installation services is 10 percent or less of the purchase price of the product (including installation).

The services performed as a real estate agent are those activities generally associated with the sale of real property. Such services include appraising property, advertising and showing property, closing sales, acquiring a lease to the property, and recruiting, training and supervising other salespersons. The services performed as a real estate agent do not include the management of property.

Retirement Plans for Self-Employed Individuals

The proposed regulations make clear that the fact that an individual is treated as a nonemployee under section 3508 for employment tax purposes will not prevent the individual from being covered under a qualified retirement plan for self-employed individuals.

Employer Liability Under Section 3509

An employer's liability for failure to deduct and withhold income tax or employee social security taxes by reason of treating an employee as a nonemployee for purposes of such taxes is generally determined under section 3509. The employer's liability for income tax withholding is determined as if the amount required to be deducted and withheld was equal to 1.5 percent (3 percent where the employer disregards certain reporting requirements) of the wages paid to the individual erroneously treated as nonemployee. The employer's liability for employee social security taxes is determined as if such taxes imposed were 20 percent (40 percent where the employer disregards certain reporting requirements) of the amount imposed without regard to section 3509. The increased percentages are applicable where an employer fails to timely file any return or statement under section 6401 (a), 6041A, or 6051 that would be required consistent with the employer's treatment of the worker as a nonemployee.

The proposed regulation clarify that, for purposes of section 3509, an employer fails to withhold taxes when the employer fails to pay over the full amount of tax required to be deducted and withheld during a calendar year on or before the due date for the return relating to such taxes for the final quarter of such calendar year. Thus, section 3509 is generally applied with respect to each calendar year as a unit.

Under section 3509 and the proposed regulations, if an employer's liability for any tax is determined under section 3509 the employer: (i) May not collect from the employee any amount of tax so determined, and (ii) is not entitled to any offset of liability under section 3402(d) or 65621. An employee's liability for taxes is not affected by application of section 3509 to the employer and the offset provisions of section 6521 may, where applicable, apply with respect to the employee's liability for employee social security taxes. An employer's liability for employer social security taxes is not affected by section 3509.

Section 3509 does not apply where an employer deducts income tax but not employee social security taxes or where the employer intentionally disregards the requirements to withhold and deduct Federal income tax or employee social security taxes. Section 3509 does not apply to employee social security taxes with respect to statutory employees described in section 3121(d)(3). The proposed regulations clarify that if an employer's liability for any tax is determined under section 3509 the employer may still be liable for penalties with respect to his or her failure to deduct and withhold such tax. The amount of such penalties, however, is based on the amount of the employer's liability for such tax under section 3509.

The proposed regulations also clarify that the amount of an employer's liability for tax determined under section 3509 will be considered satisfied to the extent of the amount of such tax which was actually withheld and deducted from the employee and paid. If the amount withheld, deducted, and paid exceeds the employer's liability as computed under section 3509, however, the employer may not claim a refund or credit of such excess amount.

New Reporting Requirements

Section 6041A added two reporting requirements relating to payments as remuneration for services and gross sales of consumer products to a buyer for resale in the home or otherwise than in a permanent retail establishment. Section 6041A (a) requires that a service-recipient engaged in a trade or business, who, in the course of that trade or business, makes payments to a person as remuneration for services, report such payments if the total remuneration paid to that person by the service-recipient during the calendar year is $600 or more. The proposed regulations provide that such remuneration does not include any amounts which the service-recipient knows are excludable from the gross income of the person performing services (*e.g.*, qualified foster care payments under section 131). Section 6041A (b) requires a direct seller to report gross sales of consumer products totaling $5,000 or more in a calendar year to any buyer who resells the product in the home or any place other than a permanent retail establishment. All sales of consumer products to a buyer for resale to another person are taken into account in determining the aggregate amount of sales to that buyer during the calendar year, even if the buyer resells some of the products in a permanent retail establishment.

The proposed regulations clarify that the aggregate amount of sales of consumer products to a buyer during a calendar year includes the sale of products used by the buyer for the buyer's personal use or consumption (including products disposed of in a manner other than resale such as gifts to friends or relatives). However, the aggregate amount of sales does not include the sale of goods that cannot be resold, such as catalogs and samples.

The proposed regulations make clear that an information return is required with respect to any person who sells consumer products in the home or otherwise than in a permanent retail establishment regardless of whether that person purchases the product from the company and resells it to the consumer or is a company salesperson (other than an employee) who does not acquire title to a product before selling it.

The proposed regulations provide that the regulatory exceptions to the reporting requirement under section 6041, as set forth in § 1.6041–3, are applicable to the reporting requirement under section 6041A (a).

Comments and Public Hearing

Before adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, DC 20530. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public comment requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal authors of these proposed regulations are Robert E. Shaw of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service, and Donald W. Stevenson, formerly of that Division. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.6001–1–1.6109–2

Administration and procedure, Filing requirements, Income taxes.

26 CFR Part 31

Direct seller, Employment taxes, Income taxes, Lotteries, Qualified real estate agent, Railroad retirement, Social security, Unemployment tax, withholding.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1 and 31 are as follows:

Employment Tax Regulations

PART 31—[AMENDED]

Paragraph 1. The authority for Part 31 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

Par. 2. Sections 31.3508–1 and 31.3509–1 are inserted immediately after § 31.3507–2 to read as follows:

§ 31.3508–1 Treatment of qualified real estate agents and direct sellers as nonemployees.

(a) *In general.* For Federal income and employment tax purposes,

(1) An individual who performs services after December 31, 1982, as a qualified real estate agent or as a direct seller shall not be treated as an employee with respect to such services, and

(2) The service-recipient shall not be treated as an employer with respect to such services.

(b) *Qualified real estate agent defined*—(1) *In general.* For purposes of section 3508 and this section, the term "qualified real estate agent" means any individual who is a sales person (including an individual who does not personally make sales but who recruits, trains, or supervises other individuals who make sales) if—

(i) Such individual is a licensed real estate agent,

(ii) Substantially all of the remuneration (whether or not paid in cash) for the services performed by such individual as a real estate agent is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

(iii) The services performed by such individual as a real estate agent are performed pursuant to a written contract between such individual and the service-recipient and the contract provides that such individual will not be treated as an employee with respect to such services for Federal tax purposes.

(2) *Services performed as a real estate agent.* For purposes of this section, the services performed by an individual as a real estate agent include any activities that customarily are performed in connection with the sale of an interest in real property. Such services include the advertising or showing of real property, the acquisition of a lease to real property, and the recruitment, training, or supervision of other real estate sales persons. Such services also include the appraisal activities of a licensed real estate agent in connection with the sale of real property. Services performed as a real estate agent do not include the management of property.

(c) *Direct seller defined*—(1) *In general.* For purposes of section 3508 and this section, the term "direct seller" means any person if—

(i) Such person—

(A) Is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a buy-sell or deposit-commission basis for resale by the buyer or any other person in the home or in some other place that does not constitute a permanent retail establishment, or

(B) Is engaged in the trade or business of selling (or soliciting the sale of) consumer products in the home or in some other place that does not constitute a permanent retail establishment,

(ii) Substantially all the remuneration (whether or not paid in cash) for the performance of the services described in paragraph (c)(2) of this section is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

(iii) Such person performs the services described in paragraph (c)(2) of this section pursuant to a written contract between such person and the service-recipient, and the contract provides that such person will not be treated as an employee with respect to such services for Federal tax purposes.

(2) *Services performed as a direct seller*—(i) *In general.* The services described in this paragraph (c)(2) are any services that customarily are directly related to the trade or business of selling (or soliciting the sale of) consumer products in the home or in any other location that does not constitute a permanent retail establishment. Such services include any activity to increase the productivity of other individuals engaged in such sales, such as recruiting, training, motivating, and counseling such individuals. Except as provided in paragraph (c)(2)(ii) of this section, such services do not include the installation or construction on the customer's property of a consumer product. See paragraphs (f) and (g)(3) of this section for the inapplicability of section 3508 where the sale or use of

consumer products is only incidental to the rendering of services.

(ii) *Installation of consumer product in conjunction with the sale of such product.* If an individual engaged in the trade or business of selling consumer products performs installation services in conjunction with the sale of a consumer product such services shall be included as services performed as a direct seller only if the value of such installation services is 10 percent or less of the purchase price of such consumer product (including installation). If the value of such installation services exceeds 10 percent of the purchase price of the consumer product (including installation) the installation services shall not be included as services performed as a direct seller. See paragraph (j) of this section for treatment of dual services under section 3508.

(d) *Substantially all remuneration directly related to sales or other output*—(1) *Substantially all remuneration*—(i) *In general.* The requirement of paragraph (b)(1)(ii) or (c)(1)(ii) of this section is satisfied for any calendar year with respect to the services described in such paragraph if at least 90 percent of the total remuneration, including advances and draws (except as provided in paragraph (d)(1)(ii) of this section), received by the individual from the service-recipient for performing such services during that calendar year is directly related to sales or other output rather than to the number of hours worked.

(ii) *Repayment of advances or draws.* For purposes of paragraph (d)(1)(i) of this section, total remuneration received by an individual does not include any portion of an advance or draw that is repaid directly or indirectly (including repayment by a debit against the individual's account with the service-recipient) pursuant to a binding written agreement which on the date the advance or draw is received requires repayment of the amount by which such advance or draw exceeds the amount which is directly related to sales or other output (as defined in paragraph (d)(2) of this section). The determination of whether any amounts not excluded under this paragraph (d)(1)(ii) from the total remuneration received by an individual is directly related to sales or other output for purposes of paragraph (d)(1)(i) of this section is made on the basis of all the facts and circumstances (see paragraph (D)(2)(i) of this section).

(2) *Directly relating to sales or other output*—(i) *In general.* An item of remuneration is directly related to sales or other output if that item is paid, awarded, or credited to the individual on the basis of the individual's services with respect to one or more specific sales transactions or the accomplishment of one or more specific tasks rather than on the basis of the number of hours worked. Whether an item of remuneration is directly related to sales or other output shall be determined on the basis of all the facts and circumstances. For purposes of this section an item of remuneration that is in the nature of salary, that is, a fixed periodical compensation paid for services rendered without regard to the amount of services rendered, shall be treated as an item or remuneration that is paid, awarded, or credited on the basis of the number of hours worked.

(ii) *Directly related to sales or output of some other person.* For purposes of this section, remuneration received by an individual based on the sale or productivity of some other individual shall be treated as directly related to sales or other output if it was paid, awarded, or credited on the basis of such other individual's services with respect to one or more particular sales transactions or the accomplishment of one or more specific tasks.

(iii) *Remuneration received from a pool.* Remuneration received by an individual under an arrangement whereby a service-recipient pools that remuneration of several individuals and a portion of the aggregate pooled remuneration is periodically distributed to each pool participant shall be treated as directly related to sales or other output only to the extent that the amount of remuneration received by that individual from the pool does not exceed the amount of remuneration that, in the absence of the pool arrangement, such individual would have received on the basis of the individual's services with respect to one or more specific sale transactions or the accomplishment of one or more specific tasks. Amounts received from the pool in excess of the amount that person would have oridinarily received for performing services in connection with such specific sales transactions or specific tasks are not directly related to sales or other output.

(e) *Written contract requirement*—(1) *In general.* Except as otherwise provided in paragraph (e)(2) of this section, a written contract that states that the individual will not be treated as an employee without specifically stating "for Federal tax purposes" does not meet the written contract requirements set forth in paragraph (b)(1)(iii) and (c)(1)(iii).

(2) *Existing contracts*—(i) *In general.* A contract which—

(A) Is in effect on or before February 28, 1983, and

(B) States that the individual performing the services will not be treated as an employee but does not specifically include the phrase "for Federal tax purposes,"

will be deemed to satisfy the written contract requirement if the service-recipient furnishes to the individual performing the services a written notice that specifically states that the individual will not be treated as an employee "for Federal tax purposes."

(ii) *Date contract requirement deemed satisfied.* If the notice described in paragraph (e)(2)(i) of this section is mailed or otherwise furnished on or before February 28, 1983, the written contract requirement shall be deemed satisfied as of the date of the original contract. If the notice is furnished after the date, the written contract requirement is deemed satisfied as of the date the notice is furnished.

(f) *Trade or business of selling consumer products.* For purposes of section 3508 and this section, a person is not engaged in the trade or business or selling (or solicting the sale of) consumer products if the sale or use of such products is in an incidental part of a trade or business in which such person primarily renders services to clients. Whether the sale or use of a product is an incidental part or a trade or business that primarily consists of rendering services shall be determined on the basis of all the facts and circumstances, taking into account such factors as the cost of the product in relation to the cost of the service. Generally, the sale or use of a product is an incidental part of a trade or business that primarily consists of rendering services if the use of the product is necessary to the performance of the particular service (*e.g.*, insecticide in a pest control business). See paragraph (c)(2) of this section for the applicability of this section to individuals who install consumer products in conjunction with the sale of such products.

(g) *Definitions*—(1) *Buy-sell basis.* A transaction is on a buy-sell basis if the buyer performing the services is entitled to retain part or all of the difference between the price at which the buyer purchases the product and the price at which the buyer sells the product as part or all of the buyer's remuneration for the services.

(2) *Deposit-commission basis.* A transaction is on a deposit-commission basis is the buyer performing the service is entitled to retain part or all of a purchase deposit paid by the consumer

in connection with the transaction as part or all of the buyer's remuneration for the services.

(3) *Consumer product.* The term "consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed). The term "consumer product" does not include any product used in the manufacture of another product to be distributed in commerce or any product used only incidentally in provding a service (*e.g.*, insecticide used in a pest control service, materials used in an appliance repair business).

(4) *Permanent retail establishment.* A permanent retail establishment is any retail business operating in a structure or facility that remains stationary for a substantial period of time to which consumers go to purchase consumer goods. Examples of these establishments are: grocery stores, hardware stores, clothing stores, hotels, restaurants, drug stores, and newsstands.

In addition, amusement areas, such as amusement parks and sports arenas, at which consumer products are sold are permanent retail establishments. Portable or mobile structures, facilities, or equipment, such as street vendor stands and mobile carts or vehicles, generally do not constitute permanent retail establishments. However, sales of consumer products may occur in a permanent retail establishment for purposes of this section even though portable or mobile structures, facilities, or equipment is used. For example, a vendor who sells consumer products, such as souvenirs or food, in the stands of a sports arena or on the grounds of an amusement park sells consumer products in a permanent retail establishment. Also, a vendor who sells consumer products in a parking lot or other property which is near to and serving a sports arena or other amusement area pursuant to an agreement which grants to the vendor or to the service-recipient the right to sell consumer products on such property sells consumer products in a permanent retail establishment, regardless of whether the sale is made within a permanent structure.

(5) *Service-recipient.* The term "service-recipient" means the person (other than a client or customer) for whom the services as a qualified real estate agent or direct seller are performed (*e.g.*, a real estate firm or a company whose consumer products are sold door-to-door).

(h) *No inference.* The fact that an individual does not qualify under section 3508 and this section as a qualified real estate agent or as a direct seller with respect to any services does not create an inference that such individual is an employee or the service-recipient is an employer with respect to such services.

(i) *Application to statutory employees.* A statutory employee (that is, an individual in one of the categories of workers defined in section 3121(d)(3) or 3306(i) to be employees) who meets the requirements of paragraph (b) or (c) of this section for classification as a qualified real estate agent or as a direct seller shall be treated as a nonemployee for Federal income tax, Federal Insurance Contribution Act (FICA), and Federal Unemployment Tax Act (FUTA) purposes with respect to services performed as a qualified real estate agent or as a direct seller (as described in paragraphs (b)(2) and (c)(2) of this section, respectively).

(j) *Dual services*—(1) *In general.* Section 3508 shall apply only with respect to services performed as a qualified real estate agent or a direct seller. Whether an individual is treated as an employee or as a self-employed individual with respect to services other than those performed as a qualified real estate agent or a direct seller shall be determined under common-law principles.

(2) *Examples.* The following examples illustrate the principles set forth in this paragraph (j).

Example (1). A is a licensed real estate agent who performs services as a real estate agent pursuant to a written contract described in paragraph (b)(1)(iii) of this section. In addition to performing services as a real estate agent A performs general bookkeeping duties for the same service-recipient. All of the remuneration for the services performed as a real estate agent is directly related to sales. A will be treated as a nonemployee under section 3508 only with respect to A's services as a real estate agent. Whether A is treated as an employee or as a self-employed individual with respect to the bookkeeping duties will be determined under common-law principles.

Example (2). B is engaged in the trade or business of selling aluminum siding. B performs services as a direct seller pursuant to a written contract described in paragraph (c)(1)(iii) of this section. All sales are made in the customer's home and the purchase price includes installation. B installs all aluminum siding which he sells and receives a commission based upon the purchase price as compensation for his services with respect to both the sale and the installation. The value of such installation services exceeds 10 percent of the purchase price of the siding. B will be treated as a nonemployee under section 3508 only with respect to his services as a direct seller. Whether B is treated as an employee or as a self-employed individual with respect to services performed in installing the siding will be determined under common-law principles.

Example (3). The facts are the same as in example (2) except that B sells and installs personal computers and that the value of the installation services performed by B is less than 10 percent of the purchase price of the computers including installation. B is treated as a nonemployee under section 3508 with respect to both his services in selling the computers and in installing them. See paragraph (c)(2)(ii) of this section.

Example (4). Assume all the requirements of section 3508 (b)(1) and paragraph (b) of this section are satisfied with respect to A, a real estate agent, except that A did not obtain a real estate license until March 29. The license was valid for the remainder of the year. A is treated as self-employed under section 3508 for that portion of the year beginning on March 29. Whether for Federal tax purposes A is to be treated as self-employed for the other portion of the year shall be determined under common law.

(k) *Coordination with retirement plans for self-employed.* This section shall not prevent an individual who is treated as self-employed under section 3508 from being covered under a qualified retirement plan for self-employed individuals pursuant to section 401(c)(1) of the Code.

§ 31.3509-1 Determination of employer's liability for certain employment taxes.

(a) *In general.* Except as otherwise provided in this section, if during any calendar year any employer fails to deduct and withhold any tax under chapter 24 (relating to withholding of income tax) or subchapter A of chapter 21 (relating to the social security tax on employees) of the Internal Revenue Code of 1954 with respect to any employee by reason of treating such employee as not being an employee for purposes of such chapter or subchapter, the amount of the employer's liability for such tax with respect to such year shall be determined under this paragraph (a).

(1) *Income tax withholding.* The employer's liability for tax under chapter 24 for such year with respect to such employee shall be determined as if the amount required to be deducted and withheld were equal to 1.5 percent of the wages (defined in section 3401 (a)) paid to such employee for such year.

(2) *Employee social security taxes.* The employer's liability for employee social security taxes under subchapter A of chapter 21 for such year with respect to such employee shall be determined as if the taxes imposed under such subchapter were 20 percent of the amount imposed under such

subchapter for such year without regard to this paragraph (a)(2).

Section 3509 and this section do not affect an employer's liability for taxes under subchapter B of chapter 21 (relating to employer social security taxes) of the Internal Revenue Code of 1954. See paragraph (c) of this section for increased employer liability where an employer fails to meet certain reporting requirements.

(b) *Definitions*—(1) *Fails to deduct and withhold any tax*—(i) In general. For purposes of section 3509 and this section, an employer fails to deduct and withhold any tax under chapter 24 or under subchapter A of chapter 21 with respect to an employee for a calendar year if such emplbyer fails to pay over the full amount of such tax required to be deducted and withheld during calendar year (determined without regard to section 3509 and this section) on or before the due date for the return relating to such tax for the final quarter of such calendar year.

(ii) *Example.* The provisions of this paragraph (b)(1) may be illustrated by the following example:

Example. M, an employer, does not deduct and withhold income and social security taxes with respect to A, an employee, for the first quarter of 1985 because of M's erroneous belief that A is not an employee. On April 1, 1985, M ascertains the error and begins to withhold and deduct the full amount of income and social security taxes with respect to A for the remaining three quarters of 1985. M also makes timely adjustments under section 6205 with respect to the first quarter's taxes not deducted and withheld, and pays over the full amount of income and social security taxes which were required to be deducted and withheld during 1985 on or before the due date for the return for the fourth quarter of 1985. M has not failed to deduct and withhold income and social security taxes with respect to A during 1985 for purposes of section 3509 and this section.

(2) *Treatment of employee as not being an employee.* For purposes of section 3509 and this section, an employer has treated an employee as not being an employee for purposes of the withholding requirements of chapter 24 or subchapter A of chapter 21 if, because of his belief that the employee was not an employee, the employer (i) has failed to deduct and withhold such tax as defined in paragraph (b)(1) of this section for the calendar year and (ii) has also failed to file one or more employment tax returns (including, where applicable, Forms 940 (Employer's Annual Federal Unemployment (FUTA) Tax Return), 941 (Employer's Quarterly Federal Tax Return), 942 (Employer's Quarterly Tax Return for Household Employees), 943 (Employer's Annual Tax Return for Agricultural Employees), and W–2 (Wage and Tax Statement)) for any period during the calendar year with respect to such employee. For purposes of this paragraph (b)(2) an employer who has filed a delinquent or amended employment tax return as a result of Internal Revenue Service compliance procedures (*i.e.*, examination or collection activities) has failed to file an employment tax return.

(c) *Employer's liability increased where employer fails to meet reporting requirements*—(1) *In general.* In the case of an employer who fails to meet the applicable requirements of section 6041(a), 6041A, or 6051 with respect to any employee, unless such failure is due to reasonable cause, paragraph (a) of this section shall be applied with respect to such employee:

(i) By substituting "3 percent" for "1.5 percent" in paragraph (a)(1) of this section; and

(ii) By substituting "40 percent" for "20 percent" in paragraph (a)(2) of this section.

(2) *Applicable requirement.* For purposes of paragraph (c)(1) of this section, an employer has failed to meet the applicable requirements of section 6041(a), 6041A, or 6051 with respect to an employee if—

(i) The employer has treated such employee as not being an employee for purposes of the withholding requirements of chapter 24 or subchapter A of chapter 21, and

(ii) The employer has failed to satisfy any of the requirements described in sections 6041(a), 6041A, and 6051 and the regulations thereunder (relating to information returns and statements) which would be applicable consistent with the treatment described in paragraph (c)(2)(i) of this section.

An employer who has failed to timely file any return or statement required under section 6041(a), 6041A, or 6051 has failed to meet the applicable requirements of that section.

(d) *Special rules.* For purposes of section 3509 and this section:

(1) *Determination of liability.* If the amount of any employer's liability for tax with respect to an employee is determined under section 3509 and this section:

(i) Such employee's liability for income tax or employee social security taxes shall not be affected by the assessment or collection of any tax so determined and any amount assessed or collected as a result of the application of this section shall not be credited against the employee's tax liability;

(ii) Such employer shall not be entitled to recover from such employee any tax determined under this section;

(iii) Sections 3402(d) and 6521 shall not apply with respect to such employer's liability determined under this section, although section 6521 may apply with respect to an employee's liability regardless of whether the employer's liability is determined under section 3509; and

(iv) Tax imposed by section 3101 or 3402 (including amounts determined under section 3509) for any calendar year that the employer hasa reported and paid over with respect to such employee shall be allowed as a credit against tax determined under section 3509 with respect to such employee for such calendar year. If the amount of such reported and paid over tax exceeds the employer's liability for tax as determined under section 3509, however, such excess does not constitute an overpayment of tax and does not entitle the employer to a refund or credit for the amount of such excess.

(2) *Section not to apply where employer deducts and withholds income tax but not social security taxes.* Section 3509 and this section shall not apply to any employer with respect to any wages if:

(i) The employer deducted and withheld any amount of the tax imposed by chapter 24 with respect to such wages, but

(ii) Failed to deduct and withhold the amount of the taxes imposed by subchapter A of chapter 21 with respect to such wages.

(3) *Section not to apply to social security tax with respect to certain statutory employees.* Section 3509 and this section shall not apply to any tax under subchapter A of chapter 21 with respect to an individual described in section 3121(d)(3). For purposes of the preceding sentence, if an individual would be an employee under section 3121(d)(3) but for the fact that such individual is an employee under section 3121(d) (1) or (2), such individual shall be treated as an individual described in section 3121(d)(3).

(4) *Section not to apply in cases of intentional disregard.* Section 3509 and this section shall not apply to the determination of any employer's liability for tax under chapter 24 or subchapter A of chapter 21 for any calendar year if any part of such liability is due to the employer's intentional disregard of the requirement to deduct and withhold such tax. For purposes of the preceding sentence, an employer has intentionally disregarded the requirement to deduct and withhold a tax if the employer

intentionally failed to deduct and withhold the full amount of such tax with respect to any wages paid on or after the date on which the employer ascertained the employee status of a worker.

(5) *Section not to apply to assessments made before January 1, 1983.* Section 3509 and this section shall not apply to any tax assessed before January 1, 1983.

(6) *Penalties.* Section 3509 and this section do not relieve an employer from liability for any penalties, additions to tax, or additional amounts otherwise applicable with respect to a failure to deduct and withhold any taxes. However, for purposes of applying any penalty, addition to tax, or additional amount with respect to any tax for which an employer's liability is determined under section 3509, the employer's tax liability as determined under that section shall be treated as the tax the employer should have withheld, deducted, and paid over.

Income Tax Regulations

PART 1—[AMENDED]

Par. 3. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.6041A–1 also issued under 26 U.S.C. 6041A.

Par. 4. A new § 1.6041A–1 is added immediately after § 1.6041–7 to read as set forth below:

§ 1.6041A–1 Returns regarding payments of remuneration for services and certain direct sales.

(a) *Returns regarding remuneration for services—*

(1) *In general.* If—

(i) Any service-recipient engaged in a trade or business pays in the course of that trade or business during any calendar year after 1982 remuneration to any person for services performed by that person, and

(ii) The aggregate amount of remuneration paid to such person during such calendar year is $600 or more,

Then the service-recipient shall make a return in accordance with paragraph (e) of this section. For purposes of the preceding sentence, the term "service-recipient" means the person for whom the service is performed (*e.g.*, in the case of a real estate agent, the real estate firm for which such agent performs services). For purposes of this paragraph (a)(1) only, the term remuneration does not include amounts paid to any person for services performed by such person if the service-recipient knows that such amounts are excludable from the gross income of the person performing such services. For example, a return is not required with respect to amounts paid to a foster parent which are known by the service-recipient to constitute foster care payments that are excludable from gross income under section 131. For purposes of this paragraph (a)(1), a service-recipient shall be considered to know facts set forth in a written statement provided to the service-recipient, made under the penalties of perjury and signed by the person performing such services, in the absence of knowledge by the service-recipient that such statement is untrue. See section 6041A(d) for rules relating to the application of section 6041A and this section to governmental units (and agencies or instrumentalities thereof).

(2) *Payment attributable to parts and materials.* For purposes of section 6041A and this section, the aggregate amount of remuneration paid to any person for services rendered includes any payments for parts or materials used by such person in rendering the services unless the trade or business of such person is primarily that of selling parts or materials. Whether a person is engaged primarily in the trade or business of selling parts and materials rather than of providing services shall be determined on the basis of all the facts and circumstances, taking into account such factors as whether such person holds himself or herself out as a dealer in parts and whether, with respect to the type of services rendered, a service-recipient ordinarily would specify the type or brand of parts or materials to be used.

Example. X Company makes a payment to an unincorporated repair shop for repairs to one of the company's automobiles. The automobile sustained body damage in an accident. The repair contract requires payment of $300 for labor and $400 for new parts that were installed. The repair shop does not hold itself out as a dealer in parts. Generally, customers of the repair shop do not specify the type of brand of replacement parts to be installed. Therefore, the aggregate amount of remuneration that is required to be reported pursuant to section 6041A(a) includes the payment for parts.

(b) *Returns regarding direct sales of $5,000 or more.* (1) *In general.* If—

(i) Any person engaged in a trade or business in the course of such trade or business during any calendar year sells consumer products to any buyer on a buy-sell, deposit-commission, or other commission basis for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, and

(ii) The aggregate amount of such sales made by such person to such buyer during such calendar year is $5,000 or more,

Then such person shall make a return with respect to such buyer in accordance with paragraph (e) of this section. This requirement shall apply to sales made in any calendar year after 1982.

(2) *Sale defined.* For purposes of this paragraph (b), a person will be considered to sell a product to a buyer for resale even though such buyer does not acquire title to the product prior to selling it to the consumer. For example, a company sales person, paid on a commission basis, who does not acquire title to a product before selling it to the consumer is considered to have bought the product for resale for purposes of section 6041A(b) and this paragraph.

(3) *Acquisition for resale in a permanent retail establishment.* Section 6041A(b) and this paragraph do not apply to sales of a product to a buyer who resells the products only in a permanent retail establishment, as defined in § 31.3508–1 (g)(4) of this chapter (Employment Tax Regulations). If a buyer acquires consumer products from a person for resale both in the home (or otherwise than in a permanent retail establishment) as well as in a permanent retail establishment, then such person shall, for purposes of determining the aggregate amount of sales made to such buyer under paragraph (b)(1)(i) of this section, take into account all sales of such products made to such buyer during the calendar year.

(4) *Products purchased for personal use or consumption.* All sales to a buyer of consumer products on a buy-sell, deposit-commission, or other commission basis that are suitable for resale to another person shall be taken into account in determining the aggregate amount of sales made to such buyer under paragraph (b)(1)(i) of this section even if buyer purchases some of the products for the buyer's personal use or consumption or disposes of some of the products other than by resale (for example, giftes to relatives). Sales of products that cannot be resold, such as samples and catalogues, are not taken into account in determining the aggregate amount of sales to a buyer during the calendar year.

(5) *Consumer product defined.* For purposes of section 6041A(b) and this paragraph, the term "consumer product"

means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed). The term "consumer product" does not include any product used to manufacture another product to be distributed in commerce or any product used only incidentially in providing a service (*e.g.*, insecticide used in a pest control service, materials used in an applicance repair business).

(c) *Engaged in trade or business.* For purposes of section 6041A (a)(1) or (b)(1) and this section, whether a service-recipient or other person is engaged in a trade or business shall be determined under the rules set forth in § 1.6041–1(b).

(d) *Exceptions to return requirement*—(1) *Return required under another section.* No return shall be required under paragraph (a) of this section if a statement with respect to the services is required to be furnished under section 6051, 6052, or 6053.

(2) *Transactions exempt from reporting under section 6041.* No return shall be required under paragraph (a) of this section with respect to a payment which is exempted under § 1.6041–3 from the reporting requirement of section 6041, and no return shall be required under paragraph (b) of this section with respect to sales made to a corporation.

(e) *Time and manner of filing*—(1) *Form.* The return required to be filed under section 6041A (a) or (b) and paragraph (a) or (b) of this section shall be filed on Forms 1096 and 1099 in accordance with the instructions accompanying those forms.

(2) *Time for filing.* The return shall be filed on or before February 28 of the year following the calendar year for which the return is filed.

(3) *Place of filing.* The return shall be filed with the appropriate Internal Revenue Service Center, at the address listed in the instructions for Forms 1096 and 1099.

(4) *Contents*—(i) *In general.* Unless otherwise provided in the instructions to Form 1099, the return required under section 6041A (a) or (b) and paragraph (a) or (b) of this section shall set forth the information contained in paragraph (e)(4) (ii) or (iii) of this section.

(ii) *Return required under section 6041A (a).* The return required to be filed under section 6041A (a) and paragraph (a)(1) of this section shall set forth the aggregate amount of remuneration paid to the person with respect to whom the return is made during the calendar year for services rendered, the name, address, and taxpayer identification number of the person making the payment, and the name, address, and taxpayer identification number of the recipient of the remuneration.

(iii) *Return required under section 6041A (b).* A return required to be filed under section 6041A (b) and paragraph (b)(1) of this section shall set forth the name, address, and taxpayer identification number of the person making the sales, and the name, address, and taxpayer identification number of the buyer.

(f) *Statements to be furnished to persons with respect to whom information is required to be furnished*—(1) *In general.* Every person required to file a return pursuant to section 6041A (a) or (b) and paragraph (a) or (b) of this section shall furnish a written statement to each person whose name is required to be set forth in that return.

(2) *Time and for furnishing statement.* The written statement required under paragraph (f)(1) of this section shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under section 6041A (a) or (b) was made.

(3) *Contents of statement.* The statement shall contain—

(i) The name and address, and taxpayer identification number of the person required to make the return, and

(ii) In the case of a return required to be filed under section 6041A (a) and paragraph (a) (1) of this section, the aggregate amount of payments to the person required to be shown on the return.

(g) *Recipient to furnish name, address, and identification number.* Any person with respect to whom a return or statement is required to be made pursuant to section 6041A and this section by another person shall furnish to that other person his name, address, and identification number upon demand by the person required to make the return.

(h) *Penalties.* For provisions relating to the penalties for failure to file a return or to furnish a statement under section 6041A and this section, see sections 6652 anf 6678 of the Code. For provisions relating to the penalty for failure to supply identification numbers under this section, see section 6676.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 86–125 Filed 1–6–86; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A–6–FRL–2950–4]

Administrative Orders Permitting a Delay in Compliance With Texas State Implementation Plan Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed approval.

SUMMARY: The Environmental Protection Agency proposes to approve two Delayed Compliance Orders (DCOs) issued by the Texas Air Control Board (TACB) to Arrow, Incorporated (Arrow), Carrollton, Dallas County, and Farmers Branch, Dallas County, Texas, on September 20, 1985. The DCOs require Arrow to bring air emissions of volatile organic compounds from their flexographic printing processes into compliance with the Texas State Implementation Plan (SIP) by December 31, 1985. The SIP required compliance by December 31, 1982. Dallas County is presently not attaining the National Ambient Air Quality Standard for ozone. Because the Orders have been issued to "major" stationary sources and permit delays in compliance with the Texas SIP, the Clean Air Act requires them to be approved by EPA before they can become effective. If approved by EPA, the DCOs will become an addition to the Texas SIP. In addition, a source in compliance with an approved DCO may not be sued under the federal enforcement or citizen suit provisions of the Clean Air Act for violations of SIP provisions covered by the DCO. This notice invites public comment on EPA's proposed approval of the two DCOs.

DATE: Interested persons are invited to submit comments on the proposed action on or before February 6, 1986.

ADDRESSES: Written comments should be submitted to the following address: Air Enforcement Branch, Air, Pesticides, and Toxics Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

The State Orders, supporting materila, evaluation report and public comments received in response to this notice are available for inspection during normal business hours at the address above (as Docket number R6–85–DC0–10) and at the following locations: Environmental Protection Agency, Public Information Reference Unit, Library Systems Branch, 401 M Street, SW., Washington, DC 20460, and the Texas Air Control Board,

6330 Highway 290 East, Austin, Texas 78723.

FOR FURTHER INFORMATION CONTACT: Raymond Magyar, SIP Enforcement Section (6T–ES), Air, Pesticides, and Toxics Division, Environmental Protection Agency, Region 6 Office, (214) 767–9876.

SUPPLEMENTARY INFORMATION: On May 3, 1982 (47 FR 18857), EPA approved TACB Regulation V, Rule 115.201, "Graphic Arts (Printing) By Rotogravure and Flexographic Processes in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant and Victoria Counties", as a revision to the Texas SIP. Rule 115.201 prohibits operation of certain flexographic or rotogravure printing facilities unless they limit emissions of volatile organic compounds (VOC) by utilization of either water based inks, high solids content inks, or by the use of "add-on" control equipment such as carbon adsorption systems or incineration systems. Sources subject to the Rule were to have submitted a final control plan for compliance to the TACB by December 31, 1980, and were to be in compliance by December 31, 1982. Arrow's Carrollton and Farmers Branch plants are "major" stationary sources. Each plant emits more than 100 tons of VOC per year from flexographic processes, and as such is subject to Rule 115.201. Based on Arrow's contention that water based and/or high solids content ink would not be available by the SIP compliance date and that "add-on" control equipment was economically infeasible, on June 10, 1983, the TACB issued two Board Orders to Arrow extending their SIP compliance date for both plants until December 31, 1985. The TACB did not, however, submit the SIP compliance date extensions to EPA for revision to the SIP, and thus the SIP-required compliance date remained December 31, 1982. On January 30, 1984, and October 9, 1985, EPA notified Arrow's Carrollton and Farmers Branch facilities, respectively, under section 113(a)(1) of the Clean Air Act that they were operating in violation of the Texas SIP. Subsequently, the TACB developed the September 20, 1985 DCOs that are now proposed for approval under this notice. The TACB transmitted the DCOs to EPA on September 27, 1985. EPA reviewed the DCOs,[1] and found that they satisfy the requirements of section 113(d) of the Clean Air Act, including public notice and hearing requirements and section 121 of the Clean Air Act regarding consultation with general purpose local governments.

If the DCOs are approved by EPA, compliance with their terms would preclude federal enforcement action under section 113 of the Clean Air Act against Arrow for violations covered by the Order during the period that the Orders are in effect. Further, enforcement under the citizen suit provision of section 304 of the Clean Air Act would be similarly precluded. If approved, the Orders would constitute an addition to the Texas SIP. However, compliance with the Orders will not preclude assessment of any non-compliance penalty under section 120 of the Clean Air Act, unless the source is entitled to an exemption under section 120 (a)(2)(B) or (C).

All interested persons are invited to submit written comments on the proposed approval action. Written comments received by the date specified above will be considered in determining whether EPA will approve the Orders. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order and corresponding addition to 40 CFR Part 65.

Each DCO affects only one entity and involves an "Order", rather than a "Rule", and therefore this action is not subject to the requirements of the Regulatory Flexibility Act or to Executive Order 12291.

The Notice of Proposed Approval is issued under the authority of sections 113 and 301 of the Clean Air Act, 42 U.S.C. 7413 and 7601.

List of Subjects in 40 CFR Part 65

Air pollution control.

Dated: December 24, 1985.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

The text of each Delayed Compliance Order is set forth below. Final agency action on each Order will be published in Subpart SS of Part 65 of Title 40 of the Code of Federal Regulations.

Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723

Board Order—Arrow Industries, Inc., No. 85–10

Whereas, Texas Air Control Board ("TACB") Rule 115.201 requires control of Volatile Organic Compound ("VOC") emissions from rotogravure and flexographic printing processes; and

Whereas, Arrow Industries, Inc. ("Arrow") owns and operates a facility in Dallas County, Texas (hereinafter referred to as the "Beltline facility"), which is subject to the requirements of Rule 115.201 of TACB Regulation V; and

Whereas, Rule 115.201 has been approved by the administrator of the Environmental Protection Agency (hereinafter referred to as "EPA") pursuant to Section 110 of the Federal Clean Air Act (42 U.S.C. 7410) as a requirement of the applicable implementation plan for Texas; and

Whereas, TACB Rule 115.203 requires persons affected by Rule 115.201 to submit compliance schedules and be in compliance with the requirements of Rule 115.201 as soon as practicable but not later than December 31, 1982; and

Whereas, TACB Rule 115.422(b) allows the TACB to approve an extension of certain compliance dates, including that contained in rule 115.203, to not later than December 31, 1985 based upon availability of low solvent technology; and

Whereas, Arrow is unable to comply with the requirements of Rule 115.201 at the present time because of, among other things, the nonavailability of low solvent technology; and

Whereas, pursuant to Rule 115.422(b), the TACB entered Board Order No. 83–8 on June 10, 1983, thereby extending the date for the Beltline facility's compliance under Rule 115.201 to no later than December 31, 1985; and

Whereas, Arrow has submitted a compliance schedule which contains a request for an extension to not later than December 31, 1985 and

Whereas, such request contains the necessary justification for the extension to a date not later than December 31, 1985 based upon current nonavailability of necessary low solvent technology; and

Whereas, the TACB has examined Arrow's request for an extension of the date for compliance with Rule 115.201 to December 31, 1985 and finds that the requirements for the extension have been satisfied; and

Whereas, the TACB gave notice to the public and to the EPA on August 9, 1985 that it proposed to issue the following Order to Arrow; and

Whereas, the public notice contained the content of the following Order, invited comment, and offered the opportunity for a public hearing; and

Whereas, a public hearing was not held since no request for a hearing was made; and

Whereas, an investigation of all relevant facts, including public comment, has demonstrated that this

[1] "EPA Review of Texas State Delayed Compliance Orders for Arrow, Incorporated, Dallas County, Texas, September 20, 1985: October-November 1985". This evaluation is available at the Region 6 address given previously in this notice.

Order requires compliance as expeditiously as practicable and that this Order requires the best practicable system of interim emission reduction; and

Whereas, the public interest in continued operation of the Beltline facility outweighs the environmental cost of the additional period of non-compliance provided in this Order because there are no discernible effects associated with the emissions from the Beltline facility which exceed the level of emissions allowed under Rule 115.201, and strict compliance with such rule would require cessation of certain operations with attendant adverse economic effects for which there is insufficient corresponding environmental benefit; and

Whereas, the TACB has consulted with the Dallas Health Department, Dallas County Health Department and North Central Texas Council of Governments pursuant to section 121 of the Federal Clean Air Act (42 U.S.C. 7421).

Now, therefore, it is the decision and order of the board that:

1. The date for compliance with TACB Rules 115.201 and 115.203 by Arrow is hereby extended to a time not later than December 31, 1985, in accordance with the following schedule for compliance:

February 18, 1985—Line 11 will be converted to run water reducible inks with no more than 25% VOC by volume.

April 15, 1985—If Arrow is not using compliant water reducible inks (TACB Rule 115.201(1)) in accordance with this schedule for compliance, complete design of add-on control devices capable of meeting the requirements of TACB Rule 115.201(3). Arrow shall submit documentation to the TACB with its next quarterly report that compliant water reducible inks are being used in accordance with this schedule for compliance.

May 31, 1985—Line 2 will be converted to run water reducible inks with no more than 25% VOC by volume.

Line 5 will be converted to run water reducible inks with no more than 25% VOC by volume, or

If low solvent or water-based ink development program does not indicate compliance with TACB Rule 115.201(1) by December 31, 1985, place purchase order for add-on control equipment capable of meeting requirements of TACB Rule 115.201(3).

December 31, 1985—Compliance achieved pursuant to TACB Rule 115.201(1); or

Complete installation of add-on control devices in compliance with Rule 115.201(3), or

Comply with whatever laws or regulations relating to TACB Rule 115.201 in effect at the time.

2. This Order is issued pursuant to the Texas Clean Air Act, Article 4477-5, V.A.T.S. This Order is intended to fulfill the reqirements for a Delayed Compliance Order provided for by section 113 of the Federal Clean Air Act (42 U.S.C. 7413). Upon approval by EPA and as long as Arrow is in compliance with the terms of this Order, this Order shall preclude federal enforcement action under section 113 of the Federal Clean Air Act (42 U.S.C. 741,3) and citizen suits against Arrow under section 304 of the Federal Clean Air Act (42 U.S.C. 7604) with respect to the requirements for the source covered by this Order.

3. Arrow shall take the following actions during the entire period in which this Order is in effect, as a means of achieving the best practicable interim system of emission reduction which is both reasonable and practicable:

a. Arrow shall continue to work with its suppliers to attempt to develop compliant formulations which can be utilized earlier than is provided under the above schedule.

b. Arrow shall comply with the limits in Rule 115.201 during any period insofar as it is able to do so.

c. Arrow shall comply with all reasonable additional directives issued by the TACB, EPA, or any public health authority which the relevant agency determines are necessary to avoid an imminent and substantial endangerment to health of persons.

4. Arrow shall comply with the following emissions monitoring and reporting requiremets no later than the times indicated:

a. Arrow shall submit quarterly to the TACB, starting on March 31, 1985, monthly summaries of the amount of press formulation used.

b. Arrow shall submit at the same time quarterly reports on its review and evaluation of the low solvent or water-based press formulations.

5. This supercedes Board Order No. 83-8 entered on June 10, 1983.

Notice

Pursuant to the provisions of section 113(d)(1)(E) of the Federal Clean Air Act [42 U.S.C. 7413(d)(1)(E)], Arrow is hereby notified that, unless exempted under section 120(a)(2)(B) or (C) of the Federal Clean Air Act [42 U.S.C. 7420(a)(2)(B) or (C)], Arrow "will be required to pay a non-compliance penalty effective July 1, 1979 as provided under section 120 or by such later date as is set forth in the Order in accordance with section 120 in the event such source fails to achieve final compliance by July 1, 1979." This Notice does not constitute a "notice of noncompliance" as that term is used in section 120(b)(3) of the Federal Clean Air Act [42 U.S.C. 7420(b)(3)] and 40 CFR 66.11.

Passed and Approved, at the regular meeting of the Texas Air Control Board in Austin, Texas, this the 20th day of September, 1985.

Texas Air Control Board.
By: John L. Blair,
Chairman.
Charles R. Jaynes,
Vice Chairman.
Vittorio K. Argento,
P.E., Member.
Fred Hartman,
Member.
D. Jack Kilian, M.D.,
Member.
[Absent] Otto R. Kunze, Ph.D., P.E.,
Member.
Bob G. Bailey,
Member.
R. Hal Moorman,
Member.
Hubert Oxford, III,
Member.
Attest: Bill Stewart, P.E.,
Executive Director.

Texas Air Control Board, 6630 Highway 290 East, Austin, Texas 78723

Board Order—Arrow Industries, Inc., No. 85-11

Whereas, Texas Air Control Board ("TACB") Rule 115.201 requires control of Volatile Organic Compound ("VOC") emissions from rotogravure and flexographic printing processes; and

Whereas, Arrow Industries, Inc. ("Arrow") owns and operates a facility in Dalls County, Texas (hereinafter referred to as the "Cardenbrook facility"), which is subject to the requirements of Rule 115.201 of TACB Regulation V; and

Whereas, Rule 115.201 has been approved by the administrator of the Environmental Protection Agency (hereinafter referred to as "EPA") pursuant to section 110 of the Federal Clean Air Act (42 U.S.C. 7410) as a requirement of the applicable implementation plan for Texas; and

Whereas, TACB Rule 115.203 requires persons affected by Rule 115.201 to submit compliance schedules and be in compliance with the requirements of Rule 115.201 as soon as practicable but not later than December 31, 1982; and

Whereas, TACB Rule 115.422(b) allows the TACB to approve an

extension of certain compliance dates, including that contained in Rule 115.203, to not later than December 31, 1985 based upon nonavailability of low solvent technology; and

Whereas, Arrow is unable to comply with the requirements of Rule 115.201 at the present time because of, among other things, the nonavailability of low solvent technology; and

Whereas, pursuant to Rule 115.422(b), the TACB entered Board Order No. 83–9 on June 10, 1983, thereby extending the date for the Gardenbrook facility's compliance under Rule 115.201 to no later than December 31, 1985; and

Whereas, Arrow has submitted a compliance schedule which contains a request for an extension to not later than December 31, 1985; and

Whereas, such request contains the necessary justification for the extension to a date not later than December 31, 1985 based upon current nonavailability of necessary low solvent technology; and

Whereas, the TACB has examined Arrow's request for an extension of the date for compliance with Rule 115.201 to December 31, 1985 and finds that the requirements for the extension have been satisfied; and

Whereas, the TACB gave notice to the public and to the EPA on August 9, 1985 that it proposed to issue the following Order to Arrow; and

Whereas, the public notice contained the content of the following Order, invited comment, and offered the opportunity for a public hearing; and

Whereas, a public hearing was not held since no request for a hearing was made; and

Whereas, an investigation of all relevant facts, including public comment, has demonstrated that this Order requires compliance as expeditiously as practicable and that this Order requires the best practicable system of interim emission reduction; and

Whereas, the public interest in continued operation of Gardenbrook facility outweighs the environmental cost of the additional period of non-compliance provided in this Order because there are no discernible effects associated with the emissions from the Gardenbrook facility which exceed the level of emissions allowed under Rule 115.201, and strict compliance with such rule would require cessation of certain operations with attendant adverse economic effects for which there is insufficient corresponding environmental benefit; and

Whereas, the TACB has consulted with the Dallas Health Department, Dallas County Health Department and North Central Texas Council of Governments pursuant to section 121 of the Federal Clean Air Act (42 U.S.C. 7421); and

Whereas, Rule 115.201(3) provides that emissions from flexographic printing facilities may be limited by the use of certain add-on control devices achieving an overall reduction in VOC emissions of at least 60% by weight; and

Whereas, TACB 115.401 authorizes the Executive Director of the TACB to approve alternative means of control if it can be demonstrated that the alternative means of control will be substantially equivalent to the methods of control specified in TACB Regulation V; and

Whereas, Arrow is seeking approval of alternative means of control pursuant to TACB Rule 115.401 (referred to hereinafter as the "combined techology program") in lieu of the emission controls otherwise required by TACB Rule 115.201(3).

Now, therefore, it is the decision and order of the board that:

1. The date for compliance with TACB Rules 115.201 and 115.203 by Arrow is hereby extended to a time not later than December 31, 1985, in accordance with the following schedule for compliance:

January 31, 1985—Install fine screen anilox and hard rubber rolls in the first deck of each press. Install an additional fine screen anilox and hard rubber roll in press number 1 to evaluate high strength/high solids colors and

Continue investigation of best available add-on control equipment capable of meeting the requirements of TACB Rule 115.201(3).

March 31, 1985—Provide VOC reduction data to TACB.

April 15, 1985—Install one doctor blade assembly on press number 1. Determine reduction in VOC emissions. Install an additional fine screen anilox and hard rubber roll in each press, and

Complete engineering and design of add-on control devices capable of meeting the requirements of TACB Rule 115.201(3).

May 31, 1985—If development program for compliance through combined technology does not indicate compliance by December 31, 1985, issue order for add-on equipment. For the purpose of indicating whether compliance will be achieved by December 31, 1985, Arrow shall submit documentation to TACB with its next quarterly report indicating reductions in VOC emissions achieved as a result of installation of additional control technology, or

Issue purchase orders for partial incineration, fine screen anilox and hard rubber rolls and/or doctor blade assemblies for remaining printing decks or equivalent technology.

September 15, 1985—Begin installation of partial incineration, additional fine screen anilox and hard rubber rolls and/or doctor blade assemblies, or

Begin installation of the ancillary equipment associated with add-on control devices meeting Rule 115.201(3).

Decembert 31, 1985—Compliance achieved using partial incineration, fine screen anilox with hard rubber rolls and/or doctor blades with high strength high solids ink, or

Complete installation and start up of add-on control devices in compliance with Rule 115.201(3).

Comply with whatever laws or regulations affecting TACB Rule 115.201 in effect at the time.

2. This Order is issued pursuant to the Texas Clean Air Act, Article 4477–5, V.A.T.S. This Order is intended to fulfill the requirements for a Delayed Compliance Order provided by section 113 of the Federal Clean Air Act (42 U.S.C. 7413). Upon approval by EPA and as long as Arrow is in compliance with the terms of this Order, this Order shall preclude federal enforcement action under section 113 of the Federal Clean Air Act (42 U.S.C. 7413) and citizen suits against Arrow under section 304 of the Federal Clean Air Act (42 U.S.C. 7604) with respect to the requirements for the source covered by this Order. Nothing in this Order shall be construed as approving the "combined technology program" provided for in the preceding paragraph as an alternative to compliance with Rule 115.201(3); and such program may not be utilized to demonstrate compliance unless approved by the Board pursuant to Rule 115.401, and approved by the U.S. Environmental Protection Agency pursuant to section 110 of the Federal Clean Air Act as a revision to the State Implementation Plan.

3. Arrow shall take the following actions during the entire period in which this Order is in effect, as a means of achieving the best practicable interim system of emission reduction which is both reasonable and practicable:

a. Arrow shall continue to work with its suppliers to attempt to develop complaint formulations which can be utilized earlier than is provided under the above schedule.

b. Arrow shall comply with the limits in Rule 115.201 during any period insofar as it is able to do so.

c. Arrow shall comply with all reasonable additional directives issued by the TACB, EPA, or any public health authority which the relevant agency

determines are necessary to avoid an imminent and substantial endangerment to health of persons.

4. Arrow shall comply with the following emissions monitoring and reporting requirements no later than the times indicated:

a. Arrow shall submit quarterly to the TACB, starting on March 31, 1985, monthly summaries of VOC emissions at the Gardenbrook facility based on material balance calculations.

b. Arrow shall submit at the same time quarterly reports on its review and evaluation of the combined technology program.

5. This supercedes Board Order No. 83-9 entered on June 10, 1983.

Notice

Pursuant to the provisions of section 113(d)(1)(E) of the Federal Clean Air Act [42 U.S.C. 7413(d)(1)(E)], Arrow is hereby notified that, unless exempted under section 120(a)(2) (B) or (C) of the Federal Clean Air Act [42 U.S.C. 7420(a)(2) (B) or (C)], Arrow "will be required to pay a noncompliance penalty effective July 1, 1979 as provided under section 120 or by such later date as is set forth in the Order in accordance with section 120(b)(3) or (g) in the event such source fails to achieve final compliance by July 1, 1979." This Notice does not constitute a "notice of noncompliance" as that term is used in section 120(b)(3) of the Federal Clean Air Act [42 U.S.C. 7420(b)(3)] and 40 CFR 66.11.

Passed and approved at the regular meeting of the Texas Air Control Board in Austin, Texas, this the 20th day of September, 1985.

Texas Air Control Board.
By: John L. Blair,
Chairman.
Charles R. Jaynes,
Vice Chairman.
Vittorio K. Argento,
P.E., Member.
Bob G. Bailey,
Member.
Fred Hartman,
Member.
D. Jack Kilian,
M.D., Member.
[Absent] Otto R. Kunze,
Ph.D., P.E., Member.
R. Hal Moorman,
Member.
Hubert Oxford III,
Member.
Attest: Bill Stewart,
P.E., Executive Director.

[FR Doc. 86-257 Filed 1-6-86; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 271

[SWH-FRL 2951-1]

New York; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA), Region II.

ACTION: Notice of tentative determination on application of New York for final authorization, public hearing and public comment period.

SUMMARY: New York has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed New York's application and has made the tentative determination that the State's hazardous waste program satisfies all of the requirements necessary to qualify for RCRA final authorization. Thus, EPA intents to grant final authorization to the State to operate its program subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (HSWA). New York's application for final authorization is available for public review and comment and a public hearing will be held to solicit comments on the tentative determination.

DATES: A public hearing is scheduled for February 7, 1986. New York will participate in the public hearing held by EPA on this subject. All comments on the New York final authorization application must be received by the close of business on February 11, 1986.

ADDRESSES: Copies of New York's final authorization application are available during normal business hours at the following addresses for inspection and copying:

New York State Department of Environmental Conservation, Division of Solid and Hazardous Waste, Office of the Director, 50 Wolf Road, Albany, New York 12233-0001, Telephone (518) 457-6603.

New York State Department of Environmental Conservation, Region 1 Office, Building 40, SUNY, Stony Brook, NY 11794. Telephone (516) 571-7900.

New York State Department of Environmental Conservation, Region 2 Office, Two World Trade Center, 61st Floor, New York, NY 10047. Telephone (212) 488-2764.

New York State Department of Environmental Conservation, Region 3 Office, 21 South Putt Corners Road, New Paltz, NY 12561. Telephone (914) 255-5453.

New York State Department of Environmental Conservation, Region 4 Office, 2176 Guilderland Avenue, Schenectady, NY 12306. Telephone (518) 382-0680.

New York State Department of Environmental Conservation, Region 5 Office, Hudson Street Extension, Warrensburg, NY 12885. Telephone (518) 623-3671.

New York State Department of Environmental Conservation, Region 6 Office, State Building, 317 Washington Street, Watertown, NY 13601. Telephone (315) 785-2236.

New York State Department of Environmental Conservation, Region 7 Office, 7481 Henry Clay Boulevard, Liverpool, NY 13088. Telephone (315) 428-4497.

New York State Department of Environmental Conservation, Region 8 Office, 6274 East Avon-Lima Road, Avon, NY 14414. Telephone (716) 226-2466.

New York State Department of Environmental Conservation, Region 9 Office, 600 Delaware Avenue, Buffalo, NY 14202. Telephone (716) 847-4600.

Environmental Protection Agency, Region II Library, 26 Federal Plaze, Room 734, New York, NY 10278. Telephone (212) 264-2881.

Environmental Protection Agency, Headquarters Library PM 211A, 401 M Street, SW., Washington, DC 20460. Telephone (202) 382-5926.

Written comments on the application and requests to speak at the hearing should be sent to Evan Liblit, New York State Coordinator, Solid Waste Branch, U.S. EPA Region II, 26 Federal Plaza, Room 907, New York, NY 10278, Telephone (212) 264-1317.

The public hearing will be held on February 7, 1986, at 10:00 A.M. at the William K. Sanford Town Library, 629 Albany-Shaker Road, Stedmen Room, Main Floor, Loudonville, New York 12211.

FOR FURTHER INFORMATION CONTACT: Evan Liblit, New York State Coordinator, Solid Waste Branch, U.S. EPA Region II, 26 Federal Plaza, Room 907, New York, NY 10278. Telephone (212) 264-1317.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize state hazardous waste programs to operate in the state in lieu of the Federal hazardous waste program. Two types of authorization may be granted. The first type, known as "interim authorization", is a

temporary authorization which is granted if EPA determines that the state program is "substantially equivalent" to the Federal Program (Section 3006(c), 42 U.S.C. 6226(c)). EPA's implementing regulations at 40 CFR 271.121–271.137 established a phased approach to interim authorization: Phase I, covering the EPA regulations in 40 CFR Parts 260–263 and 265 (universe of hazardous wastes, generator standards, transporter standards and standards for interim status facilities) and Phase II, covering the EPA regulations in 40 CFR Parts 124, 264 and 270 (procedures and standards for permitting hazardous waste facilities).

Phase II, in turn, has three components. Phase IIA covers general permitting procedures and technical standards for containers and tanks, and in certain instances, surface impoundments and waste piles. Phase IIB covers incinerator facilities, and Phase IIC addresses landfills and land treatment facilities. By statute, all interim authorizations expire on January 31, 1986. Responsibility for the hazardous waste program returns (reverts) to EPA on that date if the state has not received final authorization.

The second type of authorization is a "final authorization" that is granted by EPA if the Agency finds that the state program (1) is "equivalent" to the Federal program, (2) is "consistent" with the Federal program and other state programs, and (3) provides for adequate enforcement (Section 3006(b), 42 U.S.C. 6226(b)). States need not have obtained interim authorization to qualify for final authorization. EPA regulations for final authorization appear at 40 CFR 271.1—271–23.

B. New York

New York received Phase I interim authorization on December 27, 1983. Due to the short period of time between the date New York received Phase I interim authorization and the then-statutory deadline for states having interim authorization to achieve final authorization (January 26, 1985), New York elected to forego its pursuit of Phase II interim authorization in favor of seeking final authorization by that deadline. Pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA), which embodied the reauthorization of RCRA, the final authorization deadline for those states with interim authorization was extended to January 31, 1986, thereby allowing New York additional time to make those regulatory and other hazardous waste programmatic revisions required by EPA.

New York solicited public comments and held a public hearing on September 26, 1985, on its draft application for final authorization. On August 20, 1985, the State had submitted to EPA copies of the final draft application so as to allow for an expedited Agency review. EPA transmitted comments on this draft application to the State on October 5. On November 5, 1985, New York submitted to EPA its offiical application for final authorization, including the transcript of the September 26 public hearing. EPA has determined that the official submittal is complete and satisfactorily addresses all of the comments transmitted to the State on October 5. Consequently, EPA intends to tentatively grant final authorization to New York.

In accordance with section 3006 of RCRA and 40 CFR 271.10(d), the Agency will hold a public hearing on its tentative decision on February 7, 1986, at the William K. Sanford Town Library, 629 Albany-Shaker Road, Stedman Room, Main Floor, Loundonville, New York 12211. The hearing will begin at 10:00 AM. The public may also submit written comments on EPA's tentative determination until the close of business on February 11, 1986. Copies of New York's application are available for inspection and copying at locations indicated in the **"ADDRESSEES"** section of this notice.

In making its final decision, EPA will consider all public comments on its tentative determination. Issues raised by those comments may be the basis for a decision to deny final authorization to New York. EPA also will consider the State's performance in taking enforcement and obtaining compliance, by December 31, 1985, with respect to State-lead consolidated data base groundwater facilities determined to be in significant noncompliance (SNC) in Federal fiscal year 1985.

EPA expects to make a final decision on whether or not to approve New York's program by April 7, 1986 and will give public notice of it in the **Federal Register.** That notice will include a summary of the reasons for the final determination and a response to all major comments.

Effect of HSWA on New York's Authorization

Prior to the Hazardous and Solid Waste Amendments amending RCRA, a state with final authorization would have administered its hazardous waste program entirely in lieu of EPA. The Federal requirements no longer applied in the authorized state, the EPA could not issue permits for any facilities the state was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the state was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized state until the state adopted the requirements as State law.

In contrast, under the amended section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized states at the same time as they take effect in non-authorized states. EPA is directed to carry out those requirements and prohibitions in authorized states, including the issuance of full or partial permits, until the state is granted authorization to do so. While states must still adopt HSWA-related provisions as state law to retain final authorization, the HSWA applies in authorized states in the interim.

As a result of the HSWA, there will be a dual State/Federal regulatory program in New York if final RCRA authorization is granted. To the extent the authorized State program is unaffected by the HSWA, the State program will operate in lieu of the Federal program. To the extent HSWA-related requirements are in effect, EPA will administer and enforce these portions of the HSWA in New York until the State receives authorization to do so. Among other things, this will entail the issuance of Federal RCRA permits for those areas in which the State is not yet authorized.

Once the State is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal provision. Until that time, the State may assist EPA'S implementation of the HSWA under a Cooperative Agreement.

Today's tentative determination does not include authorization of New York's program for any requirement implementing the HSWA. Any State requirement that is more stringent than a Federal HSWA provision will also remain in effect; thus, regulated handlers must comply with any more stringent State requirements.

EPA has published a **Federal Register** notice that explains in detail the HSWA and its effect on authorized States. This notice was published at 50 FR 28702–28755, July 15, 1985.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization effectively suspends the applicablility of certain Federal regulations in favor of New York's program, thereby terminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(B).

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovermental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Date: December 12, 1985.

Christopher J. Daggett,

Regional Administrator.

[FR Doc. 86-262 Filed 1-6-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 86-1; FCC 86-1]

WATS-Related and Other Amendments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission proposes a number of changes to the access charge rules (Part 69 of the Commission's Rules) in light of its recent adoption of a Federal-State Joint Board recommendation that the separations rules be amended to provide for the direct assignment of the closed ends of WATS access lines, effective June 1, 1986. The Commission also seeks comments on whether it should permit or require peak/off-peak pricing for switched access services, and as an alternative or complement to peak/off-peak pricing, on the possibility of modifying the prevailing method of recovering carrier common line costs by loading those costs on terminating minutes of use.

The Commission proposes these actions in order to achieve its goal of enhancing efficient use of long-distance communications networks.

DATES: Comments are due by January 27, 1986 and replies by February 10, 1986.

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

FOR FURTHER INFORMATION CONTACT: Sandra Eskin, Common Carrier Bureau (202) 632-9342.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 69

Access charges, Communications common carriers.

Notice of Proposed Rulemaking

In the Matter of: WATS-Related and Other Amendments of Part 69 of the Commission's Rules; CC Docket No. 86-1.

Adopted: January 2, 1986.

Released: January 6, 1986.

By the Commission.

I. Introduction

1. This *Notice* seeks comment on a number of changes to our access charge rules that may be appropriate in light of our decision to amend our separations rules to provide for the direct assignment of the costs of the closed end of WATS lines. Specifically, we seek comment on: (1) Whether, for access charge purposes, closed end WATS lines should be treated as special access lines; and (2) if the answer to (1) is "yes," whether the Commission should revise its treatment of WATS resellers under the access charge rules.[1] Additionally, we invite comment on: (3) Whether exchange carriers should be permitted or required to use peak/off-peak pricing techniques in setting switched access charges; and (4) whether carrier common line cost recovery methods should be revised so that most, or all, of those costs are recovered by charges on terminating minutes of use.

II. General Background

2. Wide Area Telecommunications Service (WATS) is a bulk-rated offering of switched long-distance service. WATS customers are billed on the basis of the total number of hours of usage in a given month, rather than on a per-call basis, as with traditional MTS. Outward WATS or "OUTWATS", introduced by AT&T in 1961, allows customers to place calls to preselected service areas. At the originating end of a call, OUTWATS uses dedicated access lines from the customer's premises to a local exchange carrier WATS serving office.[2] OUTWATS permits only direct-dialed outgoing calls to preselected service areas. Calls placed to points outside the preselected service areas are automatically screened and blocked by exchange carrier switching equipment. At the terminating end of a call, OUTWATS uses local exchange facilities in the same fashion as a regular MTS call. For OUTWATS, the originating end of the service, which uses a dedicated access line from the subscriber's premises to the WATS screening office, is referred to as the "closed end", while the terminating end, which uses the same transport, end office and subscriber line facilities as MTS, is referred to as the "open end."

3. "INWATS", or 800 Service, was introduced in 1967 and permits customers to receive calls from selected service areas without a charge to the calling party. At the originating end of a call, INWATS uses the exchange carrier's local switched network in the same fashion as a regular MTS call. At the terminating end of a call, INWATS uses dedicated access lines to the WATS customer's premises that permit the customer to receive incoming calls from those preselected service areas. Thus, for INWATS, the originating end of the service is the "open end," while calls are terminated at the "closed end" of the service. For both OUTWATS and INWATS, itemized billing detail is not normally provided, and operator-assisted calls cannot be placed. A subscriber cannot receive incoming calls on an OUTWATS line, nor make outgoing calls on an INWATS line.

4. Thus, the originating access line for OUTWATS, and the terminating access line for INWATS, are dedicated exclusively to that service and are not jointly used for both local and toll service. Furthermore, while both intrastate and interstate WATS services are available, separate access lines are used for each type of service. Therefore, an interstate WATS access line, like an access line used in conjunction with interstate private line service, is dedicated to interstate use and cannot

[1] While our discussion in this *Notice* will focus on the services AT&T has traditionally offered under the rubric "WATS," described *infra* at paras. 2-4, we intend the access charge treatment proposed herein to apply as well to any other services offered by AT&T or any other interexchange carrier that uses local exchange facilities in a similar manner.

[2] The WATS serving office may or may not be the same local central office that provides local exchange service to that WATS customer.

be used for intrastate calling, whether local or long distance.

5. Despite the fact that the closed ends of WATS lines are dedicated lines, historically the separations rules [3] treated the line portion of closed ends like ordinary subscriber access lines,[4] with the combined investment in intrastate and interstate WATS lines apportioned between state and federal jurisdictions through the use of the Subscriber Plant Factor (SPF), which has been frozen since 1982.[5] By contrasts, investment in access lines used for private line services was directly assigned to either the intrastate or interstate jurisdiction, as appropriate. In our access charge plan,[6] in anticipation of a change to the separations rules to provide for direct assignment of WATS closed end lines, we initially included such lines in the same category as private lines.[7] The Joint Board subsequently did recommend changes in the separations rules to provide for direct assignment of closed end WATS lines.[8]

6. In reviewing the Joint Board's recommendation, however, we decided that certain objections to direct assignment—raised principally by AT&T's interexchange competitors (other common carriers or "OCCs")—should be examined further.[9] Accordingly, while we agreed with the Joint Board that, in principle, direct assignment of closed and WATS access lines on a jurisdictional basis was appropriate, we decided to defer any changes in the separations rules until further study of the issue by the Joint Board.[10] In light of this deferral, we found it necessary to reeaxmine how access charges would be applied to WATS closed ends. Accordingly, in the *Second Reconsideration Order* in the access charge proceeding, we concluded that the treatment of closed end WATS lines under the access charges rules should conform to the treatment of such lines under the separations rules in order to prevent any anomalous results and undue complexity produced by inconsistent cost apportionment and cost recovery procedure.[11] We thus modified the access charge rules by moving the line portion of closed end WATS access lines the common line category.[12] As a result, closed end WATS minutes are now subject to the same carrier common line charges as MTS and open end WATS access minutes, and WATS subscribers are subject to subscriber line charges.[13]

7. The Joint Board recently completed its further study of direct assignment and again recommended that closed ends WATS access lines be directly assigned on a jurisdictional basis.[14] We have now adopted that recommendation and amended the Part 67 jurisdictional separations rules to provide that direct assignment will take effect of June 1, 1986.[15] We initiate this rulemaking to determine what corresponding adjustments to the Part 69 access charge rules should be made in conjunction with direct assignment.

III. Treatment of Closed End WATS Lines Under the Special Access Rules

8. As an initial matter, we propose to reinstate closed ends WATS lines in the special access element.[16] We believe this approach is sound for a number of reasons. In particular, we find that this approach is consistent with the principles we have attempted to follow in the separations and access charge areas—namely, that unless there are substantial policy considerations to the contrary, the access charge rules should be consistent with the separations rules [17] and both should reflect principles of cost causation.[18] We have already concluded that for separations purposes, direct assignment of the cost of WATS closed ends is sound since the service in question is either exclusively interstate or intrastate. As discussed above, the basic rationale for applying common line charges to closed end WATS lines was that these lines were treated as subscriber lines in the separations rules. With the change in the separations treatment of these lines, that underlying rationale disappears. Furthermore, special access treatment of

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[3] The separations rules, which govern the apportionment of local telephone company investment and expense between the interstate and intrastate jurisdictions, are set out in Part 67 of the Commission's Rules, 47 CFR 67.1–67.701 (1984).

[4] The term "line portion" is used in this *Notice* to describe the line from the customer's premises to the local exchange central office that provides local exchange service to that customer. The line from that office to the WATS serving office will be referred to as the "trunk portion" of WATS access line or the Dedicated Access Line Extension. Like the line portion of the WATS access line, the trunk portion is dedicated to one customer and to one jurisdiction. For separations purposes, these latter connections have been considered exchange trunk outside plant; and despite their dedicated nature, the investment in these interoffice connections historically has been apportioned between state and federal jurisdictions on the basis of relative minutes of use. *See* § 67.124(c) of the Commission's Rules, 47 CFR 67.124(c). Under the access charge rules, the trunk portion of a WATS access line is treated as carrier outside plant, and the line portion is treated as customer outside plant. *See* §§ 69.304, 69.305 of the Commission's Rules, 47 CFR 69.304 and 69.305. *See also* Investigation of Access/Divestiture Tariffs, Memorandum Opinion and Order, 50 FR 50457, paras. 67–68 (1984).

[5] *See* §67.124(d) of the Commission's Rules, 47 CFR 67.124(d). The commission has adopted a Federal-State Joint Board proposal to replace SPF with a nationwide, uniform 25% interstate allocation factor, which will be phased in beginning January 1, 1986. *See* MTS/WATS Market Structure and Amendment of Part 67, Decision and Order, 50 FR 939, paras. 1, 15 (1984).

[6] The access charge plan, adopted in 1982, has been refined in subsequent orders. *See* MTS and WATS Market Structure, Third Report and Order, 93 FCC 2d 241 (1983) (hereinafter *Access Charge Order*), *modified on reconsideration*, 97 FCC 2d 682 (1983) (hereinafter *First Reconsideration Order*), *modified on further reconsideration*, 97 FCC 2d 834 (1984) (hereinafter *Second Reconsideration Order*), *aff'd in principal part and remanded in part, Nat'l Ass'n of Regulatory Utility Comm'rs v. FCC*, 737 F.2d 1095 (D.C. Cir. 1984), *cert. denied*, 105 S. Ct. 1224, 1225 (1985), *modified on further reconsideration*, 49 FR 46383 (1984), 50 FR 18249 (1985) (hereinafter *Third Reconsideration Order*), *aff'd on further reconsideration*, 50 FR 43707 (1985); *appeal docketed, U.S. Telephone Inc. v. FCC*, No. 84–1115 (D.C. Cir. March 23, 1984).

[7] In the original *Access Charge Order*, we included WATS closed end lines in a "dedicated access line" category along with certain private lines. That category was merged with the special access category in the *First Reconsideration Order*. *See First Reconsideration Order* at paras. 50–54 (1984).

[8] Amendment of Part 67, Second Recommended Decision and Order, 48 FR 46554, paras. 81–82 (1983).

[9] *See* Amendment of Part 67, Decision and Order, 96 FCC 2d 781, para. 61 (1984).

[10] *Id.*

[11] *See Second Reconsideration Order* at paras. 102–06.

[12] *Id.* The Joint Board's initial direct assignment recommendation included both the line and trunk portions of WATS access lines. *See supra* note 4. Based on our decision to defer action on the Joint Board's recommendation, *see supra* note 9, we also modified the access charge treatment of the trunk portion of WATS closed ends by moving them into switched access, with the interstate allocation of investment in these trunks included in the transport element. *See Third Reconsideration Order* at para. 38.

[13] We reaffirmed this treatment of the closed ends of WATS lines in the *Third Reconsideration Order* in the access charge proceeding. *See Third Reconsideration Order* at paras. 34–38. The Common Carrier Bureau subsequently denied petitions for waiver of the Part 69 rules relating to the application of carrier common line charges to the closed end of WATS because, *inter alia*, the request was premature given that the question of direct assignment of these lines was under review by the Joint Board. *See* Petitions for Waiver Concerning 1985 Annual Access Tariff Filing, Memorandum Opinion and Order (Common Carrier Bureau), Mimeo No. 5007 (released June 7, 1985) (hereinafter *Waiver Order*).

[14] *See* MTS/WATS Market Structure and Amendment of Part 67, Recommended Decision and Order, CC Docket Nos. 78–72 and 80–286, Mimeo No. 139 (released October 8, 1985). Like the Joint Board's earlier direct assignment recommendation, this recommendation encompassed both the line portion and the trunk portion of WATS closed ends. *See supra* note 4.

[15] *See* Amendment of Part 67 and MTS/WATS Market Structure, Decision and Order, CC Docket Nos. 80–286 and 78–72, FCC 85–655 (adopted December 18, 1985).

[16] This proposal applies to both the line and trunk portions of closed end WATS lines. *See supra* note 4.

[17] *See supra* note 11 and accompanying text.

[18] *See Second Reconsideration Order* at para. 106; *First Reconsideration Order* at para. 10.

WATS lines is consistent with principles of cost causation in that special access treatment will provide for direct recovery of the fixed, closed-end WATS costs through flat, non-traffic-sensitive charges, rather than the usage-sensitive carrier common line charges. In this regard, our proposed approach is no different from the access charge treatment of the access portions of private lines or the closed ends of FX lines which, like WATS access lines, are dedicated exclusively to a subscriber's interstate use, are subject to direct assignment under the separations rules rather than an allocation based on SPF, and are subject to fixed per line charges under the access rule.

9. We seek comment on the proposed revisions to Part 69 set out in Appendix A that reflect this change in treatment of closed ends WATS lines. We propose to make these changes effective on June 1, 1986—the date on which direct assignment of WATS closed ends will take effect.[19] recognize that our proposal to apply special access charges to WATS closed ends could alter the relative access costs for interstate public switched services.[20] Our proposals in section V and VI of this *Notice* to allow or require peak/off-peak pricing in the setting of switched access charges and/or the loading of all, or most, carrier common line costs on terminating switched access minutes are offered to minimize possible adverse effects on MTS costs and rates.[21] Such effects might be inappropriate in view of differences in usage pattersn that are not adequately reflected in access costs of this time.

IV. WATS Resale

10. Our proposal to include the close end of WATS lines in the special access element also raises questions concerning our treatment of WATS resellers under the access charge rules. The access charge rules provide that access charges are not to be assessed upon an interexchange carrier to the extent that it resells services for which these charges have aready been assessed.[22] This approach its roots in the treatment of resellers under the ENFIA system.[23] Resellers of interstate WATS services were not subject to the ENFIA charges since the local telephone companies were already compensated for their access costs in providing MTS and WATS through the settlements and divisions of revenues that were reflected in the rates established for these services.[24] Resellers, pursuant to the ENFIA tariffs, were charged the local business line rate and similarly WATS resellers, under the access charge tariffs, pay the local business line rate, in lieu of carrier access charges, for access to the local exchange.[25]

11. With the inclusion of the closed ends of WATS lines in the special access element, however, WATS will no longer be a service "for which these switched access charges have already been assessed."[26] Accordingly, the underlying rationale for the existing access charge treatment of WATS resellers, under which they pay only local business line rates, will no longer be valid. As a result, we no longer perceive any reason for treating WATS resellers differently from other interexchange carriers.[27] We seek comments on this proposed change in the treatment of WATS resellers and, in particular, on the proposed revisions in the relevant sections of Part 69 set out in Appendix A.

12. We also take this opportunity to propose a revision in our treatment of resellers of services that will continue to be assessed switched access charges for the access connection to the resellers's switch (*e.g.*, MTS and certain OCC services). Resellers of such services (and currently of WATS as well) that subscribe to Feature Group A (FGA) have, until now, paid the local business line rate in lieu of all switched access charges—both those that recover non-traffic-sensitive costs, and those that recover traffic-sensitive costs. However, resellers subscribing to Feature Group B (FGB) and Feature Group D (FGD), for which there is no equivalent for the business line rate, have paid all traffic-

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[19] On December 10, 1985, the Ameritech Operating Companies (Ameritech) filed with the Commission a petition seeking direct assignment and direct recovery of closed end WATS costs. Specifically, Ameritech requests: (1) Expedited adoption of the Joint Board's Order recommending direct assignment of closed end WATS costs; (2) institution of a rulemaking proceeding to reinstate WATS closed ends in the special access element; and (3) appropriate waivers of the access charge rules permitting direct recovery of WATS closed ends costs to be implemented in access tariff filings that would become effective June 1, 1986. Ameritech essentially appears to be seeking actions we have already taken, *see supra* note 15 and accompanying text, or are proposing to take in this *Notice*. We intend to take action on the proposed special access treatment of WATS closed ends in time for the access tariff filing referred to by Ameritech, which would render moot its waiver request. Accordingly, we will treat Ameritech's petition as early filed comments in this docket. Ameritech will be free, of course, to file additional comments in response to this *Notice*.

[20] Under the present rules, since the investment in closed end WATS lines is included in the common line, revenue requirement, minutes of use generated at the closed end are subject to carrier common line charges and are included in the demand estimate for purposes of computing per minute charges. Our proposal to treat closed end WATS lines as special access lines will have two effects on this process. First, WATS closed end costs will no longer be included in the common line revenue requirement. Second, WATS closed end minutes will no longer be subject to per minute carrier common line charges. Thus, for the purpose of determining the per minute carrier common line charge, both the numerator and the denominator in the calculation will be smaller as the result of the shift of WATS closed ends to the special access element. However, since WATS lines tend to have heavy interstate usage levels relative to subscriber lines, the reduction in common line revenue contribution from the elimination of per minute charges on WATS lines is likely to be substantially greater than the corresponding reduction in the common line revenue requirement from the removal of the costs of WATS closed ends. As a result, per minute carrier common line charges could increase, which—if fully passed through to end users—would tend to widen the gap between MTS and WATS rates.

[21] In light of our decision to suspend the equalization requirement for MTS and WATS in the Interim Cost Allocation Manual (ICAM), *see* Authorized Rates of Return for the Interstate Services of AT&T Communications and Exchange Telephone Carriers, 50 FR 41350 (1985), it may not be necessary to pursue alternative proposals to prevent adverse effects on MTS rates for the period the suspension order is in effect. Nevertheless, we think that it is desirable to examine such proposals as potential long-term solutions. In addition, peak/off-peak pricing of switched access charges is something we have long wanted to explore as an independent matter (*see infra* para. 15), and this appears to be an opportune time to do so.

[22] 47 CFR 69.5(b).

[23] The Exchange Network Facilities for Interstate Access (ENFIA) tariffs, which were the result of an agreement between the pre-divestiture AT&T and some of the other common carriers (OCCs), governed the charges OCCs would pay for their use of local exchange facilities in the provision of MTS–WATS equivalent services. *See* Exchange Network Facilities (ENFIA), Memorandum Opinion and Order, 71 FCC 2d 440 (1979). The ENFIA tariffs were an interim measure and have been replaced by the access charge tariffs, which are filed by exchange carriers in compliance with the Part 69 rules.

[24] For a discussion of the Commission's policy with regard to the applicability of ENFIA charges to resellers, see Applicability of Certain Access Charge Provisions to Resold WATS and WATS-Type Services, Order (Common Carrier Bureau), at paras. 11–14 (released December 18, 1985) and Commission decisions cited therein.

[25] Only resellers of Feature Group A (FGA) pay the local business line rate. Those reselling services with trunk-side connections (Feature Group B (FGB) and Feature Group D (FGD), for which there is no equivalent for the business line rate,are treated as described *infra* para. 12.

[26] *Id.*

[27] In allowing WATS resellers to pay the local business line rate, we expressed concerns about the adverse rate impact on resellers if they were required to pay full carrier access charges at the outset of the access charge regime. *See First Reconsideration Order* at para. 85 and n. 63. However, we no longer think that such concerns provide an adequate basis for retaining the ENFIA system of allowing WATS resellers to obtain interstate access services for payment of the local business line rate. As of June 1, 1986—the date on which the proposed rule changes will become effective—the ENFIA agreement will have been inapplicable for two years, and concerns with "rate shock" cannot sustain an uneconomic pricing structure in perpetuity. Resellers will have more than six months from the issuance of this *Notice* to make whatever adjustments they deem appropriate in their planning and network configurations in light of the changes proposed herein.

sensitive elements, but not the carrier common line charge, the non-traffic sensitive element.[28] We believe that our treatment of resellers using FGB and FGD access is the correct one and is consistent with the proper rationale in avoiding double payment by resellers—that is, because resellers' use of exchange access facilities does not increase common line costs, it is not appropriate to require resellers to make, in effect, a second contribution toward the recovery of these costs by assessing a second carrier common line charge on resold minutes of use.[29] However, resellers' traffic does increase the costs of traffic-sensitive exchange access facilities; and we now tentatively conclude that, as a means of recovering these costs the application of the local exchange business rate is not an appropriate substitute for the traffic-sensitive elements of switched access charges. We have continued to allow resellers who subscribe to FGA to pay the local business rate in lieu of *all* access charges in keeping with the system under ENFIA, but we believe it is neither necessary nor logical to perpetuate this situation.[30] All resellers should pay access charges that reflect the traffic-sensitive costs that are incurred as a result of their usage of local exchange facilities.

13. Therefore, we invite comment on our proposal, reflected in the proposed Part 69 revisions set out in Appendix A, to require all resellers, regardless of which feature group they use for exchange access, to pay all traffic-sensitive elements of switched access charges. We will continue to "exempt" resellers from paying the non-traffic-sensitive carrier common line element when the resold service has already been assessed carrier common line charges. We have also tentatively decided to delete the description of the reseller exemptions that are presently set out in several sections of our rules and to add a new subsection to describe a credit entitlement that will enable interexchange carriers that resell some MTS or other services that include carrier common line payments to claim a refund from the appropriate exchange carrier. Additionally, we propose to continue to exempt certain persons who might be described as resellers from all carrier charges and would reinstate the end user definition that was adopted in the original access charge rules in order to accomplish that purpose. The reasons that led us to classify such persons as end users at the time we adopted the original plan are still applicable. Thus, the hotel-type reseller would continue to be treated as an end user, but resellers who use the local exchange to route their customers' calls to and from the reseller switch would no longer pay the local business line rate for that service. We seek comments on these proposed rule changes.

V. Peak/Off-Peak Pricing

14. We also take this opportunity to consider whether the switched access charge rules should be modified to permit or require peak/off-peak pricing for access to local exchange facilities. We believe that the introduction of peak/off-peak pricing may be an appropriate refinement of the access rate structure.

15. We have previously recognized the economic benefits of peak/off-peak pricing as a mechanism for leveling interexchange traffic loads and for enhancing efficient use of long-distance communications networks.[31] In the *Access Charge Order*, we expressed interest in proposals to implement peak/off-peak structures for carrier access rates.[32] We indicated that some form of peak/off-peak pricing would be desirable as a long-term goal. We deferred this issue until a later date because we were unable to devise adequate rules in time for the initial access tariff filings. We now think the time is right to revisit this question. In particular, it may be possible to implement on a voluntary basis peak/off-peak switched access charge structures at the same time that access charge tariffs reflecting the special access treatment of WATS closed ends are filed. Furthermore, while as a practical matter we do not think it would be feasible by the time of that filing for us to reach a determination on whether exchange carriers should be required to implement peak/off-peak access pricing and, if so, what such a rate structure should be, we conclude that it is appropriate to initiate a proceeding at this time to examine these issues.[33] Accordingly, we seek comments on whether implementation of peak/off-peak pricing structures for switched access tariffs would be in the public interest, on the form that this pricing should take, and how best to implement a peak/off-peak pricing structure. To aid this process, we discuss in this *Notice*, and invite comment on, several issues that arise in connection with peak/off-peak switched access tariff structures.

16. Current tariffs for most interexchange carriers providing MTS/WATS and MTS/WATS-type services employ time-of-day-sensitive rate structures [34] as a form of peak/off-peak pricing.[35] For example, under AT&T's rate structure for MTS, rates vary according to the time of day a call is placed.[36]

17. In 1981, we found that it would be in the public interest for AT&T to employ a time-of-day sensitive rate structure for its WATS service similar to the one it had been using for its MTS service, and we required AT&T to file tariffs implementing such a rate structure.[37] As a matter of equity, we

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[28] *See* Investigation of Access/Divestiture Tariffs, Memorandum Opinion and Order, 97 FCC 2d 1082, 1199–1200 (1984) (hereinafter *Access Tariff Order*).

[29] Of course, the use of exchange access facilities by any interexchange carrier, including AT&T or any OCC, does not increase common line costs; but we nevertheless require that these carriers make a contribution to such costs through payment of carrier common line charges. The issues with respect to resellers, however, is whether they should be required to make two carrier common line contributions—one directly to the exchange carrier through payment of the carrier common line charge and a second indirectly through the inclusion of that charge in the rates for the services it resells. We have concluded that such a "double" contribution is not appropriate.

[30] The National Exchange Carriers Association (NECA) and Pacific Northwest Bell recently requested a waiver from the access charge rules dealing with resellers subscribing to FGA, claiming that the rate paid by such resellers (the local business rate) does not adequately cover traffic-sensitive costs. The Common Carrier Bureau denied the waiver request based, in part, on the Bureau's conclusion that the issue raised should not be resolved in the context of a waiver. *See Waiver Order* at paras. 12–14.

[31] *See, e.g.*, AT&T Revision to Tariff FCC No. 259 (WATS), Memorandum Opinion and Order, 86 FCC 2d 820 paras. 32–38 (1981) (hereinafter *WATS Phase I*).

[32] *See Access Charge Order* at paras. 224–25 (1983). *See also Access Tariff Order* at para. 79.

[33] *But see infra* note 40 (raising the question whether we should defer a decision concerning time-of-day pricing for traffic-sensitive access elements until the Joint Board completes its review of possible peak/off-peak cost-allocation methodologies for traffic-sensitive plants).

[34] Typically, such rate structures include both time-of-day and day-of-week factors. *See infra* note 36. For purposes of this *Notice*, we will use the term "time-of-day" to refer to both types of rate factors.

[35] *See, e.g.*, AT&T Communications Tariff FCC No. 1, Sec. 3; MCI Telecommunications Corp. Tariff FCC No. 1, Sec. 3.

[36] Full "day" rates are charged during the business day (8 a.m. to 5 p.m., Monday to Friday). Rates are discounted 40% during the "evening" rate period (from 5 p.m. to 11 p.m. on weekdays and Sunday). Rates are discounted 60% during the "night/weekend" rate period (from 11 p.m. to 8 a.m. weekdays, all day Saturday, and from 11 p.m. Sunday to 8 a.m. Monday morning).

[37] *See WATS Phase I* at para. 92. In the *WATS Phase I* Order, we did not specify the exact rate structure to be utilized. The time-of-day sensitive tariff AT&T filed uses the same time periods as the MTS tariff (*i.e.* business day, evening, and night/weekend). Unlike MTS, however, the WATS discount structure incorporates not only time-of-day sensitive rate discounts, but also rate tapers, under which rates decrease as usage increases, thereby lowering the effective hourly rate. The current WATS taper contains four rate periods reflecting

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found that it would be fair to require peak-period users to pay higher rates in order to compensate for the additional costs of building and maintaining usage-sensitive equipment imposed on carriers by peak calling.[38] We also found peak/off-peak pricing desirable because higher rates during peak periods would tent to cause users to shift calls to off-peak periods, thus leveling traffic laods and reducing incentives to build unnecessary plant.[39]

18. Many of these arguments would also appear to be applicable to switched access rate elements designed to recover traffic-sensitive costs. In other words, it seems reasonable to impose proportionately more costs on those who make use of traffic-sensitive exchange facilities, such as common transport and end-office switching, during peak periods, since it is peak-period usage that causes exchange carriers to make additional investment in such facilities. Similarly, peak/off-peak access charges would, if reflected in end user rates, encourage users to shift to off-peak periods, thereby fostering efficient use of exchange plant. Furthermore, such pricing might stimulate additional traffic in off-peak periods, when the additional cost of using the network is small, thereby directly benefitting users and also promoting efficiency and cost savings. For all these reasons, peak/off-peak pricing of switched access elements that recover traffic-sensitive costs would appear to be in the public interest.[40]

19. Peak/off-peak pricing to recover NTS plant costs may also be beneficial, even though NTS costs are not affected by peak-period loads. Under the current access charge rules, a substantial percentage of fixed NTS costs are recovered on a usage-sensitive basis through per minute carrier common line charges. Thus, even though the underlying costs represented by these charges are non-traffic-sensitive, from the perspective of access customers—such as interexchange carrers—these charges are "traffic-sensitive" in the sense that the amount payable varies with usage. If carrier common line charges are set using peak/off-peak pricing structures, these charges may be reflected in charges to end users, thereby encouraging peak users to spread their usage into non-peak periods and stimulating additional traffic in off-peak periods. From this perspective, it may be reasonable to permit all usage-sensitive switched access charges to be set taking time of day into account, regardless of the nature of the underlying costs recovered by the charges.[41] We invite comments on these issues.

20. We solicit information from commenters on the extent to which application of time-of-day sensitive pricing to switched access charges would be reflected in end user rates. We are concerned that, in a competitive marketplace, interexchange carriers paying time-of-day insensitive access charges may find it necessary to lower peak rates and raise off-peak rates in order to avoid potential revenue shortfalls. For example, carriers with peak rates set substantially above time-of-day insensitive access charges may face competitive pressure to reduce those rates. Other carriers could presumably take advantage of the relatively large margin between prevailing per minute access costs and peak rates to provide similar services at lower charges. At the same time, carriers might find it necessary to raise off-peak rates in order to recover the full cost of obtaining access during off-peak periods, despite the fact that the marginal cost of providing off-peak interexchange service may be relatively low. Time-of-day sensitive access charges might blunt these consequences of the current access change structure, thereby facilitating continued peak/off-peak pricing for end users.

21. Another possible benefit of time-of-day access pricing might be to increase the level of competition in the residential market. Specifically, the lack of time-of-day sensitive access charges may make it difficult for OCCs to compete with AT&T for residential customers. As discussed above, AT&T's MTS rates are time-of-day sensitive, with substantial discounts provided during evening and weeked hours when most residential calling takes place, but the access charges assessed interexchange carriers do not include comparable time-of-day discounts. As a result, there may be little opportunity for OCCs to price below AT&T during evening and weekend hours, which some assert they must do to attract residential customers, and still cover their costs. Time-of day access pricing might ameliorate this situation and, thus, pave the way for increased competition for residential customers. We request comments on this and other possible effects time-of-day access pricing might have on competition in the interexchange services marketplace.

22. We also seek comment on what effect time-of-day sensitive access charges would have on MTS and WATS rates. WATS historically has been a highly peaked service, accounting for a disproportionately large share of public switched network traffic during business hours.[42] MTS, in contrast, has had relatively heavy night and weekend volumes. Without a time-of-day sensitive price structure, switched access charges tend to understate the costs of usage in peak periods and overstate the costs of usage in off-peak periods. Therefore, if time-of-day sensitive factors were incorporated into the rate structure for switched access services, WATS access costs would probably be higher than they would be under a time-of-day insensitive rate structure. This increase would appropriately reflect the increased costs caused by peak capacity built to accommodate WATS customers. By the same token, overall MTS access costs would probably decrease if switched

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average hourly WATS usage per line per month: 0–15 hours, 15.1–40 hours, 40.1–80 hours, and over 80 hours. Under the existing structure, rates are discounted based on usage and time periods. For example, OUTWATS business-day discounts range from 0% (for 15 or fewer hours) to 34% (for over 80 hours). OUTWATS evening-rate discounts range from 35% (for 15 or fewer hours) to 57% (for over 80 hours). WATS night and weekend rates are not tapered; a flat hourly discount applies during those periods (65% for OUTWATS, 52% for INWATS).

[38] *Id.* at paras. 33–35.

[39] *Id.* at paras. 36–45.

[40] Among the issues we have asked the Joint Board to consider in CC Docket No. 80–286 is whether existing separations procedures that allocate traffic-sensitive plant costs between the state and interstate jurisdictions on the basis of total relative use should be altered to take into account peak/off-peak relative use. *See* Amendment of Part 67, Order Inviting Comments, Mimeo, No. 5327, paras. 4–5 (released June 25, 1985). We invite comment on whether we should postpone a decision concerning time-of-day sensitive pricing for traffic-sensitive switched access elements until the Joint Board completes its review of possible peak/off-peak cost-allocation methodologies for traffic-sensitive plant, or whether we should resolve the matter in this proceeding without awaiting the Joint Board's determination.

[41] *See also* AT&T Revision to WATS Tariff FCC No. 259, section 5, Usage of Traffic Sensitive Allocator for Non-Traffic Sensitive Costs (September 15, 1980), which concluded that economic efficientcy is maximized when NTS costs are recovered using the same method and in the same proportion as traffic-sensitive costs.

[42] *See* AT&TLong Lines, 1982 WATS Time-of-day Peak Usage Study (submitted February 7, 1983 in CC Docket No. 80–765). With the extensive development of a large number of WATS resellers, *i.e.* interexchange carriers that resell WATS to provide MTS-equivalent services, the time-of-day usage pattern for WATS may now differ somewhat from that which prevailed historically; in particular, there is probably more WATS usage in off peak periods now than in the past. Nevertheless, we consider it likely that, as compared with MTS, a large proportion of WATS traffic occurs during the business day.

access charges incorporated peak/off-peak pricing. Assuming these shifts in access costs were reflected in the rates AT&T charges for these services,[43] it is possible that the effect of applying the special access rates to closed end WATS lines would be largely offset by time-of-day sensitive switched access charges, thereby approximating the existing rate relationship. This in turn would tend to reduce the incentives for MTS uslers to migrate to WATS as a form of "service bypass."[44] Conversely, it is possible that, to the extent time-of-day pricing increases the costs of using the switched network during the business day, it might increase incentives for heavy business-day users to engage in other forms of bypass, causing increased costs to be borne by users of switched services. We invite information and comments on these issues, including data on usage patterns and possible bypass incentives.

23. We also request comment on whether, assuming we find that there are benefits to time-of-day pricing for access, we should require or simply permit exchange carriers to adopt such an approach.[45] On the one hand, a voluntary approach would provide each carrier with the flexibility to determine the form of pricing that is best suited to its particular needs.[46] On the other hand, it may be the case that the public interest would be served by time-of-day access pricing, even if some exchange carriers do not view it to be in their private interest; or, in light of the nationwide averaging of AT&T's MTS and WATS rates, time-of-day pricing might make sense for an exchange carrier only if all, or most, other exchange carriers also adopt such a pricing plan. In either of these situations, mandatory time-of-day pricing might be appropriate.

24. In this regard, we note that special problems may exist with a voluntary approach to implementing time-of-day pricing for the recovery of NTS costs apportioned to the carrier common line element. Current rules require local exchange carriers to pool common line costs and revenues in a system administered by the National Exchange Carrier Association (NECA). NECA sets a single, nationwide, per minute carrier common line charge based on nationwide pooled costs and demand projections. Thus, under current rules, it would appear that time-of-day sensitive charges for this element could only be implemented on an "all-or-nothing" basis—that is, either through a common tariff filed by NECA on behalf of all carriers or not at all. As we have stated, however, it may be desirable for carriers to have the flexibility to tailor time-of-day sensitive charges to their own needs. Individualized tariffs that were revenue-neutral with respect to the NECA pool would allow carriers that perceive a benefit from time-of-day pricing to go forward without involving those carriers that do not. Toward this end, we solicit comment on whether it would be feasible to allow exchange carriers to implement time-of-day pricing for carrier common line charges on an individualized basis without undermining the integrity of the pooling process.

25. Another issue pertinent to our evaluation of peak/off-peak switched access charges involves measurement. Assuming that some form of time-of-day sensitive price structure is to be used in switched access tariffs, it would appear that rate adjustments would only be possible for charges assessed on a per minute basis. Beginning January 1, 1986, all switched access services, including non-premium services, are to be assessed on a usage-sensitive basis.[47] However, different local exchange offices have different measurement capabilities. This fact may bear on the way time-of-day pricing is implemented. For instance, AT&T terminating minutes in offices not converted to equal access (provided in Feature Group C (FGC) in the access tariffs) are estimated, not actually measured. We request comments on how the formulas for estimating FGC terminating minutes might be adjusted to reflect peak/off-peak periods and whether such adjustments would create any particular problems.[48] In addition, while traffic can be measured on Feature Group D (FGD), and in most cases on FGA and FGB as well,[49] parties are invited to comment on whether there are any problems with implementing time-of-day sensitive measurements for these Feature Groups.[50]

VI. Revision of Carrier Common Line Cost Recovery Methodology

26. We also wish to consider in this proceeding, as either an alternative or a complement to peak/off-peak pricing, the possibility of modifying the prevailing method or recovering carrier common line cost by loading most or all of these costs on terminating minutes of use.[51] Initially, we wish to emphasize that our decision to consider alternative methods for recovery of carrier common line costs should not be interpreted as a lack of commitment to achieving a solution that will eliminate the bypass problem in the long term and achieve all of the goals of the access charge plan. The only long-term solution to bypass, or the economic efficiency losses imposed by the present system of loading common line NTS costs into toll

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[43] *See supra* note 21.

[44] Service bypass occurs when a customer leases special access lines from an exchange carrier in order to avoid the contribution to NTS cost recovery reflected in carrier common line charges. *See* FCC, Common Carrier Bureau, Bypass of the Public Switched Network 24–25 (Dec. 19, 1984).

[45] We reiterate our conclusion that we will not be in a position to prescribe a time-of-day access structure that is based upon a thorough analysis of peak/off-peak cost relationships by the time exchange carriers will have to file tariffs to implement the changes in access charge treatment of WATS closed ends. *See supra* para. 15. The question of mandatory time-of-day access pricing is something we are exploring strictly as a possible, long-range modification to the access charge rules.

[46] Time-of-day access pricing may be appropriate for some, but not all, exchange carriers, or the optimum time-of-day rate structure may be different for different carriers. For example, peak traffic periods may vary significantly among carriers. In the case of rural and suburban exchanges, peak traffic loads may occur at times other than during the business day.

[47] *See Third Reconsideration Order* at paras. 11–15. (1985).

[48] If WATS closed-end access lines are treated as special access lines, OUTWATS traffic would be subject to carrier common line charges only at the terminating end. Therefore, in the context of time-of-day access pricing, questions concerning measurement of terminating minutes are especially significant.

[49] According to recent estimates, the vast majority of FGA access connections are capable of measuring minutes of use. *See Fourth Reconsideration Order* at para. 24, n.56 (estimating that 95% of all end offices are currently equipped with FGA measurement capability).

[50] As a separate matter, parties are invited to comment on whether the existing problems in determining the jurisdictional nature of FGA and FGB traffic would be affected by application of time-of-day pricing to these minutes. *See generally* Determination of Interstate and Intrastate Usage of Feature Group A and Feature Group B Access Service, Order Inviting Comments, CC Docket No. 85–124, FCC 85–570 (released October 28, 1985).

[51] A number of exchange carriers have filed petitions, which now are pending before the Commission, seeking waivers of the access charge rules applicable to the recovery of NTS costs allocated to the carrier common line element. The alternative NTS cost-recovery schemes proposed in some of these petitions would treat originating and terminating minutes differently for access charge purposes. *See, e.g.*, Petition for Waiver of Commission Rules §§ 69.205 and 69.206 by Mountain States Telephone Company, Northwestern Bell Telephone Company and Pacific Northwest Telephone Company, filed Oct. 15, 1985, Petition for Wa.ver of the Commission's Rule §§ 69.125, 69.205 and 69.206 by Pacific Bell (filed Nov. 26, 1985), and Petition for Waiver of Commission Rules by New England Telephone and Telegraph Company (filed Dec. 3, 1985). What we are proposing to examine here is whether all exchange carriers should be permitted or required to shift carrier common line cost recovery from originating to terminating minutes of use. Our decision to examine this particular alternative approach to NTS cost recovery in this proceeding should not be taken as an indication of our views of the merits of the various exchange carrier waiver petitions, or of any intent to defer acting on those petitions pending the resolution of this proceeding.

rates, involves continued movement toward a system in which those costs are recovered directly from end users in flat-rate charges. Alternative methods of recovering costs allocated to the carrier common line element, as discussed in this *Notice* and in other recent filings, including peak pricing options, could at most slow the growth of bypass during an interim period.

27. Under current rules, NTS costs allocated to the carrier common line element are recovered through a uniform charge applied to both originating and terminating switched access minutes. However, the carrier common line revenue requirement might be satisfied entirely by revenue generated at the terminating end through charges computed on the basis of terminating minutes of use only. Initially, we note that as a matter of economic efficiency and cost-based pricing, there is no particular reason why carrier comnon line charges must be assessed on both originating and terminating minutes of use, since these charges are not directly related to the underlying costs of providing access services at either the originating or terminating ends of a call. In addition, modifying the existing approach to recovery of these costs by imposing such costs entirely on terminating minutes of use may have certain desirable consequences. If it is not possible to develop accurate peaking factors in the near future, an interim assignment of some or all carrier common line costs to terminating minutes might serve to prevent an unwarranted dislocation in relative burdens imposed on MTS and WATS ratepayers since both MTS and OUTWATS use switched access services in the same fashion at the terminating end of a call.[52] Recovering the carrier common line revenue requirement by charges on terminating switched access minutes might also have beneficial effects on service bypass.[53] This form of bypass is feasible primarily for originating traffic because many end users require the ability to terminate their calls ubiquitously, which requires the use of switched access service at the terminating end. Removing non-cost-based carrier common line charges from minutes of use at the originating end and loading these charges onto terminating minutes might reduce the incentive to engage in such bypass activities for uneconomic—that is, non-cost-based—reasons.

28. In addition to comments on the general efficacy of this approach, we invite parties to address the following specific issues: (1) The effect of this approach on the rate structure of interexchange services; (2) its effect on interexchange competition; (3) whether, assuming the approach has merit, it should be voluntary or mandatory; and (4) any measurement problems that might arise.

VII. Comment Filings; Ordering Clauses

29. Accordingly, it is hereby ordered, That pursuant to 47 U.S.C. 154(i), 154(j), 201–05, 218, and 403, and 5 U.S.C. 553, notice is hereby given of the proposed adoption of new or modified rules, in accordance with the discussion and delineation of issues in this *Notice* and on the basis of previous notices and filings in this proceeding.

30. It is further ordered, That all interested persons MAY FILE comments on the issues and proposals discussed in this *Notice* not later than January 27, 1986, and that replies may be filed not later than February 10, 1986. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, an original and five copies of all statements, briefs, comments, or replies shall be filed with the Federal Communications Commission, Washington, DC 20554, and all such filings will be available for public inspection in the Docket Reference Room at the Commission's Washington, DC office. In reaching its decision, the Commission may consider information and ideas not contained in filings, provided that such information is reduced to writing and placed in the public file, and provided that the fact of the Commission's reliance on any such information or ideas is noted in the Order.

31. For purposes of this nonrestricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are premitted until the time a public notice is issued stating that a substantial disposition of the matter is to be considered in a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever occurs earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal oral arguements) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding.

32. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation, and that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* § 1.1231 of the Commission's Rule, 47 CFR 1.1231.

33. It is further ordered, That the Secretary shall cause this Notice of Proposed Rulemaking to be published in the **Federal Register**.[54]

Federal Communication Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 69—[AMENDED]

47 CFR Part 69 is amended to read as follows:

1. The authority citation for Part 69 is revised to read as follows:

Authority: 47 U.S.C. 154(i), 154(j), 201, 202, 203, 204, 205, 218 and 403.

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[52] As noted earlier, access for an 800 Service call is provided through dedicated lines at the terminating end and ordinary subscriber lines at the originating end. Thus, the combined effect of the two changes in access charges proposed in this Notice—treating 800 Service closed ends as special access lines and confining carrier common line charges to the terminating end of a call—would mean that 800 traffic would be exempt from carrier common line charges altogether, despite the fact that it makes use of the public switch network. We invite comment on whether, to avoid this result, we should continue to assess carrier common line charges on the originating end of interstate 800 calls even if most carrier common line costs are recovered from terminating charges. Additionally, assuming this approach would be desirable as a policy matter, we seek comment on whether it would be feasible to implement a scheme under which the only originating minutes subject to these charges were 800 Service minutes. Parties are also invited to suggest alternatives for the proper treatment of 800 Service under a regime in which carrier common line charges were generally assessed only on the terminating end of switch calls. Finally, special considerations may also apply to foreign exchange and certain other services that, like WATS, use switched access connections at only one end of a call. Comments are also invited on these issues.

[53] For a defintion of service bypass, see *supra* note 44.

[54] We have previously determined that the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–12 (1982), are not applicable to proceedings in this docket in that local exchange carriers, the parties directly subject to our rules, do not fall within the Act's definition of a "small entity." *Id.* section 601. *See Access Charge Order* at paras. 358–62.

2. Section 69.2 is amended by revising paragraph (m) to read as follows:

§ 69.2 Definitions.

* * * * *

(m) "End user" means any customer of an interstate or foreign telecommuncations service that is not a carrier except that a carrier other than a telephone company shall be deemed to be an "end user" when such carrier uses a telecommunications service for administrative purposes and a person or entity that offers telecommunications services exclusively as a reseller shall be deemed to be an "end user" if all resale transmissions offered by such reseller originate on the premises of such reseller;

* * * * *

3. Section 69.5 is amended by revising paragraphs (b) and (c) to read as follows:

§ 69.5 Persons to be assessed.

* * * * *

(b) Carrier's carrier charges shall be computed and assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommuncations services.

(c) Special access surcharges shall be assessed upon users of exchange facilities that interconnect these facilities with means of interstate or foreign telecommuncations to the extent that carriers's carrier charges are not assessed upon such interconnected usage. As an interim measure pending the development of techniques accurately to measure such interconnected use and the assess such charges on a reasonable and non-discriminatory basis, telephone companies shall assess special access surcharges upon the closed ends of private line services and WATS services pursuant to the provisions of § 69 115 of this part.

4. Section 69.105 is revised to read as follows:

§ 69.105 Carrier common line.

(a) A charge that is expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommmunications services.

(b) A per minute charge shall be computed by dividing the revenue requirement for the Carrier Common Line element by the projected annual access minutes of use for all interstate and international services that use local exchange switching facilities. Each minute of use of any local exchange switch by such services, except WATS access line minutes of use, shall be counted for purposes of computing and assessing this charge.

(c) Any interexchange carrier that resells interstate MTS or any similar interstate service that is subject to Carrier Common Line charges for both origination and termination of the same call shall be entitled to claim a refund from a telephone company for any double payment of Carrier Common Line charges to such telephone company. A telephone company may require the submission of supporting evidence with such refund claims.

5. Section 69.106 is revised to read as follows:

§ 69.106 Line termination.

(a) A charge that is expressed in dollars and cents per access minute shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services.

(b) A per minute charge shall be computed by dividing the projected annual revenue requirement for the Line Termination element by the projected annual access minutes for all interstate or foreign services that use local exchange switching facilities. Each minute of use of any termination in a local exchange switch by such services shall be counted for purposes of computing and assessing this charge.

6. Section 69.107 is amended by revising paragraph (a) to read as follows:

§ 69.107 Local switching.

(a) Charges that are expressd in dollars and cent per access minute of use shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provisions of interstate of foreign services.

* * * * *

7. Section 69.108 is revised to read as follows:

§ 69.108 Intercept.

(a) A charge that is expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers that use switching facilities that use local exchange switching facilities for the provision of interstate of foreign telecommunications.

(b) A per minute charge shall be computed by dividing the projected annual revenue requirement for the Intercept element by the projected annual access minutes of use for all interstate or foreign services that use local exchange switching facilities.

8. Section 69.111 is amended by revising paragraph (a) to read as follows:

§ 69.111 Common transport.

(a) A charge that is expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers that use switching or transmission facilities that are apportioned to the Common Transport element for purposes of apportioning net investment.

* * * * *

9. Section 69 115 is amended by revising paragraph (a) to read as follows:

§ 69.115 Special access surcharges.

(a) Pending the developing of techniques accurately to measure usage of exchange facilities that are interconnected by users with means of interstate or foreign telecommunications, a surcharge that is expressed in dollars and cents per line termination per month shall be assessed upon users that subscribe to private line services or WATS services that are not exempt from assessment pursuant to paragraph (e) of this section.

* * * * *

§ 69.202 [Amended]

10. Section 69.202 is amended by removing paragraph (g).

11. Section 69.203 is amended by adding a new paragraph (g) to read as follows:

§ 69.203 Interim common line charges.

* * * * *

(g) No charge shall be assessed for any WATS access line.

12. Section 69.303 is amended by revising paragraph (c) to read as follows:

§ 69.303 Station equipment.

* * * * *

(c) Investment in all other station equipment shall be apportioned between the Special Access and Common Line elements on the basis of the relative number of equivalent lines in use, as provided herein. Each interstate or foreign Special Access line, excluding lines designated in § 69.115(e) of this part, shall be counted as one or more equivalent lines where channels are of higher than voice bandwidth, and the number of equivalent lines shall equal the number of voice capacity analog or digital channels to which the higher capacity is equivalent. Local exchange subscriber lines shall be multiplied by

the interstate separations factor for non-traffic sensitive plant to determine the number of equivalent local exchange subscriber lines.

* * * * *

13 Section 69.304 is amended by revising paragraphs (a) and (b) to read as follows:

§ 69.304 Customer OSP.

(a) Investment in local exchange subscriber lines shall be assigned to the Common Line element.

(b) Investment in interstate and foreign private lines and interstate WATS access lines shall be assigned to the Special Access element.

* * * * *

14. Section 69.305 is amended by revising paragraph (b) to read as follows:

§ 69.305 Carrier OSP.

* * * * *

(b) Carrier OSP, other than WATS access lines, not assigned pursuant to paragraph (a) of this section that is used for interexchange services that use switching facilities for origination and termination that are also used for local exchange telephone service shall be apportioned between the dedicated Transport and Common Transport elements. Such OSP shall be assigned to the Dedicated Transport element if it is used exclusively for the interexchange services of a particular carrier.

* * * * *

[FR Doc. 86-298 Filed 1-6-86; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 16]

Federal Motor Vehicle Safety Standards; Lamps Reflective Devices and Associated Equipment

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes dimensional changes for "HB3" and HB4" replaceable light sources that differ from those originally proposed in Notice 12, on May 13, 1985, because of modifications made in the light sources by their developer, General Motors Corporation (GM). The notice also proposes that original equipment as well as aftermarket HB3 and HB4 light sources incorporate a seal as suggested by GM such as is mandatory for the sole type of standardized replaceable light source currently permitted by Safety Standard No. 108. The earlier proposal would have required this feature only for aftermarket HB3 and HB4 light sources.

DATE: Comment closing date for the proposal is February 6, 1986. Effective date of the amendment would be 30 days after publication of the final rule in the **Federal Register.**

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine, Office of Rulemaking, NHTSA, Washington, DC (202-426-2720).

SUPPLEMENTARY INFORMATION: On May 13, 1983, NHTSA published a proposal to allow new types of standardized replaceable light sources in motor vehicle headlamps (50 FR 19961). Two of these light sources were designed by GM, one intended to provide the upper beam, which would be denominated HB3, the other to provide the lower beam and be denominated HB4. Various other features of the light sources were discussed in the prior notice.

After the close of the comment period, GM submitted new drawings and specifications for the light sources which it felt met the needs of the industry as a result of its efforts with the SAE Replaceable Bulb Task Force. Subsequent to that submission GM submitted further updates of specifications. Commenters to the docket had supported the addition of the new light sources but suggested that the agency adopt the specifications that the SAE was formulating. These comments came from Ford Motor Company, General Electric Corporation, GTE Sylvania, and Motor Vehicle Manufacturers Association.

The May 1985 notice also proposed that only replacement HB3 and HB4 light sources be manufactured with the seal characteristic of the sole standardized replaceable light source currently allowed by Standard No. 108, as GM had designed its headlamp to be vented, obviating, in its opinion, the necessity of the seal on original equipment headlamps. Both Sylvania and General Electric recommended that the "O" ring seal be provided for original equipment headlamps as well, whether the lamp is sealed, vented, or controlled vented, commenting that the "O" ring appears to be the most desirable method of protecting the inner cavity of replaceable bulb headlamps from dust, moisture and other contaminants. General Motors, in its new drawings and specifications, also proposed to make the seal mandatory for all light sources. NHTSA concurs with this recommendation, and the revised drawings proposed by this notice on Figures 19 and 20 incorporate the mandatory seal provision which specifies that a generic seal must be provided which meets the performance criteria proposed. The new wording does not specify the type of seal design which must be used, however, to keep design restrictions to a minimum.

NHTSA has considered this proposal and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, and that neither a regulatory impact analysis not a full regulatory evaluation is required. However, a regulatory evaluation has been prepared and place in the public docket. Since use of the proposed replaceable light source is optional, the proposal would not impose additional requirements or costs but would permit manufacturers greater flexibility in the use of headlighting systems.

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. The proposal may have a small positive effect on the human environment since the weight and quantity of materials used in the manufacture of headlamps would be reduced.

The agency has also considered the impacts of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant economic impact on a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally small organizations and governmental jurisdictions would not be significantly affected since the price of new vehicles, headlamps and aimer adjusters will be minimally impacted.

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 argument 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 confidentially 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, commenters filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after 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 rule 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.

Because of the necessity for vehicle, headlamp, and replaceable light source manufacturers to plan production and distribution on an orderly basis, a comment period of 30 days is provided. For the same reason it is tentatively found that an effective date earlier than 180 days after issuance of the final rule would be in the public interest.

The engineer and lawyer primarily responsible for this proposal are Richard Van Iderstine and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

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

PART 571—[AMENDED]

In consideration of the foregoing, it is proposed that 49 CFR Part 571 and 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment*, be amended as follows:

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

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

2. New figures 19 and 20 would be added to § 571.108 to read as follows:

BILLING CODE 4910-59-M

FIGURE 19

SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE

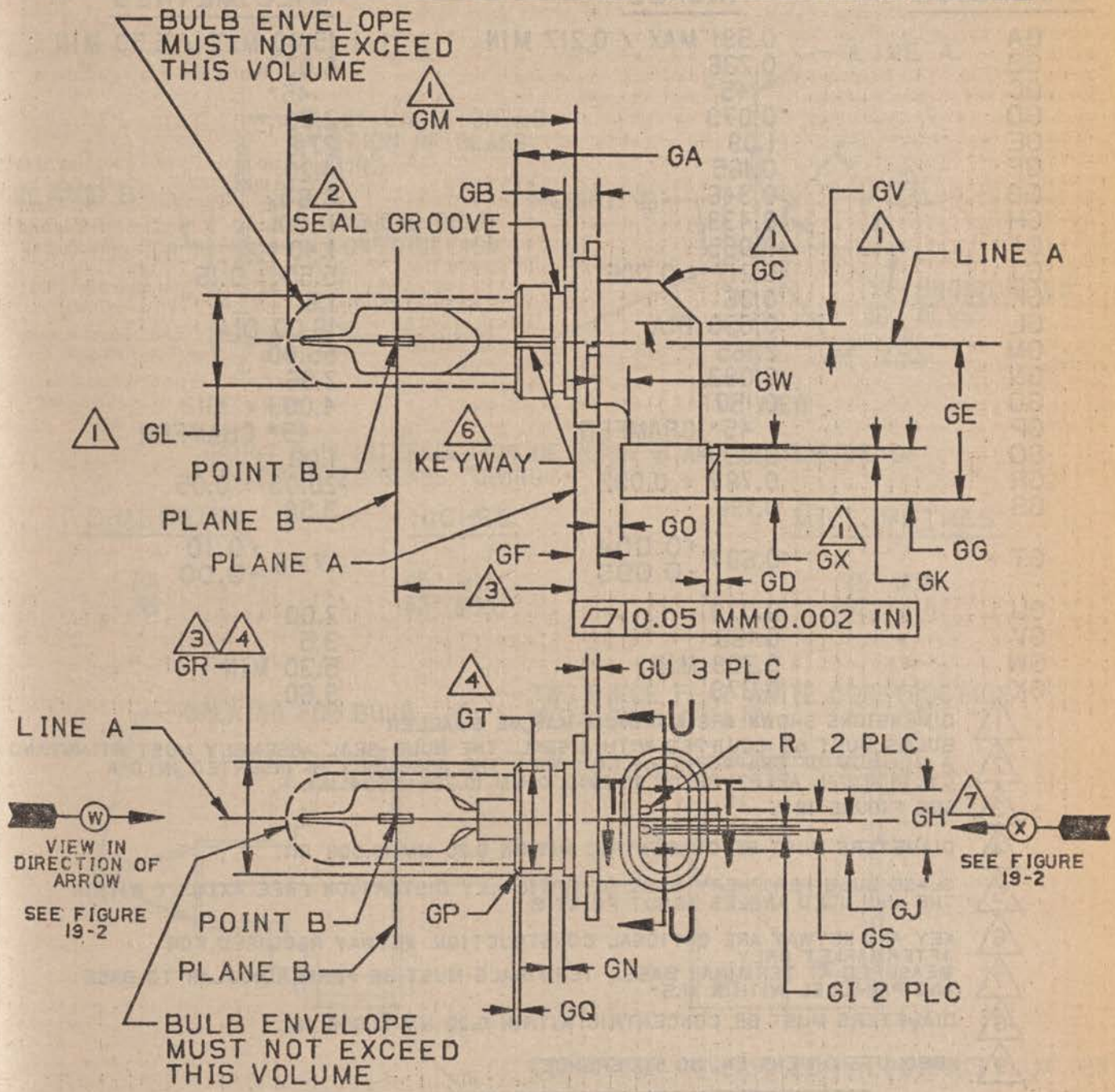


FIGURE 19 (CONT.)

SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE

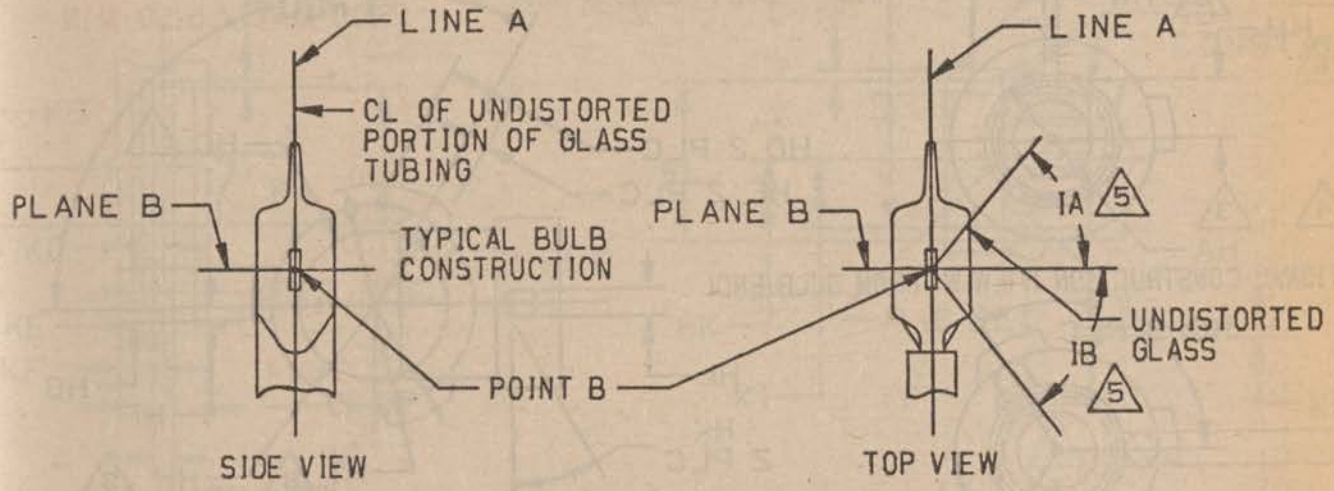
DIMENSION	INCHES	MILLIMETRES
GA	0.591 MAX / 0.217 MIN	15.00 MAX / 5.50 MIN
GB	0.236	6.00
GC	45°	45°
GD	0.079	2.00
GE	1.09	27.8
GF	0.165	4.20
GG	0.346	8.80
GH	0.433	11.00
GI	0.055	1.40
GJ	0.217 ± 0.006	5.50 ± 0.15
GK	0.06	1.5
GL	0.630 DIA	16.00 DIA
GM	2.165	55.00
GN	0.093	2.36
GO	0.157	4.00
GP	45° CHAMFER	45° CHAMFER
GQ	0.039	1.00
GR	0.787 ± 0.002	20.00 ± 0.05
GS	0.138	3.50
GT	$0.687\ ^{+0.004}_{-0.000}$	$17.46\ ^{+0.10}_{-0.00}$
GU	0.079	2.00
GV	0.138	3.5
GW	0.209 MIN	5.30 MIN
GX	0.378	9.60

1. DIMENSIONS SHOWN ARE MAXIMUM-MAY BE SMALLER
2. BULBS MUST BE EQUIPPED WITH A SEAL. THE BULB-SEAL ASSEMBLY MUST WITHSTAND A MINIMUM OF 69KPA. 110 P.S.I.G.: WHEN THE ASSEMBLY IS INSERTED INTO A CYLINDRICAL APERTURE OF 20.22±0.10 MM (0.796±0.004 IN).
3. SEE FIGURE 19-5
4. DIAMETERS MUST BE CONCENTRIC WITHIN 0.20 MM (0.008 IN).
5. GLASS BULB PERIPHERY MUST BE OPTICALLY DISTORTION FREE AXIALLY WITHIN THE INCLUDED ANGLES ABOUT POINT B.
6. KEY AND KEYWAY ARE OPTIONAL CONSTRUCTION. KEYWAY REQUIRED FOR AFTERMARKET ONLY.
7. MEASURED AT TERMINAL BASE. TERMINALS MUST BE PERPENDICULAR TO BASE AND PARALLEL WITHIN ±1.5°
8. DIAMETERS MUST BE CONCENTRIC WITHIN 0.20 MM (0.008 IN).
9. ABSOLUTE DIMENSION, NO TOLERANCE.

TOLERANCES UNLESS OTHERWISE SPECIFIED	
INCHES 2 PLACE DECIMALS ± .02 3 PLACE DECIMALS ± .010 ANGULAR ± 1°	MILLIMETRES 1 PLACE DECIMALS ± 0.5 2 PLACE DECIMALS ± 0.30 ANGULAR ± 1°

FIGURE 19-1

SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE



POINT B IS INTERSECTION OF PLANE B AND CENTERLINE OF UNDISTORTED GLASS TUBING

DIMENSION	INCHES	MILLIMETRES
IA	45° MIN	45° MIN
IB	52° MIN	52° MIN

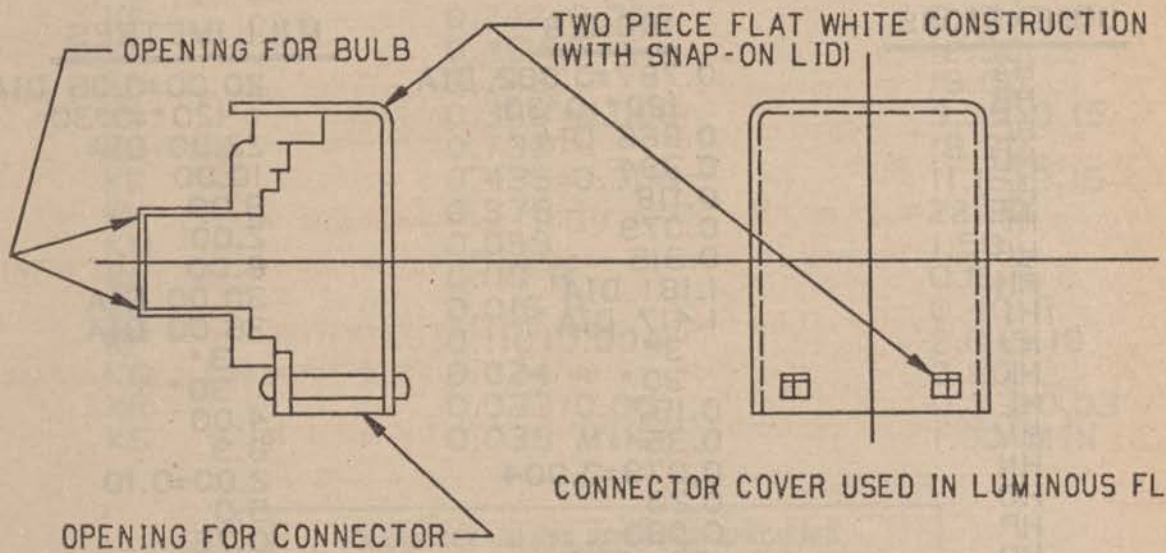
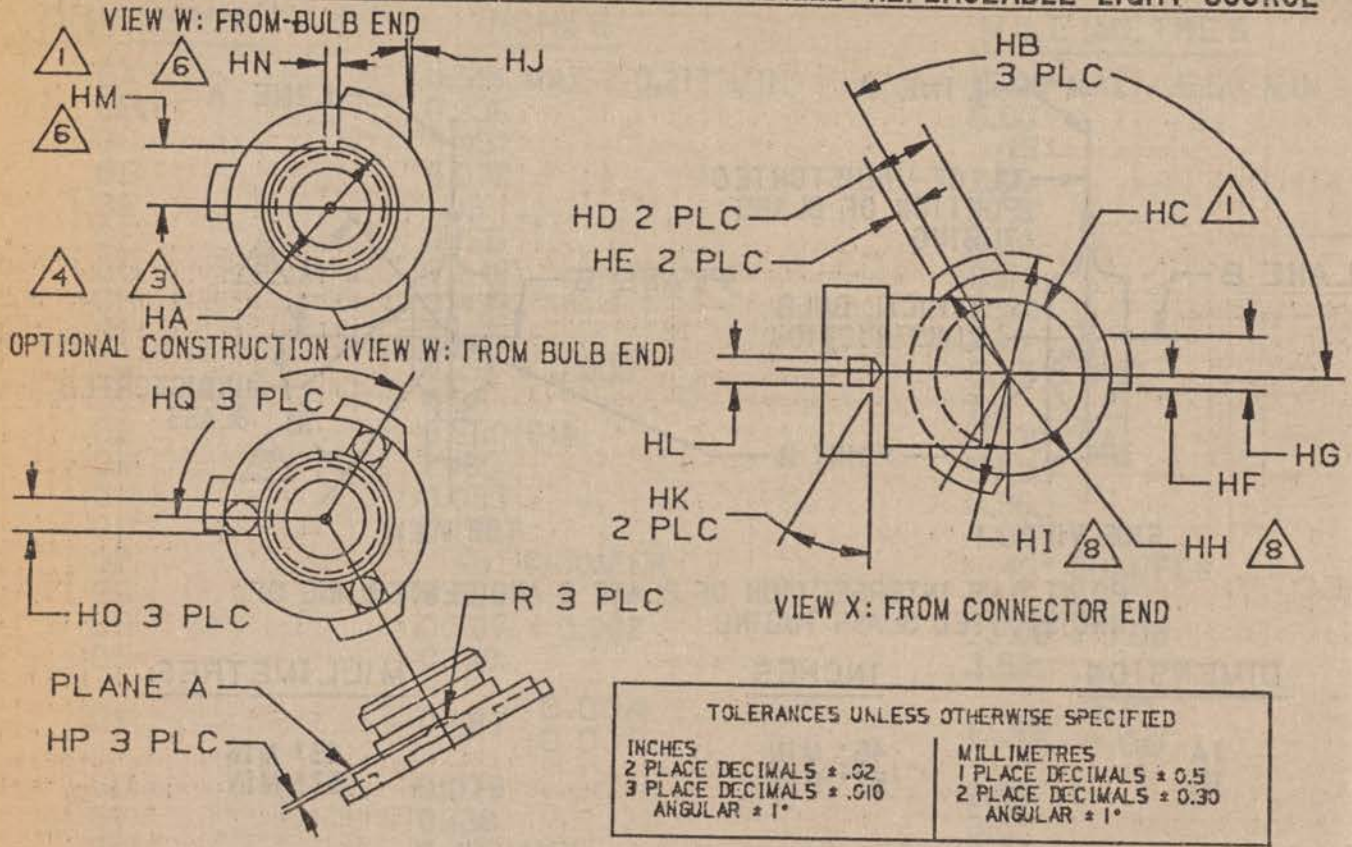


FIGURE 19-2

SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE

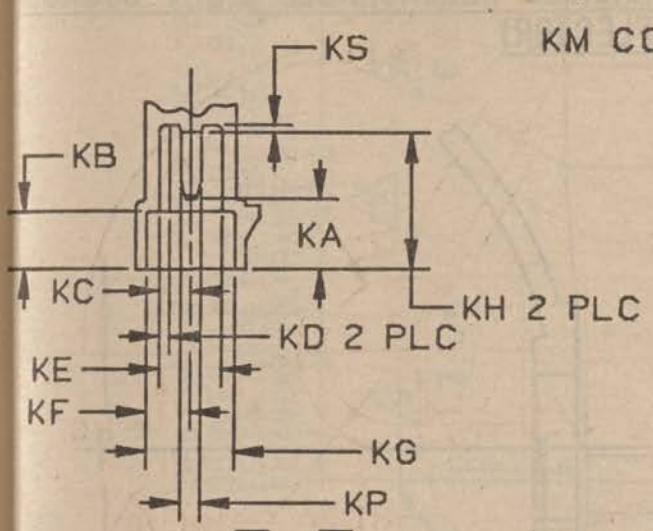


TOLERANCES UNLESS OTHERWISE SPECIFIED	
INCHES 2 PLACE DECIMALS ± .02 3 PLACE DECIMALS ± .010 ANGULAR ± 1°	MILLIMETRES 1 PLACE DECIMALS ± 0.5 2 PLACE DECIMALS ± 0.30 ANGULAR ± 1°

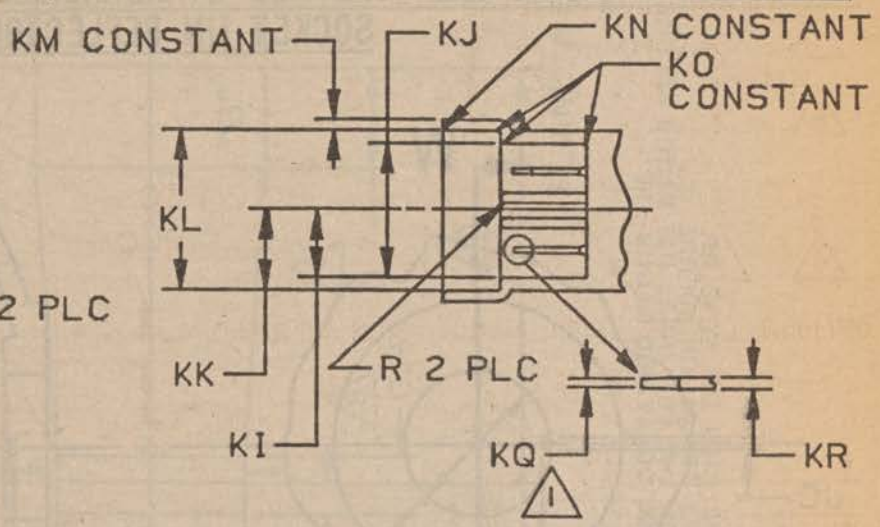
DIMENSIONS	INCHES	MILLIMETRES
HA	0.787±0.002 DIA	20.00±0.05 DIA
HB	120°±0°30	120°±0°30
HC	0.866 DIA	22.00 DIA
HD	0.394	10.00
HE	0.118	3.00
HF	0.079	2.00
HG	0.315	8.00
HH	1.181 DIA	30.00 DIA
HI	1.417 DIA	36.00 DIA
HJ	3°	3°
HK	30°	30°
HL	0.157	4.00
HM	0.35	8.9
HN	0.079±0.004	2.00±0.10
HO	0.20	5.0
HP	0.030	0.75
HQ	120° TYP	120° TYP

FIGURE 19-3

SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE



SECTION T-T (FROM FIG 19)



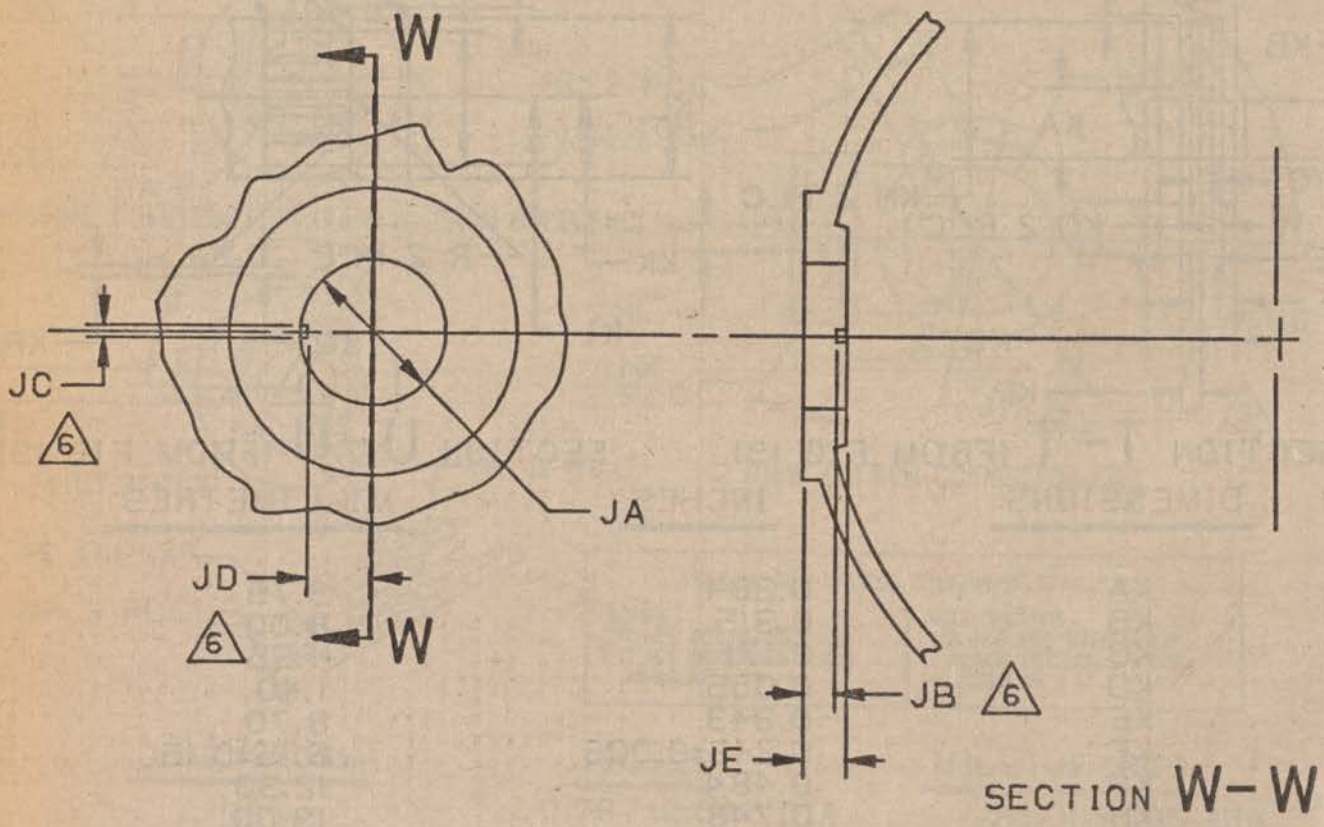
SECTION U-U (FROM FIG 19)

DIMENSIONS	INCHES	MILLIMETRES
KA	0.384	9.75
KB	0.315	8.00
KC	0.171	4.35
KD	0.055	1.40
KE	0.343	8.70
KF	0.242±0.006	6.15±0.15
KG	0.484	12.30
KH	0.748	19.00
KI	0.368±0.006	9.35±0.15
KJ	0.736	18.70
KK	0.439±0.006	11.15±0.15
KL	0.878	22.30
KM	0.059	1.50
KN	0.03 R	0.8 R
KO	0.016 R	0.40 R
KP	0.110±0.004	2.8±0.10
KQ	0.024	0.60
KR	0.033±0.001	0.83±0.03
KS	0.039 MIN	1.00 MIN

TOLERANCES UNLESS OTHERWISE SPECIFIED	
INCHES 2 PLACE DECIMALS ± .02 3 PLACE DECIMALS ± .010 ANGULAR ± 1°	MILLIMETRES 1 PLACE DECIMALS ± 0.5 2 PLACE DECIMALS ± 0.30 ANGULAR ± 1°

FIGURE 19-4

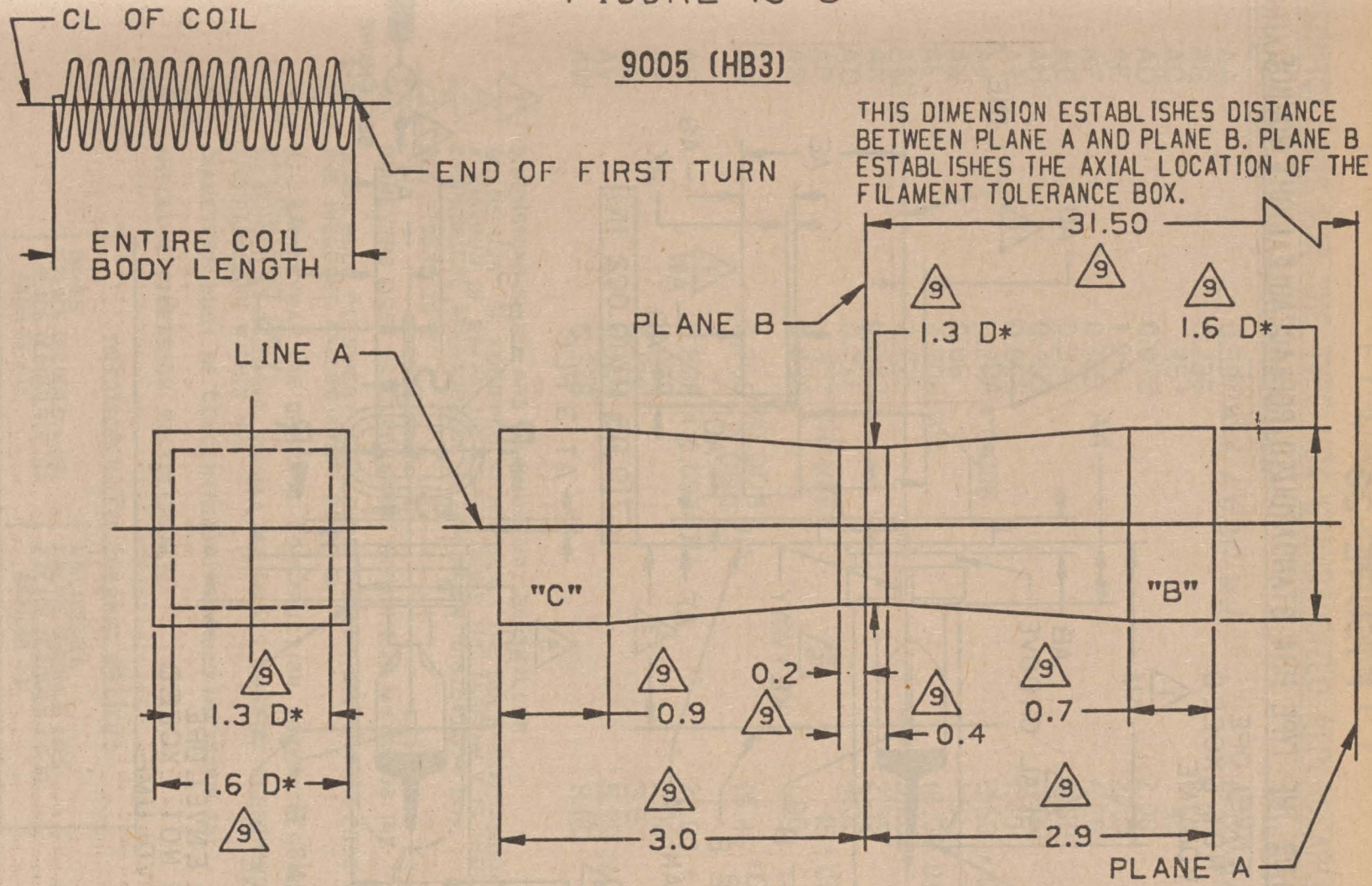
SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE SOCKET (IN REFLECTOR)



DIMENSIONS	INCHES	MILLIMETRES
JA	0.796±0.004 DIA	20.22±0.10 DIA
JB	$0.172^{+0.010}_{-0.000}$	$4.36^{+0.30}_{-0.00}$
JC	0.067±0.004	1.70±0.10
JD	$0.352^{+0.004}_{-0.000}$	$8.95^{+0.10}_{-0.00}$
JE	0.236 MIN	6.00 MIN

FIGURE 19-5

9005 (HB3)



PLANE B IS PARALLEL TO PLANE A.

THE ENTIRE COIL BODY AT DESIGN VOLTS (12.8) MUST BE CONTAINED WITHIN THE VOLUME AS SPECIFIED. THE END OF THE FIRST TURN OF THE COIL MUST LIE WITHIN VOLUME "B" AND THE END OF THE LAST TURN OF THE COIL MUST LIE WITHIN VOLUME "C". LINE A IS PERPENDICULAR TO PLANE A AND CONCENTRIC WITH THE 17.46 MM DIAMETER OF THE BASE.

* D = DIAMETER OF FILAMENT COIL

DIMENSIONS SHOWN ARE IN MILLIMETRES

FIGURE 20

SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE

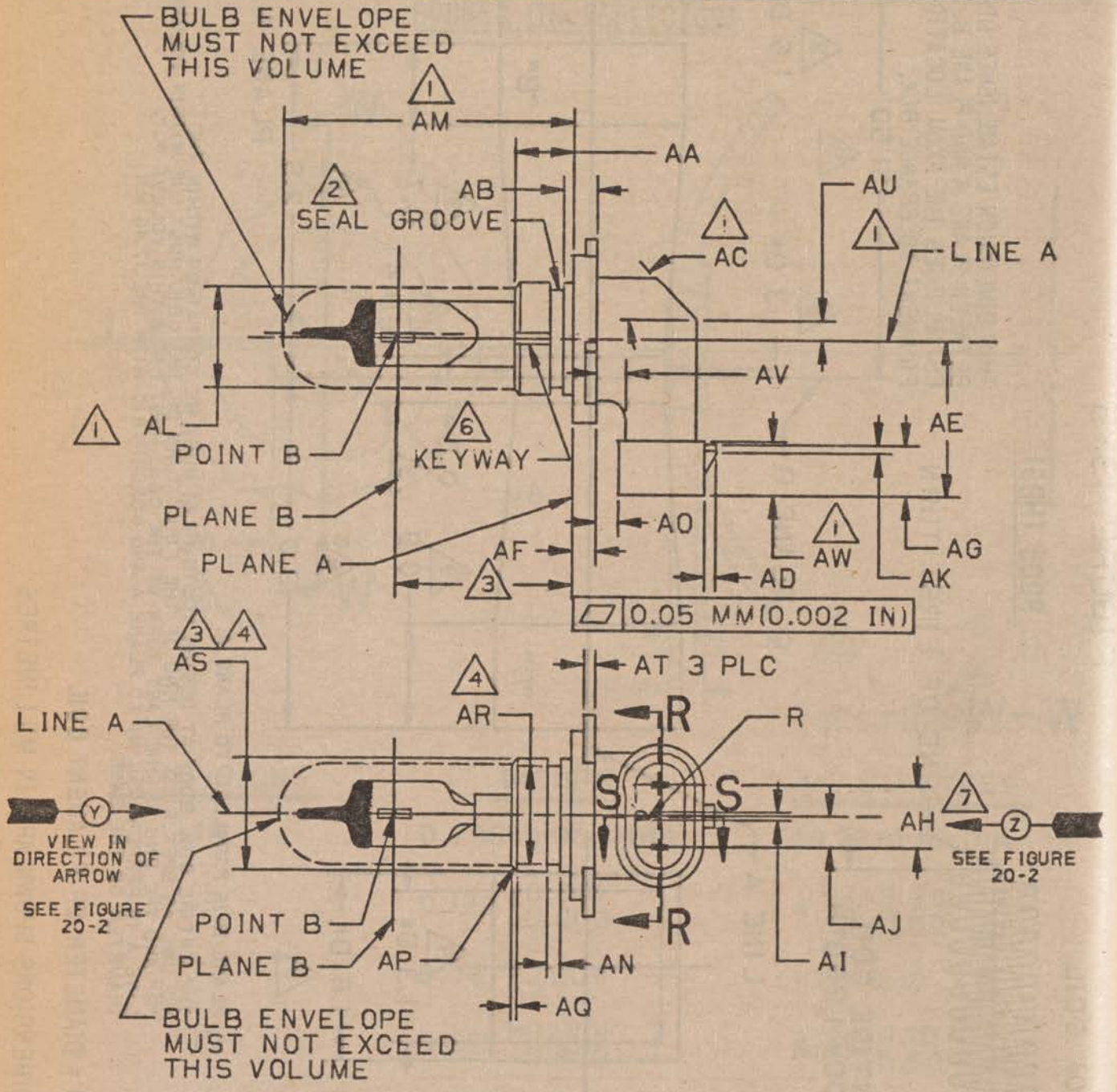


FIGURE 20 (CONT.)

SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE

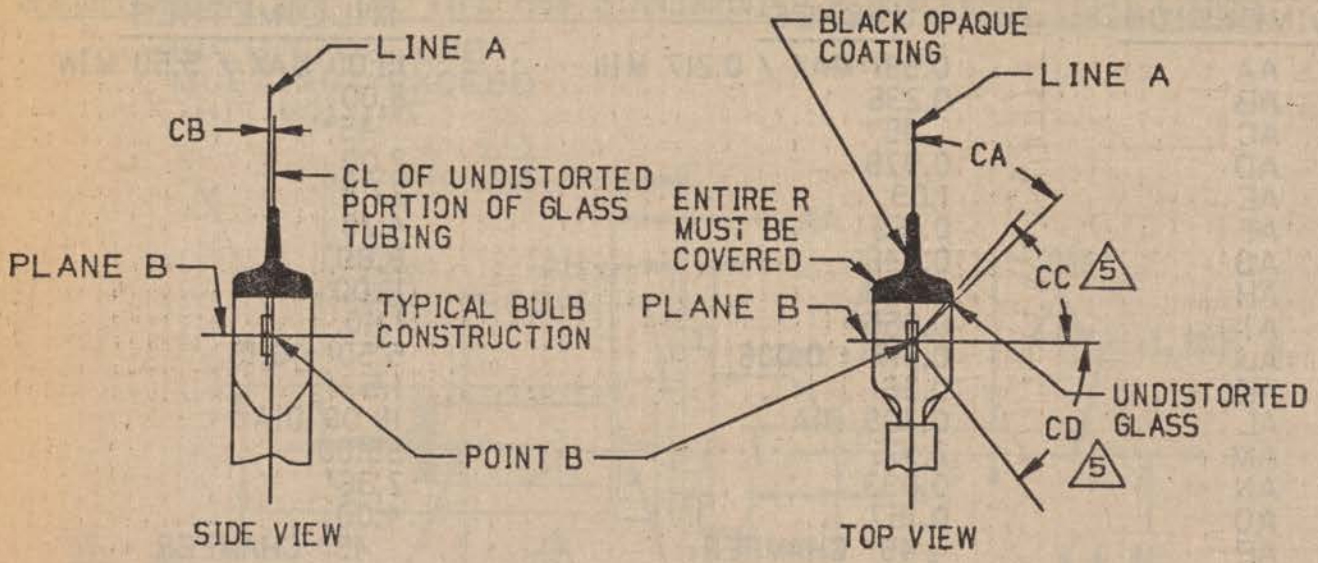
DIMENSION	INCHES	MILLIMETRES
AA	0.591 MAX / 0.217 MIN	15.00 MAX / 5.50 MIN
AB	0.236	6.00
AC	45°	45°
AD	0.079	2.00
AE	1.09	27.8
AF	0.165	4.20
AG	0.346	8.80
AH	0.433	11.00
AI	0.055	1.40
AJ	0.217 ± 0.006	5.50 ± 0.15
AK	0.06	1.5
AL	0.708 DIA	18.00 DIA
AM	2.165	55.00
AN	0.093	2.36
AO	0.157	4.00
AP	45° CHAMFER	45° CHAMFER
AQ	0.039	1.00
AR	$0.766\ ^{+0.004}_{-0.000}$ DIA	$19.46\ ^{+0.10}_{-0.00}$ DIA
AS	0.866 ± 0.002 DIA	22.00 ± 0.05 DIA
AT	0.079	2.00
AU	0.138	3.5
AV	0.209 MIN	5.30 MIN
AW	0.378	9.60

1. DIMENSIONS SHOWN ARE MAXIMUM-MAY BE SMALLER
2. BULBS MUST BE EQUIPPED WITH A SEAL. THE BULB-SEAL ASSEMBLY MUST WITHSTAND A MINIMUM OF 69KPA. 110 P.S.I.G.: WHEN THE ASSEMBLY IS INSERTED INTO A CYLINDRICAL APERTURE OF 22.22±0.10 MM (0.875±0.004 IN).
3. SEE FIGURE 20-5
4. DIAMETERS MUST BE CONCENTRIC WITHIN 0.20 MM (0.008 IN).
5. GLASS BULB PERIPHERY MUST BE OPTICALLY DISTORTION FREE AXIALLY WITHIN THE INCLUDED ANGLES ABOUT POINT B.
6. KEY AND KEYWAY ARE OPTIONAL CONSTRUCTION. KEYWAY REQUIRED FOR AFTERMARKET ONLY.
7. MEASURED AT TERMINAL BASE. TERMINALS MUST BE PERPENDICULAR TO BASE AND PARALLEL WITHIN ±1.5°
8. DIAMETERS MUST BE CONCENTRIC WITHIN 0.20 MM (0.008 IN).
9. ABSOLUTE DIMENSION, NO TOLERANCE.

TOLERANCES UNLESS OTHERWISE SPECIFIED	
INCHES	MILLIMETRES
2 PLACE DECIMALS ± .02	1 PLACE DECIMALS ± 0.5
3 PLACE DECIMALS ± .010	2 PLACE DECIMALS ± 0.30
ANGULAR ± 1°	ANGULAR ± 1°

FIGURE 20-1

SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE



POINT B IS INTERSECTION OF PLANE B AND CENTERLINE OF UNDISTORTED GLASS TUBING

DIMENSION	INCHES	MILLIMETRES
CA	45°±5°	45°±5°
CB	0.030±0.020	0.75±0.50
CC	50° MIN	50° MIN
CD	52° MIN	52° MIN

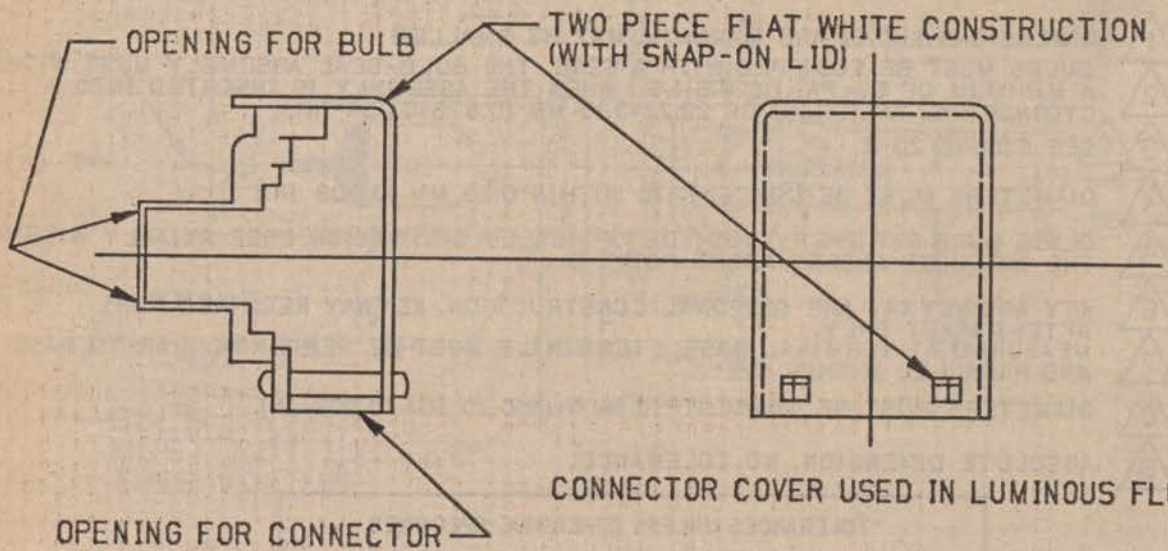
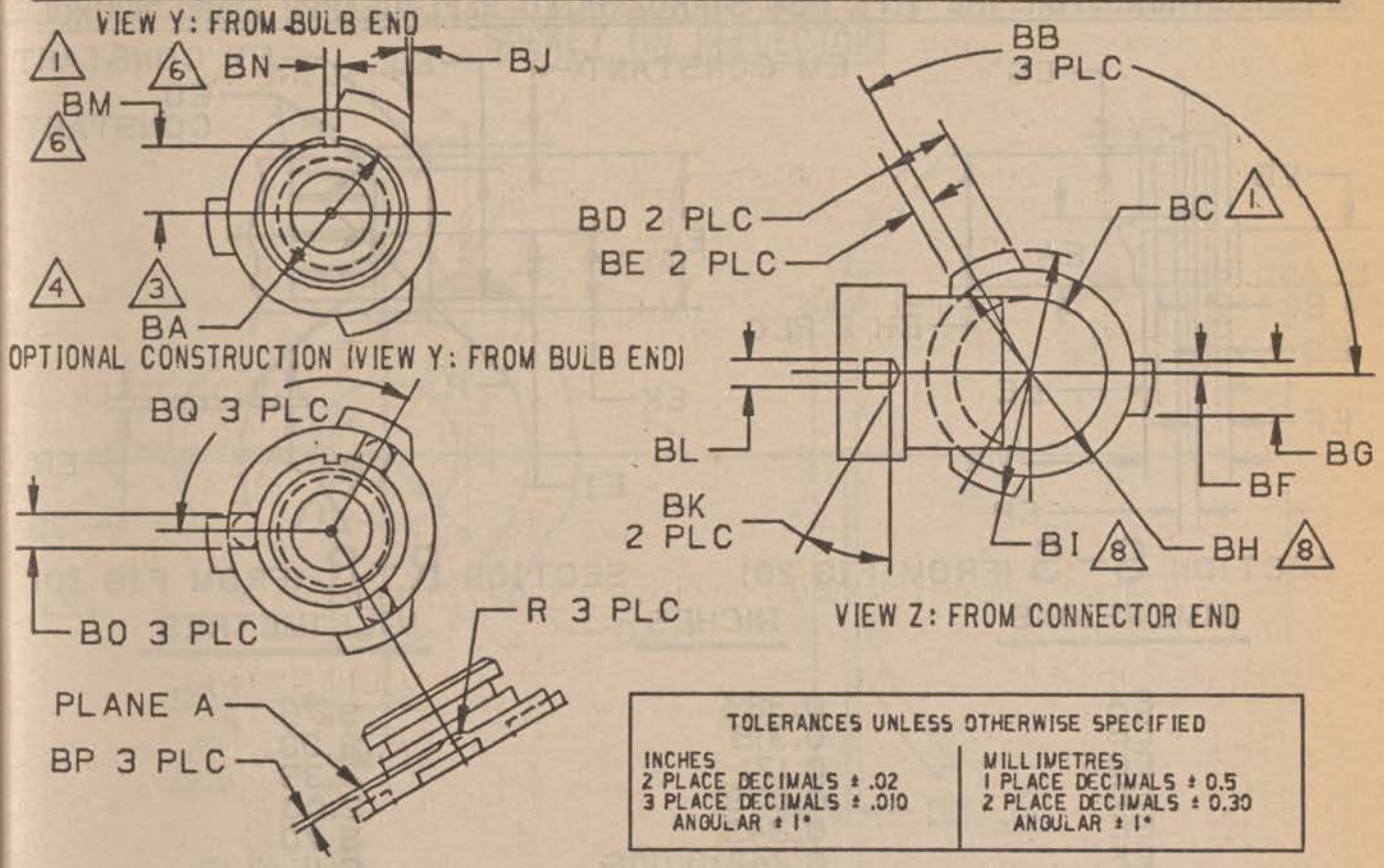


FIGURE 20-2

SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE

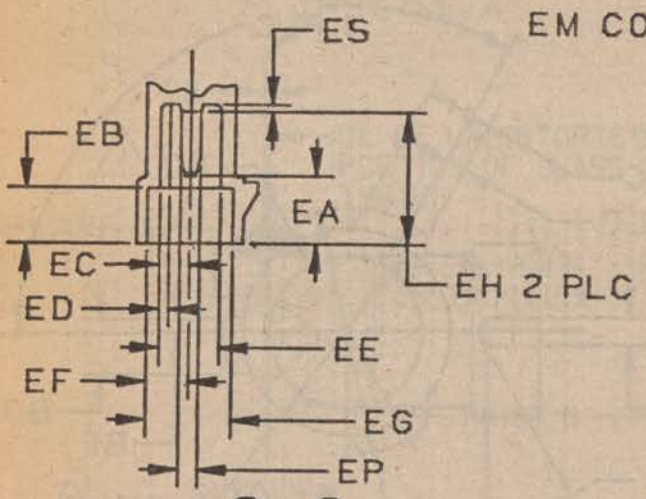


TOLERANCES UNLESS OTHERWISE SPECIFIED	
INCHES	MILLIMETRES
2 PLACE DECIMALS ± .02	1 PLACE DECIMALS ± 0.5
3 PLACE DECIMALS ± .010	2 PLACE DECIMALS ± 0.30
ANGULAR ± 1°	ANGULAR ± 1°

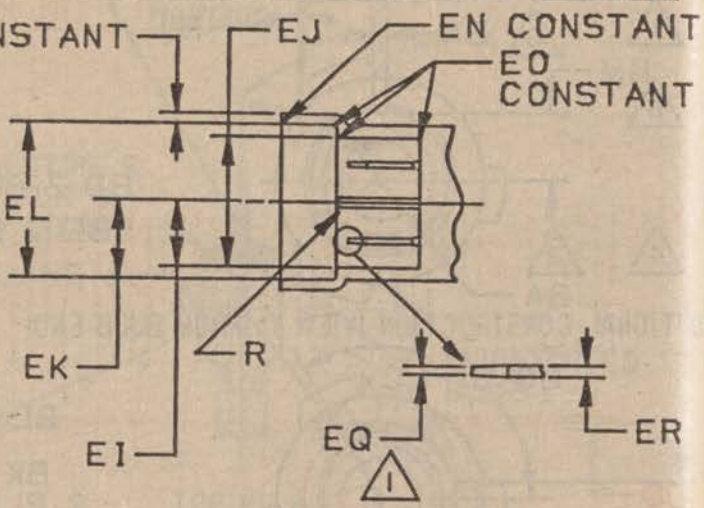
DIMENSIONS	INCHES	MILLIMETRES
BA	0.866±0.002 DIA	22.00±0.05 DIA
BB	120°±0°30	120°±0°30
BC	0.866 DIA	22.00 DIA
BD	0.394	10.00
BE	0.118	3.00
BF	0.079	2.00
BG	0.315	8.00
BH	1.181 DIA	30.00 DIA
BI	1.417 DIA	36.00 DIA
BJ	3°	3°
BK	30°	30°
BL	0.157	4.00
BM	0.39	9.9
BN	0.079±0.004	2.00±0.10
BO	0.20	5.0
BP	0.030	0.75
BQ	120° TYP	120° TYP

FIGURE 20-3

SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE



SECTION S-S (FROM FIG 20)



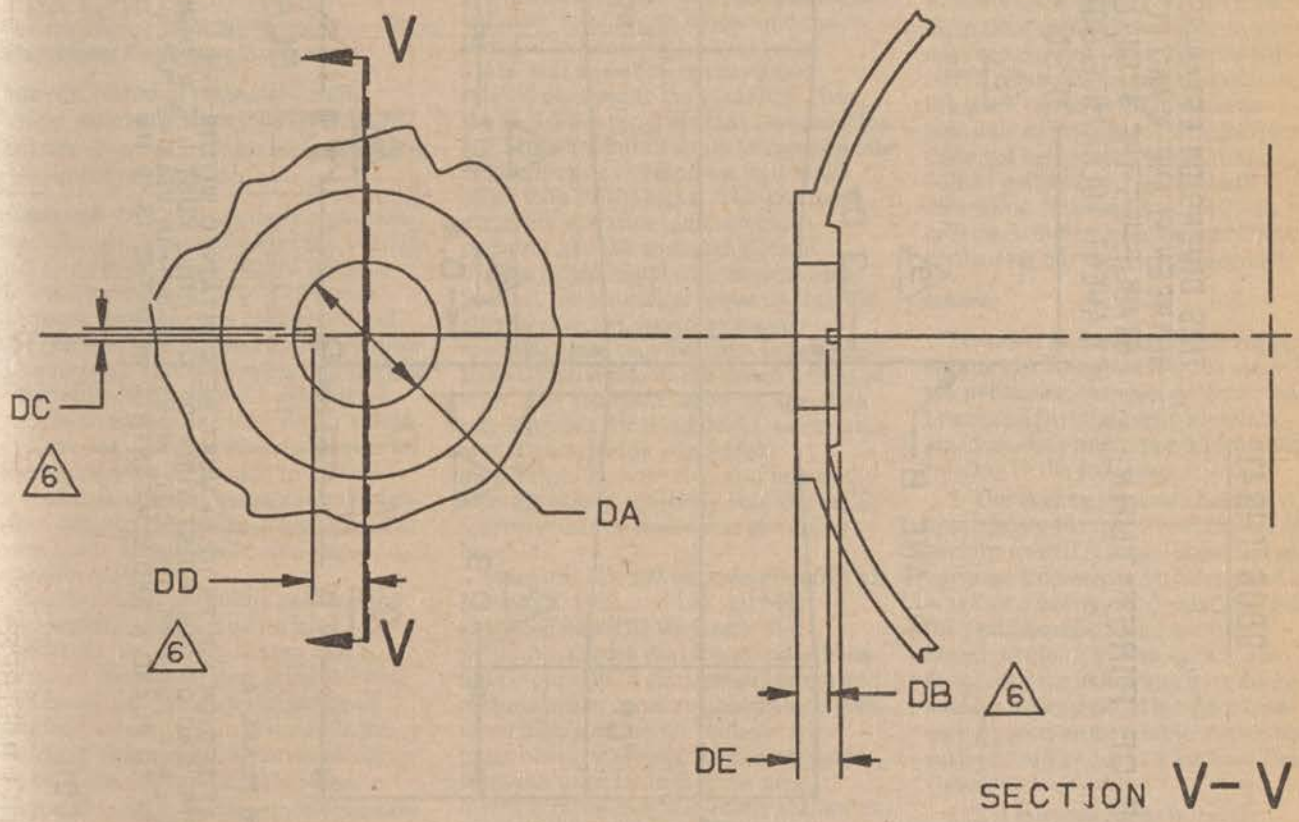
SECTION R-R (FROM FIG 20)

DIMENSIONS	INCHES	MILLIMETRES
EA	0.384	9.75
EB	0.315	8.00
EC	0.171	4.35
ED	0.079	2.00
EE	0.343	8.70
EF	0.242±0.006	6.15±0.15
EG	0.484	12.30
EH	0.748	19.00
EI	0.368±0.006	9.35±0.15
EJ	0.736	18.70
EK	0.439±0.006	11.15±0.15
EL	0.878	22.30
EM	0.059	1.50
EN	0.03 R	0.8 R
EO	0.016 R	0.40 R
EP	0.110±0.004	2.8±0.10
EQ	0.024	0.60
ER	0.033±0.001	0.83±0.03
ES	0.039 MIN	1.00 MIN

TOLERANCES UNLESS OTHERWISE SPECIFIED	
INCHES 2 PLACE DECIMALS ± .02 3 PLACE DECIMALS ± .010 ANGULAR ± 1°	MILLIMETRES 1 PLACE DECIMALS ± 0.5 2 PLACE DECIMALS ± 0.30 ANGULAR ± 1°

FIGURE 20-4

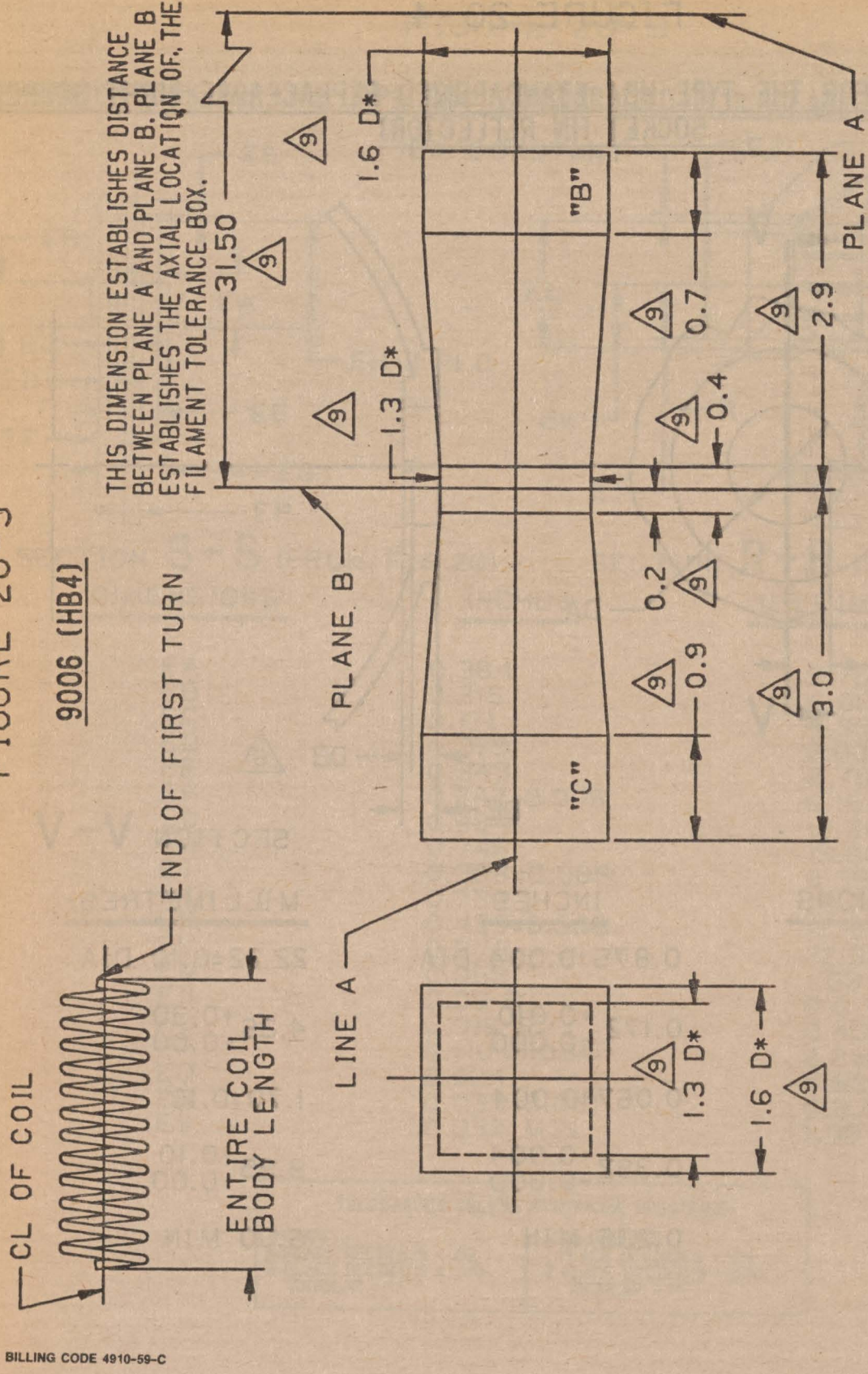
SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE SOCKET (IN REFLECTOR)



DIMENSIONS	INCHES	MILLIMETRES
DA	0.875±0.004 DIA	22.22±0.10 DIA
DB	$0.172^{+0.010}_{-0.000}$	$4.36^{+0.30}_{-0.00}$
DC	0.067±0.004	1.70±0.10
DD	$0.392^{+0.004}_{-0.000}$	$9.95^{+0.10}_{-0.00}$
DE	0.236 MIN	6.00 MIN

FIGURE 20-5

9006 (HB4)



PLANE B IS PARALLEL TO PLANE A.

THE ENTIRE COIL BODY AT DESIGN VOLTS (12.8) MUST BE CONTAINED WITHIN THE VOLUME AS SPECIFIED. THE END OF THE FIRST TURN OF THE COIL MUST LIE WITHIN VOLUME "B" AND THE END OF THE LAST TURN OF THE COIL MUST LIE WITHIN VOLUME "C". LINE A IS PERPENDICULAR TO PLANE A AND CONCENTRIC WITH THE 19.46 MM DIAMETER OF THE BASE.

*D = DIAMETER OF FILAMENT COIL

DIMENSIONS SHOWN ARE IN MILLIMETRES

BILLING CODE 4910-59-C

Issued on December 31, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-177 Filed 1-2-86; 2:17 pm]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 85-18; Notice 01]

Federal Motor Vehicle Safety Standards; Reflecting Surfaces

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

ACTION: Grant of petition for rulemaking; request for comments.

SUMMARY: This notice grants a petition for rulemaking submitted by Ms. Patricia Hill to amend Federal Motor Vehicle Safety Standard No. 107, *Reflecting Surfaces*, and requests comments and data on the issues raised by the petition. Standard 107 specifies reflecting surface requirements for certain bright metal vehicle components in the driver's field of view. Ms. Hill's petition requests that the standard be expanded to include specular gloss requirements for all high-gloss components in the driver's field of view made from metallic and non-metallic materials.

Neither the grant of this petition nor the issuance of this request for comments necessarily means that a notice of proposed rulemaking (NPRM) will be issued. The determination of whether to issue a rule is made in the course of the rulemaking proceeding, in accordance with statutory criteria.

DATES: Comment closing date: February 21, 1986.

ADDRESS: Comments 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, DC 20590. (Docket Room hours 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Cavey, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 426-2153.

SUPPLEMENTARY INFORMATION: A petition for rulemaking has been submitted by Ms. Patricia Hill to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 107, *Reflecting Surfaces*. FMVSS No. 107 specifies reflecting surface requirements for certain bright metal vehicle components in the driver's field of view. Under paragraph S4, the specular gloss of the surface of the materials used in those components must not exceed a specified value. "Specular gloss" refers to the amount of light reflected from a test specimen. The purpose of the standard is to reduce the likelihood that unacceptable glare from reflecting surfaces in the driver's field of view will hinder the safe and normal operation of the motor vehicle. The standard applies to motor vehicles, i.e., passenger cars, multipurpose passenger vehicles, trucks, and buses, and not to items of motor vehicle equipment.

Ms. Hill's petition requests two related changes to the standard. First, the petitioner requests that Standard No. 107 be expanded to apply to components made from, or covered by, materials other than bright metal. The standard currently specifies requirements pertaining to the specular gloss of certain bright metal components only. Second, the petitioner requests that the standard be expanded to specify specular gloss requirements for all high-gloss components in the driver's field of view. The standard currently specifies requirements for windshield wiper arms and blades, inside windshield mouldings, the horn ring and hub of the steering wheel assembly, and the inside rearview mirror frame and mounting bracket.

Standard No. 107 became effective on January 1, 1968, and has not been amended since its issuance. The petitioner argues that the standard has not responded to changes in design and materials that have occurred since 1968, since highly reflective metallic trim parts have, according to the petitioner, been replaced by high-gloss non-metallic components in many instances. Further, the petitioner states that, "Highly reflective components within the driver's field of view but not presently within the requirements of the standard are now commonplace, apparently because they were not anticipated when the standard was first written." The petitioner lists components such as the ignition switch trim, steering wheel rim, seat belt connector, and the steering wheel hub cover, as examples of highly reflective components within the driver's field of view that are present on today's vehicles but not covered by the requirements of FMVSS No. 107. The petitioner reports samples of steering wheel hub covers to have a specular gloss as high as 74 units. The standard requires covered components to have a specular gloss not exceeding 40 units.

The agency has determined that the petitioner's arguments concerning unacceptable glare from unregulated sources deserve further consideration. Therefore, the agency has granted the petition and requests comments and data on the issues raised by the petition. In an effort to maintain FMVSS No. 107 as a safety standard addressing all pertinent developments in the reflective surfaces area, the agency is interested in investigating issues relating to the effect that unacceptable glare from unregulated sources has on safe vehicle operation. As more information becomes available, the agency will be able to determine what appropriate measures, if any, are needed to address the situation. NHTSA would like to emphasize that the grant of the petition and the issuance of this request for comments does not necessarily mean that an NPRM will follow. NHTSA will determine, in accordance with statutory criteria, whether to issue an NPRM after evaluating the comments received.

Issues

To assist in evaluating the suggested changes to Standard No. 107 made by the petitioner, the agency is particularly interested in obtaining comments, accident data and other information relating to the following issues.

1. The agency does not believe it is appropriate to regulate an aspect of performance if it is no longer necessary to do so. Comments are requested on whether a safety need exists to retain the performance requirements of Standard No. 107. The agency also requests data indicating how many accidents are caused by glare from metallic and non-metallic automotive surfaces in the driver's forward field of view.

2. If it is appropriate to retain Standard No. 107, comments are requested on whether the specular gloss requirement should be expanded to apply to additional components in the driver's field of view and to items of replacement equipment. (Standard No. 107 currently specifies requirements for windshield wiper arms and blades, inside windshield mouldings, the horn ring and hub of the steering wheel assembly, and the inside rearview mirror frame and mounting bracket.) Also, should the scope of the standard be expanded to include requirements for non-metallic components? What would be the possible effects of such a revision on the weight, material composition and design of those components?

Commenters should specify which additional components they recommend should be regulated by the standard. NHTSA requests information on the costs associated with extending the standard to additional components within new vehicles and to items of replacement equipment.

3. The test procedure in Standard No. 107 currently incorporates by reference the specular gloss test method of the American Society for Testing and Materials (ASTM) Standard D523–62T, June 1962. The agency is considering updating the ASTM standard to the 1980 revision of D523–62T. The 1980 revised standard requires each test sample to be 3 inches by 6 inches in area. The ASTM D523–62T standard currently referenced in FMVSS No. 107 does not specify the size of the test sample. NHTSA is soliciting comments on whether the agency should propose adopting the 1980 revision in its entirety, or delete the ASTM standard's requirement for a minimum size for the test sample. The agency also requests comments on alternative methods of measuring specular gloss.

4. The agency requests comments on a possible revision to Standard No. 107 that would add a certification and marking requirement for manufacturers of covered components. If such an action were taken, those manufacturers would certify that their products conform to the specular gloss requirements by marking the components with the "DOT" symbol. This change would expand the applicability of the standard to motor vehicle replacement equipment.

Submission of Comments

Interested persons are invited to submit comments and data on the issues raised by this notice. 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. 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.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on December 30, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86–271 Filed 1–6–86; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

Atlantic Mackerel, Squid, and Butterfish

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

ACTION: Notice of availability of a Secretarial Amendment to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries.

SUMMARY: NOAA issues this notice that the Secretary of Commerce has submitted to the Mid-Atlantic Fishery Management Council (Council) a Secretarial Amendment to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) and is requesting comments from the public. The Secretarial Amendment would extend the FMP which is currently effective until March 31, 1986, for an additional year ending March 31, 1987, or until an approved Council's Amendment 2 to the FMP replaces this Secretarial Amendment, whichever is earlier. The intent of the Secretarial Amendment is to assure continuity in the management of fisheries under the FMP.

DATE: Comments on the Secretarial Amendment should be submitted by March 14, 1986.

ADDRESS: Send comments to Salvatore A. Testaverde, Plan Coordinator for Atlantic Mackerel, Squid, and Butterfish, NMFS Northeast Region, 2 State Fish Pier, Gloucester, MA 01930. Mark the outside of the envelope "comments on MAC/SQU/BUA Secretarial Amendment". Copies of the Secretarial Amendment are available from Mr. Testaverde.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617–281–3600, extension 273.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.)* requires that the Secretary of Commerce prepare a fishery management plan or amendment, in accordance with the national standards and any other applicable law, if the appropriate council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery. Since the current FMP remains effective until March 31, 1986, a continuation of management measures prescribed by the FMP is necessary for regulating harvest of these species while preparation and review of Amendment 2 is underway.

No new regulations are proposed by the Secretary to implement this Amendment. The regulations for the FMP are described in 50 CFR Part 655 and at 48 FR 14554 (April 4, 1983), 48 FR 44834 (September 30, 1983), 48 FR 45403 (October 5, 1983), 48 FR 49077 (October 24, 1983), 49 FR 403 (January 4, 1984) and 49 FR 9571 (March 14, 1984).

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

Dated: December 31, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–242 Filed 1–6–86; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 4
Tuesday, January 7, 1986

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

Intent To Award a Cooperative Agreement; Iowa State University

AGENCY: Office of International Cooperation and Development, USDA.
ACTION: Notice.

Activity

Cooperative Agreement to work cooperatively with Iowa State University to carry out research in food and nutrition economics in low income countries with particular emphasis on the Caribbean.

Authority

Section 1458 of the National Agricultural Research Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291).

The Office of International Cooperation and Development announces the availability of funds beginning February 1986 for a cooperative agreement with Iowa State University in Ames, Iowa. The purpose of this relationship is to collaborate in the development of analytical and evaluative methodologies in food and nutrition economics for application in developing countries. This cooperative agreement will specifically focus on the following activities: (1) Process the data tapes made available by the Haitian Institute of Statistics for the 1986 Household Expenditure and Consumption Survey, (2) Analyze policy issues relevant to major food issues in Haiti and (3) Make initial preparations to compare and contrast the methods of analysis and the results of the analysis with similar work going on in Jamaica. This is a joint research activity which is meant to build on a similar activity in Jamaica being conducted jointly by Iowa State University and the University of Missouri—Columbia so that some generalizations can be made about food consumption patterns in the Caribbean. Iowa State University has been conducting research on consumption patterns in the United States, Canada and Jamaica and has a particular expertise in analyzing consumption issues and processing large data sets. In addition, because of their work in Jamaica they are uniquely qualified to process the data and analyze these issues in another Caribbean country, Haiti.

Based on the above, this is not a formal request for application. It is estimated that approximately $100,000 will be available in Fiscal Year 1986 to support this work. Yearly amounts will vary and are subject to change. It is anticipated that the cooperative agreement will be funded over a budget period of two years.

Information may be obtained from: Shirley Pryor, Nutrition Economics Group, Office of International Cooperation and Development, U.S. Department of Agriculture, (58–319R–6–014).

Dated: January 2, 1986.

Charles A. Rooney,

Acting Chief, Management Services Division.

[FR Doc. 86–289 Filed 1–6–85; 8:45 am]

BILLING CODE 3410–DP–M

Intent to Award a Cooperative Agreement; Purdue University

AGENCY: Office of International Cooperation and Development. USDA
ACTION: Notice of Intent to Award a Cooperative Agreement.

Activity

The Office of International Cooperation and Development (OICD) intends to award a cooperative agreement to Purdue University to carry out research and technical services in food and nutrition economics in low income countries.

Authority

Section 1458 of The National Agricultural Research Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291).

The Office of International Cooperation and Development (OICD) announces the availablity of funds for fiscal year 1986 to enter a cooperative agreement with Purdue University in West Lafayettee, Indiana, to carry out research and technical services relating to food and nutrition economics in low income countries. Cooperative activities will focus on the following: (1) Design of a questionnaire, (2) Assistance in training enumerators, (3) Analysis of policy issues relevant to major food issues in Liberia. This is a joint research activity which is being developed as part of a set of activities in Africa to analyze the consumption of staples in a rapid fashion. Purdue University is uniquely qualified to conduct the activity because of its' extensive interest and involvement in the field of food and nutrition economics and because it can participate with the agency during the required period (start-up in February 1986). Moreover, it is the objective of OICD to increase the institutional capacity of U.S. educational institutions; the University and OICD have mutually agreed that this project will facilitate institutional development of the University and enable it to participate more fully in areas related to economic development. The start-up period is critical because the Government of Liberia has the capability to conduct the survey only in February 1986.

Based on the above, this is not a formal request for application. It is estimated that approximately $70,000 will be available in Fiscal Year 1986 to support this work. It is anticipated that the cooperative agreement will be funded over a budget period of one year.

Information may be obtained from: Shirley Pryor, Nutrition Economics Group, Office of International Cooperation and Development, U.S. Department of Agriculture, (58–319R–6–013.

Dated: January 2, 1986.

Charle A. Rooney,

Acting Chief, Mangement Services Division.

[FR Doc. 86–290 Filed 1–6–86; 8:45 am]

BILLING CODE 3410–DP–M

COMMISSION ON CIVIL RIGHTS

Colorado Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Colorado Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 3:00 p.m., on February 3, 1986, at the SBA,

Executive Tower Building, 1405 Curtis Street, 22nd Floor, Denver, Colorado. The purpose of the meeting is to review information received on problems in Hispanic education and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Maxine Kurtz, or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844–2211, (TDD 303/844–3031). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 2, 1986.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 86–294 Filed 1–6–86; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.
Title: Application for an Atlantic Swordfish Permit.
Form Number: Agency—N/A; OMB—0648–0149.
Type of request: Extension of the expiration date.
Burden: 1,000 respondents; 200 reporting hours.
Needs and uses: This collection will be used to identify the universe of Swordfish fishermen and their general fishing strategies. The information will be used to monitor and manage the fishery.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations.
Frequency: Annually.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Sheri Fox, 395–3785.

Agency: International Trade Administration.
Title: Reports of Requests for Restrictive Trade Practice or Boycott.
Form Number: Agency—ITA–621P, 6051P, 6051P–a; OMB—0625–0036
Type of request: Extension of the expiration date.
Burden: 1,700 respondents; 35,250 reporting/recordkeeping hours.
Needs and uses: Information is used to monitor requests for participation in foreign boycotts against countries friendly to the U.S. which are received by U.S. persons. Information is used to determine trends in boycott activity and to assist in carrying out U.S. policy of opposition to such boycotts.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations.
Frequency: On occasion, quarterly.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Sheri Fox, 395–3785.

Agency: National Oceanic and Atmospheric Administration.
Title: Fishermen's Guaranty Fund.
Form Number: Agency—NOAA 88–25 and 88–25A; OMB—0648–0095.
Type of Request: Extension of the expiration date.
Burden: 250 respondents; 1,000 reporting hours.
Needs and Uses: Information gathered is used to create agreements with fishermen for protection under the Fishermen's Guaranty Fund and to review claims made for compensation from the fund.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations.
Frequency: On occasion.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Sheri Fox, 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: December 31, 1985.

Linda Engelmeier,

Management Analyst, Information Management Division, Office of Information Resources Management.

[FR Doc. 86–238 Filed 1–6–86; 8:45 am]

BILLING CODE 3510–CW–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1986 Test Census of East Central Mississippi and Los Angeles County—Special Place Operation
Form number: Agency—DC–20, DC–21; OMB—NA
Type of request: New Collection
Burden: Hours cleared under 0607–0491
Needs and uses: These test Census programs will be used to enumerate people residing in group quarters housing. The tests will be conducted in conjunction with the regular phase of data collection.
Affected Public: Individuals or households
Frequency: One time
Respondent's obligation: Mandatory
OMB Desk Officer: Timothy Sprehe, 395–4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: December 31, 1985.

Edward Michals,

Department Clearance Officer.

[FR Doc. 86–273 Filed 1–6–86; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

[A–122–506]

Oil Country Tubular Goods From Canada: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that oil country tubular goods (OCTG) from Canada are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination.

We are directing the U.S. Customs Service to suspend the liquidation of all entries of oil country tubular goods from Canada that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. Also, we preliminarily determine that critical circumstances do not exist with respect to OCTG from Canada.

EFFECTIVE DATE: January 7, 1986.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Steven S. Lim or Authur J. Simonetti, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–5288, (202) 377–1776 or 377–4929.

Preliminary Determination

We have determined that OCTG from Canada are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). We made fair value comparisons on approximately 83 percent of the sales of the class or kind of merchandise to the the United States during the period of investigation. Comparisons were based on the United States price and foreign market value. The company-specific margins are: Algoma Steel Corp., Ltd. (Algoma), 8.85 percent; Ipsco, Inc (Ipsco), 40.88 percent; Sonco Steel Tube, Ltd. (Sonco), 0.82 percent; and Welded Tube of Canada, Ltd. (Welded Tube), 2.85 percent.

Case History

On July 22, 1985, we received a petition from the Lone Star Steel Company (Lone Star) and CF&I Steel Corporation (CF&I) on behalf of the domestic OCTG industry. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of OCTG from Canada 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 Act, and that these imports are materially injuring, or are threatening material injury to, a United States industry. The petition also alleged that sales of the subject merchandise were being made at less than the cost of production and that critical circumstances exist. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on August 19, 1985 (50 FR 33387). On August 17, 1985, the ITC determined that there is reasonable indication that imports of OCTG from Canada are materially injuring a U.S. Industry (50 FR 16173).

We presented an antidumping duty questionnaire to counsel for Ipsco and to counsel for Algoma, Sonco, and Welded Tube, Canadian producers and exporters of the products under investigation, on September 5, 1985.

Scope of Investigation

The products under investigation are "oil country tubular goods" which are hollow steel products of circular cross section intended for use in the drilling for oil or gas. These products include oil well casing, tubing and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API specifications (such as proprietary) as currently provided for in the Tariff Schedules of the United States Annotated items 610.3216, 610.3219, 610.3233, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244. This investigation includes OCTG that are finished and unfinished.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

Where the merchandise was sold to unrelated U.S. purchasers prior to its importation into the United States, we used the purchase price of the subject merchandise, as provided in section 772(b) of the Act, to represent the United States price. We calculated the purchase price based on the delivered, packed, duty paid price to unrelated United State purchasers. We deducted brokerage charges, U.S. duty and inland freight.

We used exporter's sale price (ESP) as the United States price where the merchandise was sold after importation, as provided for in section 772(c) of the Act. We deducted brokerage charges, U.S. duty, inland freight, U.S. processing expenses, credit, warranty, and other selling expenses, where appropriate. With respect to Algoma, we made additions for import duties, paid by Canadian producers on imports of raw materials, which were rebated or not collected by reason of the exportation of the merchandise to the United States, pursuant to section 772(d)(1)(B) of the Act.

Foreign Market Value

The petitioners alleged that sales in the home market were at prices below the cost of production. We examined costs of production which included all appropriate costs for materials, fabrication and general expenses.

In accordance with seciton 773(a)(1)(A) of the Act, where we found sufficient sales above the cost of production in the home market, we used home market prices to determine foreign market value. Where there were insufficient sales of such or similar merchandise in the home market, or where there were insufficient sales above the cost of production, we used constructed value as the basis for comparision.

Where foreign market vlaue was based on home market prices, we made comparisions of such or similar merchandise based on type, grade, dimension and end finish as selected by Commerce Department industry experts. Where foreign market value was based on constructed value, we used appropriate production costs for the period under investigation as the basis for the constructed value for each product group.

We calculated the home market prices for each product on the basis of delivered prices to unrelated purchasers. From these prices, we deducted foreign inland freight. We made adjustments, where appropriate, for differences in circumstances of sale related to commisisons, warranties and credit expenses pursuant to § 353.15 of our regulations. We also made adjustments for differences in the physical characteristics of the merchandise pursuant to § 353.16 of our regulations.

In addition, when comparing exporter's sales price to the home market price, we deducted indirect selling expenses from the home market price but limited the deduction to the amount of the U.S. indirect selling expenses in accordance with § 353.15 of our regulations. We also made adjustments, where appropriate, for quantity discounts in accordance with § 353.14 of our regulations, and we made adjustments, where appropriate, for differences in packing costs.

We calculated the constructed value by totaling the costs of materials used in producing such or similar merchandise, fabrication, general expenses, profit, and packing costs for shipments to the U.S. Where the amount for general expenses was less than ten percent of the cost of materials and fabrication, we adjusted it to the statutory minimum of ten percent. Where the amount for profit was less then eight percent of the sum of the costs of materials, fabrication and general expenses, we adjusted it to the statutory minimum of eight percent. Where appropriate for constructed value, adjustments were made under § 353.15 of the Commerce Regulations for differences in circumstances of sale between the two markets. These adjustments were for differences in credit and warranty expenses. Also, where appropriate for exporter's sale price transactions, adjustments were made to foreign market value under § 353.15(c) to account for indirect selling expenses incurred in the home market sales of the "same class or kind of merchandise," up to the amount of indirect selling expenses incurred on United States sales.

The respondents allocated general, selling and administrative (GS&A) expenses on the basis of tons produced. The Department, following its usual procedure, allocated GS&A expenses (including interest expenses) on the basis of cost of sales.

For comparisions nvloving purchase price transactions, when calculating foreign market value, we made currency conversions from Canadian dollars to United States dollars in accordance with § 353.56(a) of our regulations, using the Federal Reserve certified daily exchange rates. For comparisons involving exporter's sales price transactions, we used the official exchange rate for the date of purchase pursuant to section 615 of the Trade and Tariff Act of 1984 (1984 Act). We folowed section 615 of the 1984 Act rather than § 353.56(a)(2) of our regulations, as it supersedes that section of the regulations.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of OCTG from Canada that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weight-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-Average Margin Percentage
Algoma	8.85
Ipsco	40.88
Sonco	0.82
Welded Tube	2.85
All others	15.88

Preliminary Negative Determination of Critical Circumstances

Counsel for petitioners alleged that imports of OCTG from Canada present "critical circumstances" within the meaning of section 733(e)(1) of the Act. Critical circumstances exist when the Department has a reasonable basis to believe or suspect that: (1) There have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

We generally consider the following concerning massive imports: (1) Recent trends in import penetration levels; (2) whether imports have surged recently; (3) whether recent imports are significantly above the average calculated over the last three years; and (4) whether the pattern of imports over that three year period may be explained by seasonal swings.

In considering this question, we analyzed recent trade statistics on import levels, import penetration ratios for OCTG from Canada for equal periods immediately preceding and following the filing of the petition, and seasonal factors. Based on our analysis of recent trade data, we find that imports of OCTG from Canada during the period subsequent to receipt of the petition have not been massive when compared to recent import levels and import penetration ratios. For the reasons described above, we preliminarily determine that "critical circumstances" do not exist with respect to OCTG from Canada.

Verification

As provided for in section 776(a) of the Tariff Act, we will verify all data used in reaching the final determination in this investigation.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry, within 45 days after our final determination.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping duty order directing the U.S. Customs Service to assess an antidumping duty on the subject merchandise which was entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 A.M., on January 23, 1986, at the U.S. Department of Commerce, Room 1851, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by January 16, 1986. Oral presentations will

be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

C. Christopher Parlin,

Acting Deputy Assistant Secretary for Import Administration.

December 30, 1985.

[FR Doc. 86-239 Filed 1-6-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-505]

Oil Country Tubular Goods (OCTG) From Taiwan: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that oil country tubular goods (OCTG) from Taiwan are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of OCTG from TAIWAN that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by March 17, 1986.

EFFECTIVE DATE: January 7, 1986.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-5404, or (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that OCTG from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The margin preliminarily found for the company investigated is listed in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make our final determination by March 17, 1986.

Case History

On July 22, 1985, we received a petition filed in proper form from Lone Star Steel Company and CF&I Steel Corporation on behalf of the U.S. industry producing OCTG. 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 Taiwan 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 Act (19 U.S.C 1673), and that these imports are materially injuring, or threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. The petition also alleges that critical circumstances exist. We initiated the investigation on August 9, 1985 (50 FR 33388), and notified the ITC of our action.

On August 21, 1985, a questionnaire was presented to counsel for the respondent.

On September 5, 1985, the ITC found that there is a reasonable indication that imports of OCTG from Taiwan are threatening material injury to a U.S. industry (U.S. ITC Pub. No. 1747, September 1985).

On October 10, 1985, the respondent filed a response to our questionnaire. We investigated Far East Machinery Company (FEMCO), the manufacturer who accounts for all Taiwanese exports of the merchandise to the United States. We examined 100 percent of the sales made by this company.

Scope of Investigation

The products under investigation are "oil country tubular goods," which are hollow steel products of circular cross section intended for use in the drilling for oil or gas. These products include oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API specifications (such as proprietary) as currently provided for in the *Tariff Schedules of the United States, Annotated* items 610.3216, 610.3219, 610.3233, 610.3234, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244. This investigation includes OCTG that are in both finished and unfinished condition.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold prior to the date of importation to unrelated purchasers in the United States. We calculated the purchase price based on the C and F packed price. We made deductions for foreign inland freight, ocean freight, handling and brokerage charges.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on constructed value since there were no sales of OCTG either in the home market or to third countries. We used the constructed value data submitted by FEMCO. We were unable to conduct a verification of the response prior to the preliminary determination. However, we have analyzed the information submitted by respondent and made adjustments where discrepancies were found or adequate explanation was not presented. Adjustments were made in two areas: (1) Direct labor and overhead expenses for one size of pipe were adjusted upward because they appeared to be unreasonably low in relation to the amounts reported for the other sizes, and (2) calculation of selling, general and administrative expenses was based on respondent's financial statements, rather than the figures reported for OCTG, because of the significant and unexplained difference between the two figures.

Pursuant to § 353.56 of the Regulations, we made currency conversions at the rates certified by the Federal Reserve Bank.

Preliminary Negative Determination of Critical Circumstances

The petitioners alleged that imports of OCTG from Taiwan present "critical circumstances." Under section 733(e) of the Act, critical circumstances exist if we have a reasonable basis to believe or suspect that (1) there is a history of dumping in the Untied States or elsewhere of the class or kind of the

merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

We generally consider the following concerning massive imports: (1) Whether imports have surged recently; (2) recent trends in import penetration levels; (3) whether recent imports are significantly above the average calculated over the last three years; and (4) whether the pattern of imports over that three year period may be explained by seasonal swings.

In considering this question, we analyzed recent trade statistics on import levels and import penetration ratios for oil country tubular goods from Taiwan for equal periods immediately preceding and following the filing of the petition. We also took into consideration seasonal factors. Based on this analysis, we find that imports of the subject merchandise from Taiwan during the period subsequent to receipt of the petition have not been massive when compared to recent import levels and import penetration ratios.

We, therefore, did not need to consider whether there is a history of dumping or whether importers knew or should have known that the exporters were dumping the merchandise.

For the reasons described above, we preliminarily determine that "critical circumstances" do not exist with respect to oil country tubular goods from Taiwan.

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of OCTG from Taiwan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Article VI.5 of the General Agreement on Tariffs and Trade provides that "[n]o product * * * shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies. We will consider this issue after we make a final countervailing duty determination.

Manufacturer/producer/exporter	Weighted-average margin percentage
Far East Machinery Company	5.81
All Others	5.81

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on February 24, 1986, at the United States Department of Commerce, Room 1851, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, within 10 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by February 17, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

December 30, 1985.

[FR Doc. 86-258 Filed 1-6-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-433-501; C-433-502]

Termination of Antidumping Duty and Countervailing Duty Investigations; Oil Country Tubular Goods From Austria

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In letters dated December 20, 1985, and December 23, 1985, petitioners withdrew their antidumping duty and countervailing duty petitions, filed on April 8, 1985, on oil country tubular goods (OCTG) from Austria. We are now terminating the antidumping duty and countervailing duty investigations.

EFFECTIVE DATE: January 7, 1986.

FOR FURTHER INFORMATION CONTACT: Paul Thran, Loc Nguyen, or Mary Martin, Office of Investigations, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3963, (202) 377-0167, or (202) 377-2830.

SUPPLEMENTARY INFORMATION:

Case History

On February 28, 1985, we received antidumping duty and countervailing duty petitions from United States Steel Corporation, on behalf of the U.S. Industry producing oil country tubular goods (OCTG). On March 5 and 26, 1985, Lone Star Steel Company and CF&I Steel Corporation, respectively, requested to become co-petitioners in these proceedings. These requests were subsequently granted. On March 26, 1985, Lone Star Steel Company, amended the countervailing duty petition.

After reviewing the petitions, we determined that they contained sufficient grounds upon which to initiate antidumping duty and countervailing duty investigations. We notified the ITC of our actions and initiated the

investigations on March 20, 1985, (50 FR 12069 and 12065). On April 17, 1985, the ITC determined that there was a reasonable indication that imports of OCTG from Austria materially injure, or threaten material injury to, a United States industry (50 FR 16173).

On May 24, 1985, we published an affirmative preliminary determination in the countervailing duty investigation (50 FR 23334). On June 17, 1985, United States Steel Corporation filed a request for extension of the countervailing duty investigation to October 21, 1985, to correspond with the date of the final determination in the antidumping duty investigation of the same product. On August 12, 1985, we published an affirmative preliminary determination in the antidumping duty investigation (50 FR 38566). We stated that, if the investigation proceeded normally, we would make a final determination on the antidumping duty investigation by October 21, 1985. Finally, at respondent's request, we extended the deadline for the final determination of the antidumping duty investigation to December 27, 1985 (50 FR 43602). Hence, the countervailing dulty investigation was also extended to December 27, 1985, to coincide with the date of the final determination in the antidumping investigation (50 FR 43597).

Scope of Investigations

The products covered by these investigations are "oil country tubular goods" (OCTG), which are hollow steel products of circular cross-section intended for use in the drilling of oil or gas. These products include oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or proprietary specifications. These investigations cover both finished and unfinished oil country tubular goods. The provisions of the *Tariff Schedules of the United States, Annotated (TSUSA)* covering all steel pipe and tube, including oil country tubular goods, were changed as of April 1, 1984. As a result of the change mentioned above, oil country tubular goods now comprise TSUSA item numbers 610.3216, 610.3219, 610.3233, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244.

Withdrawal of Petitions

In letters dated December 20, 1985, and December 23, 1985, United States Steel Corporation, Lone Star Steel Company, and CF&I Steel Corporation, petitioners, notified us that they were withdrawing their February 28, 1985, antidumping duty and countervailling duty petitions, and requested that the investigations be terminated. Copies of petitioner's letters are appended to this notice. Under sections 734(a) and 704(a) of the Tariff Act of 1930, as amended by section 604 of the Trade and Tariff Act of 1984 (the Act), upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. The withdrawal of these petitions is based on a bilateral arrangement with the government of Austria, signed on December 19, 1985, to limit the volume of imports of the product under investigation. We have assessed the public interest factors set out in sections 734(d) and 704(d) of the Act and consulted with potentially affected producers, workers, consuming industries, and with the ITC. On the basis of our assessment of the public interest factors and our consultations, we have determined that termination of the investigations would be in the public interest.

We have notified all parties to these investigations and the ITC of petitioner's withdrawals and of our intention to terminate. For these reasons, we are terminating our antidumping duty and countervailing duty investigations.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

December 27, 1985.

[FR Doc. 86-272 Filed 1-6-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration; 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, DC.

Docket No. 85-273. Applicant: U.S. Department of Commerce, NOAA, La Jolla, CA 92038. Instrument: Fisheries Sonar, Model 3133-15. Manufacturer: Fathom Oceanology Limited, Canada. Intended use: See notice at 50 FR 36128.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign article operates at frequencies of 38 and 120 kHz and provides acoustic beam angles of no more than 10 degrees in the vertical plane. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(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. 86-274 Filed 1-6-86; 8:45 am]

BILLING CODE 3510-DS-M

Trustees of Princeton University; 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 DC.

Docket No. 84-82. Applicant: Trustees of Princeton University, Princeton, NJ 08544. Instrument: Static Vacuum Mass Spectrometer, Model 1200-C. Manufacturer: VG Isotopes Limited, United Kingdom. Intended use: See notice at 49 FR 8056.

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 22, 1983).

Reasons: The foreign instrument, a static vacuum mass spectrometer with a Baur-Signor source, is utilized for the analysis of very small samples of rare gas in the static mode. This capability 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 to 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 regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a request for quotation it is apparent 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. 86-275 Filed 1-6-86; 8:45 am]

BILLING CODE 3510-DS-M

The University of Arizona; 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 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No.: 83-325. Applicant: The University of Arizona, Tucson, AZ 85721. Instrument: Computer, 36MC. Manufacturer: University of Heidelberg, West Germany. Intended use: See notice at 48 FR 50144.

Comments: None received.

Decision: Approved. No article of equivalent scientific value to the foreign article, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign article, a unique and dedicated multiprocessing computer, is a necessary accessory providing real-time control and data acquisition for a high-speed laser scanner. A lengthy and extensive developmental effort would be required to duplicate its capabilities. This is a compatible accessory for an article previously imported for the use of the applicant. The article and accessory were made by the same manufacturer. The National Institutes of Health advises in its memorandum dated September 25, 1984 that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

(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. 86-276 Filed 1-6-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Houston 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, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 86-058. Applicant: University of Houston-University Park, Department of Geosciences, Houston, TX 77004. Instrument: Gas Isotope Ratio Mass Spectrometer System, Model Delta E with Accessories. Manufacturer: Finnigan MAT, West Germany. Intended Use: The instrument is intended to be used to conduct the following investigations:

(1) Determination of climatic trends;

(2) Studies of the dynamics of storms;

(3) Determination of the extents, temperatures, and locations of sediment/water and rock/water interactions;

(4) Study of the water mixing in bays and estuaries;

(5) Studies of the carbon cycle in natural waters, organisms and sediments;

(6) Determination of the sources and migration paths of petroleum components; and

(7) Studies of the conditions of formation and histories of meteorites. In addition, the instrument will be used for educational purposes in the courses: GEOL 6397 Stable Isotope Geochemistry, GEOL 6698 Special Problems in Isotope Geochemistry, and GEOL 8698 Doctoral Research in Isotope Geochemistry. Application received by Comissioner of Customs: November 25, 1985.

Docket No.: 86-059. Applicant: Barnett Institute/Northeastern University, 360 Huntington Avenue, Boston, MA 20115. Instrument: High Resolution Mass Spectrometry System, Model MM70-250S with Accessories. Manufacturer: VG Analytical Limited, United Kingdom. Intended Use: The instrument is intended to be used for structural characterization of high molecular weight peptides, oligosaccharides, conjugates of mycotoxins and steroids, DNA adducts, and industrial prepolymers as well as other trace level detection studies using HPLC/MS with a moving belt interface. In addition, the instrument will be used in a course in organic analytical mass spectrometry, its principles and applications. Application received by Comissioner of Customs: November 29, 1985.

Docket No.: 86-060. Applicant: New York University Medical Center, 550-560 First Avenue, New York, NY 10016. Instrument: Gas Chromatograph/Mass Spectrometer/Computer System, Model VG 7070SE. Manufacturer: VG Instruments, Incorporated, United Kingdom. Intended Use: The instrument will be used in a mass spectrometry and Chromatography facility to develop analytical methodology for separation, identification and quantitation of components in complex biological and environmental mixtures. A wide spectrum of research projects will be undertaken. Investigations will be conducted to provide mass spectra and ion intensity information which will be

used to identify the nature and the amounts of various materials which are introduced into the mass spectrometer. This information will be used to elucidate biomedical and environmental problems being investigated. In addition, the instrument will be used in the graduate level courses of Experimental Methods in Environmental Toxicology, Genetic Toxicology, and Analytical Chemistry of Environmental Contaminants. Application received by Comissioner of Customs: November 25, 1985.

Docket No.: 86–061. Applicant: University of Arizona Foundation, 1027 E. 2nd Street, Tucson, AZ 85721. Instrument: ICP Quadrupole Mass Spectrometer. Manufacturer: VG Instruments, Incorporated, United Kingdom. Intended Use: The instrument will be used in teaching and research efforts that deal with studies directed toward understanding: (1) The tectonic and magnetic evolution of the western U.S., (2) the formation of various types of ore deposits and (3) the interaction between rock and water in aquifers of Arizona. Specifically, the instrument is intended to be used to measure elements at the parts per billion range and do quick semiquantitative analyses of isotopic ratios and rare earth elements. The materials to be studied include water, ore samples, and a variety of terrestrial rocks of all ages. Application received by Commissioner of Customs: December 2, 1985.

Docket No.: 86–062. Applicant: University of Rochester, Purchasing Services, 70 Goler House, Rochester, NY 14620. Instrument: Extracorporeal Shock Wave Lithotripter, Model HM–3. Manufacturer: Dornier, GmbH, West Germany. Intended Use: The instrument is intended to be used for research activities related to the extracorporeal shock wave lithotripter (ESWL) which include:

(1) Documentation of the effects of sonic waves on adjacent renal parenchyma surrounding the stone, using scanning techniques.

(2) Study of kidney function using Magnetic Resonance Imaging techniques before and after exposure to ESWL.

Application received by Comissioner of Customs: December 5, 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. 86–277 Filed 1–6–86; 8:45 am]

BILLING CODE 3510-DS-M

The University of Miami; 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 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 85–195. Applicant: University of Miami, Miami, FL 33149. Instrument: Isotope Ratio Mass Spectrometer, Model MAT 251. Manufacturer: Finnigan-MAT, West Germany. Intended use: See notice at 50 FR 26396.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is capable of analyzing stable isotope composition of less than 500 nanograms (1.0 microliter) of carbon dioxide with a precision down to 0.008 percent. The National Bureau of Standards advises in its memorandum dated October 11, 1985 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(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. 86–278 Filed 1–6–86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit; Dr. James T. Staley

On October 21, 1985, notice was pulbished in the **Federal Register** (50 FR 42585) that an application had been filed by Dr. James T. Staley (P370), Microbiology and Immunology SC–42, University of Washington, Seattle, Washington 98195, to take by sacrifice five (5) crabeater seals (*Lobodon carcinophagus*) and five (5) Weddell seals (*Leptonychotes weddelli*).

Notice is hereby given that on December 26, 1985, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC; and Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115.

Dated: December 26, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–219 Filed 1–6–86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Negotiations During 1986

January 2, 1986.

The U.S. Government anticipates holding negotiations during 1986 concerning expiring bilateral agreements covering certain cotton, wool and man-made fiber textiles and apparel from Colombia (June 30), Haiti (December 31), Hungary (December 31), India (December 31), Mexico (June 30), Pakistan (December 31), the Philippines (December 31), and Singapore (March 31). (The dates noted in parenthesis are the expiration dates of the agreements.)

The purpose of this notice is to invite any party wishing to comment or provide data or information regarding these agreements, or to comment on domestic production of availability of textiles and apparel affected by these agreements, to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the negotiations is not yet established, comments should be submitted promptly, particularly for the agreements expiring early in the year. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S.

Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC. Further comment may be invited regarding particular comments or information receive from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-236 Filed 1-6-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee

Correction

In FR Doc. 85-30599 beginning on page 52992 in the issue of Friday, December 27, 1985, make the following correction:

On page 52993 the "£" symbol should be removed whenever it appears in the table.

BILLING CODE 1501-01-M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Civilian Occupational Validation of ASVAB-14.

Effort is to determine the validity of ASVAB-14 for predicting performance in 12 civilian occupations. The Supplemental Information form is used to ask employees who take the ASVAB certain background information about themselves. The behaviorally-anchored rating scales will ask supervisors about their employees' performance. The third survey instrument will ask supervisors to indicate the importance of the occupational dimensions covered in the scale.

Responses 16,200.

Burden hours 4,067.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, telephone (202) 746-0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD (FM&P), Room 3C800, Pentagon, Washington, DC 20301-4000, telephone (202) 695-0643. This collection is not for contract.

Dated: December 31, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-250 Filed 1-6-86; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35). "Export Controlled DoD Technical Data Agreement"; DD Form 2345. Submission of this form by individuals and enterprises is required to obtain eligibility to receive export-controlled DoD technical data under 10 U.S.C. section 140c, as implemented in 32 CFR Part 250.

Individuals, businesses, non-profit institutions and small businesses.

Responses 80,000.

Burden hours 160,000.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, telephone number (202) 746-0933.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection proposal may be obtained from Mr. Frank Sobieszczyk, ODUSD (R&AT/RLM), Room 3E114, The Pentagon, Washington, DC 20301, telephone (202) 694-0205.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

December 31, 1985.

[FR Doc. 86-252 Filed 1-6-86; 8:45 am]

BILLING CODE 3810-01-M

President's Blue Ribbon Commission on Defense Management; Meeting

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of closed meeting.

SUMMARY: The President's Blue Ribbon Commission on Defense Management announces a forthcoming meeting beginning at 8:30 a.m. on January 28 and 29, 1986 at 735 Jackson Place, NW., Washington, DC 20503.

Discussion during the meeting will include classified matters of national security and other matters which cannot be addressed in open forum thoughout. Such discussions cannot reasonably be segregated for separate open and closed sessions without defeating the effectiveness and purpose of the overall meeting. Accordingly, consistent with section 10(d) of Pub. L. 92-463, the "Federal Advisory Committee Act," and section 552b (c)(1) and (c)(9)(B) of Title 5, United States Code, this meeting will be closed to the public.

AGENDA: The Commission will meet to continue its consideration of defense management policy and procedures and its preparation of reports to the President on acquisition and procurement issues and on defense organizations.

FOR FURTHER INFORMATION CONTACT: Mr. Hebert E. Hetu (Public Affairs), 1899 L Street NW., Suite 400, Washington, DC 20036. Telephone: (202) 466-7080 or (202) 395-3198.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

December 31, 1985.

[FR Doc. 86-249 Filed 1-6-86; 8:45 am]

BILLING CODE 3810-01-M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of committee: Armed Forces Epidemiological Board, DoD.

Date of meeting: 13 February 1986.

Time: 0800–1600.

Place: Wyndham Hotel, San Antonio, Texas.

Proposed Agenda: Reports by the Preventive Medicine consultants of the Army, Navy, Air Force and Coast Guard; human T-lymphotropic virus Type III positivity update; report on an Air Force Pertussis outbreak; drug-resistant Gonorrhea in Korea; drug-resistant malaria therapy; Health Services Command briefing and update on ambulatory health care reporting system; Navy asbestos medical surveillance program update; disease data base reporting briefing; drug resistant malaria registry and report by the Armed Forces Global Epidemiology working group.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before or file statements with the committee at the time and in the matter permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455, Pentagon, Washington, DC 20310–2300, (202) 695–9115.

Dated: December 27, 1985.

Robert A. Wells,

COL, USA, MS Executive Secretary.

[FR Doc. 86–232 Filed 1–6–86; 8:45 am]

BILLING CODE 3710–08–M

DOD Advisory Group on Electron Devices Notice of Advisory Committee Meeting

SUMMARY: Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Wednesday, 5 February 1986.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Harold Summer, AGED Secretariat, 201 Varick Street, New York, 10014

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on development and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. 92–463, as amended (5 U.S.C. App. II, Section 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Dated: January 2, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85–291 Filed 1–6–86; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Follow-on Forces Attack; Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force on Follow-on Forces Attack will meet in closed session on 27–28 January 1986 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will continue to examine the technical and programmatic aspects as well as conceptual applications of the capabilities and systems to accomplish attacking follow-on forces.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1)(1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86–292 Filed 1–6–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Public Information Collection Requirement Submitted to OMB for Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Existing Collection in Use Without an OMB Control Number

AFR 177–10, Accounting and Finance Customer Survey of Commercial Vendor

This survey will be used by accounting and finance offices Air Force-wide to improve customer relations and quality of performance by their personnel.

ADDRESSES: Comments are to forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Richard Guerrero, HQ AFAFC/AJAS, Denver CO 80279–5000, telephone number (303) 370–7809.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

December 31, 1985.

[FR Doc. 86–253 Filed 1–6–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Military Traffic Management; Change in Dual Driver Protective Service and DOD Constant Surveillance Service Definitions; Motor Surveillance Service Introduced

AGENCY: Department of the Army, Military Traffic Management Command (MTMC), DOD.

ACTION: Notice of Revision to Dual Driver Protective Service and DOD Constant Surveillance Service Definitions and Requirements; Motor Surveillance Service Announced.

SUMMARY: Due to recent changes in security standards, the transportation security requirements for most sensitive shipments of arms, ammunition, and explosives (AA&E) have been upgraded. Effective January 30, 1986, all carriers providing Dual Driver Protective Service (DDPS) and DOD Constant Surveillance Service (DOD CSS) must provide in their Uniform Tender of Rates and/or Charges or governing publications for Transportation Services (Optional Form 280) the revised definitions for DDPS and DOD CSS. Carriers wishing to transport Foreign Military Sales shipments of classified material or AA&E must add these same definitions to appropriate commercial tariffs. These revised definitions specify that drivers carry identification which allows DOD shippers to verify their affiliation with the origin carrier named on the bill of lading. The DDPS definition also requires that tractors be equipped with working citizens band (CB) or mobile communications equipment. Qualified carriers must submit a new tender/tariff or amendment containing the revised DDPS/DOD CSS definitions by the effective date in order to be considered for shipments requiring DDPS/DOD CSS. Tenders/tariffs should be submitted to:

Headquarters, Military Traffic Management Command, ATTN: MT-INNT, 5611 Columbia Pike, Falls Church, VA 22041-5050.

Additionally, MTMC is asking carriers to offer Motor Surveillance Service (MSS), an optional status reporting service to be used in conjunction with a transportation protective service for the movement of critical technology systems and in other circumstances as deemed necessary. For Foreign Military Sales movements, carriers should add the MSS provision to appropriate commercial tariffs. Copies of the revised DDPS, DOD CSS and MSS definitions may be obtained by writing to same, or by calling Betty Yanowsky at (202) 756-1356 or Al Kirby at (202) 756-1149.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 86-234 Filed 1-6-86; 8:45 am]

BILLING CODE 3710-08-M

Military Traffic Management; Freight Carrier Performance Program; Procedural Changes

AGENCY: Military Traffic Management Command (MTMC), Department of the Army, DOD.

ACTION: Notice of procedural changes relative to the Freight Carrier Performance Program (CPP).

SUMMARY: Procedural changes that affect the nonuse authority held by Department of Defense (DOD) shippers under Chapter 229 of the AR55-355, Military Traffic Management Regulation will be implemented during the second quarter of Fiscal Year 1986 (Jan-Mar). (The term "nonuse" has replaced the term "disqualification", the latter being the term used heretofore to describe CPP actions taken by DOD shippers.)

SUPPLEMENTARY INFORMATION: The first change has to do with the delegation of additional nonuse authority to DOD shippers. Specifically, shippers are being delegated the authority to place carriers in a nonuse status for refusing to accept freight shipments. Established lead-time requirements of 24-hours for general commodities and 48-hours for classes A and B explosives will continue to apply. This, and other authority currently held by shippers, will be exercised at their discretion when carriers meet or exceed the unacceptable service standards of:

(a) Three or more refusals at an installation (or DCASMA) within a 30-day period;

(b) Two or more no shows at an installation within a 30-day period;

(c) Three or more instances of improper/inadequate equipment at an installation within a 30-day period, or;

(d) A combination of b. and c. totaling three or more incidents within a 30-day period.

The second change eliminates the requirement that shippers send carriers a letter of warning before exercising their nonuse authority. Rather, at any point after a carrier has met the aforementioned unacceptable service standards, shippers will send the involved carrier a letter of nonuse, and send a copy of that letter to the appropriate MTMC area command.

The third change affects the period of time for which a shipper can place a carrier in nonuse. This is being changed from the 30-day period used heretofore, to any period of time up to 60 days.

The last change affects the appellate process. Specifically, carriers will no longer submit an appeal of a nonuse action to the Commander of the respective MMTC area command. Rather, they will deal directly with the DOD shipper that placed them in nonuse. In line with this, shippers have been authorized to take a carrier off nonuse if the carrier demonstrates to the involved shipper a willingness and ability to resume providing satisfactory service.

FOR FURTHER INFORMATION CONTACT: Mr. John Lambert, HQMTMC, ATTN: MT-INFF (Room 607), 5611 Columbia Pike, Falls Church, Virginia 22041-5050, Telephone: (703) 756-1887/1356.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 86-235 Filed 1-6-86; 8:45 am]

BILLING CODE 3710-08-M

Military Traffic Management Command; Military Personal Property Symposium; Open Meeting

Announcement is made of meeting of the Military Personal Property Symposium. This meeting will be held on January 23, 1986 at the Stouffer Concourse Hotel, Crystal City, Arlington, Virginia, and will convene at 0830 hours and adjourn at approximately 1500 hours.

Proposed Agenda: The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to Personal Property Traffic Management Regulation (DoD 4500.34-R), and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MT-PPM, at telephone number 756-1600, between 0800-1530 hours. Topics to be discussed should be received on or before January 3, 1986.

Joseph R. Marotta,

Colonel, GS, Director of Personal Property.

[FR Doc. 86-233 Filed 1-6-86; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for Proposed Flood-Control Measures on Coyote Creek, Santa Clara County, CA

AGENCY: U.S. Army Corps of Engineers (San Francisco District), DoD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

1. *Proposed Action.* The Corps of Engineers (Corps) has accepted an application for a Department of the Army permit from the Santa Clara County Water District (Water District) to construct flood-control facilities along Coyote Creek between San Francisco Bay and Montague Expressway, a distance of approximately 6.0 miles. The permit application will be processed by the Regulatory Functions Branch of the Corps, pursuant to Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act of 1977, as amended (33 U.S.C. 1344).

The purpose of the proposed project is to alleviate the severity of flooding on agricultural land downstream of Montague Expressway, and on residences and businesses in San Jose (Alviso District) and some of the western portions of Milpitas, thereby reducing flood hazards and damages.

In accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq), the Corps determined that the proposed action requires an environmental impact statement (EIS). The Environmental Branch of the San Francisco District will prepare a draft EIS that will incorporate the data presented in an environmental impact report (EIR) prepared by the Water District in 1984 to meet the requirements of the California Environmental Quality Act of 1970, as amended.

2. *Flood-Control Alternatives.* Coyote Creek has been included in previous planning studies for flood control by both the Corps and the Water District. The Water District final EIR considered the following alternatives, each of which will be discussed in the Corps draft EIS.

a. *No-Action Plan.* Without providing the proposed flood-control measures, existing levees and channel capacity would remain unchanged. Floodplain residents would therefore continue to face hardships from flooding.

b. *Non-Structural Plan.* A program of floodplain management is proposed, including either acquisition or relocation of business and residential structures to areas where flooding does not occur, or floodproofing of those structures situated within the floodplain.

c. *Upstream-Storage Plan.* This alternative would consist of a dam and reservoir situated upstream of the Santa Clara Valley floor to collect floodwaters and release them at a lower rate. Channeling of the Creek would still be required in conjunction with a constructed dam.

d. *Bypass-Channel Plan.* In this plan an earthen channel would be excavated along the west side of the Creek, parallel to the existing riparian corridor. A concrete diversion structure would be installed to regulate floodwaters into the bypass channel, and a new bridge at Highway 237 would be needed.

e. *Setback-Levee Plan.* Under this alternative, earthen levees to contain floodwaters would be constructed away from the Creek at locations ranging from 700 to 1600 feet.

f. *Overflow-Channel and Levee Plan.* This proposed alternative would consist of earthen overflow channels with outboard levees constructed on alternate sides of the Creek along its upper portions, and an earthen bypass channel and levees on the lower reaches of the stream. Where the overflow channels cross the Creek, existing levees would be removed and rock protection placed on the banks. Various locations on either side of the Creek will be considered for placement of the overflow channels.

3. *Corps Scoping Process.* Pursuant to the National Environmental Policy Act, as amended, agency planning for federal or federally permitted projects must include a "scoping" process. Scoping primarily involves determining the scope of issues to be addressed, and identifying the significant issues for in-depth analysis in a draft EIS. The scoping process includes public participation in order to integrate information regarding public needs and concerns into the environmental document.

The Water District previously established a public involvement program and sponsored public meetings to receive comments on the flood-control measures proposed in the final EIR. Hence, the Corps will utilize the informaiton generated as a result of earlier public participation and incorporate it into the draft EIS.

Government agencies, public and private interest groups, and the public are invited, however, to further participate in the scoping process by submitting comments on the identified issues and alternatives to the San Francisco District.

a. *Significant Issues.* Each significant issue identified in the Water District's final EIR, and others required by federal law for water-resource development projects, will be analyzed in the draft EIS. The significant issues will therefore include:

(1) Water quality;
(2) Hydrology (stream sedimentation);
(3) Air quality;
(4) Fish and wildlife resources and habitat;
(5) Aquatic habitat (salt-evaporation pond);
(6) Wetland habitat (freshwater marsh);
(7) Riparian habitat (streambank vegetation);
(8) Rare or endangered species;
(9) Cultural resources;
(10) Growth inducement;
(11) Land use;
(12) Aesthetic quality;
(13) Recreation and public access.

c. *Environmental Requirements.* Environmental review and other consultation requirements applicable to the present flood-control proposal include:

(1) National Environmental Policy Act, as amended;
(2) Clean Air Act, as amended;
(3) Clean Water Act, as amended;
(4) Wild and Scenic Rivers Act, as amended;
(5) Archaeological and Historic Preservation Act;
(6) National Historic Preservation Act, as amended;
(7) Executive Order 11593—Protection and Enhancement of the Cultural Environment;
(8) Fish and Wildlife Coordination Act;
(9) Endangered Species Act, as amended;
(10) Executive Order 11988—Floodplain Management;
(11) Costal Zone Management Act; and
(12) Council on Environmental Quality Memorandum—Analysis of Impacts on Prime or Unique Agricultural Lands.

City and County plans and ordinances, as well as other applicable statutes or regulations, will be addressed during preparation of the draft EIS.

4. *Availability of EIS.* The Corps expects to complete the draft EIS and have review copies of it available on or before June 3, 1986.

5. *Points of Contact.* Questions regarding the scoping process or preparation of the draft EIS may be directed to Richard Stradford, Environmental Branch (Telephone: 415/974-0445). Questions about processing of the permit application may be directed

to Frank Kelleher, Regulatory Functions Branch (Telephone: 415/974–0424).

John O. Roach II,

Department of the Army Liaison Officer, with the Federal Register.

[FR Doc. 86–231 Filed 1–6–86; 8:45 am]

BILLING CODE 3710–FS–M

Intent To Prepare a Draft Feasibility Report and Environmental Impact Statement on the Guadalupe River and Adjacent Streams Investigation, Santa Clara County, CA

AGENCY: Army Corps of Engineers (San Francisco District), DoD.

ACTION: Notice of Intent to Prepare a Feasibility Report and Environmental Impact Statement.

1. *Proposed Action.* The Corps of Engineers (Corps) is currently conducting a Feasibility Study of flood-control measures on Berryessa Creek, a stream authorized for study within the Guadalupe River and Adjacent Streams General Investigation. A primary objective of the Study will be to determine whether federal participation is justified in the implementation of measures developed to solve flooding problems in identified areas.

The Study will include analysis of flood-control alternatives on approximately 3.5 miles of Berryessa Creek, situated between Old Piedmont Road and Calaveras Boulevard in the cities of Milpitas and San Jose. The purpose of the proposed project would be to alleviate the severity of flooding on residences and businesses, thereby reducing flood hazards and damages in the affected areas.

The results of the Berryessa Creek study will be combined with data generated from other studies, specifically those that have focused on Coyote Creek and the Guadalupe River. This information will be published in a Feasibility Report, which will be integrated with an Environmental Impact Statement (EIS).

2. *Berryessa Creek Flood-Control Alternatives.* Berryessa Creek has been included in previous planning studies for flood control by both the Corps and the Santa Clara Valley Water District. As a result several flood-control plans have been identified. The Corps will consider the following alternatives in the draft EIS:

a. *No-Action Plan.* Without federal assistance in providing flood-control measures, floodplain residents would still be subjected to the hazards of flooding. The cities of Milpitas and San Jose could provide flood protection by building levees around the housing tracts, as well as apply for federal flood insurance to compensate for property losses when floods occur.

b. *Concrete-Lined Channel and Bypass Plan.* The alternative would include both rectangular- and trapezoidal-shaped channels with concrete slopes, and a concrete-lined bypass in one segment of the Greek.

c. *Concrete-Lined Channel and Offset Levee Plan.* Under this plan offset levees and slope protection would be constructed near the upstream portions of the Creek, and trapezoidal-shaped channel lined with concrete and/or rock in the remainder of the stream.

d. *Earthen Berm and Offset Levee/Overflow Channel Plan.* Under this alterative offset levees, an overflow channel, and an earthen berm would be built in some sections of the Creek, while the remainder of the stream would be channelized and either remain as an earthen feature or lined with rock or concrete.

Additional alternatives identified during the course of the Study will be considered in the draft Feasibility Report and EIS.

3. *Corps Scoping Process.* The scoping of the Berryessa Creek project will primarily involve determining the scope of issues to be addressed, and identifying the significant issues and flood-control alternatives for in-depth analysis.

a. The scoping process will include public participation in order to integrate information regarding public needs and concerns into the draft EIS. A public involvement program has therefore been planned. Announcement of public meetings and availability of the draft Feasibility Report and EIS for review and comment will be published at a later date. Government agencies, public and private interest groups, and the public are invited to participate in the scoping process.

b. The Corps is planning to conduct in-depth studies of the following issues:

(1) Hydrology;

(2) Fish and wildlife resources and habitat;

(3) Rare or endangered species;

(4) Riparian habitat;

(5) Cultural resources;

(6) Growth inducement;

(7) Aesthetic quality;

(8) Recreation and public access.

c. Environmental review and other consultation requirements applicable to the subject draft EIS include:

(1) National Environmental Policy Act, as amended;

(2) Clear Air Act, as amended;

(3) Clear Water Act, as amended;

(4) Archaeological and Historic Preservation Act;

(5) National Historic Preservation Act, as amended;

(6) Executive Order 11593—Protection and Enhancement of the Cultural Environment;

(7) Fish and Wildlife Coordination Act;

(8) Endangered Species Act, as amended; and

(9) Executive Order 11988—Floodplain Management.

City and County plans and ordinances, as well as other applicable statutes or regulations, will be addressed during preparation of the draft EIS.

4. *Availability of Report.* The Corp expects to complete preparation of the draft Feasibility Report and EIS and have review copies of it available on or before August 25, 1986.

5. *Point of Contact.* Questions regarding the scoping process or preparation of the Feasibility Report and EIS may be directed to either Richard Stradford, Environmental Branch (Telephone: 415/974–0445) or Ruth Brodie, Plan Formulation Branch (Telephone: 415/974–0382).

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 86–229 Filed 1–6–86; 8:45 am]

BILLING CODE 3710–FS–M

Withdrawal of Intent To Prepare a Joint Draft Environmental Impact Statement/Report for a Department of the Army Permit Application No. 81–159–HB (Los Angeles Harbor Coal Terminal)

AGENCY: U.S. Army Corp of Engineers, DoD.

ACTION: Withdrawal of Notice of Intent to prepare a joint Draft Environmental Impact Statement/Report (DEIS/R).

SUMMARY: On December 10, 1982 the U.S. Army Corps of Engineers published a Notice of Intent to Prepare a joint Draft Environmental Impact Statement/Report (47 FR 5512) with the Port of Los Angeles for a Department of the Army Permit Application (No. 81–159–HB—Los Angeles Harbor Coal Terminal). The Port of Los Angeles has requested withdrawal of the subject permit application due to the need for substantial modification of the project design. The Corps has withdrawn the subject permit application, and has therefore withdrawn its intent to prepare the subject DEIS/R.

ADDRESS: Questions regarding this action can be answered by Mr. Clifford Rader, Regulatory Branch, U.S. Army

Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053–2325.

Dated: January 2, 1986.

John O. Roach II,

Department of the Army Liaison Officer with the Federal Register.

[FR Doc. 86–230 Filed 1–6–86; 8:45 am]

BILLING CODE 3710-KF-M

Defense Nuclear Agency

Scientific Advisory Group on Effects (SAGE); Notice of Meeting

A Committee of the Scientific Advisory Group on Effects (SAGE) will meet in closed session January 28 and January 29, 1986 at the offices of ANSER Corp., 1215 Jefferson Davis Highway, Suite 800, Arlington, Virginia 22202. AGENDA: January 29 to January 29 (0800–1700): Presentations, Discussions and Executive sessions on Issues Related to Lethality and Target Hardening Technology Programs which support the Strategic Defense Initiative. The presentations and discussions in the above cited agenda will focus on current and planned activities of the Defense Nuclear Agency (DNA) supporting the Strategic Defense Initiative Organization. Executive sessions will be held for the primary purpose of advising the Director, DNA, as to the adequacy of ongoing and planned activities. All planned presentations, discussions, and executive sessions may include classified defense information; therefore, under the provisions of sections 552(c)(1) and (3), Title 5, U.S.C., this meeting is closed to the public. Any additional information concerning the meeting may be obtained from: LT. Col Gary C. Gibson, USAF, Scientific Secretary, SAGE, Headquarters, Defense Nuclear Agency, ATTN: DDST, Washington, DC 20305–100.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

December 31, 1985.

[FR Doc. 86–248 Filed 1–6–86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Individual MCJROTC Instructor Evaluation Summary NAVMC 10942.

Provided to commit to writing an evaluation of the overall performance of duty of the Senior Marine Instructors (SMIs) and Marine Instructor (MIs) who are charged with the responsibility of implementing the Marine Corps Junior Reserve Officers' Training Corps (MCJROTC) Program.

Individuals or households and businesses or other institutions.

Responses 171.

Burden hours 86.

ADDRESSES: Comments are to be forwarded to Mr. Edwards Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson-Davis Highway, Suite 1204, Arlington, VA 22202–4302, telephone (202) 746–0933.

FOR FURTHER INFORMATION CONTACT: A Copy of the information collection proposal may be obtained from Mr. L. Wood, Headquarters, U.S. Marine Corps, Training Division, Professional Development Education Branch, Washington, D.C. 20380, telephone (202) 694–2068.

Patricia H. Means,

OSD Federal Register Liasion Officer, Department of Defense.

December 31, 1985.

[FR Doc. 86–251 Filed 1–6–86; 8:45 am]

BILLING CODE 3810-01-M

Chief of Naval Operations, Executive Panel Advisory Committee, National Energy Security Policy Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee National Energy Security Policy Task Force will meet January 23–24, 1986, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to clearly understand the policy implications of the energy security problem facing the United States. The entire agenda for the meeting will consist of discussions of key issues regarding the parameters of national energy security policy, their implications for U.S. Navy operations, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 928, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Dated: January 2, 1986.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 86–214 Filed 1–6–86; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations, Executive Panel Advisory Committee, Strategic Planning and the Technology Base Task Force, Closed Meeting; Correction

Notice was given December 26, 1985, at 50 FR 52834 of a meeting of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Strategic Planning and the Technology Base Task Force on January 14–15, 1986. The dates for the meeting have been changed to January 15–16, 1986. All other information in the previous notice remains effective.

For further information on this meeting contact Lieutenant Thomas E. Arnold, Executive Secretary of the Chief of Naval Operations Executive Panel Advisory Committee, telephone (703) 756–1205.

Dated: December 30, 1985.

W. Brad Garvais,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 86-215 Filed 1-6-86; 8:45 am]

BILLING CODE 3810-AE-M

Intent to Prepare a Draft Environmental Impact Statement and to Implement Public Scoping for Proposed Gulf Coast Strategic Homeporting

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Guidelines (40 CFR Part 1500), and the requirements of Executive Order 12382, Intergovernmental Review of Federal Programs and the Department of the Navy policy for intergovernmental coordination of land and facility plans, programs, and projects, the Department of the Navy hereby announces its intent to prepare a Draft Environmental Impact Statement (DEIS) for Gulf Coast strategic homeporting.

The DEIS will address the proposed homeporting of a Carrier Battlegroup at three locations as follows: a large deck operational carrier, replacing a smaller training carrier, and one minesweeper (Penasacola, Florida); two destroyers, two frigates, and one minesweeper (Mobile, Alabama); two crusiers, and two destroyers (Pascagoula, Mississippi).

In addition, a Battleship Surface Action Group is proposed to be based at three locations as follows: one battleship, USS Wisconsin, one cruiser, one destroyer, and one minesweeper (Corpus Christi, Texas); a Navy training carrier currently based at Pensacola, Flordia will move to Corpus Christi upon completion of facilities; two reserve frigates, and three reserve minesweepers (Galveston, Texas); two minesweepers and one oiler (Lake Charles, Louisiana).

Other homeporting includes a landing craft repair ship, one salvage ship, and shore-based ocean surveillance ship support group to be based at existing facilities (Key West, Florida); and one minesweeper to be based at existing facilities (Gulfport, Mississippi).

Public Scoping meetings are planned for the weeks of January 13–17 and January 20–24, 1986 as follows: Key West (January 13 at City Commission Chambers, 524 Angela Street); Pensacola (January 14 at City Council Chambers, 330 South Jefferson, 2nd Floor—City Hall); Mobile (January 15 at Mobile Municipal Auditorium, 401 Auditorium Drive); Pascagoula (January 16 at La Font Inn, Highway 90 East); Gulfport (January 17, at Westside Community Center, 4010 West Beach); Lake Charles (January 21 at Lake Charles Civic Center, Buccaneer Room, Lake Shore Drive); Galveston (January 22 at Moody Civic Center, First Floor, 2102 Seawall Blvd.); Corpus Christi (January 23, at Ingleside High School Cafetorium, 666 Mustang Drive). These meetings will be advertised in major metropolitan and selected local newspapers. Meetings will be conducted by the Southern Division, Naval Facilities Engineering Command, Charleston, South Carolina. All meetings will be scheduled from 7:00 p.m. to completion of public comments or 12:00 p.m. A formal presentation will precede request for public comment. Individual speakers will be requested to limit comments/statements to five minutes. Written comments will be accepted at the meetings or they may be mailed to the address noted at the end of this notice. Comments will be received until close of business February 7, 1986.

The primary impacts of the proposed activities would be the development of major Naval installations in Corpus Christi (Ingleside), Galveston, Pascagoula, and Mobile. Minor installations are proposed for Lake Charles and Gulfport. New land and water facilities including buildings, wharfs, and piers are proposed for the new sites. Existing facilities at Pensacola and Key West will be modified as required.

Approximately 27 ships involving 11,000–15,000 military personnel will be distributed to the eight proposed Gulf Coast locations. In most instances area and local impacts are anticipated to socioeconomic, physical, and biological environments. The extent of impacts vary according to the specific action proposed for a site. Water quality and aquatic life impacts are anticipated because of dredging and dredge material disposal at Pensacola, Mobile, Pascagoula, Lake Charles, and Corpus Christi.

The U.S. Army Corps of Engineers (COE), Mobile District will participate with the Navy in developing those parts of the DEIS concerned with dredge/disposal and cultural resources. Coordination with the State Historical Preservation Officers in the five Gulf Coast states has been initiated by the Navy and the COE.

An unaffiliated consulting firm has been retained to prepare the DEIS/FEIS. Publication of the DEIS for agency and public review is planned for July 1986.

If further information/assistance is required in connection with this Notice of Intent, please contact Mr. Laurens Pitts, P.E. at Southern Division, Naval Facilities Engineering Command, telephone (803) 743-3864, 2155 Eagle Drive, P.O. Box 10068, Charleston, South Carolina 29411-0068.

Dated: January 2, 1986.

William F. Roos, Jr.,

Lieutenant JAGC, USNR, Federal Register Liaison Officer.

[FR Doc. 86-216 Filed 1-6-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-C&E-86-12; OFP Case No. 67050-9298-20-22]

Order Granting to Smith Cogenerations, Inc. Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting to Smith Cogeneration, Inc. Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to Smith Cogeneration, Inc. (SCI). The permanent exemption permits the use of natural gas as the primary energy source for a 103 MW facility designed to produce electricity and steam at SCI's Oklahoma City, Oklahoma location. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on March 10, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Frank Duchaine, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW.,

Room GA–045, Washington, DC 20585, Telephone (202) 252–8233;
Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue SW., Washington, DC 20585, Telephone (202) 252–6947.

SUPPLEMENTARY INFORMATION: The proposed facility for which the petition was filed will consist of a base loaded gas turbine/heat recovery steam generator, single automatic extraction condensing steam turbine installation and has net plant design generating capacity at 103 MW of electricity. The facility is designed to supply 230 PSIG/saturated (399F) steam to a tire plant from a minimum of zero lb/hr to a maximum of 240,000 lb/hr, with a yearly average flowrate of 50,000 lb/hr. The total electricity produced, less plant auxiliary power requirements, will be sold to the Oklahoma Gas & Electric Co.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including SCI's certification to ERA, in accordance with 10 CFR 503.32, that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternative power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under § 503.11 of the regulations

In accordance with the evidentiary requirements of § 503.32(b) (and in additional to the certifications discussed above), SCI has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR § 503.13.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on November 15, 1985 (50 FR 47253), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on December 30, 1985; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Exemption

Based upon the entire record of this proceeding, ERA has determined that SCI has satisfied the eligibility requirements for the requested permanent exemption, as set forth in 10 CFR 503.32. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent exemption to SCI to permit the use of natural gas as the primary energy source for its facility at its Oklahoma City, Oklahoma location.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC on December 30, 1985.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–296 Filed 1–6–86; 8:45 am]
BILLING CODE 6450–01–M

[Docket No. ERA–FC–85–20; OFP Case No. 67044–9282–20–24]

Order Granting to University Cogeneration, Inc. Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting to University Cogeneration, Inc. Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S C. 8301 *et seq.* ("FUA" or "the Act"), to University Cogeneration, Inc. (UCI or "the petitioner"). The permanent cogeneration exemption permits the use of natural gas as the energy source for a 36.7 MW net generating, simple cycle gas-turbine cogeneration facility designed to produce electricity for sale to Pacific Gas and Electric (PG&E) and steam for use by the Berry Holding Company (Berry) for tertiary enhanced oil recovery from Berry's property in Little Signal Hills, Kern County, California. The final exemption order and detailed information on the proceeding are provided in the Supplementary Information section below.

DATE: The order shall take effect on March 10, 1986. The public file containing a copy of this order as well as other document and supporting materials on this proceeding are available upon request at: Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, 9:00 a.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–045, Washington, DC 20585, Telephone (202) 252–4523;
Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: On July 8, 1985, UCI petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption. The proposed powerplant for which the petition was filed is to consist of one General Electric Frame 6 turbine generator rated at 38,700 kw. The firing rate for the turbine would be approximately 425 MMBtu per hour (LHV). The turbine would be fueled by natural gas. The gross generating capacity would be 38.7 MW peak. All electrical power used by the cogeneration facilities would be generated by the facility. The average net generating capability would be 36.7 MW. Steam would be generated from the exhaust heat of the gas turbine in a Heat Recovery Steam Generator (HRSG). The HRSG would generate a maximum of 350,000 pounds of steam per hour.

The cogeneration facility is classified as an electric powerplant under FUA because more than 50 percent of its net annual electric generation will be sold.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including UCI's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The gas to be consumed by the subject cogeneration unit will be less than that which would otherwise be consumed in the absence of the unit, pursuant to the methodology for calculating such savings set forth in 10 CFR 503.37(b); and

2. The use of mixture of oil and gas and coal or an alternative fuel for the cogeneration unit is not economically or technically feasible.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on August 15, 1985 (50 FR 32887), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on September 30, 1985; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that UCI has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to UCI to permit the use of natural gas as the energy source for its cogeneration facility in Little Signal Hills, Kern County, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register**.

Issued at Washington, DC on December 26, 1985.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-297 Filed 1-6-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP86-248-000]

Algonquin Gas Transmission Co.; Notice of Application

December 31, 1985.

Take notice that on December 19, 1985, Algonquin Gas Transmission Company (Applicant), 1248 Solidiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP86-248-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to render limited-term transportation service on a firm basis for Southern Connecticut Gas Company (Southern Connecticut) of sales of synthetic natural gas (SNG) sold under Applicant's in lieu Rate Schedule SNG-1, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that due to the relatively high cost of its Rate Schedule SNG-1 service, Southern Connecticut has requested Applicant to reduce deliveries pursuant to tariff flexibility provisions authorized by the Commission on September 17, 1976, in Docket No. CP69-41, *et al.* Applicant indicates that Connecticut Natural Gas Corporation (CNG), an existing resale customer of Applicant, has agreed to provide natural gas to Southern Connecticut to replace 575,000 million Btu equivalent of natural gas per day of Southern Connecticut's SNG supply purchased from Applicant. Applicant requests authority herein to render transportation services to Southern Connecticut under purposed Rate Schedule X-32 to move the SNG replacement gas from CNG.

Applicant requests authority to transport gas starting the later of January 1, 1986, or the date Applicant accepts the certificate authorizing the proposed services, and ending March 31, 1986. Applicant would reduce deliveries to CNG at Farmington and Cromwell, Connecticut, and would deliver equivalent quantities of gas to Southern Connecticut at North Haven, Connecticut.

Applicant states that the proposed transportation services are similar in concept to a transportation service previously provided to certain Rate Schedule SNG-1 customers, which permitted these customers to reduce their Rate Schedule SNG-1 purchases. Applicant proposes to charge a transportation charge of 14.74 cents per million Btu equivalent of natural gas transported.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1986, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-266 Filed 1-6-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-223-000, et al.]

Panhandle Eastern Pipe Line Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipeline Company

December 30, 1985.

[Docket No. CP86-223-000]

Take notice that on December 5, 1985, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86-223-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of certain low priority end-users and for permission and approval to abandon such services of June 30, 1986, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle requests authority to implement certain transportation agreements among Panhandle, its local distribution companies (LDC) and certain low priority end-users with various execution dates. Panhandle states that the transportation authorization requested is under the same terms as previously authorized by the Commission pursuant to § 157.209 of the Commission's Regulations. The following table lists the end-user and LDC's involved and the transportation quantity requested.

End-user	LDC	Proposed Transportation Volumes (Mcf per day)
National Starch & Chemical Corp.	Central Illinois Public Service Co.	750
Allegheny Steel Corp	Indiana Gas Co	2,000
A.P. Green Refractories Co.	Direct	4,400
Caterpillar Tractor Co	Central Illinois Light Co	12,500
R.R. Donnelley & Sons	Central Illinois Public Service Co.	600
RCA Corp	Citizens Gas and Coke	1,300
DiversiTech Chemical Inc.	Mlichigan Gas Storage Co.	2,000
Dow Corning Corporation.	do	7,000
James River Corporation.	do	12,000
Allied Paper Inc	do	5,000
Motor Wheel Corp	do	2,800
James River Corp	do	8,200
Naltional Refractories and Minerals Corp.	Direct	1,900

It is explained that the transportation rate of this service is pursuant to Panhandle's presently effective Rate Schedule OST. Panhandle also requests authority to add points of receipt and delivery subject to certain reporting requirements, and authority to construct new points of receipt subject to the annual reporting requirements for construction activity pursuant to its blanket certificate in Docket No. CP83-83-000.

Comment date: January 17, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Northern Natural Gas Company Division of InterNorth, Inc.

[Docket No. CP86-203-000]

December 30, 1985.

Take notice that on November 14, 1985, Northern Natural Gas Company, Division of InterNorth Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-206-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon and remove wellhead measurement facilities, all as more fully set forth in the application which is on filed with the Commission and open to public inspection

Northern states that the facilities proposed to be abandoned were required for measurement and connection of natural gas purchased by Northern from various wells in various areas. Northern further states that such wells have been plugged and abandoned, as documented by report filed with the respective State Public Utilities Commission. Northern asserts that the facilities proposed to be abandoned are no longer required and their abandonment would not result in the termination of service or detriment to any of Northern's customers. Northern estimates that the removal cost of wellhead metering facilities would average approximately $1,500 each.

Northern indicates that although the producer has ceased the production and sale of gas to Northern at each of the various wells, the producer has not received or in most cases even requested, Commission authorization permitting the abandonment of its sale to Northern. Without evidence of Commission approved abandonment, on behalf of the producer, Northern claims it is unable to utilize it blanket certificate (Docket No. CP82-401-000) and § 157.216 of the Commission's Regulations to abandon and remove the listed facilties. Northern further indicates that it has attempted, without success, to persuade producers to secure the necessary abandonment authority. However, Northern states it recently has become aware of a report required to be filed by a producer with a state utility commission before a well can be plugged and abandoned by the producer. It is further stated that the reports provide documented proof that such wells have been plugged and abandoned and are physically incapable of any future gas production. It is further stated that these reports describe the procedure used in plugging the wells, along with pertinent information concerning the owner/operator, their addresses, location of the well, etc. Northern submits that the Commission can accept the respective State's Plugging and Abandoning Reports as an appropriate basis for Northern to abandon the idled wellhead facilities serving the listed wells.

Northern claims it purchases gas from over 10,000 wells to meet its general system requirements. Northern asserts that the proposed abandonment and subsequent relocation of these minor wellhead facilities should be viewed as a routine activity necessary for the efficient utilization of assets on Northern's system. Accordingly, Northern respectfully requests that the Commission waive § 157.216(a)(1) of the Commission's Regulations to allow Northern to utilize its blanket authority at Docket No. CP82-401-000 to permit future automatic abandonment and removal of unspecified wellhead purchase facilities for any wells that have been plugged and abandoned as documented by a Plugged and Abandonment Report filed with a respective State Commission. Northern proposes to report its activities, under the automatic abandonment authority sought herein, annually on May 1 in its annual Blanket Certificate report filed pursuant to § 157.207. Northern states it would include in such annual report, a copy of the State's Plugged and Abandonment Report for each wellhead facility abandoned in the previous year.

Comment date: January 17, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Consolidated Gas Transmission Corporation

[Docket No. CP86-227-000]

December 31, 1985.

Take notice that on December 9, 1985, Consolidated Gas Transmission Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP86-227-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add a delivery point on Texas Eastern Transmission Corporation's (Tetco's) line in Somerset County, Pennsylvania, all as more fully set forth in the request which is on file

with the Commission and open to public inspection.

Consolidated proposes to add this off-system delivery point, which would be constructed and operated by Tetco pursuant to authorization requested in Docket No. CP86–193–000, in order to have natural gas delivered to The Peoples Natural Gas Company (Peoples). It is stated that Tetco would deliver up to 3,000 dt equivalent of gas per day to Peoples for the account of Consolidated. It is explained that Tetco would make deliveries to Peoples pursuant to Tetco's service agreement with Consolidated. It is asserted that the addition of the proposed delivery point would not change the total volume delivered by Consolidated to Peoples, would have no effect on Consolidated's peak day or annual deliveries, and would not require any construction of facilities by Consolidated. Consolidated states that the reason for the proposed delivery point is to furnish Peoples with gas for its system supply and to enable Tetco to avoid the greater expense of relocating a segment of its pipeline around a proposed strip mining operation.

Comment date: February 14, 1986, in accordance with Standard Paragraph G at the end of this notice.

4. Panhandle Eastern Pipe Line Company

[Docket No. CP86–228–000]

December 30, 1985.

Take notice that on December 10, 1985, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86–228–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange and transportation of natural gas with KN Energy, Inc. (KN) pursuant to a gas exchange agreement dated August 27, 1985 (agreement), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that the agreement replaces an earlier, nonjurisdictional field exchange and adds a new jurisdictional exchange point in Texas County, Oklahoma. It is stated that KN does not presently have sufficient volumes of gas to deliver to Panhandle at the wells and exchange points included in the existing agreement, and consequently a large imbalance has developed which continues to increase monthly. It is asserted that the gas supply to be received by KN pursuant to the agreement is required in order to maintain adequate service to its customers. Panhandle states that no few facilities are required to be constructed in order to initiate service herein.

Comment date: January 17, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. Transcontinental Gas Pipe Line Corporation

[Docket No. CP86–230–000]

December 31, 1985.

Take notice that on December 10, 1985, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP86–230–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon in place approximately 3.45 miles of 10-inch transmission purchase lateral and appurtenant facilities located in the Greta Field, Refugio County, Texas, known as the Greta B lateral. Applicant states that the line extends from its 24-inch main line at milepost 173.69 to its Greta purchase meter and regulatory station in the field, and that it historically has been utilized to transport purchase gas volumes to the main line system. However, it is stated, field production has declined to the point that all quantities are basically used for gas lift operations and other lease uses, with few or no volumes available for sale; therefore, the Greta B lateral no longer serves a useful purpose and will be abandoned, Applicant states.

Applicant further states that should Greta gas reserves, which remain dedicated to it under gas purchase contracts, produce sales volumes from time to time in the future, such volumes can be adequately handled through a second, 6-inch line, known as the Greta A lateral, which extends from the Greta meter and regulator station to the main line and which would be retained in service.

Comment date: January 21, 1986, in accordance with Standard Paragraph F at the end of this notice.

6. United Gas Pipe Line Company; Texas Eastern Transmission Corporation

[Docket No. CP86–229–000]

December 30, 1985.

Take notice that on December 10, 1985, United Gas Pipe Line Company (United), P.O. Box 2521, Houston, Texas 77252, and Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP86–229–000 a joint applicantion pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United and Texas Eastern propose to exchange up to 275,000 dt equivalent of natural gas per day pursuant to a gas exchange agreement dated August 1, 1985. It is stated that Texas Eastern and United would exchange gas at various interconnections between their facilities in the states of Mississippi and Louisiana. It is further stated that the exchange service is for a primary term of 10 years, beginning on the first day gas is delivered, and from year to year thereafter. United and Texas Eastern indicate that the proposed exchange would be of a mutual benefit and, therefore, there would be no charge by either party.

Comment date: January 17, 1986, in accordance with Standard Paragraph F at the end of this notice.

7. United Gas Pipe Line Company

[Docket No. CP86–246–000]

December 31, 1985.

Take notice that on December 17, 1985, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP86–246–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing United to establish a new sales rate schedule designated Authorized Overrun Schedule (AOS), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that it is has undergone a precipitous decline in sales since 1981. It is indicated that this has resulted in substantial take or pay exposure to United's suppliers as well as a substantial excess of deliverability on United's system. It is explained that there is a substantial block of gas on United's system that is far in excess of the needs of United's customers, as such needs are reflected in takes from United under its regular and discount rate schedules. United asserts that the AOS is intended to make this excess deliverability available to United's existing customers.

United proposes that the AOS would apply (1) to authorized volumes purchased by customers in excess of their maximum daily quantity, and (2) if the customer elects, to authorized volumes purchased by customers in

excess of their otherwise applicable minimum billing demand but less than their applicable maximum daily quantity. United further proposes that rates for AOS gas may not exceed the customer's otherwise applicable rate, under the PL–N, G–N, G–S, DG–N or DG–S Rate Schedule, computed at a 100 percent load factor and may not be less than the commodity portions, excluding fixed costs, of such otherwise applicable rates. United states that the AOS rates would be quoted monthly. It is indicated that Rate Schedule AOS would be available to all customers purchasing gas under United's existing Rate Schedules DG–S, DG–N, G–S, G–N and PL–N.

Comment date: January 21, 1986, in accordance with Standard Paragraph F at the end of this notice.

8. United Gas Pipe Line Company

[Docket No. CP86–233–000]

December 30, 1985.

Take notice that on December 12, 1985, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP86–233–000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and for permission and approval to abandon certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is engaged in a multi-year project to renovate and modernize the operations of its transmission system.[1] Therefore, Applicant proposes to replace 10.83 miles of the existing 18-inch Baton Rouge–New Orleans pipeline with 20-inch pipe in East Baton Parish, Louisiana. Applicant explains that the existing line, which was installed in 1927, is a Dresser coupling connected line with high maintenance costs. Applicant states that the existing line would be abandoned by removal. It is indicated that the estimated cost of the proposed facilities is $8,700,767, excluding filing fees. Applicant states that the cost of facilities would be financed from funds on hand.

Comment date: January 17, 1986, in accordance with Standard Paragraph F at the end of this notice.

[1] The initial phase of this project was authorized by Commission order issued July 25, 1985, in Docket NO. CP85–31–000.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearingf is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will have be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person of the Commission's staff may, within 45 days after the issuance of the instance notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–265 Filed 1–6–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER86–103–000]

Southern Company Services, Inc.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Granting Waiver, and Establishing Hearing Procedures

Issued: December 31, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On October 31, 1985, Southern Company Services, Inc. (SCSI), on behalf of Alabama Power Company (APCO), Georgia Power Company (GPC), Gulf Power Company (Gulf), and Mississippi Power Company (MPC), submitted for filing a revised Southern Company System Intercompany Interchange Contract (IIC), together with a revised Allocation Methodology and Periodic Rate Computation Manual (Manual).[1] The IIC and Manual provide for the interchange of capacity and energy among the operating utilities of the Southern Company, a public utility holding company registered pursuant to the Public Utility Holding Company Act of 1935.[2] The proposed IIC incorporates a formula rate mechanism similar to the existing IIC filed in Docket No. ER84–63–000,[3] except for minor revisions to include, in operating and maintenance expenses, the pumped storage hydro portion of Account No. 535 of the Commission's Uniform System of Accounts (Operation Supervision and Engineering) and to increase the pumped storage hydro plant reserve requirement. SCSI proposes an effective date of January 1, 1986. In addition, SCSI request waiver of the filing requirements set forth in §§ 35.13(c) and 35.13(h)(37) of the Commission's regulations. In support, the company contends that these filing requirements which pertain to billing and rate design data,[4] have limited applicability to its filing.

[1] *See* Attachment for rate schedule designations.

[2] 15 U.S.C. 79 *et seq.*

[3] The settlement in Docket No. ER84–63–000 provided that the present IIC would terminate on December 31, 1985, and that SCSI would file a superseding IIC in November 1985, to become effective on January 1, 1986.

[4] Section 35.13(c) requires that a utility supply a comparison of the sales and revenues under the proposed rate schedule with those produced under the existing rate schedule. Schedule 35.13(h)(37)

Continued

Notice of SCSI's filing appeared in the **Federal Register**,[5] with comments due on or before November 27, 1985. Timely motions to intervene were filed by the Municipal Electric Authority of Georgia (MEAG) and Oglethorpe Power Corporation (Oglethorpe), each of which is a wholesale customer of GPC. MEAG requests that the Commission suspend SCSI's filing and set it for hearing. In support, MEAG objects to the rate of return on common equity reflected in the filing and, further, alleges that certain costs associated with the Hatch and Wansley Generating Stations are overstated. Oglethorpe also requests that SCSI's filing be suspended and set for hearing. Oglethorpe alleges that the IIC and Manual produce unjust and unreasonable rates; Oglethorpe does not raise any specific cost of service issues, however.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214), the timely, unopposed motions to intervene serve to make MEAG and Oglethorpe parties to this proceeding.

We agree with SCSI that the filing requirements of §§ 35.13(c) and 35.13(h)(37) have limited applicability to the interchange transactions and pricing mechanisms reflected in SCSI's submittal. Further, we note that none of the intervenors has objected to the request for waiver, and that the Commission granted a similar request for waiver in Docket No. ER84–63–000.[6] Accordingly, we shall grant SCSI's request for waiver of the outstanding filing requirements.

We take this opportunity to advise the filing parties that, until the revised formulas are determined to be just and reasonable, any future changes resulting from operation of the formulas contained in the filing (including changes in the capacity charges and the variable energy charge components other than fuel costs) will constitute a change in rate and will require a timely filing, including appropriate cost support, pursuant to Part 35 of the Commission's regulations.[7]

Our review of SCSI's filing and the pleadings indicates that the rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept SCSI's submittal for filing and suspend it as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. Here, the operating utilities' revenues would not be substantially affected by the company's submittal since, in most respects, it is the same as the existing IIC. Further, no party opposes SCSI's proposed effective date. In the circumstances, we find that a nominal suspension is appropriate. Accordingly, we shall accept SCSI's submittal for filing and suspend it to become effective, subject to refund, on January 1, 1986.

The Commission Orders

(A) SCSI's request for waiver of the filing requirements is hereby granted.

(B) SCSI's submittal is hereby accepted for filing and suspended, to become effective, subject to refund, on January 1, 1986.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter), a public hearing shall be held concerning the justness and reasonableness of the 1986 Southern Company System IIC and Manual.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C., 20426. The presiding judge is authorized to establish procedural dates, including a date for submission of a case-in-chief by SCSI, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) Subdocket 000 of Docket No. ER86–103 is hereby terminated, and Docket No. ER86–103–001 is assigned to the evidentiary hearing ordered herein.

(F) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment

Rate Schedule Designations

Designation	Description
Southern Company Services Incorporated	
(1) Rate Schedule FERC No. 64 (Supersedes Rate Schedule FERC No. 63, as supplemented).	Revised Interchange Agreement.
(2) Supplement No. 1 to Rate Schedule FERC No. 64.	Manual.
Alabama Power Company	
(3) Rate Schedule FERC No. 164 (Supersedes Rate Schedule FERC No. 162) (Concurs in (1) and (2) above).	Certificate of Concurrence.
Georgia Power Company	
(4) Rate Schedule FERC No. 820 (Supersedes Rate Schedule FERC No. 818) (Concurs in (1) and (2) above).	Do.
Gulf Power Company	
(5) Rate Schedule FERC No. 83 (Supersedes Rate Schedule FERC No. 80) (Concurs in (1) and (2) above).	Do.
Mississippi Power Company	
(6) Rate Schedule FERC No. 142 (Supersedes Rate Schedule FERC No. 140) (Concurs in (1) and (2) above).	Do.

[FR Doc. 86–268 Filed 1–6–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RM85–1–000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (D.B. Baxter, Inc.); Order Granting Request for Waiver

Issued: December 31, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On November 25, 1985, D.B. Baxter, Inc. filed a request for clarification of the transitional provisions of Order No. 436 [1] as they apply to a transportation transaction performed under section 311 of the Natural Gas Policy Act of 1978. We will grant Baxter's request.

On August 20, 1985, Baxter entered into an agreement to sell gas from a well it operates in Winkler County, Texas, to El Paso Gas Marketing Company (EPGM). El Paso Natural Gas Company agreed to transport EPGM's gas. In order to move the gas from its well to El Paso's system, Baxter entered into an agreement on September 25, 1985, to lease a gathering system from a "third party gatherer." On October 7, 1985, gas began to flow from the well into the leased gathering system. Due to "severe" leaks in the gathering system,

requires filing utilities to provide a statement describing and justifying the design of the changed rate.

[5] 50 FR 48249 (1985).

[6] *See* 25 FERC ¶ 61,466 (1983).

[7] *Id.*

[1] 33 FERC ¶ 61,007 (1985), 50 FR 42,408 (October 18, 1985).

Baxter shut down the well and initiated repairs. Baxter spent approximately $25,000 to put the gathering line into acceptable working condition. Gas commenced flowing again on October 10 or 11. Gas has ceased flowing due to Order No. 436.

In *Judel Glassware Co., Inc.*, 33 FERC ¶ 61,386 (December 17, 1985), we established an economic substance test for grant of a waiver from the restrictions in the transitional provisions of Order No. 436. We stated that a "purchaser, seller, or end user must show that, in reliance on a transportation contract, it constructed significant facilities for delivery of gas prior to October 9, or expended substantial funds prior to October 9." This test is meant to grant relief from the transitional provisions of Order No. 436 without defeating its objectives.

We conclude that Baxter has shown that its expended substantial funds in reliance on a transportation contract executed prior to October 9. Accordingly, we hereby waive the restrictions in § 284.105 to the extent necessary to permit Baxter's transportation transaction to continue.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-263 Filed 1-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-105]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Seagull Energy Corp.); Order Granting Request for Waiver

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

Issued: December 31, 1985

On November 8, 1985, Seagull Energy Corporation (Seagull), an intrastate pipeline, filed a request for clarification, on waiver, or in the alternative for limited rehearing of the transitional provisions of Order No. 436 [1] as they apply to two transportation transactions involving its subsidiaries, Seagull Interstate Corporation, Seagull Marketing Services, Inc., and Seagull Energy E&P, Inc. We will waive the restrictions in the transitional provisions to allow the transporter to proceed.

Facts

On March 24, 1984, Northern Natural Gas Company, Division of Internorth, Inc. (Northern), agree to purchase gas reserves in Mustang Island Area Block 831 (MI 831), offshore Texas, from Seagull Energy E&P, Inc. (E&P), a producer. Due to a gas surplus, Northern assigned its gas purchase obligation from MI 831 to Neches Gas Distribution Company (Neches) until June 30, 1986.

In order to transport the gas, Northern agreed to construct 25 miles of 20-inch pipeline to connect MI 831 to the Matagorda Offshore Pipeline System (MOPS). Northern agreed to transport Neches's gas through the newly constructed pipeline and through its ownership interest in MOPS to Exxon Gas Systems, Inc. (Exxon), an intrastate pipeline. On July 9, 1984, Exxon agreed to receive the gas from Northern at a receipt point between its system and MOPS, and to transport the gas under section 311 of the Natural Gas Policy Act of 1978 (NGPA) to Sabine Pipeline Company for ultimate delivery to Neches. E&P's sales for resale to Northern, E&P's limited-term sale for resale to Neches, Northern's construction of a pipeline, and Northern's transportation of gas for Neches were authorized in *Northern Natural Gas Company, Division of InterNorth, Inc.*, 32 FERC ¶ 61,030 (1985).

E&P and its co-working interest holders in MI 831 have spent over $25,000,000 to construct a platform and to drill and test wells. Northern has spent several million dollars to construct its pipeline connecting MI 831 to MOPS. Although all construction and drilling is finished, and E&P, Northern, and Neches are ready to commence the sale and transportation, Exxon is reluctant to transport the gas due to its concerns about Order No. 436.

In the second transportation transaction, Seagull Marketing Services, Inc. (SMS), a natural gas reseller, entered into an agreement to purchase gas from E&P working interest in Galveston Island Block 213 (GI 213), offshore Texas, and to resell the gas to Amoco Production Company (Amoco), a local distribution company.

In order to transport the gas to Amoco, SMS entered into an agreement with Seagull Interstate Corporation (SIC), an interstate pipeline, in which SIC agreed to construct and operate 5.67 miles of 6-inch pipeline in order to transport gas from GI 213 to the facilities of Seagull. On February 27, 1985, Seagull, in turn, agreed to transport the gas for SIC under section 311 of the NGPA to a connection with Houston Pipe Line Company (HPL), an intrastate pipeline. On August 1, 1985, HPL agreed to transport the gas for SIC to Amoco under section 311 of the NGPA. SIC's construction and operation of facilities and transportation of gas for SMS was authorized in *Seagull Interstate Corporation*, 32 FERC ¶ 61,261 (1985).

E&P has spent approximately $3,000,000 on production facilities in GI 213. SIC has spent approximately $1,500,000 to construct pipeline facilities. Transportation of gas by SIC, Seagull, and HPL was to have commenced on October 25, 1985, but was delayed by a hurricane. Because of its concerns with the provisions of Order No. 436, HPL is reluctant to begin the transportation service.[2]

Discussion

In *Judel Glassware Co., Inc.*, 33 FERC ¶ 61,386 (December 17, 1985), we established an economic substance test for grant of a waiver from the restrictions in the transitional provisions of Order No. 436. We stated that "a purchaser, seller, or end user must show that, in reliance on a transportation contract, it constructed significant facilities for delivery of gas prior to October 9, or expended substantial funds prior to October 9." This test is meant to grant relief from the transitional provisions of Order No. 436 without defeating its objectives.

We conclude that the two transportation transactions identified in Seagull's petition show the requisite construction of significant facilities or expenditure of substantial funds by a seller in reliance on a transportation contract executed prior to October 9. We note that in Seagull's requst, it included in the expenditures which gave economic substance to the arrangements before October 9, 1985, amounts spent for constructing platforms and for drilling and testing wells. We will consider this type of production expense only where, as here, they were spent in reliance on the particular transportation arrangement sought to be grandfathered. We also note that here the parties did apply for and receive authorization under section 7(c) of the Gas Act for portions of the transportation/sale transaction here. We believe that this lends support to the finding that the subject transactions had "economic substance" prior to October 9, 1985, and were not hastily conceived after that date in an attempt to avoid the effects of Order No. 436. Finally, we think it appropriate to consider in a case such as this the amounts expended by the pipeline in reliance on the transportation because as here, Seagull has stated that it is willing to transport under Order No. 436, but this

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[1] 33 FERC ¶61,007 (1985), 50 FR 42408 (October 18, 1985).

[2] Seagull states that it will transport gas under the provisions of Order No. 436.

transportation alone is not sufficient to enable the transaction to go forward. Accordingly, we hereby waive the restrictions in § 284.125 to the extent necessary to permit the transportation transactions identified in Seagull's petition to commence.

Seagull further requests that we clarify that "specific delivery and/or receipt points that are separately described in a 'grandfathered' transportation agreement, as the terms of that agreement existed on October 9, 1985, but which delivery and/or receipt points were not in use on or before October 9, 1985, may be used after November 1, 1985 without subjecting the transporting pipeline to the open access and other conditions that apply to new transportation under the Order No. 436 regulations." The Commission recently clarified that where receipt or delivery points were specified in a transportation agreement in effect on October 9, 1985,[3] commencement of use of a particular receipt or delivery point after that date will not subject the pipeline to §§ 284.8, 248.9, and 284.10 as long as the transportation arrangement was authorized and service under it commenced on or before October 9, 1985. With respect to the particular transportation authorized pursuant to the waiver granted herein, the requirement of service having commenced by October 9 would, of course, not apply.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-264 Filed 1-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Valero Transmission Co.); Order Granting Request for Clarification

Issued: December 31, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On December 6, 1985, Valero Transmission Company filed a motion requesting clarification of Order No. 436.[1] Valero poses a question with respect to an intrastate pipeline which, on or after December 15, 1985, for a *bona fide* business reason, terminates all of its Natural Gas Policy Act (NGPA) section 311 transportation services that were commenced or expanded after October 9, 1985, but continues to provide NGPA section 311 transportation services that were authorized and commenced on or prior to October 9, 1985 and that are continued pursuant to the transitional provisions of § 284.125 of Order No. 436. Valero requests confirmation that under such circumstances the termination of the new transportation services would not constitute undue discrimination or preference, and that the non-discriminatory access conditions of §§ 284.8 and 284.9 would cease to apply to the intrastate pipeline after termination of those new services.

Valero is correct that an intrastate pipeline or an interstate pipeline can avoid at any time, either prior to or after December 15, 1985, further obligations under sections 284.8 and 284.9 to provide additional NGPA section 311 transportation service by terminating in a non-discriminatory manner all of its existing NGPA section 311 transportation services other than those that were authorized and commenced on or prior to October 9, 1984.[2]

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-269 Filed 1-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF86-329-000]

SES Concord Co., L.P.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 31, 1985.

On December 10, 1985, SES Concord Co., L.P. (Applicant), of One Liberty Lane, Hampton, New Hampshire 03842 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 proposed small power production facility will be located on the South of Hoit Road and East of Hannah Dustin Drive in Penacook, New Hampshire 03301. The facility will burn municipal solid waste to generate 10,025 kW of electric power.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-267 Filed 1-6-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OW-4-FRL-2950-1]

The Impacts of Wastewater Disposal Practices on the Ground Water of the North Carolina Barrier Islands

AGENCY: Environmental Protection Agency.

ACTION: Announcing the availability of the final report—the impacts of wastewater disposal practices on the ground water of the North Carolina Islands (EPA 904/9-85-139).

SUMMARY: EPA Region IV recently completed a study of the impacts of wastewater disposal on the ground water of three areas of the North Carolina Barrier Islands; Kill Devil Hills Atlantic Beach/Pine Knoll Shores and Surf City. The study was performed in response to questions resulting from EPA Region IV's North Carolina Barrier Islands EIS (1984). The study demonstrated a simple model for describing the observed ground-water level changes caused by disposal of wastewater to the shallow aquifer system. The study also examined what were found to be the generally minor impacts of wastewater disposal on

[3] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Natural Gas Pipeline Company of America), 33 FERC ¶ 61,385 (December 17, 1985).

[1] 33 FERC ¶ 61,007 (1985), 50 FR 42408 (October 18, 1985).

[2] However, the Commission notes in this regard that if the termination of all new NGPA section 311 transportation services under Order No. 436 is done by an interstate pipeline, such termination must occur prior to the end of the applicable transitional period, i.e., no later than February 15, 1986, in order to avoid the condition under § 284.10 that a pipeline permit its firm sales customers the opportunity to reduce their contract sales demands and require that the pipe-transport equivalent volumes of gas purchased elsewhere.

ground-water quality in the three study areas. The report contains all data, analyses and conclusions resulting from this study.

ADDRESS: Copies of "The Impacts of Wastewater Disposal Practices on the Ground Water of the North Carolina Barrier Islands—Final Report" may be obtained by contacting Robert Lord, Project Monitor, Environmental Assessment Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta Georgia 30365, 404/347-3776 or FTS 257-3776.

FOR FURTHER INFORMATION CONTACT: Robert Lord at (404)— 347-3776.

Dated: December 17, 1985.

Sanford W. Harvey, Jr.,

Acting Regional Administrator.

[FR Doc. 86-255 Filed 1-6-86; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL-2950-8]

Science Advisory Board; Closed Meeting

Under Public Law 92-463, notice is hereby given that a meeting of an ad-hoc Subcommittee of the Science Advisory Board will be held in Washington, D.C. on January 29-30, 1986 to determine the recipients of the Agency's 1986 Scientific and Technological Achievement Cash Awards. These awards are established to give honor and recognition to EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, and who have published their results in peer reviewed journals.

Pursuant to section 10(d) of the U.S.C. Appendix 1 and 5 U.S.C. 522(c), I hereby determine that this meeting is concerned with information exempt from disclosure, and that the public interest requires that this meeting be closed.

In selecting the recipients for the awards, and in determining the actual cash amount of each award, the Agency requires full and frank advice from the Science Advisory Board. This advice will involve professional judgments on those employees whose published research results are deserving of a cash award as well as those that are not. In addition, the Board will advise on the amount of money to be allocated for each award. Discussions of such a personal nature, where disclosure would constitute an unwarranted invasion of personal privacy, are exempt under section 10(d) of Title 5, U.S. Code, Appendix 1. In accordance with the provisions of the Federal Advisory Committee Act, minutes of the meeting will be kept for Agency and Congressional review.

The Science Advisory Board shall be responsible for maintaining records of the meeting, and for providing an annual report setting forth a summary of the meeting consistent with the policy of U.S.C. Appendix 1, section 10(d).

For Further Information Contact: Terry Yosie at (202) 382-4126.

Dated: December 19, 1985.

Lee M. Thomas,

Administrator.

[FR Doc. 86-254 Filed 1-6-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51599; FRL-2933-11]

Certain Chemicals Premanufacture Notices

Correction

In the document beginning on page 50004 in the issue of Friday, December 6, 1985, make the following corrections: On page 50006:

1. In the first column, last line, "acryulates" should read "acrylates".

2. In the second column: a. "date" should read "data" in **P 86-197** through **P 86-201**, inclusive.

b. Under **P 86-200**, second line, "ploylycol" should read "polyglycol".

c. At the bottom of the column, the document number in the file line should read "85-28700".

BILLING CODE 1505-01-M

[OPTS-42078; TSH-FRL 2904-1]

Sodium N-Methyl-N-Oleoyltaurine; Decision Not To Test

Correction

In FR Doc. 85-26528, beginning on page 46178 in the issue of Wednesday, November 6, 1985, make the following correction:

On page 46179, third column, under *A. Physical Characteristics*, sixth line, "14.45" should read "1.45".

BILLING CODE 1505-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 86-1]

Cancellation of Tariffs or Assessment of Penalties Against Non-Vessel Operating Common Carriers in the Foreign Commerce of the United States; Order To Show Cause

Section 8 of the Shipping Act of 1984 (1984 Act) (46 U.S.C. app. 1707), requires that common carriers in the foreign commerce of the United States file with the Federal Maritime Commission tariffs showing all of their rates, charges, classifications, rules and practices for transportation of cargo. Non-vessel-operating common carriers are among the carriers subject to this requirement. They are also subject to the requirement of section 15(b) of the 1984 Act (46 U.S.C. app. 1714(b)), that all common carriers in the U.S. foreign commerce annually certify to the Commission that they have and enforce a policy prohibiting the practice of illegal rebating in ocean shipping.

The Commission has implemented section 15(b) by adopting a regulation requiring each common carrier, including each non-vessel-operating common carrier (NVOCC), to make its anti-rebate certification on or before May 15 of each year. (46 CFR 582.4). The **Federal Register** notice publishing this regulation (49 FR 36856 (Sept. 20, 1984)) advised that those common carriers who had not already certified their anti-rebate policies for 1984 under the existing Shipping Act, 1916, *i.e.*, NVOCC's were required to so certify on or before December 15, 1984.

Notwithstanding the Commission's efforts to advise common carriers of their statutory and regulatory obligation to file anti-rebate certificates by a date specific, a number of NVOCC's having tariffs on file with the Commission failed to submit the required certificates. As a result, the Commission, by Order to Show Cause served March 7, 1985 (March Order), instituted Docket No. 85-5, *Failure of Non-Vessel-Operating Common Carriers in the Foreign Commerce of the United States to Comply With the Anti-Rebate Certification Filing Requirement of section 15(b) of the Shipping Act of 1984.* The March Order directed 367 NVOCC's with tariffs on file with the Commission to show cause why they should not be found in violation of section 15(b) for failure to file the required anti-rebate certificate for calendar year 1984. Responses to the March Order were filed by, or on behalf of, 160 NVOCC's.

The Commission's March Order or other pleadings in the proceeding served on 113 of the named respondents were returned by the U.S. Postal Service or tariff filing service listed with the Commission as the respondent's address, indicating that these respondents could not be found. Such carriers are required by 46 CFR 580.5(c)(2)(i) to publish in their tariff the address of their principal office. These circumstances suggest that these Respondents may no longer be doing business as NVOCC's under the tariffs on file with the Commission.

Having received no anti-rebate certificate as well as no response to the

March Order from these 113 Respondents, the Commission by Order served on December 9, 1985 (December Order) found each of them to be in violation of section 15(b) of the 1984 Act and the Commission's regulations at 46 CFR 582.4. Rather than prolong and expand the existing proceeding in order to address these violations, the Commission, in its December Order, announced its intention to initiate a new proceeding.

The 113 NVOCC's, named in Appendix A, are therefore made Respondents in the proceeding initiated herein and are ordered to show cause why their tariffs should not be found to be inactive and be cancelled. To the extent that any of these Respondents may show that they are actively conducting business pursuant to these tariffs, they are further ordered to show cause why they should not be found in violation of 46 CFR 580.5(c)(2)(i) and assessed appropriate penalties for these violations as well as violations of 46 CFR 582.4 previously found. The record compiled and findings made in Docket No. 85–5 are incorporated into and made a part of the record in this proceeding.

Some 88 NVOCC's named as respondents in Docket No. 85–5 did not file any response to the Commission's Order to Show Cause served in that proceeding. Each of these respondents was found to have violated section 15(b) of the Act and 46 CFR 582.4 by failing to certify to the Commission the policies and efforts of its company to combat rebating in the U.S. foreign commerce. Because the lack of response from these NVOCC's raised doubts that they are actively engaged in business under the tariffs on file, the Commission dismissed these respondents as parties to Docket No. 85–5 without assessing penalties for the violations found and announced its intention to name them as respondents in a new proceeding to determine whether their tariffs should be cancelled, as well as whether penalities should be assessed for the violations previously found.

Therefore, the 88 NVOCC's named in Appendix B hereto, are made Respondents in this proceeding and are ordered to show cause why their tariffs should not be found to be inactive and be cancelled. To the extent that any of these Respondents may show that they are actively conducting business pursuant to these tariffs, they are further ordered to show cause why penalties should not be assessed against them for the violations of section 15(b) and 46 CFR 582.4 previously found in Docket No. 85–5.

Therefore it is ordered, That pursuant to section 8, 11, 13, and 15 of the Shipping Act of 1984 (46 U.S.C. app. 1707, 1710, 1712, and 1714) this proceeding is instituted to determine whether respondents should be assessed civil penalties for any violations of the Shipping Act of 1984 (46 U.S.C. app. 1701 *et seq.*) and Commission regulations which may be found in this proceeding or which were previously found in Docket No. 85–5 and, if so, the amount of such penalty, and other issues described below.

It is further ordered, That the NVOCC's named in Appendices A and B are named Respondents in this proceeding and shall show cause why the tariffs they have on file with the Commission should not be found to be inactive and be cancelled; and

It is furthered ordered, That, to the extent that any of the Respondents named in Appendix A may show that they are currently conducting business as an NVOCC pursuant to a tariff on file with the Commission, they shall show cause why they should not be found in violation of 46 CFR 580.5(c)(2)(i) for failure to publish in their tariffs, and to apprise the Commission of , the current address of their principal office; and why appropriate penalties should not be assessed for any such violations found as well as for the violations of section 15(b) of the Shipping Act of 1984 (46 U.S.C. app. 1714) and 46 CFR 582.4 previously found in Docket No. 85–5; and

It is further ordered That, to the extent that any of the Respondents named in Appendix B may show that they are currently conducting business as an NVOCC pursuant to a tariff on file with the Commission, they shall show cause why appropriate penalties should not be assessed against them for the violations of section 15(b) of the Shipping Act of 1984 (46 U.S.C. app. 1714) and 46 CFR 582.4 previously found in Docket No. 85–5; and

It is further ordered, That, a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but no later than 225 days after service of this Order;

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That, in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (47 CFR 502.42), the Bureau of Hearing Counsel shall be a party to this proceeding;

It is further ordered, That notice of this Order be published in the **Federal Register**, and a copy be served upon all parties of record;

It is further ordered, That any person, other than parties of record, having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

If is further ordered, That the record compiled and orders made in Docket No. 85–5 are incorporated herein and made a part of the record of this proceeding;

It is further ordered, That all future notices, orders and decisions issued by or on behalf of the Commission in this proceeding shall be mailed directly to all parties of record; and

Finally, it is ordered, That pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure (46 CFR 502.61), the initial decision of the Presiding Officer in this proceeding shall be issued by January 2, 1987 and the final decision of the Commission shall be issued by May 4, 1987.

By the Commission.

Bruce A. Dombrowski,

Acting Secretary.

Appendix A

Aeropac, Gonzalo A. Concha, P.O. Box 522751, Miami, FL 33152
Alliance Tradeships Ltd., P.O. Box 558754, Miami, FL 33155
Ambassador Overseas Shipping Corp., P.O. Box 2097, Westfield, NJ 07090
Amercon Ocean Freight Lines, Inc., 65 Springfield Avenue, Springfield, NJ 07081
American Intermodal Services, Inc., Joseph Guarnera, Tariff Issuing Officer, 17 Battery Place—Suite 1717, New York, NY 10004
American Int'l Consolidators, Inc., Mr. Henry Decuba, President, 5400 N.W. 32nd Court, Miami, FL 33142
American Int'l Shipping Lines, 65 Springfield Ave., Springfield, NJ 07081
American Ocean Frt. Carriers Corp., 65 Springfield Ave., Springfield, NJ 07081
American Kings, Inc., 1412 N.W. 82nd Ave., Miami, FL 33126
Americas Caribbean, Michael A. Malarski, President, 1300 Market Street, Elk Grove Village, IL 60007

Australia-Far East Shipping, Inc., c/o Int'l Tariff Services, Inc., 5 Skyline Place, 5111 Leesbury Pike, Falls Church, VA 22041
B Line Shipping Company, c/o Int'l Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
BIC Tran International, c/o Int'l Tariff Services, Inc., 5 Skyline Place, 5111 Leesbury Pike, Falls Church, VA 22041
Bow Patmar Container Line, Inc., 1105 Caspian Avenue, Long Beach, CA 90813
Bushfinch Int'l Enterprises, P.O. Box 19861, Raleigh, NC 27619
C Line Marine Inc., 1218 Union Street, Brooklyn, NY 11225
C.A.T. Line DBA Consolidated Atlantic Transportation Lines, Inc., Wyatt I. Hendricks, President, 6716 While Stone Road, Baltimore, MD 21207
C.T.C. Shipping SA, Panama City, Repulic of Panama
Cari-Cargo International, Inc., 1401 N.W. 78th Avenue, Suite 201, Miami, FL 33120
Caribbean Antillean Freight, Inc., 6501 N.W. 36th Street, Suite 180, Miami, FL 33166
Caribbean Container Services, Inc., 605 Park Avenue, New York, NY 10021
Caribe Transport Consolidators, Inc., 7856 N.W. 72nd Avenue, Miami, FL 33166
Century Marine, Inc., James Cirami, President, 142–82 Rockaway Boulevard, Jamaica, NY 11434
Columbian Maritime Transport, Inc., P.O. Box 623, Linden, NJ 07036
Consolidated Ocean Services, Inc., 8247 N.W. 66th Street, Miami, FL 33166
Container Overseas Agency, Inc., R. Meyers, President, 340 South Stiles Street, Linden, NJ 07036
Conyma Lines, Inc., 42 Broadway—Room 1915, New York, NY 10004
DAMCO Transporation (Phila), Inc., 4425 Rising Sun Ave., Philadelphia, PA 19140
E–C International Group, 3169 Norbrook Drive, Suite 110, Memphis, TN 38116
E.D.S. Int'l Shipping Corp., 506–528 Cozine Avenue, Brooklyn, NY 11208
EKB Kieserling America, Corp., One Executive Drive, Executive Park, Fort Lee, NJ 07024
European Express Shipping Lines Co., 17 Battery Place—Suite 1930, New York, NY 10004
Everest Freight Shipping Inc., 15 Park Row, New York, NY 10048
Express Cargo Systems, Inc., 1601 W. Edgar Road—Bldg. A, Linden, NJ 07036
Fast Container Line, 335 West Carob Street, Compton, CA 90220
Florida Cargo, Inc., Dori Hanna-Burnham, President, 4 East Port Road, Suite 109, Riviera Beach, FL 33404
Freightmasters, Inc., P.O. Box 264, Mount Prospect, IL 60056
G.M.S. International Corp., 328 Washington Street, Jersey City, NJ 07320
Gaydem Marine Systems Ltd., 191 Route De Delmas, Coindelmas 25, Port-Au-Prince, Haiti
Hap Dong Express, Inc., 1265 Broadway, New York, NY 10001
Imporex, Inc., Angelo Ferreira, General Manager, 33 Broad Street, Suite 330, Boston, MA 02109
Intercontinent Express, Inc., Tom Adyagi, President, 714 So. Isis Avenue, Inglewood, CA 90301
Interline Container Services, Ltd., 1642 International Trade Mart, New Orleans, LA 70130
Intermodal Transp. Services, P.O. Box 430, Linden, NJ 07036
Int'l Cargo Handlers, Inc., 8401 N.W. 70th Street, Miami, FL 33178
Int'l Freight Consultants, Inc., 39 Broadway, Suite 3008–3010, New York, NY 10006
International Freight Services, John J. Solano, President, Public Ledger Building, Suite 902, Philadelphia, PA 19106
Int'l Parcel Service, Ltd., 160 Broadway, New York, NY 10038
IPD Cargo Services, Inc., P.O. Box 192, Piermont, NY 10968
Joint Transport (USA), Inc., 8 Hook Road, Bayonne, NJ 07002
L.C.L. Incorporated, c/o Int'l Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Lomar Transport, Inc., Keith & New Kirk Street, Building 2H, Baltimore, MD 21224
Lt Marine Management, Inc., 5D Sandalwood Court, Old Bridge, NJ 08857
Lu-Med Caribbean, Conf., 818 Stealing Place, Brooklyn, NY 11216
M—Line, P.O. Box 218159, Houston, TX 77218
Marine Consolidators, Inc., c/o Int'l Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Marlog International, Inc., 4417 South Mingo Road, Tulsa, OK 74145
Metrick Maritime Service, Inc., 401 Broadway—Room 1910, New York, NY 10013
Modal Transport, Inc., 1724 Sacramento St., Suite 102, San Francisco, CA 94109
Multimodal Incorporated, 19 Pine Avenue, Long Beach, CA 90802
Nautical Services Corporation, c/o Oceans International Corp., 1314 Texas Avenue, 15th Floor, Houston, TX 77002
Navimar Shipping Corp., Five World Trade Center, Suite 9273, New York, NY 10048
New World Carriers, Inc., 1150 N.W., 72nd Avenue, #510, Miami, FL 33126
Nuasa (Florida) Express, Inc., 16201 S.W. 95th Avenue, Miami, FL 33157
NVO Carriers, Inc., 1 World Trade Center, Suite 1149, New York, NY 10048
Ocean Freight Consolidators, Inc., P.O. Box 527, Mataway, NJ 07747
Ocean Freight Lines, Inc., One World Trade Center, Suite 1149, New York, NY 10048
Overseas Cargo Lines, Inc., 44 Montgomery Street, San Francisco, CA 74104
Overseas Consolidators Company, 5730 Arbor Vitae, Los Angeles, CA 90045
Overseas Container System, Inc., Timothy Busch, Vice President, 2701 Lakeside Avenue, Cleveland, OH 44114
Overseas Express, Inc., Mr. David A. Pirigyi—President, 9635 Northwest 80th Avenue, Miami, FL 33014
Overseas Shipping & Transportation, Inc., 5730 Arbor Vitae, Los Angeles, CA 90045
Pelican Cargo Services, Inc., c/o Int'l Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
PMA, Inc., James and Fraley Streets, Philadelphia, PA 19137
Red Oak Industries Ltd., Inc., Gerald Backus, President, Box J, Blairstown, NJ 07825
Royal Star Shipping Corp., c/o Int'l Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Rush Int't Electric & Shipping Co. Inc., 1520 West 7th Street, Los Angeles, CA 90017
Sail Shipping Systems, Inc., 17 Battery Place, Suite 1930, New York, NY 10004
Samad Shipping Services, Inc., c/o Int'l Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
San Yang Yuan, 403 McGuigan Place, Harrison, NJ 07029
Saturn Shipping Company, Inc., P.O. Box 1809, Manhattanville Station, New York, NY 10027
Selax Transport Corp., DBA Selax Container Lines, 147–32 Farmers Blvd., Jamacia, NY 11434
Seven Seas Containerline, Ltd., Port of Sacramento World Trade Center, West Sacramento, CA 95691
Synder Moving & Shipping Co. Ltd., c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302
South African Navigation, Inc., 140 Cedar Street, Suite 815, New York, NY 10006

South Pacific Consolidators, Inc., 111 San Leandro Blvd., San Leandro, CA 94577
Southland Pacific Shipping, Inc., 20218 Doogan Ave., Compton, CA 90221
Spade Ace-Allisped Forwarders Int'l., Ltd., 1870 El Camino Real, Burlingame, CA 94010
Special Shipping, Inc., c/o Int'l Tariff Services, Inc., 5 Skyline Place, 5111 Leesburg Pike, Falls Church, VA 22041
Stavers Corporation, Mr. Peter De Fabiis, President, 84 Congress Rd., Emerson, NJ 07630
STT Services, Ltd., 1922 Eastern Parkway, Brooklyn, NY 11233
Sunshine Int'l Cargo Corp., 913 Richards Rd., Antioch, TN 37013
Tiger Container Express, Ltd., c/o Trans-World Tariff & Research Service Inc., 1341 "G" Street, N.W., Suite 915, Washington, DC 20005
Tradeways International, Inc., 1538 Harmon Cove Tower, Secaucus, NJ 07094
Trans Container Line, Inc., 8600 West 67th Street, Hodgins, IL 60526
Trans Ocean Line, Jack Lelinho, Tariff Officer, 3804 South Ocean Drive, Hollywood, FL 33019
Trans System Line, 8055 13th Street, Suite 310, Silver Spring, MD 20910
Trans World Container Service, Inc., 1 World Trade Center, Suite 4541, New York, NY 10048
Trans-Modal, Inc., Frank Hollesen, President, 1121 North Tower Lane, Bensenville, IL 60106
Trans-World Atlantic Co., Inc., c/o Z & G Company, Inc., 232 Madison Avenue, Suite 602, New York, NY 10016
Transmodal Cargo Carriers International Ltd., Guenter Perl, 39 Broadway, New York, NY 10006
Transmodal Cargo Carriers, Inc., Guenter Perl, 39 Broadway, New York, NY 10006
Transship, Inc., c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302
Transtainer Lines, Ltd., 107 West Side Avenue, Jersey City, NJ 07305
Transtech, Inc., William Kavanaugh, Traffic Manager, 32 Bryden Place, Ridgewood, NJ 07450
Traveler's Overseas, Inc., Robert DeMorro, President, 25 James Street, New Haven, CT 06513
TSI Intermodal, Clarence J. Herr, Issuing Officer, 21055 West Road, Tranton, MI 48183
TSI Shipping (U.S.A.), Inc., One World Trade Center, Suite 3171, New York, NY 10048
Ultramar Shipping, Inc., 170 Broadway, New York, NY 10038
Universal Container Lines, Div. of Universal Shipping Corp., John Chai, Issuing Officer, 1441 West 132nd Street, Gardena, CA 90249
Virginia Int'l Air Freight, Inc., Ms. Virginia Voilies—President, Post Office Box 6564, Lake Worth, FL 33463
World Consolidators (Japan) Ltd., P.O. Box 534, Palos Park, IL 60464
World Ports Overseas Ltd., 62 Claradon Road, Staten Island, NY 10305

Appendix B

Albury's & Bethel's Frt. Service, 158 East Port Road, Rivera Beach, FL 33404
Altamirano Shipping, Inc., 110 Wilson Avenue, Newark, NJ 07105
Astrans USA, Inc., 1180 Pratt Blvd., Elk Grove Village, IL 60067
Backgammon Container Line, 110 West Ocean Blvd., Suite 320, Long Beach, CA 90802
Buccaneer Lines, 90 West Street—Suite #1100, New York NY 10006
C.C. Group Line, 10920 La Cienega Boulevard, Lennox, CA 90304
Cargo Procurement Agency, Inc., 2165 Morris Ave., Union, NJ 07083
Cargo Ven, Inc., P.O. Box 60352 AMF, Houston, TX 77205
Caribbean Freightways, Inc., 3 St. R–45 La Milagrosa, Bayamon, Puerto Rico 00619
Carrier Systems, Inc., Sellers and O'Brien Street, Kearny, NJ 07032
CFCE, Inc., 1000 Blair Road, Carteret, NJ 07008
CHT Ltd., c/o World Tariff Services, Inc., 15 Exchange Place, Suite 511, Jersey City, NJ 07302
CML Container Line, Inc., 2311 Lee Avenue—Unit B, South El Monte, CA 91733
Com-Tran, Inc., Intermodal Services Division, 2124 Atlantic Avenue, North Kansas, MO 64116
Compagnie D'Affretement Et De Transport U.S.A., Inc., c/o Joseph F. Mullins, Jr., Denning & Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006
D & L Latin America, Inc., 16 Provincial Place, Colts Neck NJ 07722
Delf Shipping (Pty.) Limited, 117 Sandown Centre, Maud Street-Sandown-Sandton-Transvaal, South Africa
Denizana Shipping Unlimited, Inc., P.O. Box 016183, Miami, FL 33101
DSL International, Sumner Tariff Service, Inc., 1341 G. Street, NW., Suite 915, Washington, DC 20005
Euramer Consolidators Corp., Marron A. Pelota, Piso 2, OFIC. No. 21 Apartado 3121, Caracas, Venezuela
Euro-Con, 1585 Holcomb Bridge Road, Suite 335 Roswell, GA 30076
European Ocean Freight, Inc., 17 Battery Place—Suite 236, New York, NY 10004
Excel International Freight, 19700 Susana Road, Compton, CA 90221
First International Shipping Co., 4211 Maine Trail, Crystal Lake, IL 60014
Frontier Express, Inc., Patrick J. Hughs, President, 2111 W. 169th Place, Torrance, CA 90504
Fuji Express, 328 Swift Avenue, South San Francisco, CA 94080
Harbour International, P.O. Box 1194, Jacksonville, FL 32201
Indo Atlantic Freight U.S.A., Inc., 134 Hook Creek Boulevard, Valley Stream, NY 11581
International Express Co., Ltd., Keith L. Wallace, Divisional Manager, 78–84 Ongar Road, Brentwood, Essex C.M. 15 9BG, England
Int'l Household Export, Inc., 1195 Folsome Street, San Fancisco, CA 94103
J I F America, Inc., 1717–19 Elmhurst Road, Elk Grove Village, IL 60007
Latillean Frt. Consolidators, Inc., 10920 N.W. South River Drive, Miami, FL 33178
LCL Cargo Ltd., One World Trade Center Suite 4531, New York NY 10048
Linabol, Edif. Hansa Piso 16, Casilla 8695 La Paz—Bolivia
Marine Container Line Ltd., 1010 Knox Street, Torrance, CA 90502
Marina Pacifica Container Line, c/o James C. Olsson, Pacific Coast Tariff Bureau, 88 First Street, Suite 610, San Francisco, CA 94105
Maritima Aquatran, Inc., 68–23 Fulton, Houston, TX 77022
Maritime Company of the Pacific, 1441 Kapiolani Blvd., Suite 905–A, Honolulu, HI 96814
Michael Davis (Shipping), Inc., 29 East 61st Street, New York, NY 10021
Mobel International, Inc., Vern Duke, General Manager, 2165–5th Avenue South, St. Petersburg, FL 33733
MPCL, Inc., c/o James C. Olsson, Tariff Publishing Officer, Pacific Coast Tariff Bureau, 88 First Street, Suite 610, San Francisco, CA 94105
Multi-Sea Maritime, Inc., 26 Broadway, New York, NY 10004
Ned-Con Service, Inc., 10920 N.W. South River Drive, Miami, FL 33178
Ocean Freight Transport Corp., Hector S. Malaret, President, 2970 N.W. 75th Ave., Miami, FL 33122
Ocean-Air Container Service, 547 West 26th Street, New York, NY 10001
Oceanaire Int'l Services, Inc., P.O. Box 593349, Miami, FL 33159
Oceanaire International, Inc., P.O. Box 557937, Miami, FL 33155
Overseas Carriers, Inc., P.O. Box 194, Panama 9A, Republic of Panama
P&M Line, 165515 Hedgecroft—Suite 306, Houston, TX 77060
P.T. Gesuri Lloyd, 45 Jin Tiang Bendera, Jakarta, Indonesia

Pan World Shipping, Inc., 1331 Royal Lane—P.O. Box 61352, D/FW Airport, TX 75261
Panatlantic CCS, Inc., 74 Broad Street, New York, NY 10004
Polamer Parcel Service Company, Walter K. Kotaba, President, 3094 North Milwaukee Avenue, Chicago, IL 60618
Presto Shipping, Inc., c/o Mr. Rafael A. Cardoso, 14021 S.W. 56th Terrace, Miami, FL 33183
Progressive Pier Delivery, 700 First Street, Harrison, NJ 07029
Refrigerated Container Serv., Inc., 601 New Jersey Railroad Avenue, Newark, NJ 07114
Republic Shipping Line, 330 Biscayne Blvd., Suite 1002, Miami, FL 33132
Sam Jung Shipping USA, Inc., 17 Battery Place Room 1443, New York, NY 10004
Sea Link Corporation, c/o Strachan Shipping, 8700 West Flagler Street, Miami, FL 33174
Seair Transport Services, Inc., 2 Main Street, Wilton, NH 03036
Sesko International, Inc., Juan A. Abbadie, President, 4715 N.W. 72nd Avenue, Miami, FL 33166
Sesko Marine Trailers, Inc., 4715 N.W. 72nd Avenue, Miami, FL 33166
Ship Corporation of Hawaii, Ltd., c/o Pacific Coast Tariff Bureau, 88 First Street, Suite 610, San Francisco, CA 94105
Shipping Time Gateways Overseas Ltd., 115A Oxford Street, Port of Spain, Trinidad and Tobago
Smitty's Export/Import, Inc., 4236 Gunther Avenue, Bronx, NY 10466
Southern Int'l Shipping, Inc., 9066 N.W. 25th Street, Suite 2A, Miami, FL 33172
Southern Unitrans, Inc., P.O. Box 3127, Bellflower, CA 90707
Space Lines, Inc., 4th & Vine Building, Seattle, WA 98121
Square Deal Shippers, 925 Utica Avenue, Brooklyn, NY 11203
Taiwan Overseas Forwarding Company, Ltd., Mr. Willie Woo, Managing Director, No. 62, Sec. 2 Nanking E. Rd., Taipei, Taiwan
Tank Traffic America, Inc., P.O. Box 60741 AMF, Houston, TX 77205
TDY Freight Systems, Ltd., 1950 Troutman Street, Maspeth, NY 11385
Todd International, Inc., Frederick W. Kemph, Vice Pres., P.O. Box 26426, Minneapolis, MN 55426
Transcar of North America, 274 County Road, Tenafly, NJ 07670
Transcontainer Atlantic Pacific Canada Corp., 230–470 Granville Street, Vancouver, B.C. V6C1V5, Canada
Trans Ocean Consolidators, c/o Pacific Coast Tariff Bureau, 88 First Street, Suite 610, San Francisco, CA 94105
Trans Viking International, Inc., 2412 South Voss, #F312, Houston, TX 77057
Transinternational System, Jack Stewart, President, P.O. Box 109, Worthington, OH 43085
Transmodal Express, C. Roberts, Issuing Officer, 801 West Artesia Blvd., Compton, CA 90220
Transocean Shipping, Inc., One World Trade Center, Suite 3171, New York, NY 10048
Uniport Express Corp., 55 Amity Street, New City, NJ 07304
United Cargo Corporation, c/o Trans-World Tariff & Research Services, Inc., 1341 G Street, N.W., Suite 915, Washington, D.C. 20005
Valley Express, Inc., Gerald De Laurntis, President, 925 Market Street, Paterson, NJ 07513
Vekr's Incorporated, 10016 Pioneer Blvd.—Suite 212, Santa Fe Springs, CA 90670
W.T.C. Holding Co., Inc., 1436 Bay Street, Staten Island, NY 10305
West Coast Shipping Lines, 1525 West Wardlow Road, Long Beach, CA 90810
West Indies Freight, Inc., P.O. Box 522455, Miami, FL 33152
Winchester Lines, Inc., First National Bank Building, Suite 2109, Mobile, AL 36652

[FR Doc. 86–237 Filed 1–6–86; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 85N-0452]

Public Health Service Implementation Plans for Attaining the Objectives for the Nation; Nutrition Goals; Announcement of Study; Notice of Cancellation of Closed Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announced in the **Federal Register** of December 17, 1985 (50 FR 51453), that the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB) would hold a closed meeting of the ad hoc Review Panel on Nutrition Goals on Thursday, January 9, 1986, at 9 a.m. The meeting has been canceled because of conflicting schedules of the committee members.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, 301–530–7030.

Dated: January 3, 1986.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–310 Filed 1–3–86; 10:13 am]
BILLING CODE 4160-01-M

[Docket No. 85F-0555]

Kelco Division of Merck & Co., Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Kelco Division of Merck & Co., Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of gellan gum as a stabilizer and thickener in confections and frostings.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6A3903) has been filed by Kelco Division of Merck & Co., Inc., P.O. Box 23176, San Diego, CA 92123, proposing that the food additive regulations be amended to provide for the safe use of gellan gum as a stabilizer and thickener in confections and frostings.

The potential envrionmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: December 18, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–211 Filed 1–6–86; 8:45 am]
BILLING CODE 4160-01-M

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting of Research Manpower Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, National Institutes of Health, on February 23–25, 1986, at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on February 23, 1986, from 8:00 p.m. until recess, to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 24 and 25, 1986, from 8:00 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Fred P. Heydrick, Executive Secretary, NHLBI, Westwood Building, Room 548, Bethesda, Maryland 20892, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 24, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–221 Filed 1–6–86; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for February through March 1986, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	February–March 1986 meetings	Time	Location
Allergy & Immunology, Dr. Eugene Zimmerman, Rm. 320, Tel. 301–496–7380	Feb. 27–Mar. 1	8:30	Room 8, Bld., 31C, Bethesda, MD.
Bacteriology & Mycology-1, Dr. Milton Gordon, Rm. 304, Tel. 301–496–7340	Feb. 12–14	8:30	Holiday Inn, Georgetown, DC.
Bacteriology & Mycology-2, Dr. William Branche, Jr., Rm. 306, Tel. 301–496–7681	Feb. 19–21	8:30	Holiday Inn, Georgetown, DC.
Behavioral Medicine, Dr. Joan Rittenhouse, Rm. 232, Tel. 301–496–7109	Feb. 11–14	9:00	Holiday Inn, Georgetown, DC.
Biochemical Endocrinology, Dr. Norman Gold, Rm. 226, Tel. 301–496–7430	Feb. 18–20	8:30	Wellington Hotel, Washington, DC.
Biochemistry-1, Dr. Adolphus P. Toliver, Rm. 318B, Tel. 301–496–7516	Feb. 26–28	8:30	Georgetown Hotel, Washington, DC.
Biochemistry-2, Dr. Alex Liacouras, Rm. 318A, Tel. 301–496–7517	Feb. 26–28	8:30	Linden Hill Hotel, Bethesda, MD.
Bio-Organic & Natural Products Chemistry, Dr. Michael Rogers, Rm. 5, Tel. 301–496–7107	Feb. 20–22	9:00	Holiday Inn, Georgetown, DC.
Biophysical Chemistry, Dr. John B. Wolff, Rm. 236B, Tel. 301–496–7070	Feb. 20–22	8:30	Linden Hill Hotel, Bethesda, MD.
Bio-Pschology, Dr. A. Keith Murray, Rm. 220, Tel. 301–496–7058	Feb. 10–13	9:00	Ramada Inn, Bethesda, MD.
Cardiovascular & Pulmonary, Dr. Anthony C. Chung, Rm. 2A-04, Tel. 301–496–7316	Feb. 19–21	8:30	Linden Hill Hotel, Bethesda, MD.
Cardiovascular & Renal, Dr. Rosemary Morris, Rm. 321, Tel. 301–496–7901	Mar. 3–5	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Cellular Biology and Physiology-1, Dr. Gerald Greenhouse, Rm. 336, Tel. 301–496–7396	Feb. 19–21	8:30	Room 4, Bldg. 31A, Bethesda, MD.
Cellular Biology and Physiology-2, Dr. Evelyn Horenstein Rm. 306, Tel. 301–496–7681	Feb. 24–26	8:30	Marbur House, Georgetown, DC.
Chemical Pathology, Dr. Edmund Copeland, Rm. 353, Tel. 301–496–7078	Feb. 8–10	8:00	Granlibakken Resort, Lake Tahoe, CA.
Diagnostic Radiology, Dr. Catharine Wingate, Rm. 219B, Tel. 301–496–7650	Feb. 19–21	8:30	Marriott Hotel, Bethesda, MD.
Endocrinology, Dr. Harry Brodie, Rm. 333, Tel. 301–496–7346	Feb. 17–19	8:30	Holiday Inn, Georgetown, DC.
Epidemiology & Disease Control-1, Dr. Phyllis B. Eveleth, Rm. 203C, Tel. 301–496–7246	Feb. 11–13	8:30	Ramada Inn, Bethesda, MD.
Epidemiology & Disease Control-2, Dr. Ann Schluederberg, Rm. 203B, Tel. 301–496–7246	Feb. 11–13	8:30	Ramada Inn, Bethesda, MD.
Experimental Cardiovascular Sciences, Dr. Richard Peabody, Rm. 234, Tel. 301–496–7940	Feb. 25–27	8:00	Wellington Hotel, Washington, DC.
Experimental Immunology, Dr. David Lavrin, Rm. 222B, Tel. 301–496–7238	Feb. 26–28	9:00	Holiday Inn, Bethesda, MD.
Experimental Therapeutics, Dr. Morris Kelsey, Rm. 221, Tel. 301–496–7597	Feb. 12–14	8:30	Holiday Inn, Bethesda, MD.
Experimental Virology, Dr. Garrett V. Keefer, Rm. 206, Tel. 301–496–7474	Feb. 24–26	8:30	Room 7, Bldg. 31C, Bethesda, MD.
General Medicine A-1, Dr. Harold Davidson, Rm. 354A, Tel. 301–496–7797	Feb. 19–21	8:30	Room 8, Bldg. 31C, Bethesda, MD.
General Medicine, A-2, Dr. Donna J. Dean, Rm. 354B, Tel. 301–496–7140	Feb. 26–28	8:30	Room 6, Bldg. 31C, Bethesda, MD.
General Medicine B, Dr. Antonia Novello, Rm. 322, Tel. 301–496–7730	Feb. 4–7	8:30	Marbury House, Georgetown, DC.
Genetics, Dr. David Remondini, Rm. 349, Tel. 301–496–7271	Feb. 13–15	9:00	Room 8, Bldg. 31C, Bethesda, MD.
Hearing Research, Dr. Joseph Kimm, Rm. 225, Tel. 301–496–7494	Feb. 26–38	8:30	Shoreham Hotel, Washington, DC.
Hematology-1, Dr. Clark Lum, Rm. 355A, Tel. 301–496–7508	Feb. 20–22	8:00	Holiday Inn, Bethesda, MD.
Hematology-2, Dr. Bruce Maurer, Rm. 335B, Tel. 301–496–7508	Feb. 14–16	8:30	Holiday Inn, Georgetown, DC.
Human Development & Aging-1, Dr. Teresa Levitin, Rm. 303, Tel. 301–496–7025	Feb. 19–21	8:30	State Plaza Hotel, Washington, DC.
Human Development & Aging-2, Dr. Samuel Rawlings, Rm. 305, Tel. 301–496–7640	Feb. 19–21	8:30	Georgetown Hotel, Washington, DC.
Human Development & Aging-3, Dr. Susan C. Streufert, Rm. 203, Tel. 301–496–9403	Feb. 17–18	8:30	Holiday Inn, Bethesda, MD.
Human Embryology & Development, Dr. Arthur Hoversland, Rm. 319A, Tel. 301–496–7839	Feb. 25–28	8:00	Holiday Inn, Bethesda, MD.
Immunobiology, Dr. William Stylos, Rm. 222A, Tel. 301–496–7780	Feb. 12–14	8:30	Holiday Inn, Georgetown, DC.
Immunological Sciences, Dr. Hugh Stamper, Rm. 233A, Tel. 301–496–7179	Feb. 26–28	8:30	Crowne Plaza, Rockville, MD.
Mammalian Genetics, Dr. Jerry Roberts, Rm. 349, Tel. 301–496–7271	Feb. 19–22	8:30	Holiday Inn, Bethesda, MD.
Medicinal Chemistry, Dr. Ronald Dubois, Rm. 5, Tel. 301–496–7107	Feb. 26–28	9:00	Holiday Inn, Bethesda, MD.

Study section	February–March 1986 meetings	Time	Location
Metabolism, Dr. Asher Hyatt, Rm. 339A, Tel. 301-496-7091	Feb. 19-22	8:30	Holiday Inn, Bethesda, MD.
Metallobiochemistry, Dr. John A. Beisler, Rm. 310, Tel. 301-496-7733	Feb. 20-22	8:30	Ramada Inn, Bethesda, MD.
Microbial Physiology & Genetics-1, Dr. Martin Slater, Rm. 238, Tel. 301-496-7183	Feb. 26-28	8:30	Holiday Inn, Bethesda, MD.
Microbial Physiology & Genetics-2, Dr. Gerald Liddel, Rm. 357, Tel. 301-496-7130	Feb. 26-28	8:30	Hyatt Regency, Bethesda, MD.
Molecular & Cellular Biophysics, Dr. Patricia Straat Rm. 236A, Tel. 301-496-7060	Feb. 27-Mar. 1	8:30	Hyatt Regency, Bethesda, MD.
Molecular Biology, Dr. Donald Disque, Rm. 328, Tel. 301-496-7830	Feb. 20-22	8:30	Holiday Inn, Georgetown, DC.
Molecular Cytology, Dr. Ramesh Nayak, Rm. 233B, Tel. 301-496-7149	Feb. 6-8	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Neurological Sciences-1, Dr. Allen C. Stoolmiller, Rm. 437B, Tel. 301-496-7280	Feb. 20-22	8:30	Wellington Hotel, Washington, DC.
Neurological Sciences-2, Dr. Stephen Gobel, Rm. 154, Tel. 301-496-8808	Feb. 18-21	8:30	Marriott Hotel, Bethesda, MD.
Neurology A, Dr. Catherine Woodbury, Rm. 326, Tel. 301-496-7095	Feb. 26-Mar. 1	8:30	Linden Hill Hotel, Bethesda, MD.
Neurology B-1, Dr. Jo Ann McConnell, Rm. 152, Tel. 301-496-7846	Feb. 18-21	8:30	Governor's House, Washington, DC.
Neurology B-2, Dr. Herman Teitelbaum, Rm. 152, Tel. 301-496-7422	Feb. 18-21	8:30	Holiday Inn, Chevy Chase, MD.
Neurology C, Dr. Kenneth Newrock, Rm. 154, Tel. 301-496-8808	Feb. 26-Mar. 1	8:30	Holiday Inn, Georgetown, DC.
Nutrition, Dr. Nathan Watzman, Rm. 204, Tel. 301-496-7178	Feb. 19-21	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Oral Biology & Medicine-1, Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301-496-7818	Feb. 18-21	8:30	Linden Hill Hotel, Bethesda, MD.
Oral Biology & Medicine-2, Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301-496-7818	Feb. 11-13	8:30	Linden Hill Hotel, Bethesda, MD.
Orthopedics & Musculoskeletal, Ms. Ileen Stewart, Rm. 350, Tel. 301-496-7581	Feb. 14-16	8:30	Marriott Hotel, New Orleans, LA.
Pathobiochemistry, Dr. Sharon Johnson, Rm. A-26, Tel. 301-496-7820	Feb. 19-21	8:30	Holiday Inn, Bethesda, MD.
Pathology A, Dr. John L. Meyer, Rm. 337, Tel. 301-496-7305	Feb. 19-21	8:00	Ramada Inn, Bethesda, MD.
Pathology B, Dr. Martin Padarathsingh, Rm. 352, Tel. 301-496-7244	Feb. 28	8:30	Holiday Inn, Georgetown, DC.
Pharmacology, Dr. Joseph Kaiser, Rm. 206, Tel. 301-496-7408	Feb. 18-20	8:30	American Inn, Bethesda, MD.
Physical Biochemistry, Dr. Gopa Rakhit, Rm. 216B, Tel. 301-496-7120	Mar. 3-5	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Physiological Chemistry, Dr. Stanley Burrous, Rm. 339B, Tel. 301-496-7837	Feb. 26-28	8:00	Georgetown Hotel, Washington, DC.
Physiology, Dr. Michael A. Lang, Rm. 209, Tel. 301-496-7878	Jan. 28-31	9:00	Holiday Inn, Chevy Chase, MD.
Radiation, Dr. John Zimbrick, Rm. 219A, Tel. 301-496-7073	Feb. 10-12	9:00	Room 7, Bldg. 31C, Bethesda, MD.
Reproductive Biology, Dr. Dharam Dhindsa, Rm. 307, Tel. 301-496-7318	Feb. 10-13	8:30	Hyatt Regency, Bethesda, MD.
Respiratory & Applied Physiology, Dr. Herbert Yellin, Rm. 218A, Tel. 301-496-7320	Feb. 10-12	8:30	Linden Hill Hotel, Bethesda, MD.
Safety & Occupational Health, Dr. Richard Rhoden, Rm. 3A10, Tel. 301-496-6723	Feb. 19-21	8:30	Colonial Manor Motel, Rockville, MD.
Sensory Disorders & Language, Dr. Michael Halasz, Rm. 3A-07, Tel. 301-496-7550	Feb. 12-14	8:30	Holiday Inn, Georgetown, DC.
Social Sciencies & Population, Dr. Carol Campbell, Rm. 210, Tel. 301-496-7906	Feb. 13-15	9:00	Quality Inn, Washington, DC.
Surgery & Bioengineering, Dr. Paul F. Parakkal, Rm. 303A, Tel. 301-496-7506	Feb. 27-28	8:00	Holiday Inn, Georgetown, DC.
Surgery, Anesthesiology & Trauma, Dr. Keith Kraner, Rm. 319B, Tel. 301-496-7771	Feb. 20-21	8:30	Ramada Inn, Bethesda, MD.
Toxicology, Ms. Faye J. Calhoun, Rm. 205, Tel. 301-496-7570	Feb. 19-21	8:30	Marbury House, Georgetown, DC.
Tropical Medicine & Parasitology, Dr. Jean Hickman, Rm. 334, Tel. 301-496-1190	Feb. 10-12	8:30	Ramada Inn, Bethesda, MD.
Virology, Dr. Clarie Winestock, Rm. 309, Tel. 301-496-7605	Mar. 6-8	8:30	Room 6, Bldg. 31C, Bethesda, MD.
Visual Sciences A-1, Dr. Luigi Giacometti, Rm. 207, Tel. 301-496-7000	Feb. 5-7	9:00	Room 8, Bldg. 31C, Bethesda, MD.
Visual Sciences A-2, Dr. Jane Hu, Rm. 439A, Tel. 301-496-7310	Feb. 18-21	8:30	Holiday Inn, Georgetown, DC.
Visual Sciences B, Dr. Earl Fisher, Jr., Rm. 325, Tel. 301-496-7251	Feb. 26-28	8:30	Hyatt Regency, Bethesda, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: December 24, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-220 Filed 1-6-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Permit; Los Angeles Zoo et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*)

Applicant: Los Angeles Zoo, Los Angeles, CA, PRT-702571

The applicant requests a permit to import 2.0 captive-born white-collared mangabeys (*Cercocebus torquatus*) from the Saarbrucken Zoo in Saarbrucken, West Germany, for the purpose of enhancement of propagation.

Applicant: Audrey Lauer-Scarfo, Toluca Lake, CA, PRT-702654

The applicant requests a permit to export six captive-bred scarlet-chested parakeets (*Neophema splendida*), to her new residence in Rome, Italy, for the purpose of enhancement of propagation.

Applicant: U.S. Fish & Wildlife Service, Regional Director, Region 1, Portland, OR, PRT-702631

The applicant requests a permit to take various wildlife and plants for scientific purposes and the enhancement of propagation or survival in accordance with recovery plans, listing, or other Service work for those species.

Applicant: Greater Baton Rouge Zoo, Baker, LA, PRT-702802

The applicant requests a permit to purchase 0.2 captive-born Hawaiian (=nene) geese (*Nesochen* (=*Branta*) *sandvicensis*), from Mr. John Chatfield of San Marcos, TX for the purpose of enhancement of propagation.

Applicant: David Lee Welch, Orance, CA, PRT-702263

The applicant requests a permit to import the personal, sport-hunted trophy of a bontebok (*Damaliscus dorcas dorcas*), culled from the captive herd of F. Bowker, in Grahamstown, Cape Province, Republic of South Africa, for the purpose of enhancement of propagation.

Applicant: Dr. Leonard A. Freed, Honolulu, HI, PRT-679174

The applicant requests a permit to amend his current PRT-679174 to allow take (capture, band, measure, release) of the following species of birds on the Island of Kauai and the Island of Hawaii for the purpose of scientific research: large Kauai thrush (*Phaeornis obscurus myadestina*), small Kauai thrush (*Phaeornis palmeri*), Kauai 'O'o (*Moho braccatus*), 'O'u (*Psittirostra psittacea*), Kauai Akialoa (*Hemignathus procerus*), Kauai Nukupu'u (*Hemignathus lucidus*), Hawaii Creeper (*Oreomystis mana*), Akiapolaau (*Hemignathus munroi* (=*wilsoni*), and Palila (*Loxioides* (=*Psittirosta*) *bailleui*).

Applicant: Charles Sivelle, Dix Hills, NY, PRT-702775

The applicant requests a permit to import 5.0 white-eared pheasants (*Crossoptilon crossoptilon*) from Dr. Jesus Estudillo Lopez of Colonia Portales, Mexico, for the purpose of enchancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: January 2, 1986.

Larry LaRochelle,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86-285 Filed 1-6-86; 8:45 am]

BILLING CODE 4310-55-M

California Condor Emergency Exemption; Issuance of Permit Amendment #4

By letter of December 18, 1985, the Director of the Patuxent Wildlife Research Center applied for amendment number 4 to permit number PRT 682928 to authorize the removal of all California condors (*Gymnogyps californiaus*) from the wild, for the enhancement of propagation and survival. The letter also asked for an emergency waiver of the 30-day public comment period as provided by section 10(c) of the Endangered Species Act. Permit PRT 682928 previously required the "Santa Barbara Pair" and "IC-9" to be left in the wild.

The Fish and Wildlife Service (Service) has prepared an Environmental Assessment (EA) associated with the action which supplements the EAs prepared in 1979, 1981, 1985 and the November and December 1985 addendums. Based on a review and evaluation of the information contained in the EA, the Service has determined that the conservation actions to be taken on behalf of the California condor are not major Federal actions which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Copies of the EA have been sent to all agencies and persons who have already requested copies.

It was determined by the Service that an emergency does in fact exists, and that no reasonable alternative is available to the applicant, for the following reasons:

—The wild condors AC-8 and IC-9 have recently shown courtship behavior; therefore, capturing them immediately will enhance the possibility of added early production of young to be considered for release to the wild.

—AC-3 was found to have an alarmingly high blood level content (1.8 ppm) when captured and released on 11/23/85. Capture for blood level evaluation and indicated thereapy is advisable.

—Removal from the wild of all birds before they are exposed to the unknown mortality factors that prevailed during the winter of 1984-85 resulting in a catastrophic population decline, is advisable.

Therefore, on December 23, 1985, PRT 682928 was amended to authorize take from the wild of all remaining birds with an emergency waiver of the 30-day public comment period.

For further information please contact the following: (1) On permit matters, Mr. Larry LaRochelle, Acting Chief, Branch of Permits, Federal Wildlife Permit Office, 1000 N. Glebe Road, Arlington, Virginia 22201 (703/235-1903); and (2) on NEPA and other matters, Mr. Jan Riffe, Chief, Division of Wildlife Research, U.S. Fish and Wildlife Service, Washington, DC 20240 (202/653-8762).

Dated: December 31, 1985.

Larry LaRochelle,

Acting Cheif, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86-286 Filed 1-6-86; 8:45 am]

BILLING CODE 4310-55-M

Issuance of Permit Amendment for Incidental Take of Endangered Species

On July 11, 1985, a notice was published in the **Federal Register** (50 FR 28288) that an application for an amendment to PRT 2-9818, which was issued to the County of San Mateo, CA and the Cities of South San Francisco, Dale City and Brisbane on March 4, 1983, for the incidental taking of mission blue and San Bruno elfin butterflies and San Francisco garter snakes, has been received from the County of San Mateo and the City of South San Francisco under Section IX of the agreement to that permit.

The amendment was requested in order to change the number of grading phases on ten acres from one phase of approximately 3.3 acres per year over a three year period, to one phase of ten acres, to take place immediately.

Notice is hereby given that on December 24, 1985, as authorized by the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1539), as amended, the U.S. Fish and Wildlife Service issued the above amendment to PRT 2-9818, subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's Federal Wildlife Permit Office in Room 611, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: December 31, 1985.

Larry LaRochelle,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86-286 Filed 1-6-86; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Realty Action; Exchange of Public and Private Lands in Dunn and McKenzie Counties, ND

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty action—exchange M-60360 (ND).

SUMMARY: The following described lands have been examined and identified as suitable for exchange under section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756; 43 U.S.C. 1716):

Fifth Principal Merdian

T.148N., R 97W.,
Sec. 6, SW¼SE¼;
Sec. 9, Lot 2;
Sec. 19, Lot 4, SE¼SW¼, SW¼SE¼.
T.148N., R98W.,
Sec. 13, SW¼NW¼.

Aggregating 224.15 acres of public land.

In exchange for the above described lands, the United States will acquire the following described land:

Fifth Principal Meridian

T.148N., R. 97W.,
Sec. 3, S½1/2SW¼;
Sec. 4, Lot 9;
Sec. 10, Lots 1 and 2.

Aggregating 155.90 acres of private land.

The exchange will be for the surface estate since all the minerals underlying both the private and public lands are reserved to the United States.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, 204 Sims Street, P.O. Box 1229, Dickinson, North Dakota 58602.

Any adverse comment will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a decision for the Department of Interior. Parties adversely affected by the decision have the right to appeal to the Interior Board of Land Appeals. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

FOR FURTHER INFORMATION: Detailed information concerning this exchange, including planning documents, the environmental assessment and the land

report is available for review at the Dickinson District Office.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the pubic lands described above from settlement, sale, location and entry under the public land laws, including mining laws but not exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or in two years, whichever comes first.

Conditions:

1. Reservation of all minerals to the United States together with the right to explore, prospect for, mine and remove same under applicable law and regulations;

2. Reservation of right-of-way for ditches or canals to the United States pursuant to 43 U.S.C. 945;

3. All valid and existing rights and reservations of record.

The proposed exchange is consistent with the West-Central North Dakota Management Framework Plan. The public interest will be served by completion of this exchange. The new land pattern will provide for more efficient land management.

Dated: December 30, 1985.

Kenneth H. Burke,

Acting District Manager.

[FR Doc. 86-1243 Filed 1-6-86; 8:45 am]

BILLING CODE 4310-DN-M

Minerals Management Service

Development Operations Coordination Document; Chevron U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Receipt of a proposed development operations coordination document (DODC).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4857, Block 41, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was submitted on December 30, 1985. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised section 250.34 of Title 30 of the CFR.

Dated: December 31, 1985.

J. Rogers Pearcy,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-247 Filed 1-6-86; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Texaco USA

AGENCY: Minerals Management Service, Interior.

ACTION: Receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Texaco USA has submitted a DOCD describing the activities it proposes to conduct of Lease OCS-G 4434, Block 231, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Louisa and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on December 30, 1985. Comments must be received within 15 days of the date of the Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert: Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13,

1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: December 31, 1985.

J. Rogers Pearcy,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-244 Filed 1-6-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Arizona et al.; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 28, 1985. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by January 22, 1986.

Beth Grosvenor,

Acting Chief of Registration, National Register.

ARIZONA

Yavapai County

Camp Verde vicinity, *Wingfield, Robert, W., House,* Montezuma Castle Hwy.

ARKANSAS

Benton County

Goforth—Saindon Mound Group (3BE245)

CALIFORNIA

Humboldt County

Eureka, *Carnegie Free Library,* 636 F St.
Ferndale, *Alford—Nielson House,* 1299 Main St.

Los Angeles County

Los Angeles, *Rindge, Frederick Hastings, House,* 2263 Harbard Blvd.
Pasadena, *Blacker, Robert R., House,* 1177 Hillcrest Ave.
Pasadena, *Hale Solar Laboratory,* 740 Holladay Rd.

Orange County

Santa Ana, *Yost Theater—Ritz Hotel,* 301–307 N. Spurgeon St.

Ventura County

Ventura, *Feraud General Merchandise Store,* 2 and 12 W. Main St.

Yolo County

Davis, *Animal Science Building,* University of California, West Quad and Peter J. Shields Ave.

DISTRICT OF COLUMBIA

Washington

Twin Oaks, 3225 Woodley Rd., NW.

GEORGIA

Walker and Catoosa Counties

Fort Oglethorpe, *Chickamauga and Chattanooga National Military Park,* US 27 (also in Hamilton County, Tennessee)

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Petitpierre—Kleinpeter, Joseph, House,* 5544 Highland Rd.

Jefferson Parish

Kenner, *Kenner Town Hall,* 1903 Short St.

Orleans Parish

New Orleans, *Bywater Historic District,* Roughly bounded by the Mississippi River, Press, North Villere, and Poland Sts.

MAINE

Knox County

Rockland, *LEWIS R. FRENCH (schooner),* North End Shipyard

MASSACHUSETTS

Berkshire County

North Adams, *Phelps House (North Adams MRA),* 1101 Massachusetts Ave.

Middlesex County

McCune Site
Ayer, *Pleasant Street School,* Pleasant St.

MICHIGAN

Berrien County

Three Oaks, *Warren Featherbone Company Office Building,* 3 N. Elm St.

Kalamazoo County

Kalamazoo, *Lilienfeld, David, House (Kalamazoo MRA),* 447 W. South St.

MINNESOTA

Sherburne County

Elk River, *Sherburne County Courthouse,* 326 Lowell Ave.

MONTANA

Flathead County

Polebridge, *Adair, W.L., General Mercantile Historic District,* Poleridge Loop Rd., ¼ mile E. of North Fork Rd.

NEW JERSEY

Somerset County

Bridgewater, *Vosseller's—Castner's—Allen's Tavern,* 664 Foothill Rd.

NORTH CAROLINA

Harnett County

Bunn Level vicinity, *Thorbiskope,* off SR 2049 and 2050 jct.

Haywood County

Crabtree, *Mount Zion United Methodist Church,* SR 1503

Wake County

Zebulon vicinity, *Bunn, Bennett, Plantation,* NC 97

TENNESSEE

Hamilton County

Chattanooga, *Chickamauga and Chattanooga National Military Park,* US 27 (also in Walker in Catoosa Counties, Georgia.

[FR Doc. 86-172 Filed 1-6-86; 8:45 am]

BILLING CODE 4310-70-M

Office of Justice Programs

President's Child Safety Partnership; Meeting

AGENCY: Office for Victims of Crime, Justice.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the first meeting of the President's Child Safety Partnership (hereinafter referred to as the Partnership) will be held on January 16, 1986, at the Hyatt Regency Hotel, 400 New Jersey Avenue, NW., Washington, DC. The purpose of the meeting is to discuss issues surrounding the prevention of victimization and the promotion of the safety of children in the United States. The Partnership, which was announced by the President on April 29, 1985, consists of twenty-six members from the public, private (both corporate and nonprofit), state and local, and Federal sectors, and includes a wide range of expertise in fields related to child safety.

The Partnership will function solely as an advisory committee in full compliance with the provisions of the Federal Advisory Committee Act.

The Partnership will make recommendations to the President for the prevention of the victimization and the promotion of the safety of America's children, and will also encourage the development of public/private sector invitation initiatives to prevent and respond to the victimization of children. The scope of the Partnership and the recommendations will be concerned with a broad range of offenses against children, specifically: child abuse, neglect, and abandonment; child sexual abuse and molestation; theft, assault, robbery, extortion, and murder of children; parental abduction of children; stranger abduction; exploitation of children (prostitution, pornography); runaways (recognizing the extreme vulnerability of runaways to victimization); and drug abuse.

Conduct of meeting: The meeting, which will be open to the public, will begin at 8:00 a.m. and continue until

11:00 a.m. The meeting will adjourn and reconvene at 2:00 p.m. and continue until 4:00 p.m. Attorney General Edwin Meese III, or his designee, will preside at the meeting. The other members of the Partnership will join Attorney General Meese. A period of no more than five minutes per person for oral comments will be set aside. Approximately seventy-five (75) seats will be available for the public on a first-come, first-served basis. The agenda will be available at the meeting.

A transcript of the meeting will be made. The entire record of the transcript will be retained by the President's Child Safety Partnership, and will be available to the public. Any person may purchase a copy of the transcript from the reporter.

FOR FURTHER INFORMATION CONTACT: William Modzeleski, Committee Management Liaison Officer, Office for Victims of Crime, Family Violence Section, 633 Indiana Avenue, NW., Washington, DC 20531.

Dated: December 31, 1985.

Lois Haight Herrington,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 86-332 Filed 1-6-86; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of recordkeeping/reporting requirements under review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extension, or reinstatements. The Department Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202 523-6331. Comments and questions about the items on the list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202 395-6880, Office of the Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Employment and Training Programs
Nonmonetary Determination Report
1205-0150; ETA 207
Quarterly
State and local governments
53 respondents; 896 hours; 1 form

Data are used to monitor the impact of disqualification provisions, to measure workload, and to appraise adequacy and effectiveness of State and Federal nonmonetary determination procedures.

Reinstatement

Occupational Safety and Health Administration
Vinyl Chloride
1218-0010; OSHA 251
On occasion
Business or other for-profit
37 respondents; 6,569 hours; 0 forms

This requirement provides protection for employees from the effects associated with occupational exposure to vinyl chloride. Employers must monitor employee exposure to vinyl chloride, keep employee exposures within permissible limits, and provide medical exams, training and other information to employees.

Signed at Washington, DC., this 2nd day of January, 1986.

Paul E. Larson,

Department Clearance Officer.

[FR Doc. 86-282 Filed 1-6-86; 8:45 am]

BILLING CODE 4510-26-M; 4510-30-M

Employment and Training Administration

[TA-W-16,323]

A.P. Green Refractories Co., Massillon, OH; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 19, 1985 in response to a worker petition received on August 15, 1985 which was filed by the Aluminum, Brick and Glass Workers Union of America on behalf of workers at A. P. Green Refractories Company, Massillon, Ohio.

A.P. Green Refractories Company discontinued production in June 1982. On May 17, 1984, the firm resumed production and remained active for five months before discontinuing production on October 17, 1984.

Due to the short term of operation of A.P. Green Refractories Company, it is not possible to statistically measure year to year trends for sales or production or to determine the impact of imports on this firm. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 23rd day of December 1985.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-283 Filed 1-6-86; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; LTV Steel Co.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 23, 1985-December 27, 1985.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or any appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-16,205; LTV Steel Co., Elyria Plant, Elyria, OH

TA-W-16,214; The Duriron Co., Inc., Foundry Div., Dayton, OH

TA-W-16,213; BCNR Mining Corp., Clyde Mine, Fredericktown, PA

TA-W-16,230; Fries Textile Co., Fries, VA

TA-W-16,249; Colonial Tanning Corp., Gloversville, NY

TA-W-16,268; Mario Papa and Sons, Inc., Gloversville, NY

TA-W-16,179; Allis-Chalmers Corp., Tractor Div., Milwaukee, WI

TA-W-16,192; Bisbee Salvage and Equipment, Bisbee, AR

TA-W-16,197; Phelps Dodge Corp., Copper Queen Branch, Bisbee, AR

TA-W-16,283; Homestake Mining Co., Grants, NM

TA-W-16,217; Kitt Energy Corp., Kitt #1 Mine, Phillippi, WV

TA-W-16,231; J.P. Stevens and Co., Inc., Goldsboro, NC

TA-W-16,177; Sperry New Holland, Lexington, NE

TA-W-16,190; Thomas Industries, Inc., Fort Atkinson, WI

TA-W-16,377; Boston Fashions, Boston, MA

TA-W-16,145; Plasma-Therm, Inc., Standard Systems Div., Kresson, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-16,252; Peerless Tanning Co., Inc., Johnstown, NY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-16,266; The Grandoe Corp., Gloversville, NY

Separations from the subject firm were seasonal in nature.

TA-W-16,317; Goodyear Atomic Corp., Piketon, OH

Aggregate U.S. imports of enriched uranium are negligible.

TA-W-16,233; Martin Marietta Systems, Inc., Oak Ridge, TN

Aggregate U.S. imports of enriched uranium are negligible.

TA-W-16,270; Rubin Gloves, Inc., Gloversville, NY

Separations from the subject firm were seasonal in nature.

TA-W-16,374; AFA Corp., Forest City, NC

Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-16,175; ITT Grinnell Corp., Pipe Hanger Div., Warren, OH

Aggregate U.S. imports of industrial pipe hangers are negligible.

TA-W-16,269; Joseph P. Conroy, Inc., Johnstown, NY

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-16,260; Gates-Mills, Inc., Johnstown, NY

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-16,389; Washington State Department of Agriculture Grain Div., Commodity Inspection Div., Pasco, WA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-16,390; Washington State Department of Agriculture Grain Div., Commodity Inspection Div., Colfax, WA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-16,391; Washington State Department of Agriculture Grain Div., Commodity Inspection Div., Spokane, WA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-16,392; Washington State Department of Agriculture Grain Div., Commodity Inspection Div., Seattle, WA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-16,393; Washington State Department of Agriculture Grain Div., Commodity Inspection Div., Tacoma, WA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-16,394; Washington State Department of Agriculture Grain Div., Commodity Inspection Div., Olympia, WA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-16,395; Washington State Department of Agriculture Grain Div., Commodity Inspection Div., Longview, WA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-16,396; Washington State Department of Agriculture Grain Div., Commodity Inspection Div., Kalama, WA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-16,397; Washington State Department of Agriculture Grain Div., Commodity Inspection Div., Vancouver, WA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-16,259; Moderne Gloves, Inc., Gloversville, NY

A certification was issued covering all workers of the firm separated on or after December 1, 1984.

TA-W-16,299; Quiltex Co., Inc., Brooklyn, NY

A certification was issued covering all workers of the firm separated on or after July 29, 1984.

TA-W-16,264; Pagano Gloves, Inc., Johnstown, NY

A certification was issued covering all workers of the firm separated on or after July 23, 1985.

TA-W-16,274; Oglebay Norton Taconite Co., (Eleventh Taconite Co), Eveleth, MN

A certification was issued covering all workers of the firm separated on or after August 1, 1985.

TA-W-16,265; Ambroson Gloves, Inc., Gloversville, NY

A certification was issued covering all workers of the firm separated on or after

July 23, 1984 and before December 1, 1984.

TA-W-16,097; St. Clair Garment Co., St. Clair, PA

A certification was issued covering all workers of the firm separated on or after May 13, 1984 and before December 31, 1984.

TA-W-16,218; Outboard Marine Corp., Johnson Motors Div., Waukegan, IL

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA-W-16,130; Hammersley Ceramics, Santa Ana, CA

A certification was issued covering all workers of the firm separated on or after June 18, 1984.

TA-W-16,235; Princeton Lumber Co., Princeton, KY

A certification was issued covering all workers of the firm separated on or after July 25, 1984.

TA-W-16,320; Racal Milgo, Inc., Miami, FL

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA-W-16,285; Patapsco and Back Rivers Railroad Co., Sparrows Point, MD

A certification was issued covering all workers of the firm separated on or after June 23, 1985.

TA-W-16,284; LTV Steel Co., Youngstown Sinter Plant, Youngstown, OH

A certification was issued covering all workers of the firm separated on or after August 5, 1985.

TA-W-16,251; Pan American Tanning Corp., Gloversville, NY

A certification was issued covering all workers engaged in employment related to the tanning operation of leather separated on or after July 23, 1984.

TA-W-16,236; Salem Sportswear, Inc., Salem, NJ

A certification was issued covering all workers of the firm separated on or after July 12, 1984 and before September 1, 1985.

TA-W-16,237; Salem Sportswear, Inc., Bridgeton, NJ

A certification was issued covering all workers of the firm separated on or after July 12, 1984 and before September 1, 1985.

TA-W-16,203; Goldstein Footwear, Inc., Brooklyn, NY

A certification was issued covering all workers of the firm separated on or after July 17, 1984 and before July 28, 1985.

TA-W-16,227; Rutledge Sportswear Co., Rutledge, GA

A certification was issued covering all workers of the firm separated on or after July 11, 1984 and before November 1, 1984.

TA-W-16,158; Armco, Inc., Specialty Steel Div., Baltimore MD

A certification was issued covering all workers of the firm separated on or after February 15, 1985.

TA-W-16,314; Beckman Industrial Corp., Electronic Technologies Div., Resistor Network Dept., Fullerton, CA

A certification was issued covering all workers of the firm separated on or after December 1, 1984 and before September 15, 1985.

TA-W-16,289; American Dade Glass Tubing Department, Miami, FL

A certification was issued covering all workers of the Glass Tubing Dept. of American Dade, Miami, Florida separated on or after March 15, 1985 and before August 1, 1985.

TA-W-16,219; Allis-Chalmers, Engine Div., Harvey, IL

A certification was issued covering all workers of the firm separated on or after August 1, 1984.

TA-W-16,220; Anthony Roberts, Inc., Milford, MA

A certification was issued covering all workers of the firm separated on or after August 1, 1984 and before September 30, 1985.

TA-W-16,411; Bentley Shoe Corp., Dudley, MA

A certification was issued covering all workers of the firm separated on or after September 6, 1984.

TA-W-16,211; Royal Pants Manufacturing Co., Perkasie, PA

A certification was issued covering all workers of the firm separated on or after July 23, 1984.

TA-W-16,273; William Powell Co., Plants One and Two, Cincinnati, OH

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA-W-16,245; Liberty Leather Corp., Gloversville, NY

A certification was issued covering all workers of the firm separated on or after July 23, 1984 and before August 1, 1985.

TA-W-16,248; Cayadutta Tanning Co., Gloversville, NY

A certification was issued covering all workers of the firm separated on or after July 23, 1984 and before August 1, 1985.

TA-W-16,184; Control Data Corp., Magnetic Peripherals, Inc., Eden Prairie, MN

A certification was issued covering all workers separated on or after July 1, 1984.

TA-W-16,410; Control Data Corp., Magnetic Peripherals, Inc., Bemidj, MN

A certification was issued covering all workers separated on or after September 5, 1984 and before June 1, 1985.

I hereby certify that the aforementioned determinations were issued during the period December 23, 1985-December 27, 1985. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor 601 D Street, NW., Washington, DC during normal business hours or will be mailed to persons who write to the above address.

Dated: December 31, 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-284 Filed 1-6-86; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit issued under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550. Telephone (202) 357-7934.

SUPPLEMENTARY INFORMATION: On July 15, 1985 and November 22 & 29, 1985, the National Science Foundation published a notice in the **Federal Register** of permit applications received. On December 30, 1985 permits were issued to:

John L. Bengtson
David F. Parmelee
James T Staley

Nadene G. Kennedy,

Permit Office, Division of Polar Programs.

[FR Doc. 86-246 Filed 1-6-86; 8:45 am]

BILLING CODE 7555-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meeting

Notice is hereby given of a meeting of the Prospective Payment Assessment

Commission scheduled for Wednesday, January 22, 1986. The meeting will convene at 10:00 a.m. in the Blue Room of the Shoreham Hotel, 2500 Calvert Street, Northwest, Washington, DC, and will be open to the public.

Donald A. Young,

Executive Director.

[FR Doc. 86-313 Filed 1-6-86; 8:45 am]

BILLING CODE 6820-BW-M

SMALL BUSINESS ADMINISTRATION

AIT Venture Capital Corp.; Application for License To Operate as a Small Business Investment Company

[Application No. 09/09-5366]

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 (1985) by AIT Venture Capital Corporation, 10201 Torre Avenue, Cupertino, California 95014 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et. seq.*).

The proposed officers, directors and shareholders of the Applicant are as follows:

Name	Title or relationship	Percentage of shares owned
Dr. Chong Woo Nam, 25194 La Rona Lane, Los Altos Hills, CA 94022.	Director, chairman of the board.	13.3 of AIT.
Robert Quang Lam, 1514 Eddington Place, San Jose, CA 95129.	Director, president, chief financial officer.	0.
Le Trong Nguyen, 7070 Rainbow Drive, San Jose, CA 95129	Director, vice chairman.	43.4 of AIT.
Stephen Todd Mack 1023 Kiser Drive, San Jose, CA 95120	Senior vice president, secretary.	0.
American Information Technology, Inc. (AIT), 10201 Torre Avenue, Suite 250 Cupertino, CA 95014.	Parent	100.

The Applicant will begin operations with a capitalization of $2,528,000 and will be a source of equity capital and long term funds for qualified small business concerns.

The Applicant will conduct its operations in the State of California.

As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act and will provide assistance solely to small concerns which will contribute to a well balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management including profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of the Notice will be published in a newspaper of general circulation in Cupertino, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 26, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-225 Filed 1-6-86; 8:45 am]

BILLING CODE 8025-01-M

New Jersey; Region II—Advisory Council; Public Meeting

The Small Business Administration, Region II Newark District Advisory Council, located in the geographical area of Newark, New Jersey, will hold a public meeting at 9:00 AM on Friday, January 17, 1986, at the Ramada Inn, 36 Valley Road, Clark, New Jersey 07066, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending. For further information, write or call Andrew P. Lynch, District Director, U.S. Small Business Administration, 60 Park Place, Newark, New Jersey 07102, (201) 645-3580.

Jean M. Nowak,

Director, Office of Advisory Councils.

December 29, 1985.

[FR Doc. 86-227 Filed 1-6-86; 8:45 am]

BILLING CODE 8025-01-M

New York; Region II Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, Region II Advisory Council, located in the geographical area of New York, will hold a public meeting at 10:30 a.m., on Thursday, January 16, 1986, at the Jacob K. Javits Federal Building, 26 Federal Plaza, Room 1400 (14th floor), New York, N.Y., to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Bert X. Haggerty, District Director, U.S. Small Business Administration, 26 Federal Plaza, N.Y., N.Y. 10278 (212) 264-1318.

Jean M. Nowak,

Director, Office of Advisory Councils.

December 29, 1985.

[FR Doc. 86-228 Filed 1-6-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/924]

Advisory Committee on South Africa; Closed Meetings

The Advisory Committee on South Africa will meet in closed sessions on January 29-30 and February 21-22, 1986. All meetings will commence at 9 a.m. and will be held in Room 7220, Department of State, Washington, DC.

These sessions will be closed to the public pursuant to section 10(b) of the Federal Advisory Committee Act and 5 U.S.C. 552b (c)(1) and (c)(9)(B). The Committee will have access to and will discuss classified information. Disclosure of the Committee's deliberations could adversely affect the Committee's ability to function as a group in providing the Secretary of State with advice on matters of critical importance to the conduct of United States foreign policy. The purpose of the meetings on January 29-30 and February 21-22 will be to discuss the various political, economic, social, and security issues concerning the current situation in South Africa.

Requests for further information should be directed to: Peter Jensen, (202) 647-3720, Room 3513, Department of State.

Dated: December 30, 1985.

C. William Kontos,

Executive Director.

[FR Doc. 86-210 Filed 1-6-86; 8:45 am]

BILLING CODE 4710-26-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 86-2]

Draft Nationwide Section 4(f) Evaluations and Proposed Determinations for Federal-Aid Highway Projects With Major Involvement With Parklands, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has prepared and solicits comments on two proposed nationwide Section 4(f) evaluations. The first one covers federally assisted highway projects which use minor amounts of land from public parks, recreation areas, and wildlife and waterfowl refuges. The second covers federally assisted highway projects which use minor amounts of land from historic sites which are on or are eligible for inclusion on the National Register of Historic Places.

DATE: Comments must be received on or before March 10, 1986.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA, FHWA Docket No. 86-2, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., ET, Monday through Friday. Those persons desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick Skaer, Office of Environmental Policy, Room 3232, (202) 426-0106; Mr. Harold Aikens, Office of the Chief Counsel, Right-of-Way and Environmental Law Division, Room 4230, (202) 426-0791, FHWA, DOT, 400 Seventh Street, SW., Washington, DC 20590. Office hours are 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Description of Proposed Action

Federally aided highway projects that propose to use land from significant publicly owned public parks, recreation areas, and wildlife and waterfowl refuges, or from significant historic sites are subject to Section 4(f) of the DOT Act,[1] which prohibits such use unless FHWA can show that (1) there are no feasible and prudent alternatives and (2) all possible planning to minimize harm has occurred. These proposed nationwide evaluations, one for parks, recreation areas, and wildlife and waterfowl refuges, the other for historic sites, would assure full compliance with the requirements of Section 4(f) and, at the same time, reduce the administrative delays associated with processing individual Section 4(f) evaluations for urgently needed highway improvement projects. Copies of the proposed Section 4(f) nationwide evaluations and determinations are attached.

These nationwide evaluations and determinations should reduce by 3 to 6 months the time required to process projects meeting the applicability criteria for their use. To be eligible, a project must entail an improvement of an existing highway, the impacts on the Section 4(f) property must be minor, and the official with jurisdiction over the property must agree to the proposed mitigation. The FHWA Division Administrator will apply the appropriate Section 4(f) determination only after assuring and documenting that the project meets the applicability criteria provided in the nationwide evaluation, that alternatives to the use of the Section 4(f) land have been fully considered, and that mitigation measures consistent with agreements with the official with jurisdiction over the Section 4(f) property have been incorporated.

(49 U.S.C. 303; 23 U.S.C. 138; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction)

Issued on December 30, 1985.

R.D. Morgan,

Executive Director, Federal Highway Administration.

U.S. Department of Transportation, Federal Highway Administration; Draft Nationwide Section 4(f) Evaluation and Proposed Determination for Federal-Aid Highway Projects With Minor Involvement With Public Parks, Recreation Areas, and Wildlife and Waterfowl Refuges; Draft Nationwide Section 4(f) Evaluation and Proposed Determination for Federal-Aid Highway Projects With Minor Involvement With Historic Sites

Preamble

Background

Section 4(f) of the 1966 Department of Transportation (DOT) Act (23 U.S.C. 138; 49 U.S.C. 303), states (in part) "... the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from a historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use." Over the past decade, this legislation has proven to be very effective in achieving its intended purpose. Highway engineers and decisionmakers consider alternatives which involve Section 4(f) lands only as a last resort when there are no feasible and prudent alternatives.

For projects on new location, a real opportunity exists to identify reasonable alternatives which avoid the use of Section 4(f) lands. During recent years, however, the primary focus of the Federal-aid highway program has changed from large freeway-type projects on new locations to the improvements of existing facilities. These projects generally include "4R" work (resurfacing, restoration, rehabilitation, and reconstruction), safety, and traffic operation improvements (such as signalization, channelization, and turning lanes), bridge replacement on essentially the same alignment, and the construction of additional lanes. Many times these projects are also located adjacent to local parks, recreation areas, wildlife and waterfowl refuges, or historic sites. Alternative highway improvements are often very limited in scope and location. For example, intersection improvements generally require small amounts of land from all quandrants of the intersection. Minor strips of land are needed along the existing streets or highways in order to reconstruct or widen the highway.

[1] Section 4(f), Pub. L. 86-670, 80 Stat. 934 was repealed by Pub. L. 97-449, 96 Stat 2444 and recodified at 49 U.S.C. 303. Because of common usage and familiarity, the term Section 4(f) continues to be used by the Department of Transportation in matters relating to 49 U.S.C. 303.

Often there is no real alternative to the use of minor amounts of adjoining Section 4(f) lands. Because the purpose of the project is to improve the safety, capacity, or deteriorated conditions of the existing facility, improvements on other locations do not solve the existing problems and are, therefore, not reasonable alternatives.

Existing Section 4(f) Process

The first mandate of Section 4(f) is to avoid protected lands wherever feasible and prudent. As previously stated, highway engineers have adopted this as one of the basic principles in the project planning process attempting to solve transportation problems. When it appears imprudent to avoid the use of Section 4(f) lands, project development is guided by FHWA regulations on Section 4(f) (23 CFR Part 771). These regulations require preparation of a draft Section 4(f) evaluation, circulation of the report, receipt of comments, consideration of comments, revision of the report in response to comments, preparation of a final Section 4(f) evaluation, and review and approval of same. This process can be time-consuming. As a minimum, introduction of Section 4(f) into a project results in additional time delays of at least 4 months in project development.

Programmatic Section 4(f) Evaluation

The use of a programmatic 4(f) evaluation allows for a substantial reduction in time and paperwork required to satisfy Section 4(f) requirements. This approach has been successfully utilized in Federal Highway Administration (FHWA) Region 1 for the past year on projects with minor involvements in parks and recreation areas. A review conducted in September 1985, in conjunction with the Department of the Interior (DOI), revealed that the programmatic approach has not reduced the protection afforded the sites in question. Based on this successful experience, FHWA proposes to expand the coverage to include wildlife and waterfowl refuges and to implement this programmatic evaluation on a nationwide basis.

The programmatic approach is based on the existence of a recurring set of circumstances which allows for the requisite Section 4(f) determinations to be made on a programmatic basis rather than a project-by-project basis. The project manager's responsibility is to ensure and document that a given project legitimately falls within the scope of the programmatic evaluation. In the case of the proposed nationwide evaluation for minor involvements with parks, recreation areas, and wildlife and waterfowl refuges, the evaluation is limited to projects where: (1) An existing highway facility is being reconstructed or improved, (2) only minor amounts of park, recreation or refuge land adjacent to the existing highway facilities are being used, and (3) the official with jurisdiction over the Section 4(f) land agrees, in writing, with the assessment of project impact and proposed mitigation measures.

Nationwide Evaluation for Minor Involvements with Historic Sites

Concurrent with the above nationwide Section 4(f) evaluation, FHWA proposes to issue a separate nationwide Section 4(f) evaluation for projects with minor involvement with historic sites. This latter evaluation is limited to situations where the only taking is of land associated with the historic site, and the Section 106 process concludes that the taking will have "no effect" or "no adverse effect" on the historic site. The reasoning for utilizing a programmatic approach parallels that advanced for minor involvements in parklands and recreational areas. A separate evaluation has been developed as a reflection of the procedural differences which come to play in dealing with historic sites as opposed to parklands, recreational areas, and wildlife and waterfowl refuges.

U.S. Department of Transportation, Federal Highway Administration, Draft Nationwide Section 4(f) Evaluation and Proposed Determination for Federal-Aid Projects With Minor Involvements With Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges

This programmatic Section 4(f) evaluation has been prepared for projects which provide for "4R" and safety improvements of the existing highway facilities and will involve the use of minor amounts of park, recreation lands, or wildlife and waterfowl refuges that are adjacent to the existing facility. It has been developed based on past experience with these types of projects and Section 4(f) involvements and with reasonable expectations that such projects and involvements will continue in the future. This programmatic Section 4(f) evaluation will serve to meet the requirements of Section 4(f) for all projects that meet the criteria of this statement. No individual Section 4(f) statements will need to be prepared.

The FHWA Division Administrator is responsible for reviewing each individual project to determine if it meets these criteria and if this programmatic Section 4(f) is applicable. This determination shall be thorough and clearly document the times that have been reviewed. This written analysis and determination shall be placed in the project record and will be made available to the public upon request. This statement will not change in any way the existing procedures for applicable projects relative to compliance with the National Environmental Policy Act (NEPA) or with the applicable public involvement requirements.

Applicability

This programmatic Section 4(f) evaluation may be applied by FHWA only to projects meeting the following criteria:

1. The proposed project is designed to restore, rehabilitate, reconstruct, or replace presently existing highway facilities on essentially the same alignment. This generally includes "4R" projects, including additional travel lanes, as well as safety and traffic operation improvements such as signalization, channelization, turning, and climbing lanes. Bridge replacement projects on essentially the same alignment that require the use of minor amounts of land from the adjoining right-of-way are also included in the evaluation. This programmatic Section 4(f) evaluation does not apply to the construction of a highway on new location.

2. The Section 4(f) lands are public parks, recreation lands, or wildlife or waterfowl refuges located adjacent to the existing highway facility.

3. The lands to be used (either by fee taking or by easement) must be considered minor in relation to the Section 4(f) site impacted. The total acreage to be acquired shall not exceed 1 acre and would not normally exceed 10 percent of the total Section 4(f) area. This determination is to be made by FHWA in concurrence with the official having jurisdiction over the Section 4(f) lands and is to be documented in relation to the total size, use, or other characteristic deemed relevant.

4. The impact of the project on adjacent 4(f) lands taken by the project must be so minor as to not impair the use of such lands for their intended purposes.

5. The officials having jurisdiction over the Section 4(f) lands must agree, in writing, with the assessment of the impacts of the proposed project on and the proposed mitigation for the Section 4(f) lands.

6. If the project involves the use of lands from a site purchased or improved with Land and Water Conservation Funds, coordination with the DOI to ascertain its willingness (or

unwillingness) to consider a Section 6(f) conversion request from the State is required before the programmatic document can be used.

Alternatives

The following alternatives avoid any use of the public park land, recreational area, or wildlife or waterfowl refuge:

1. Do nothing.

2. Improve without using the adjacent public park, recreational land, or wildlife and waterfowl refuge.

3. Build an improved facility on new location without using the public park, recreation land, or wildlife or waterfowl refuge.

This list is intended to be all-inclusive. The programmatic Section 4(f) evaluation does not apply if a reasonable alternative is identified that is not discussed in this document. The project record must clearly demonstrate that each of the above alternatives was fully evaluated and it must further demonstrate that all applicability criteria listed above were met before the FHWA Division Administrator concluded that the programmatic Section 4(f) evaluation applied to the project.

Findings

In order for this programmatic Section 4(f) evaluation to be applied to a project, each of the following findings must be supported by the circumstances, studies, and consultations on the project:

1. *Do Nothing.* The do nothing alternative has been fully evaluated. The do nothing alternative ignores the basic transportation need. This alternative will not solve the transportation problems which are present. Traffic congestion will continue to increase and safety improvements will not be made and/or the highway will stay in a deteriorated condition. This alternative is not prudent and feasible because it will not solve existing highway capacity and/or safety problems.

2. *Improvement without Using the Adjacent Section 4(f) Lands.* Investigations have been conducted to reconstruct/improve the existing facility without using the adjacent public park, recreational land, or waterfowl or wildlife refuge. Flexibility in the application of the America Association of State Highway and Transportation Officials geometric standards should be exercised as permitted in 23 CFR Part 625 during the analysis of this alternative. These studies included alignment shifts, engineering/traffic improvements and diversion of traffic to avoid the Section 4(f) property. The alternative either: (1) Resulted in substantial adverse impacts to adjacent homes, business, or other improved properties; and/or (2) resulted in substantially increased roadway or structure costs; and/or (3) resulted in unique engineering or safety problems; and/or (4) caused substantial social, economic, and environmental impacts; and/or (5) did not meet the transportation need. For these reasons, the alternative of improvement without the use of adjacent Section 4(f) lands is not considered feasible and prudent.

3. *Alternatives on New Location.* Investigations have been conducted to construct a facility on a new location or parallel to the old facility, but for one or more of the following reason, this alternative is not feasible and prudent:

a. Existing need not fulfilled—The major need for the proposed improvements concerns the existing deficient or unsafe conditions of the streets and highways. The alternative on new locations would not resolve these existing problems.

b. Adverse social, economic, or environmental effects—Building a new facility at a different location would result in social, economic, or environmental impact of extraordinary magnitude. Such impacts as extensive severing of productive farmlands, displacement of a substantial number of families or businesses, serious disruption of established travel patterns, substantial impacts to other sites protected by Section 4(f), and access and damage to wetlands may individually or cumulatively weigh heavily against relocation to a new site.

c. Engineering and economy—Where difficulty associated with the new location is less extreme than those encountered above, a new site would not be feasible and prudent where cost and engineering difficulties reach extraordinary magnitude. Factors supporting this conclusion include substantially increased roadway and structure costs. Additional design and safety factors to be considered include an ability to achieve minimum design standards or to meet requirements of various permitting agencies such as those involved with navigation, pollution, and the environment.

Measures to Minimize Harm

This programmatic Section 4(f) evaluation and approval may be used only for projects where the FHWA Division Administrator, in accordance with this evaluation, ensures that the proposed action includes all possible planning to minimize harm. This has occurred when the following actions will be implemented as part of the proposed project:

1. Replacement of lands used with lands of equivalent purpose and value when requested by the official having jurisdiction over the parkland, recreation area, or wildlife or waterfowl refuge.

2. Replacement of any facilities impacted by the project including sidewalks, paths, benches, lights, trees, and other facilities when requested by the official having jurisdiction over the parkland or recreation area.

3. Incorporation of appropriate landscaping, design features, and habitat features where necessary to reduce or minimize impacts to the Section 4(f) property provided the design changes do not adversely affect the safety of the highway project.

4. Such additional or alternative mitigation measures as may be determined necessary by the official having jurisdiction over the parkland, recreation area, or wildlife or waterfowl refuge.

5. The official having jurisdiction over the Section 4(f) property has agreed, in writing, with the assessment of impacts resulting from the use of the Section 4(f) property and the mitigation measures to be provided.

6. If a project involves the use of land from a site purchased or improved with Land and Water Conservation Funds, coordination with the DOI to ascertain its willingness (or unwillingness) to consider a section 6(f) conversion request from the State is required before the programmatic document can be used.

Procedures

This programmatic section (4)(f) evaluation applies only when the FHWA Division Administrator:

1. Determines that the project meets the applicability criteria set forth above;

2. Determines that all of the alternatives set fourth in the Findings section have been fully evaluated;

3. Determines that the findings in this document concluding there are no feasible and prudent alternatives to the use of public park, recreation area, or wildlife or waterfowl refuge are clearly applicable to the project;

4. Determines that the project complies with the Measures to Minimize Harm section of this document;

5. Assures that the measures to minimize harm will be incorporated in project plans; and

6. Documents the project file clearly identifying the basis for the above determinations.

Coordination

Each project as described above will, as a minimum, involve coordination in the early stages of project development with the appropriate State and/or local agency officials having jurisdiction over the lands. If Federal funds were used to purchase or develop the lands, there will also be coordination with the appropriate Federal funding agency.

Early and continuing coordination is also needed for a project requiring a bridge permit in accordance with our Memorandum of Understanding with the U.S. Coast Guard.

U.S. Department of Transportation, Federal Highway Administration, Draft Nationwide Section 4(f) Evaluation and Proposed Determination for Federal-Aid Projects With Minor Involvements With Historic Sites

This programmatic Section 4(f) evaluation has been prepared for projects which provide for "4R" and safety improvements of the existing highway facilities and will involve the minor use of land from historic sites that are adjacent to the existing facility. It has been developed based on past experience with these types of projects and Section 4(f) involvements and with reasonable expectations that such projects and involvements will continue in the future. This programmatic Section 4(f) evaluation will serve to meet the requirements of Section 4(f) for all projects that meet the criteria of this statement. No separate Section 4(f) statement will need to be prepared.

The FHWA Division Administrator is responsible for reviewing each individual project to determine if it meets these criteria and if this programmatic Section 4(f) is applicable. This determination shall be thorough and clearly document the items that have been reviewed. The written analysis and determinations shall be placed in the project record and will be made available to the public upon request. This statement will not change in any way the existing procedures for applicable projects relative to compliance with the National Environmental Policy Act or with the applicable public involvement requirements.

Applicability

The programmatic section 4(f) evaluation may be applied by FHWA only to projects meeting the following criteria:

1. The project is designed to restore, rehabilitate, reconstruct, or replace highway facilities on essentially the same alignment. This generally includes "4R" projects, including additional travel lanes, as well as safety and traffic operation improvements such as signalization, channelization, turning, and climbing lanes. Bridge replacement projects on essentially the same alignment that require the use of minor amounts of land from the adjoining right-of-way are also included in this evaluation. This programmatic Section 4(f) evaluation does not apply to the construction of a highway on new location.

2. The Section 4(f) involvement is limited to land from a historic site on or eligible for the National Register and located adjacent to the highway or transportation facility.

3. The impact on the Section 4(f) site as a result of the land to be used must be considered minor. The word minor is narrowly defined as having either a "no effect" or "no adverse effect" (when applying the requirements of Section 106 of the National Historic Preservation Act) on the qualities which qualified the site for listing or eligibility on the National Register of Historic Places (36 CFR Part 800).

4. The State Historic Preservation Officer (SHPO) must agree, in writing, with the assessment of the proposed project's impacts on and mitigation for, the historic sites.

Alternatives

The following alternatives avoid any use of the historic site:

1. Do nothing.

2. Improve without using land from the adjacent historic site.

3. Build an improved facility on new location without using land from the historic site.

This list is intended to be all-inclusive. The programmatic Section 4(f) evaluation does not apply if a reasonable alternative is identified that is not discussed in this document. The project record must clearly demonstrate that each of the above alternatives was fully evaluated.

Findings

In order for this programmatic Section 4(f) evaluation to be applied to a project, each of the following findings must be supported by the circumstances, studies, and consultations on the project:

1. *Do Nothing.* The do nothing alternative has been fully evaluated. The do nothing alternative ignores the basic transportation need. This alternative will not solve the transportation problems which are present. Traffic congestion will continue to increase and safety improvements will not be made and/or the highway will stay in a deteriorated condition. This alternative is not prudent and feasible because it will not improve highway capacity, nor solve existing safety, and/or highway condition problems.

2. *Improvement without Using the Adjacent Historic Site(s).* Investigations have been conducted to reconstruct/improve the existing facility without using the adjacent historic site(s). Flexibility in the application of the American Association of State Highway and Transportation Officials' geometric standards should be exercised as permitted in 23 CFR Part 625 during the analysis of this alternative. These studies included aligment shifts, engineering/traffic improvements, and diversion of traffic to avoid the historic property(ies). This alternative either (1) resulted in substantial adverse impacts to adjacent homes, businesses, or other improved properties; and/or (2) resulted in substantially increased roadway or structure costs; and/or (3) resulted in unique engineering or safety problems; and/or (4) caused substantial social, econmic, and environmental impacts; and/or (5) did not meet the transportation need. For these reasons, the alternative of improvement without the use of adjacent historic site(s) is not considered feasible and prudent.

3. *Alternative on New Locations.* Investigations have been conducted to construct a facility on a new location or parallel to the old facility; but, for one or more of the following reasons, this alternative is not feasible and prudent:

a. Existing need not fulfilled. The major need for the proposed improvements concerns the existing deficient or unsafe conditions of the streets and highways. The alternative on new locations would not resolve these existing problems.

b. Adverse social, economic, or environmental effects. Building a new facility at a different location would result in social, economic, or environmental impact of extraordinary magnitude. Such impacts as extensive servering of productive farmlands, displacement of substantial number of families or businesses, serious disruption of established travel patterns, substantial impacts to other sites protected by Section 4(f), and access and damage to wetlands may individually or collectively weigh heavily against relocation to a new site.

c. Engineering and economy. Where impacts associated with the new location are less extreme than that encountered above, a new site would not be feasible and prudent where cost and engineering difficulties reach extraordinary magnitude. Factors

supporting this conclusion include substantially increased roadway and structure costs. Additional design and safety factors to be considered include an ability to achieve minimum design standards or to meet requirements of various permitting agencies such as those involved with navigation, pollution, and the environment.

Measures To Minimize Harm

This programmatic Section 4(f) evaluation and approval may be used only for projects where the FHWA Division Administrator, in accordance with this evaluation, ensures that the proposed action includes all possible planning to minimize harm. Measures to minimize harm will consist of those agreed to by the FHWA and the SHPO during the Section 106 process and determined necessary to preserve the historic integrity of the site.

Procedures

This Programmatic Section 4(f) Evaluation applies only when the FHWA Division Administrator:

1. Determines that the project meets the applicability criteria set forth above;
2. Determines that all of the alternatives set forth in the Findings section have been fully evaluated;
3. Determines that the findings in this document, concluding there are no feasible and prudent alternatives to the use of the historic site(s), are clearly applicable to the project;
4. Determines that the project complies with the Measures to Minimize Harm section of this document;
5. Assures that the measures to minimize harm will be incorporated in the project plans; and
6. Documents the project file clearly identifying the basis for the above determinations.

Coordination

Coordination with the Advisory Council on Historic Preservation will be instituted and completed as called for in 36 CFR Part 800. Each project as described above will, as a minimum, involve coordination in the early stages of project development and with the SHPO. If Federal funds were used to purchase or develop the lands, there will also be coordination with the appropriate Federal funding agency.

Other groups, such as a local historical society, may also be consulted if their participation could be helpful in reaching an agreement. If privately owned, coordination will be extended to the respective property owner such that this input may be considered during the early stages of project development.

[FR Doc. 86-270 Filed 1-6-86; 8:45 am]

BILLING CODE 4910-22-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 4
Tuesday, January 7, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:32 a.m. on Tuesday, December 31, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider an application of Standard Chartered Bank, London, England, for Federal deposit insurance of deposits received at and recorded for the accounts of its branch located at 1111 Third Avenue Building, Seattle, Washington.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: January 2, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-366 Filed 1-3-86; 1:59 pm]

BILLING CODE 6714-01-M

2

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Friday, January 17, 1986.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to Public:

(1) Oral Argument in B.F. Goodrich Co., et al., Docket No. 9159.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in B.F. Goodrich Co., et al., Docket No. 9519.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 523-1892; Recorded Message: (202) 523-3806.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-357 Filed 1-3-86; 12:16 pm]

BILLING CODE 6750-01-M

3

NATIONAL TRANSPORTATION SAFETY BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 52584, December 24, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, January 7, 1986.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first two items on the agenda will be open to the public; the last two items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED: A majority of the Board determined by recorded vote that the business of the Board required postponing this meeting until January 14, 1986. The rescheduled meeting will follow the same agenda as previously announced, with the exception of the following item, which will be scheduled for a later meeting date.

1. *Marine Accident Report:* Grounding of the Panamanian-Flag Passenger Carferry M/V A. REGINA at Mona Island, Puerto Rico, on February 15, 1985.

FOR FURTHER INFORMATION CONTACT: Catherine T. Kaputa (202) 382-6525.

Catherine T. Kaputa,

Federal Register Liaison Officer

Janualry 3, 1986.

[FR Doc. 86-365 Filed 1-3-86; 1:54 am]

BILLING CODE 7533-01-M

4

NEIGHBORHOOD REINVESTMENT CORPORATION

TIME AND DATE: 2:00 p.m., Wednesday, January 8, 1986.

PLACE: The Special Library, Federal Reserve System, 20th and Constitution Avenue, NW., Washington, DC 20551.

STATUS: Portions may be closed pursuant to Title 5, U.S.C., section 552 b (c)(2).

CONTACT PERSON FOR MORE INFORMATION: Timothy S. McCarthy, Associate Director, Communications, 202/653-2705.

AGENDA:

I. Call to Order
II. Approval of Minutes, November 13, 1985
III. Personnel Committee Report

Winnie D. Morton,

Assistant Secretary.

January 2, 1986.

[FR Doc. 86-293 Filed 1-2-86; 8:45 am]

BILLING CODE 7570-01-M

5

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission held a closed meeting on Thursday, January 2, 1986, at 12:00 noon, at 450 5th Street, NW., Washington, DC, to consider the following item.

Regulatory matter bearing enforcement implications.

Chairman Shad and Commissioners Cox, Peters, and Grundfest determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contract: Ida Wurczinger at (202) 272-2014.

John Wheeler,

Secretary.

January 3, 1986.

[FR Doc. 86-360 Filed 1-3-86; 4:01 pm]

BILLING CODE 8010-01-M

federal register

Tuesday
January 7, 1986

Part II

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 543

Petitions for Exemptions From the Vehicle Theft Prevention Standard; Interim Final Rule and Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 543

[Docket No. T85-02; Notice 1]

Petitions for Exemptions From the Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration [NHTSA], DOT.

ACTION: Interim final rule for 1987 model year.

SUMMARY: This notice is issued under Title VI of the Motor Vehicle Information and Cost Savings Act. The title provides that passenger motor vehicle manufacturers may petition the agency for an exemption from the vehicle theft prevention standard for passenger motor vehicle lines whose standard equipment includes an antitheft device which this agency determines is likely to be as effective in deterring and reducing vehicle thefts as would compliance with the parts marking requirements of the standard.

This notice sets forth procedures to be followed by manufacturers in preparing and submitting any such petitions. It also sets forth procedures which the agency will follow in processing those petitions and determining whether they should be granted.

This notice establishes these procedures as an interim final rule for the 1987 model year. In a separate notice published elsewhere in today's **Federal Register**, the agency is proposing that these same procedures be adopted as final for the 1988 and subsequent model years.

DATES: The interim final rule for the 1987 model year is effective on January 7, 1986. Comments on the interim final procedures for the 1987 model year must be received not later than February 6, 1986.

ADDRESS: Comments on the interim final rule should refer to Docket No. T85-02; Notice 1, and be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are 8:00 a.m. to 4:00 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Brian McLaughlin, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-426-1740).

SUPPLEMENTARY INFORMATION:

Statutory Background

The Motor Vehicle Theft Law Enforcement Act of 1984, Pub. L. 98-547 (Theft Act), added Title VI to the Motor Vehicle Information and Cost Savings Act (Cost Savings Act). Title VI requires NHTSA, by delegation from the Secretary of Transportation, to promulgate a vehicle theft prevention standard for passenger motor vehicles. A notice of proposed rulemaking was published on May 10, 1985 (50 FR 19728), and a final rule was issued on October 24, 1985 (50 FR 43166), establishing performance requirements for inscribing or affixing identification numbers onto certain major original equipment and replacement parts of high theft lines of passenger motor vehicles.

Section 605 of Title VI permits manufacturers to petition NHTSA to allow high theft vehicle lines to be exempted from the standard. To be exempted, a high theft line must satisfy two conditions. First, a line must be equipped with an antitheft device as standard equipment. Second, NHTSA must determine that such antitheft device is likely to be as effective as parts marking in reducing and deterring motor vehicle theft.

Section 605(a)(2) allows the agency to grant an exemption for not more than two lines of any manufacturer for the initial model year to which the vehicle theft prevention standard applies. Under the October 1985 final rule, the standard would first apply in model year 1987. For each subsequent model year, the agency may exempt not more than two additional lines of any manufacturer. Thus, it would be possible for a manufacturer to receive two exemptions for model year 1987, two more for model year 1988 for a total of four, and so forth.

Section 605(b) requires that a manufacturer seeking the exemption of a line to file a petition for its exemption with the agency not later than eight months before beginning production of the line for the first model year covered by the petition. This section also states that the petition must describe the antitheft device in detail, provide the reasons for the manufacturer's conclusion that the device will be effective in reducing and deterring motor vehicle theft, and include any additional information which NHTSA determines may be reasonably required to make the determination specified above.

Section 605(c) states that the agency may grant the petition in whole or in part. Any determination to grant a petition must be based upon substantial evidence. Section 605(c) also requires that the agency's determination to grant or deny a petition must be made within 120 days after the date of filing the petition. If the agency fails to make a determination within the specified time period, this section also states that the petition shall be considered approved, and the manufacturer shall be exempt from the standard's requirements for the subsequent model year.

Section 605(d) allows the agency to terminate a manufacturer's exemption if NHTSA determines that the manufacturer's antitheft device has not been as effective in reducing and deterring motor vehicle theft as compliance with the theft prevention standard. This section states that the termination could be made effective for any model year after the model year in which the termination decision is made. However, the termination cannot be effective until at least six months after the manufacturer receives written notice of the termination from the agency.

Section 605(e) places some limits on the devices that can qualify as the basis for an exemption. It defines "antitheft device" to mean a device which the manufacturer believes will be effective in reducing or deterring theft of motor vehicles. The definition also provides that the features of the device must be in addition to those required by Federal Motor Vehicle Safety Standard No. 114, *Theft Protection*. Also, the antitheft device must not utilize any signaling device which is reserved by a provision of any State law for use on police, emergency, or official vehicles, or on school buses. For example, the *Uniform Vehicle Code*, a guide for State motor vehicle and traffic laws, contains provisions on audible and visual signals on emergency and police vehicles and school buses. Section 12-401 of that Code, relating to horns and warning devices, states that a "theft alarm signal device" on any vehicle must not be able to be used by a driver as an ordinary warning device. Therefore, manufacturers will have to consider the laws of the different States when they plan to utilize audible or visual signals as part of an antitheft device.

Eligibility of Direct Importers for Exemptions

A question which arises in connection with this rule is whether the definition of "manufacturer" in section 2(7) of the Cost Savings Act (15 U.S.C. 1901(7)) can be reconciled with the requirement that lines eligible for exemption must be equipped with an antitheft device as "standard equipment." The former implies a wider circle of eligibility to obtain exemptions than does the latter.

Section 605(a)(1) of the Cost Savings Act specifies that any "manufacturer" may petition for an exemption from the marking requirements of the vehicle theft prevention standard for two car lines per model year, if those lines are equipped with a "standard equipment"

antitheft device. The term "manufacturer" is defined in section 2(7) as "any person engaged in the manufacturing or assembling of passenger motor vehicles or passenger motor vehicle equipment *including any person importing motor vehicles or motor vehicle equipment for resale* (emphasis added). This definition is broad enough to include direct importers, i.e., individuals and commercial enterprises which obtain foreign cars not originally manufactured for sale in the United States and modify the vehicles as necessary to enable them to certify the vehicles as being in compliance with the U.S. motor vehicle standards.

However, the requirement that a petition be based on the installation of an antitheft device as standard equipment appears to make direct importers ineligible to obtain an exemption. "Standard equipment" generally refers to equipment that is available without extra charge on all vehicles of a line. Direct importers are not in a position to install any type of equipment as standard equipment since none of them controls an entire line. Only an original manufacturer, which controls the entire production of each of its lines, can install standard equipment.

The resolution of this issue involves considerations similar to those relating to the eligibility of direct importers to certify compliance with the motor vehicle theft prevention standard. The final rule establishing that standard discussed at length the absence of any clear indication in the legislative history of Title VI whether Congress intended that direct importers, as well as original manufacturers, be considered "manufacturers" able to certify compliance with the requirements of the standard. The agency concluded that direct importers should be considered "manufacturers" which can certify compliance with the requirements of the standard. However, the agency also concluded that direct imports pose special problems for achieving the law enforcement purposes of the Theft Act, and set some special limitations which apply to direct importers, but not original manufacturers.

Similar problems could arise from permitting a direct importer to obtain an exemption from the theft prevention standard for a portion of an original manufacturer's line. For example, assume that a foreign original manufacturer's X and Y lines are required to be marked under the standard, and that manufacturer chooses not to seek an exemption under the provisions of this part. Law enforcement officials will have evidence of tampering with the markings if they find unmarked major parts for the X or Y lines in the possession of a person. However, if a direct importer can seek and obtain an exemption for vehicles of the X and Y lines which it imports, the permissibility of unmarked parts on those vehicles will substantially reduce the evidentiary value of finding the unmarked parts of the same type. Moreover, if a number of direct importers were to obtain exemptions for X and Y line vehicles, the value of the original manufacturer's markings on the X and Y lines would be of little value to law enforcement officials and, therefore, an unnecessary expense for the original manufacturer. There is no reasonable basis for supposing that Congress intended this result.

There is a familiar principle of statutory interpretation relevant to the resolution of this issue. It provides that effect must be given, if possible, to each word and provision of a statute. A. Sutherland, *Statutes and Statutory Construction*, section 46.06 (4th ed. C.D. Sands 1973). Thus, the agency must give effect to each of the following: the definition of "manufacturer," the requirement that exempted vehicles be equipped with antitheft devices as standard equipment and the definition of "standard equipment". If the definition of "manufacturer" is applied without limitation in section 605 so as to make direct importers eligible for exemptions, effect could not be given to the requirement for the installation of an antitheft device as standard equipment. Although direct importers could install a device on some vihicles in a given line, they could not install it on the entire line. Thus, the device would not be available as standard equipment since consumers could readily buy vehicles of the line with or without the device.

Based on the foregoing discussion, NHTSA has determined for purposes of this interim final rule that the principle of giving effect to all provisions should be applied so that eligibility is limited to manufacturers capable of installing antitheft devices as original equipment. Hence, direct importers are not eligible to apply for exemptions under this interim rule.

Since direct importers are not eligible to obtain antitheft device exemptions, they will not be subject to the two-line limitation for exemptions. As noted earlier in this preamble, eligible manufacturers cannot obtain an exemption for more than two of their high theft lines each model year under section 605(a)(2) of the Cost Savings Act. Since NHTSA has determined that direct importers cannot obtain exemptions, they are not affected by the 2-line limit of that section. The section does not limit the number of exempted lines that a direct importer may sell. Therefore, a direct importer can import and sell vehicles from any number of high theft lines for which the original manufacturers have obtained exemptions under section 605.

Direct importers of high theft lines will have to mark all vehicles from an exempted line which are not equipped with a standard equipment antitheft device pursuant to this interim final rule. If a high theft line vehicle which a direct importer seeks to import is not equipped with the antitheft device, as could be the case if the vehicle is one not originally intended for sale in the United States, the direct importer will have to mark the vehicle in accordance with the theft prevention standard. This gives rise to a situation in which the portion of a vehicle line imported by an original manufacturer would not be marked, but the portion imported by direct importers would be marked. Because of the relatively smaller volume of direct import cars, NHTSA does not believe this process will give rise to problems of the same magnitude in enforcing the provisions of the Theft Act as would requiring the portion of a line imported by original manufacturers to be marked by those manufacturers but allowing direct importers to import other vehicles from that line without marking them. However, the agency seeks comments on the effects of this practice.

If a direct importer seeks to import a vehicle that is from an exempted line and has the same standard equipment antitheft device which formed the basis for exempting that vehicle from the marking requirements, no purpose would be served by requiring the direct importers to mark that vehicle. This is because the agency would have made a determination that the standard equipment antitheft device would likely be as effective as parts marking in reducing and deterring theft. However, no other antitheft device could be installed by the direct importer as an alternative to the standard equipment device, because the agency would not have made a determination of the likely effectiveness of the device, and because it would not be standard equipment on that line.

General Requirements for Petitions

Section 543.5 of the rule sets out the basic requirements for petitions. Consistent with the Theft Act, the section provides that a manufacturer may petition NHTSA for an exemption

of not more than two lines from the standard for model year 1987.

Each petition must (1) be submitted at least eight months before the beginning of production of the line or lines for model year 1987; (2) be submitted in three copies to the NHTSA Administrator; (3) be written in the English language; (4) state the full name and address of the petitioner; (5) identify the passenger motor vehicle line or lines for which an exemption is sought; (6) set forth in full the data, views, and arguments of the petitioner supporting the exemption, including the information specified by the proposed section 543.6 (see discussion below); and (7) specify and segregate any part of the information and data submitted which the petitioner requests be withheld from public disclosure in accordance with the agency's confidentiality rules (49 CFR Part 512).

Basis for Petition

As required by section 605(b) of Title VI, § 543.6 of the rule requires a petitioner to provide detailed information concerning the antitheft device on which its petition is based. The rule requires this information to include a detailed description of the identity, design, and location of the components of the antitheft device, including diagrams of the components and of their location within the vehicle.

In addition, the rule requires the petitioner to describe the means and process by which the device is activated and functions. This description must include a discussion of any aspect of the device that is designed to (1) facilitate or encourage its activation by motorists, or activate the device without any action by motorists; (2) attract attention to the efforts of an unauthorized person to enter a vehicle by means other than a key; (3) prevent defeating or circumventing the device by such a person; (4) prevent the operation of a vehicle by such a person; and (5) ensure the reliability and durability of the device.

The agency has concluded that these items of information are necessary to enable it to evaluate the effectiveness of antitheft devices. The design of a device determines, in large measure, its potential effectiveness. The location of the device on the vehicle is also important. For example, devices which are readily accessible from outside the vehicle would allow skilled thieves to disable the device before attempting to enter and steal the vehicle.

This rule does not mandate any specific design for these devices. The agency does not interpret section 605 as contemplating the establishment of any design requirements for antitheft devices. Further, the agency does not believe that such requirements would be desirable. Any attempt to mandate some particular design could inhibit innovation and flexibility in developing devices to deter and reduce theft. Also, as thieves become familiar with a specification, the effectiveness of devices would be substantially lessened.

A description of how the device is activated and functions is necessary to enable the agency to understand how the device is intended to achieve the goal of reducing and deterring auto theft. Based on the agency's analysis of data concerning the theft record of vehicles equipped with antitheft devices, there appear to be several attributes of performance whose potential contribution to reducing and deterring theft is particularly notable. This rule ensures that those attributes, if present on a line, are described in detail for the agency.

One important attribute is automatic activation of the antitheft device. The method of activating a device would be particularly important if an owner must do more than he or she normally does in existing form a vehicle, i.e., turn off the engine, remove the key, and lock the doors. The agency notes that it appears from available information that devices which activate automatically are more likely to be effective in reducing and deterring theft than devices which require the driver to take some positive action other than the types mentioned above. The reasons are that the driver would have to take the additional action to arm the latter type of antitheft device every time he or she exited the vehicle, and available information suggests that persons are not likely to do this every time.

Another important attribute is the use of a visual or audible signal that is activated when someone tampers with a vehicle. The purpose of such a signal is to call attention to the act of tampering in the hope of deterring a potential auto thief. These signals can be designed so that they sense tampering with such vehicle parts as a door, hood, trunk, hatch, or ignition.

The limited field experience with antitheft devices has shown that tying the hood, as well as the doors and trunk, into the warning and deterrent system, may be an important element in increasing the effectiveness of the system. Inclusion of the hood prevents the antitheft device from being defeated by a thief opening the hood and disconnecting the power supply to the device. For example, the theft data from the National Crime Information Center (NCIC) shows that the theft rate for the 1984 Nissan 300 ZX cars, which are equipped with automatic devices with alarms, is approximately 50 percent less than that of the 1983 280 ZX models of those cars which lacked the antitheft devices. Part of the reason for the lower theft rate is probably that the first year theft rate of a new or substantially redesigned model is generally lower because demand for replacement parts is relatively small. The distinguishing feature for the Nissan device, as opposed to standard equipment antitheft devices on other vehicles, is its connection to the hood (thus protecting the battery which is the power source for the alarm), as well as the doors and trunk of the vehicle.

A third example of an important attribute is a disabling mechanism, a mechanism which is designed to prevent a vehicle from moving under its own power. Examples of such mechanisms include fuel cutoff switches, as well as ignition, starter, and electrical interrupters. Many disabling mechanisms have a time delay feature which prevents the operation of the engine for a set interval of time after an attempt to start the vehicle without using the ignition key.

Section 543.6(b) requires a manufacturer to submit reasons for its belief that the antitheft device will reduce and deter theft of passenger motor vehicles. Petition must include a discussion of any information, including theft data and results of demonstrations and tests which are believed by the petitioner to show that the antitheft device will be effective in reducing and deterring vehicle theft.

An example of the type of test that a manufacturer might want to include in its petition is time trials for efforts by test subjects to defeat an antitheft device. A report prepared for the agency by Arthur D. Little stated that the time needed to defeat a device by a test subject is the most accurate performance indicator in determining potential effectiveness. This report can be found in the docket under this notice. The agency recognizes the difficulties inherent in obtaining reliable information on defeat times that arise form variations in the test subjects' abilities, the extent of knowledge the subject might have regarding the antitheft system, and the test conditions. Nevertheless, the agency beleives that information on testing undertaken by the manufacturer or an independent entity would be useful to the agency in making its decision. Comments are requested on whether a standardized test or test subject is feasible and whether information based on testing

which is not standardized would be of value to the agency.

Section 543.6(c) rquires a petitioner to submit reasons for its belief that the agency should determine that an antitheft device will be as effective as complying with the theft standard in deterring and reducing theft. This information must include any available statistical data which the petitioner believes would demonstrate that a line of vehicles equipped with the antitheft device would have a lower theft rate than vehicles of the same, or a similar line which is not equipped with the device. Any petitioner submitting data under sections 543.6(b) or (c) would also be required to submit an explanation of its belief that the data are sufficiently representative and reliable to warrant NHTSA's reliance upon them.

Available Data on the Effectiveness of Antitheft Devices and Parts Marking

The agency realizes that empirical data bearing directly on the effectiveness of marking done in compliance with the theft prevention standard will not be available for petitions for model years 1987 or 1988. (Petitions for model year 1988 vehicles must be addressed by the spring of 1987, at which time there will still not be extensive data on the effectiveness of parts marking.) Similarly, empirical data bearing directly on the effectiveness of the antitheft devices specified in petitions for those years may not be available. In subsequent model years, the agency expects to use statistical data, which is supplied by manufacturers and law enforcement officials, to aid in evaluating effectiveness of antitheft devices. NHTSA believes that empirical data, when available in sufficient quantity for analytical purposes, will provide the clearest evidence of the effectiveness of an antitheft device.

There are limited data on various pre-theft standard programs for marking parts to reduce auto theft. Although those marking efforts were not conducted subject to the standard, data regarding them could be regarded as providing preliminary indications about the effectiveness of compliance with the standard in reducing and deterring theft. Beginning with model year 1980, Ford marked nine body parts on the Lincoln Continental, Town Car, and Mark IV. These parts include the engine, transmission, two front fenders, hood, trunk lid, rear body structure, and both front doors. Available data provides a mixed picture about the effectiveness of Ford's program. Data from the National Automobile Theft Bureau (NATB) show an overall decrease in the theft rate from 4.95 MY 1979 Ford cars stolen per 1,000 in 1979 (unmarked), to 1.34 MY 1984 Ford cars stolen per 1,000 in 1984 (marked), the most recent year for which data are available. These data include an increase in the theft rate to 5.66 MY 1980 Ford cars stolen per 1,000 in 1980, the first year of the Ford program, followed by steady reductions each year in 1981–1984. However, the National Crime Information Center's (NCIC) data on Ford's program shows no effectiveness. These data consist of make/model data only, without verification of the vehicle identification numbers (VINs). (The agency notes that the NCIC data used in selecting the high theft lines subject to the theft standard were verified by use of the VIN's.)

General Motors ran a parts marking program during part of model year 1980 and all of 1981. Six major body parts on the Cadillac Eldorado and Seville were marked. Although the theft rate for vehicles with marked parts was lower than that for vehicles without their parts marked in 1980, the rate rose in 1981, despite the fact that all parts were marked. Given the apparently conflicting data, no conclusion regarding effectiveness of the Ford or GM program can be drawn.

The agency realizes that the degree of effectiveness needed to support an exemption for an antitheft device cannot be definitively estimated, and will regularly monitor and evaluate theft data. For model years 1987 and 1988, however, there will be very little data on which to base a determination on effectiveness. Therefore, the agency will have to make determinations based partially on engineering judgments about the information contained in petitions for exemptions and the information otherwise available to the agency on the effectiveness of means for reducing and deterring theft.

The agency has also reviewed the data available on the effectiveness of current antitheft devices. In 1980 and 1981, General Motors and the Highway Loss Data Institute surveyed the effectiveness of optional, factory-installed antitheft devices in Buicks, Cadillacs, and Oldsmobiles. The study found that those cars equipped with the device had a theft claim frequency that was 21 percent lower than those vehicles of the same make without the option.

In model years 1983 and 1984, General Motors offered an optional automatic antitheft device on 10 models of Buicks, Cadillacs, and Oldsmobiles. Using the VIN's of the cars sold with this antitheft device, NHTSA compared the theft rate of these vehicles with the rest of those makes which were not so equipped. The theft data were obtained from the NCIC. The effectiveness of this optional antitheft device on these three car lines ranged from approximately 10 to 50 percent.

It appears from these data that some antitheft devices have been effective, although to varying degrees. The agency also notes that the experience with antitheft devices is limited and believes that several years of data on the vehicle theft standard and antitheft devices need to be accumulated before effectiveness can be gauged with greater accuracy.

Processing of Petition

Section 543.7 sets forth the procedures for the agency's processing of exemption petitions. These procedures are similar in some respects to those used by the agency for petitions for temporary exemptions of vehicles from Federal motor vehicle safety standards (49 CFR Part 555).

The agency will first review each petition for completeness. If the agency receives a document which contains insufficient information, the agency will so notify the submitter and state that, until the necessary information is received, the document will not be considered and processed as a petition. After a complete petition is received, the agency has 120 days in which to grant or deny the petition. Under section 605(c) of Title VI, the petition is considered granted for the subsequent model year if the agency does not issue a final decision by the end of that period.

In view of the short time provided by section 605 for responding to petitions, the consequence of failing to reach a decision within that time, and the unfamiliarity and complexity of the issues to be resolved with respect to the first round of petitions, the agency has decided not to publish a notice of receipt of the petitions for model year 1987 for public comment prior to deciding whether to grant or deny those petitions. An additional consideration is that requests which petitioners might make for confidential treatment of some aspects of their petitions could necessarily limit the opportunity of the public to participate effectively in the exemption process. Further, unlike section 123 of the National Traffic and Motor Vehicle Safety Act, which provides that exemptions from safety standards are to be granted only after notice and opportunity for public comment, and section 502(c) of the Motor Vehicle Information and Cost Savings Act, which provides that exemptions from the fuel economy

standards are to be granted by rule, section 605 is silent on the question of public participation in the theft standard exemption process. Nevertheless, the agency is seeking comment in the separate notice on the desirability of changing the theft standard exemption process for subsequent model years to include publishing notice of receipt of the petitions and providing a brief period for public comment on exemption petitions. The same process could apply to the petitions described below for modifying or terminating exemptions. The agency wishes to note, however, its concerns regarding the public availability of the details of the petitions and whether public availability of this type of information might make it easier for vehicle thieves to disarm the devices. (See the more detailed discussion of this issue below.)

As provided by section 606(c) of the Act, the agency may grant a petition, in whole or in part, if it determines, based upon substantial evidence, that the antitheft device specified in the petition is likely to be as effective in reducing and deterring theft, for a certain line of passenger motor vehicles, as compliance with the vehicle theft prevention standard. If there is a lack of substantial evidence, the agency will deny the petition.

The agency will notify the petitioner of the grant or denial of the petition and publish a notice in the **Federal Register**, giving the reasons for its action. Unless a notice granting a petition specifies differently, an exemption will be effective for the model year beginning after the model year in which the grant notice is published in the **Federal Register.**

An exemption granted under this part will apply only to the specific combination of devices and lines covered by the petition submitted by the manufacturer. The use of a new device on an exempted line or the use of the device specified in a granted petition on an unexempted vehicle line will necessitate the submission of a petition for a new exemption.

The agency does not intend that a manufacturer be required to submit a completely new petition any time a minor change is made in the design of a device that formed the basis for a petition granted under Part 543. However, if a manufacturer changes any aspect of the antitheft device for which an exemption has been granted and which formed the basis for his petition under section 543.6, it will have to petition the agency for a modification in its exemption. The agency will expedite its handling of petitions for modification of an exemption based on such changes under section 543.9, as described below. The granting by the agency of a modification of an existing exemption would not count as one of the two exemptions for which the affected manufacturer is eligible in the year of the modification. That limitation applies only to new exemptions.

Duration of Exemption

Once a manufacturer is granted an exemption for a line, that exemption will remain in effect unless and until modified or terminated under § 543.9 or until the manufacturer ceases production of the exempted line.

Modification or Termination of Exemption

NHTSA intends to monitor carefully the effectiveness of antitheft devices for which exemptions have been granted and to terminate exemptions if any device does not prove as effective in reducing and deterring theft as compliance with the marking requirements. Under section 605(d) of Title VI, NHTSA may terminate any exemption if it determines that the antitheft device specified in the exemption has not been as effective in reducing and deterring theft of the exempted vehicle line as compliance with the marking requirements. The agency may act on its own motion or in response to a petition. A party petitioning under section 543.9 for a termination is required to set forth the basis for its belief that the particular device is not as effective in reducing and deterring theft as compliance with the standard. The most convincing support for this type of petition will be data showing the theft rate for the vehicle line, or a similar vehicle line, both before and after installation of the device. If the agency commences a termination proceeding on its own motion or in response to a petition, it will provide the exempted manufacturer an opportunity to present its written views prior to the agency's final decision in the proceeding.

In addition, the agency may modify an exemption to permit the use of any antitheft device similar to, but differing from the one specified for an existing exemption. A party petitioning for a modification will be required to describe how the device and its activation and functioning differ from the original device and set forth the basis for its belief that the modified device will be as effective as compliance with the theft standard in reducing and deterring theft.

In the event that the agency makes a decision to terminate or modify the exemption, it will publish a notice in the **Federal Register** announcing that decision. If the agency denies the petition to commence a proceeding, it will inform the petitioner by letter.

A termination becomes effective not earlier than the later of the following dates: the beginning of the first model year after the one in which the termination occurs or six months after the manufacturer receives notice of the termination. However, a later effective date may be established for termination if the affected manufacturer shows good cause why a later date is consistent with the public interest and the objectives of the Act. A modification will become effective beginning with the first day of the model year of that vehicle following the one in which the modification decision is made.

Labeling of Exempted Vehicles

For model year 1987, there would be no requirement that vehicles exempted from the theft standard bear a special certification label indicating their exempted status. This position is consistent with the recent amendment to Part 567 allowing the use of certification labels stating compliance with all applicable safety, bumper and theft standards, not only on vehicles subject to the standard but also on vehicles which are not subject to the theft standard because they do not belong to a high theft line.

However, the agency is seeking in the separate notice comment concerning the value of requiring the certification label of vehicles exempted from the theft standard in model years 1988 and thereafter to indicate the vehicles' exempted status. If adopted, such a requirement would be similar to the one in 49 CFR Part 555 requiring any vehicle exempted from any of the safety standards to have the existence of the exemption indicated on its certification label. The agency is seeking comments on whether such a label affixed to vehicles exempted from the theft standard would aid law enforcement officials or any other persons in identifying exempted high theft vehicles from the current or a past model year and thus avoiding the possibility of their acting on the mistaken belief that the absence of identifying numbers on the major parts of a vehicle indicates a noncompliance with the Theft Act. NHTSA notes that other means of conveying information about the status of exempted vehicles are available. For example, law enforcement agencies could maintain current lists of high theft vehicles which must comply with the standard and those high theft vehicles that are exempted. These agencies could keep their lists current by drawing

information from the agency's annual notice updating of Appendix A to include lines newly determined to be high theft and to indicate which high theft lines have been exempted.

The agency also indicates in that notice that it wishes to know whether, if it requires a different certification label for vehicles not subject to the standard by reason of their being exempted, it should also require a different certification label for vehicles not subject to the standard by reason of their not being high theft vehicles. As noted above, the certification labels for the latter group of vehicles are exactly the same as those vehicles which are subject to the standard, i.e., high theft vehicles, and thus do not enable anyone examining the labels alone to distinguish between the two groups of vehicles. The labels for both groups are required by § 567.4(g)(5)(ii) to state they comply with all applicable safety, bumper and theft standards even though there is only one theft standard and it does not apply to vehicles which are not high theft.

Confidential Information

NHTSA anticipates that some of the information and communications involved in this exemption process may be trade secrets and subject to confidentiality requests by the manufacturers. Section 609 of the Cost Savings Act states that trade secret information obtained by the agency under the Theft Act shall be treated as confidential, but that information "may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title." If a manufacturer wishes to claim confidentiality for all or part of the material submitted with a petition for exemption, it must segregate that material and follow the procedures of 49 CFR Part 512, *Confidential Business Information.*

The potential availability to vehicle thieves of detailed antitheft device information submitted in connection with exemption petitions is a concern to the agency. The agency's confidentiality rules and section 552 of Title 5, U.S.C., may protect some but not all material of this type. Some drawings may fall within the class determination in Appendix B of Part 512 for blueprints and engineering drawings that contain process of production data and that are for a subject which could not be manufactured without the blueprints and drawings except after significant reverse engineering. However, other drawings and information may not be protectable. Comments are requested on the potential extent of the problem and on available steps for minimizing it.

Effect of Interim Final Rule on Pending Exemption Requests

Several manufacturers have already submitted documents styled as petitions requesting exemptions from the requirements of the theft prevention standard pursuant to section 605 of the Cost Savings Act. However, none of these documents contains all of the information required to be included in such petitions by this interim final rule. NHTSA does not believe it can fully and fairly evaluate the merits of exemption requests in accordance with the statutory criteria, unless those requests contain all of the items of information specified herein. Accordingly, the agency will not begin consideration of those requests until the additional information required by this interim final rule is provided. Those manufacturers which have already submitted exemption requests should supplement their submissions as necessary to fully comply with each of the elements of §§ 543.5 and 543.6 of this interim final rule. The 120-day period allowed NHTSA by section 605(c) to make a decision on a petition for exemption will begin running for a particular petition as soon as the agency receives all of the information specified in this interim final rule.

As noted above, this document is being issued as an interim final rule for exemption requests for the 1987 model year, without prior notice and opportunity for comment. NHTSA finds for good cause that opportunity for notice and comment on this rule before it is adopted for the 1987 model year exemption requests is impracticable and contrary to the public interest.

If the agency were to follow the normal informal rulemaking procedures specified in the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), no manufacturer would be able to seek or obtain an exemption from the theft prevention standard for the 1987 model year. This situation would arise from the following statutory provisions. Section 605(b) of the Cost Savings Act requires manufacturers seeking an exemption to file a petition setting forth certain information with this agency "not later than 8 months before the commencement of production for the first model year covered by the petition." That section also requires every petition requesting an exemption to include, among other things, "such other information as the [NHTSA] determines may be reasonably required to make the determination."

It was impossible for the manufacturers seeking exemptions from the theft prevention standard to know what information the agency would determine was necessary to evaluate petitions for exemption until this final rule was issued. Further, without knowing the requirements of the theft prevention standard, the petitioners could not have fully developed their arguments concerning the relative effectiveness of their antitheft devices and compliance with the standard. The impossibility is demonstrated by the omission of required items of information from the documents which have been filed to date with the agency for the purpose of obtaining exemptions. This agency, for its part, deemed it inappropriate to issue a notice setting forth the procedures for obtaining an exemption from the theft prevention standard before it had issued the theft prevention standard. On October 24, 1985 (50 FR 43166), NHTSA issued a final rule establishing the theft prevention standard. Since that time, the agency has proceeded as expeditiously as possible to issue this rule.

If NHTSA was now to follow the normal informal rulemaking procedures in connection with this rule, a final rule would not be established in time for manufacturers to meet the filing deadline for exemption petitions for the 1987 model year. Regardless of how expedited the process were, no final rule could be in place to allow the manufacturers to compile and submit the necessary information with their exemption petitions 8 months before the commencement of production for the 1987 model year. Hence, no exemptions could be obtained from the theft prevention standard for any 1987 model year vehicles.

Such a result would be inconsistent with the intent underlying section 605. The House Committee Report stated that section 605 was adopted because the Committee was willing to give standard equipment antitheft devices "an opportunity to be proved as effective in deterring theft as the numbering standard," and instructed this agency to "quickly establish reasonable procedures consistent with the provisions of the section for considering petitions and for any rescission." H.R. Rep. No. 1087, 98th Cong., 2d Sess., at 17. If the agency is to comply with the legislative intent that standard equipment antitheft devices be given the opportunity to be proved as effective as parts numbering for the 1987 model year, it must issue this rule as an interim final rule for the 1987 model year.

The necessity for an interim final rule, as set forth above for exemption petitions for the 1987 model year, does not apply with respect to subsequent model years. Accordingly, this interim final rule applies only to exemption petitions for 1987 model year vehicles. The separate notice proposes to establish exemption procedures for model years after 1987. All comments received during the comment period on the 1987 model year procedures will be considered in formulating the permanent final rule for that year. NHTSA intends to proceed expeditiously with the permanent final rule for the model year 1987 procedures. Accordingly, any comments received after the end of the 30-day comment period may not be included in the agency's considerations in formulating the permanent final rule for model year 1987. However, they will be considered in formulating the final rule for model years 1988 and thereafter.

Effective Date for Interim Final Rule

NHTSA finds, for good cause, that the interim final rule for 1987 model year exemption petitions should become effective upon publication in the **Federal Register**, for the same reasons set forth above. Allowing the normal 30 days before the rule takes effect would make it unlikely that manufacturers could file timely and complete petitions for exemption from the requirements of the theft prevention standard for 1987 model year vehicles. Denying manufacturers the opportunity to seek such exemptions would be inconsistent with the explicit language of, and the intent underlying, section 605. If NHTSA is to provide manufacturers with this opportunity, this rule must become effective upon publication.

Impacts

A. Costs and Benefits to Manufacturers and Consumers

Because this rulemaking is procedural, merely implementing the provisions of section 605 of the Cost Savings Act, the agency has determined that this rulemaking is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department's regulatory policies and procedures. This rule only specifies how the agency could exempt, through the petition process, vehicle lines from the theft prevention standard. Since this rule simply establishes a voluntary petitioning process and does not require antitheft devices to be installed in any vehicles, it does not itself impose any major costs on the passenger motor vehicle industry or consumers.

The agency has prepared a preliminary regulatory evaluation which sets out the manufacturers' suggested retail prices for optional antitheft devices on model year 1985 passenger motor vehicles. These optional antitheft devices work only in conjunction with power door locks. The prices range from $159 for an antitheft device on a car already equipped with power door locks, to $450 for an antitheft device on a car to which power door locks must be added. From past expereince, the agency is aware that there is no standard formula to relate manufacturing cost or standard equipment cost to optional equipment price. The agency has also performed a teardown study of an antitheft device. (This study will be placed in the docket.) The estimated consumer cost, assuming volumes of 300,000 antitheft device equipped vehicles per year, is about $70 per vehicle.

Antitheft devices are currently installed on both domestic and foreign passenger cars, usually on luxury or sport models. These types of vehicles may also be lines which are designated as high theft lines. If so, a manufacturer must either mark these vehicles in accordance with the requirements of the theft vehicle prevention standard or seek an exemption from them based on the presence of the antitheft devices.

The increased cost of vehicles resulting from the voluntary installation of standard equipment antitheft devices would ultimately depend on the number of vehicle lines exempted and the production volume of these lines. As stated earlier, the statutory limit for exemptions is two vehicle lines per model year for each vehicle manufacturer. The agency cannot estimate the number of vehicle lines which may be exempted in model 1987, the first year in which the exemption process would be used, or in any subsequent model year.

B. Small Business Impacts

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. Since the rule is merely a ministerial regulation implementing a statutory provision, and itself imposes no substantive requirements, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. The installation of standard equipment antitheft devices may decrease the potential market for aftermarket antitheft devices. However, the decision to supply an antitheft device is voluntary for manufacturers and will not likely be affected by this rule since antitheft devices are much more expensive than marking parts. Accordingly, no preliminary regulatory flexibility analysis has been prepared.

C. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of the rule and determined that this rule will not have any significant impact on the quality of the human environment.

D. Paperwork Reduction Act

The requirement that manufacturers desiring an exemption submit a petition containing the information set forth in this rule is considered to be an information collection requirement, considered as that term is defined by OMB in 5 CFR Part 1320. Acordingly, this requirement has been approved by OMB through February 1987, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) OMB# 2127-0542).

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

All comments must not 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 business 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 for the interim final 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 agency intends to proceed as rapidly as possible with this rulemaking once the comment closing date has passed. Comments received after the closing date for the interim

final rule will very likely be too late for consideration in regard to this action, but will be considered in connection with the separate proposal for model year 1988 and thereafter. Comments on that proposal will also be available for inspection in the docket. The NHTSA will continue to file relevant information 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 a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 543

Administrative practice and procedure, Motor vehicles, National Highway Traffic Safety Administration, Reporting requirements.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended by adding a new Part 543 to read as follows:

PART 543—EXEMPTION FROM VEHICLE THEFT PREVENTION STANDARD

Sec.

Authority: 15 U.S.C. 2025, delegation of authority at 49 CFR 1.50.

§ 543.1 Scope.

This part establishes procedures under section 605 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2025) for the filing of petitions to exempt lines of passenger motor vehicles from Part 541 of this chapter and for the processing of those petitions.

§ 543.2 Purpose.

The purpose of this part is to provide content and format requirements for petitions which may be filed by manufacturers of passenger motor vehicles to obtain an exemption from the vehicle theft prevention standard for passenger motor vehicle lines which include, as standard equipment, an antitheft device which the agency determines is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the requirements of the theft prevention standard. This part also provides the procedures which the agency will follow in reaching such determinations.

§ 543.3 Application.

This part applies to manufactures of passenger motor vehicles.

§ 543.4 Definitions.

(a) *Statutory terms.* All terms defined in sections 2, 601, and 605 of the Motor Vehicle Information and Cost Savings Act are used in accordance with their statutory meanings unless otherwise defined in paragraph (b) below.

(b) *Other definitions.*

"Line" is used as defined in section 541.4 of Part 541 of this chapter.

"NHTSA" means the National Highway Traffic Safety Administration.

§ 543.5 Petition for exemption.

(a) For model year 1987, a manufacturer may petition the NHTSA for exemptions of not more than two lines of its passenger motor vehicles from the requirements of Part 541.

(b) Each petition filed under this part for an exemption must—

(1) Be written in the English language;

(2) Be submitted in three copies to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590;

(3) State the full name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.), and the name of the State or country under the laws of which it is organized;

(4) Be submitted at least 8 months before the commencement of production of the lines specified under paragraph (5) of § 543.5(b) for model year 1987;

(5) Identify the passenger motor vehicle line or lines for which exemption is sought;

(6) Set forth in full the data, views, and arguments of the petitioner supporting the exemption, including the information specified by § 543.6; and

(7) Specify and segregate any part of the information and data submitted which the petitioner requests be withheld for public disclosure in accordance with Part 512 of this chapter.

§ 543.6 Basis for petition.

Each petition filed under this part must include the following information:

(a) A detailed description of—

(1) The identify, design, and location of the components of the antitheft device, including diagrams of the components and of their location within the vehicle, and

(2) The means and process by which the device is activated and functions, including any aspect of the device which is designed to—

(i) Facilitate or encourage its activation by motorists,

(ii) Attract attention to the efforts of an anauthorized person to enter a vehicle by means other than a key,

(iii) Prevent defeating or circumventing the device by an unauthorized person attempting to enter a vehicle by means other than a key,

(iv) Prevent the operation of a vehicle which an unauthorized person has entered using means other than a key, and

(v) Ensure the reliability and durability of the device.

(b) The reasons for the manufacturer's belief that the antitheft device will reduce and deter theft of passenger motor vehicles, including any data, including theft data and results of demonstrations and tests, which show that the antitheft device will be effective in reducing and deterring motor vehicle theft.

(c) The reasons for petitioner's belief that agency should determine that the antitheft device will be as effective as compliance with Part 541 in deterring and reducing theft, including any available statistical data which demonstrate that a line of passenger motor vehicles equipped with the antitheft device will have a lower theft rate than passenger motor vehicles of the same, or a similar, line which are not equipped with the device.

(d) Any petitioner submitting data under paragraph (b) or (c) of this section shall submit an explanation of its belief that the data are sufficiently representative and reliable to warrant NHTSA's reliance upon the data.

§ 543.7 Processing of petitions.

(a) If a manufacturer submits a petition that does not contain all the information required by this part, the manufacturer is informed by the agency about the areas of insufficiency and advised that the petition will not be processed under this part until the required information is submitted.

(b) NHTSA publishes a final decision in the **Federal Register** and notifies the petitioner in writing of that decision. The final decision grants the petition, in whole or in part, if there is substantial evidence that the antitheft device is likely to be as effective in reducing and deterring theft of the lines covered in the petition as compliance with Part 541 would be. If such evidence is lacking, the petition is denied. The final decision is issued not later than 120 days after

the date on which a complete petition was filed.

(c) An exemption granted under this part applies only to vehicles which belong to a line exempted under this part and which are equipped with the antitheft device on which the line's exemption was based.

(d) Unless otherwise specified in a notice granting an exemption, the exemption is effective for the model year beginning after the model year in which the notice is published in the **Federal Register.**

§ 543.8 Duration of exemption.

Each exemption under this part continues in effect unless it is terminated under section 543.9 or the manufacturer ceases production of the exempted line.

§ 543.9 Termination or modification of exemption.

(a) NHTSA may initiate a proceeding on its own or in response to a petition to terminate or modify any exemption granted under this part.

(b) Any interested person may petition the agency to commence a proceeding:

(1) To terminate an exemption because the antitheft device specified in the exemption is believed by the petitioner not to be as effective as compliance with Part 541. The petition must comply with § 543.5(b) (1)–(4) and (7); identify the affected vehicle line or lines; and set forth the basis for that belief.

(2) To modify an exemption to permit the use of an antitheft device similar to, but differing from the one specified in that exemption. The petition must comply with section 543.5(b) (1)–(4) and (7); identify the affected vehicle line or lines; describe how the device and its activation and functioning differ from the original device, as described under section 543.6(a); and comply with section 543.6 (b) through (d).

(c) If a person submits a petition that does not contain all the information required by this section, the submitter is informed by the agency about the areas of insufficiency and advised that the petition will not be processed under this section until the required information is submitted.

(d) If NHTSA grants a petition to commence a proceeding to terminate an exemption, or commences one on its own motion, it provides the exempted manufacturer with an opportunity to present its views.

(e) If NHTSA denies the petition, it notifies the petitioner by letter.

(f) NHTSA publishes a notice in the **Federal Register**—

(1) Terminating an exemption, if the agency determines that the antitheft device being installed pursuant to the exemption has not been as effective as compliance with Part 541 in reducing and deterring passenger motor vehicle theft, or

(2) Modifying the exemption, if the agency determines, based upon substantial evidence, that the modified antitheft device described in the petition will be as effective as compliance with Part 541 in deterring and reducing passenger motor vehicle theft.

(g)(1) The termination of an exemption under paragraph (f) of this section takes effect no earlier than the later of the following dates:

(i) The first day of the model year following the one in which the termination decision is issued, or

(ii) Six months after the manufacturer receives notice of the rescission.

(2) If a manufacturer shows good cause why a letter date is consistent with the public interest and the purposes of the Act, the agency may set the effective date of the exemption on such later date.

(h) The modification of an exemption under paragraph (f) of this section takes effect on the first day of the model year following the one in which the modification decision is issued.

Issued on December 30, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 86–375 Filed 1–3–86; 3:37 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 543

[Docket No. T85-02; Notice 2]

Petitions for Exemptions From the Vehicle Theft Prevention Standard

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice is issued under Title VI of the Motor Vehicle Information and Cost Savings Act. The title provides that passenger motor vehicle manufacturers may petition the agency for an exemption from the vehicle theft prevention standard for passenger motor vehicle lines whose standard equipment includes an antitheft device which this agency determines is likely to be as effective in deterring and reducing vehicle theft as would compliance with the parts marking requirements of the standard.

This notice proposes the procedures to be followed by manufacturers in preparing and submitting any such petitions for model year 1988 and thereafter. It also sets forth procedures which the agency will follow for these model years in processing those petitions and determining whether they should be granted.

The procedures for model year 1987 are established in an interim final rule published elsewhere in this edition of the **Federal Register.**

DATES: Comments on the proposed procedures for model year 1988 and thereafter must be received by this agency not later than March 10, 1986. Those procedures would be effective 30 days after the date of publication of the final rule.

ADDRESS: Comments on the proposal should refer to Docket No. T85-02; Notice 2, and be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are 8:00 a.m. to 4:00 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Brian McLaughlin, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-426-1740).

SUPPLEMENTARY INFORMATION: The Motor Vehicle Theft Law Enforcement Act of 1984, Pub. L. 98-547 (Theft Act), added Title VI to the Motor Vehicle Information and Cost Savings Act (Cost Savings Act). Pursuant to Title VI, NHTSA issued a vehicle theft prevention standard for passenger motor vehicles on October 24, 1985 (50 FR 43166). The standard provides requirements for inscribing or affixing identification numbers onto certain major original equipment and replacement parts of high theft lines of passenger motor vehicles.

Section 605 of Title VI permits manufacturers to petition NHTSA to allow high theft vehicle lines to be exempted from the standard. To be exempted, a line must satisfy two conditions. First, a line must be equipped with an antitheft device as standard equipment. Second, NHTSA must determine that such antitheft device is likely to be as effective as parts marking in reducing and deterring motor vehicle theft.

Section 605(a)(2) allows the agency to grant an exemption for not more than two lines of any manufacturer for the initial model year to which the vehicle theft prevention standard applies. Under the October 1985 final rule, the standard would first apply in model year 1987. For each subsequent model year, the agency may exempt not more than two additional lines of any manufacturer. Thus, it would be possible for a manufacturer to receive two exemptions for model year 1987, two more for model year 1988 for a total of four, and so forth.

Section 605(b) requires that a manufacturer seeking the exemption of a line to file a petition for its exemption with the agency not later than eight months before beginning production of the line for the first model year covered by the petition. This section also states that the petition must describe the antitheft device in detail, provide the reasons for the manufacturer's conclusion that the device will be effective in reducing and deterring motor vehicle theft, and include any additional information which NHTSA determines may be reasonably required to make the determination specified above.

Section 605(c) states that the agency may grant the petition in whole or in part. Any determination to grant a petition must be based upon substantial evidence. Section 605(c) also requires that the agency's determination to grant or deny a petition must be made within 120 days after the date of filing the petition. If the agency fails to make a determination within the specified time period, this section also states that the petition shall be considered approved, and the manufacturer shall be exempt from the standard's requirements for the subsequent model year.

Section 605(d) allows the agency to terminate a manufacturer's exemption if NHTSA determines that the manufacturer's antitheft device has not been as effective in reducing and deterring motor vehicle theft as compliance with the theft prevention standard. This section states that the termination could be made effective for any model year after the model year in which the termination decision is made. However, the termination cannot be effective until at least six months after the manufacturer receives written notice of the termination from the agency.

Procedures for implementing section 605 for model year 1987 are established in a separate notice published in this edition of the **Federal Register.** This notice proposes that those same procedures be adopted for model year 1988 and thereafter, with several minor differences. Section 543.5(a) would be amended so that it refers not only to model year 1987, but also to each model year thereafter. That paragraph would also be amended to indicate that although a manufacturer may not obtain exemption to more than two additional lines for any model year, there is no limit on the total number of exemptions that a manufacturer may receive. Section 543.5(b)(7) would be amended to provide that petitions must be submitted at least 8 months before the commencement of production of the lines for the first model year covered by the exemption. Section 543.5(b)(7) would be amended to provide that the petition must identify the first model year for which exemption is sought.

NHTSA seeks public comments on the desirability of using the model year 1987 procedures for subsequent model years. In addition, the agency seeks comment on several particular issues. First, NHTSA seeks comments on the desirability of changing the theft standard exemption process for model year 1988 and thereafter to include publishing notice of receipt of the petitions and providing a brief period for comment on them. The same process could apply to the petitions described below for modifying or terminating exemptions. The agency wishes to note, however, its concerns regarding the public availability of the details of the petitions and whether public availability of this type of information might make it easier for vehicle thieves to disarm the devices. (See the further discussion of this issue at the end of the interim final rule.)

Second, the agency seeks comments about the value of requiring the certification label of vehicles exempted from the theft standard in model years

1988 and thereafter to indicate the vehicles' exempted status. If adopted, the requirement would be similar to the one in 49 CFR Part 555 requiring any vehicle exempted from a safety standard to have the existence of the exemption indicated on its certification label. The agency seeks comments on whether such a label affixed to vehicles exempted from the theft standard would aid law enforcement officials or any other persons in identifying exempted high theft vehicles from the current or a past model year and thus avoiding the possibility of their acting on the mistaken belief that the absence of identifying numbers on the major parts of a vehicle indicates a noncompliance with the Theft Act. NHTSA notes that other means of conveying information about theft exemptions are available. For example, law enforcement agencies could maintain lists of high theft vehicles which must comply with the standard and those high theft vehicles that are exempted. These agencies could keep their lists current by drawing information from the agency's annual notice updating Appendix A to include lines newly determined to be high theft and to indicate which high theft lines have been exempted.

Third, the agency wishes to know whether, if it requires a different certification label for vehicles not subject to the standard by reason of their being exempted, it should also require a different certification label for vehicles not subject to the standard by reason of their not being high theft vehicles. As noted above, the certification labels for the latter group of vehicles are exactly the same as those vehicles which are subject to the standard, i.e., high theft vehicles, and thus do not enable anyone examining the labels alone to distinguish between the two groups of vehicles. The labels for both groups are required by § 567.4(g)(5)(ii) to state they comply with all applicable safety, bumper and theft standards even though there is only one theft standard and it does not apply to vehicles which are not high theft.

Impacts

A. Costs and Benefits to Manufacturers and Consumers

Because this rulemaking is procedural, merely implementing the provisions of section 605 of the Cost Savings Act, the agency has determined that this rulemaking is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department's regulatory policies and procedures. This proposal only specifies how the agency could exempt, through the petition process, vehicle lines from the theft prevention standard. Since this notice simply proposes a voluntary petitioning process and would not require antitheft devices to be installed in any vehicles, it would not itself impose any major costs on the passenger motor vehicle industry or consumers.

The agency has prepared a preliminary regulatory evaluation which sets out the manufacturers' suggested retail prices for optional antitheft devices on model year 1985 passenger motor vehicles. These optional antitheft devices work only in conjunction with power door locks. The prices range from $159 for an antitheft device on a car already equipped with power door locks, to $450 for an antitheft device on a car to which power door locks must also be added. From past experience, the agency is aware that there is no standard formula to relate manufacturing cost or standard equipment cost to optional equipment price. The agency has also performed a teardown study of an antitheft device. (This study will be placed in the docket.) The estimated consumer cost, assuming volumes of 300,000 antitheft device equipped vehicles per year, is about $70 per vehicle.

Antitheft devices are currently installed on both domestic and foreign passenger cars, usually on luxury or sport models. These types of vehicles may also be lines which are designated as high theft lines. If so, a manufacturer must either mark these vehicles in accordance with the requirements of the vehicle theft prevention standard or seek an exemption for them based on the presence of the antitheft devices.

The increased cost of vehicles resulting from the voluntary installation of standard equipment antitheft devices would ultimately depend on the number of vehicle lines exempted and the production volume of these lines. As stated earlier, the statutory limit for exemptions is two vehicle lines per model year for each vehicle manufacturer. The agency cannot estimate the number of vehicle lines which may be exempted in model year 1987, the first year in which the exemption process would be used, or in any subsequent model year.

B. Small Business Impacts

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. Since the proposal is merely a ministerial regulation implementing a statutory provision, and itself would impose no substantive requirements, I hereby certify that this proposal would not have a significant economic impact on a substantial number of small entities. The installation of standard equipment antitheft devices may decrease the potential market for aftermarket antitheft devices. However, the decision to supply an antitheft device is voluntary for manufacturers and would not likely be affected by this proposal since antitheft devices are much more expensive than marking parts. Accordingly, no preliminary regulatory flexibility analysis has been prepared.

C. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of this proposal and determined that it would not have any significant impact on the quality of the human environment.

D. Paperwork Reduction Act

The requirement that manufacturers desiring an exemption submit a petition containing the information set forth in this proposal is considered to be an information collection requirement, as that term is defined by OMB in 5 CFR Part 1320. Accordingly, this requirement has been approved by OMB through February 1987, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) (OMB# 2127–0542).

Comment Instructions

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

All comments must not exceed 15 pages in length. (49 CFR 533.21). 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 business 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 sumitted 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 for the proposal will be considered, and will be available for examination in the docket at the above address both before and after the date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information 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 a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 543

Administrative practice and procedure, Motor vehicles, National Highway Traffic Safety Administration, Reporting requirements.

(15 U.S. 2025, delegation of authority at 49 CFR 1.50)

Issued on December 31, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-376 Filed 1-3-86; 3:37 pm]

BILLING CODE 4910-59-M

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Federal Register

Vol. 51, No. 4

Tuesday, January 7, 1986

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Laws 523-5230

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FEDERAL REGISTER PAGES AND DATES, JANUARY

CFR PARTS AFFECTED DURING JANUARY

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.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List December 31, 1985