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Pages 22791-22920

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Monday
June 23, 1986

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

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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: July 11; at 9 am.

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

RESERVATIONS: Abram Primus 202-523-3419
Ina Masters 202-523-3419

SEATTLE, WA

WHEN: July 22; at 1:30 pm.

WHERE: North Auditorium,
Fourth Floor, Federal Building,
915 2nd Avenue, Seattle, WA.

RESERVATIONS: Call the Portland Federal Information Center on the following local numbers:

Seattle	206-442-0570
Tacoma	206-383-5230
Portland	503-221-2222

SAN FRANCISCO, CA

WHEN: July 24; at 1:30 pm.

WHERE: Room 2007, Federal Building,
450 Golden Gate Avenue,
San Francisco, CA.

RESERVATIONS: Call the San Francisco Federal Information Center, 415-556-6600

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Presidential Documents

Title 3—

The President

Proclamation 5502 of June 19, 1986

National Agricultural Export Week, 1986

By the President of the United States of America

A Proclamation

The American farmer is the most productive in the world. Citizens from virtually every nation rely on our farmers for food and fiber for nourishment and for clothing. This Administration is firmly dedicated to developing, maintaining, and expanding international markets for United States' agricultural exports.

Agriculture is the single largest export industry in the United States. Earnings from agricultural exports have contributed $333 billion to the United States balance of payments in the past decade, and these earnings have stimulated additional employment and investment estimated at $1 trillion.

The Congress, by Senate Joint Resolution 310, has designated the week of June 15, 1986, through June 21, 1986, as "National Agricultural Export Week," and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of June 15, 1986, through June 21, 1986, as National Agricultural Export Week, and I call upon the people of the United States to commemorate this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th. day of June, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-14205
Filed 6-19-86; 3:53 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5503 of June 19, 1986

National Interstate Highway Day, 1986

By the President of the United States of America

A Proclamation

In June 1956, the Federal-Aid Highway Act of 1956 and the Highway Revenue Act of 1956 were enacted to provide for the construction and financing of the National Interstate and Defense Highway System. Nineteen hundred and eighty-six marks the 30th anniversary of the passage of this legislation.

During the last 30 years, the construction of the Interstate System has brought about tremendous change and progress in our society. As the world's largest and most successful transportation and public works project, it has enhanced travel and has helped join the Nation together to supply raw material, finished goods, food, and other essential products and services, and contributed to the national defense.

The Interstate System accounts for just over one percent of the total road mileage in the United States, yet it carries approximately 20 percent of the Nation's total traffic volume. Employing the most advanced highway safety designs ever devised, the Interstate System is one of the Nation's safest modes of transportation.

The Congress, by House Joint Resolution 636, has designated June 26, 1986, as "National Interstate Highway Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim June 26, 1986, as National Interstate Highway Day, and I call upon the people of the United States to observe that day with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 86-14206
Filed 6-19-86; 3:54 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revisions of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority of the Department of Agriculture to reflect the assignment of responsibilities under section 1324 of the Food Security Act of 1985, Pub. L. No. 99–198.

EFFECTIVE DATE: June 23, 1986.

FOR FURTHER INFORMATION CONTACT: James L. Smith, Deputy Administrator, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–7063.

SUPPLEMENTARY INFORMATION: The delegations of authority of the Department of Agriculture are amended to delegate to the Assistant Secretary for Marketing and Inspection Services and to the Administrator of the Packers and Stockyards Administration the authority of the Secretary of Agriculture to certify that central filing systems established by any of the States comply with the requirements of section 1324 of the Food Security Act of 1985, Pub. L. No. 99–198, and to prescribe regulations to aid the States in the implementation and management of a central filing system.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective in less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Also, this action is not a rule as defined in Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations, is amended as follows:

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

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Program, the Under Secretary for Small Community and Rural Development and Assistant Secretaries

2. Section 2.17 is amended by adding a new paragraph (e)(3) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Inspection Services.

* * * * *

(e) * * *

(3) Exercise the functions of the Secretary of Agriculture contained in section 1324 of the Food Security Act of 1985 (7 U.S.C. 1631).

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Inspection Services

3. Section 2.56 is amended by adding a new paragraph (a)(3) to read as follows:

§ 2.56 Administrator, Packers and Stockyards Administration.

(a) *Delegations* * * *

(3) Exercise the functions of the Secretary of Agriculture contained in section 1324 of the Food Security Act of 1985 (7 U.S.C. 1631).

For Subpart C:

Dated: June 17, 1986.

Peter C. Myers,

Acting Secretary of Agriculture.

For Subpart F:

Dated: June 17, 1986.

Karen K. Darling,

Deputy Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 86–14063 Filed 6–20–86; 8:45 am]
BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 368]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 368 establishes the quantity of California-Arizona Valencia oranges that may be shipped to market during the period June 20–26, 1986. The regulation is needed to balance the supply of fresh Valencia oranges with market demand for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: Regulation 368 (Section 908.668) is effective for the period June 20–26, 1986.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202/447–5697.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities

for their own benefit. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 123 handlers of Valencia oranges are subject to regulation under the marketing order and that the great majority of these handlers may be classified as small entities. While regulations issued may impose some costs on affected handlers and the number of such firms may be substantial, the added burden on small entities, if present at all, is not significant.

The regulation is issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The regulation is consistent with the marketing policy for 1985–86. The committee met publicly on June 17, 1986, to consider the current and prospective conditions of supply and demand and recommended the quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports that the market for Valencia oranges is moderate.

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

List of Subjects in 7 CFR Part 908

Agricultural Marketing Service, Marketing agreements and orders, California, Arizona, Oranges, Valencias.

PART 908—[AMENDED]

1. The authority citation for 7 CFR Part 908 continues to read:

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

2. Section 908.668 is added to read as follows:

§ 908.668 Valencia Orange Regulation 368.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period June 20, 1986, through June 26, 1986, are established as follows:

(a) District 1: 408,000 cartons;

(b) District 2: 442,000 cartons;

(c) District 3: Unlimited cartons.

Dated: June 18, 1986.

Eric M. Forman,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–14165 Filed 6–19–86; 12:30 pm]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1955

Sale of Unsuitable Single Family Housing (SFH) Inventory Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: The Farmers Home Administration (FmHA) corrects a final rule published May 20, 1986 [51 FR 18435]. In this final rule, FmHA announced its "Summer Sale" on unsuitable Single Family Housing (SFH) inventory property. Inadvertently, a portion of an existing sentence found in 7 CFR Part 1955, § 1955.113 which has no effect on the "Summer Sale" was omitted in reprinting. The intent of the action is to replace the missing words.

FOR FURTHER INFORMATION CONTACT: David J. Villano, Senior Realty Specialist, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5309, South Agriculture Building, 14th and Independence Avenues, SW., Washington, DC 20250, telephone (202) 382–1452.

PART 1955—[CORRECTED]

Accordingly, the Farmers Home Administration is correcting 7 CFR 1955.113 as published in FR Doc. 86–11331, May 20, 1986, page 18436 as follows:

1. The authority citation for Part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989, 41 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

Subpart C—Disposal of Inventory Property

2. Section 1955.113 is amended by correcting the last sentence of the introductory paragraph as follows:

§ 1955.113 Price (housing).

* * * However, when a Section 515 RRH credit sale is being made to a nonprofit organization or public body to utilize former single-family dwellings as a rental or cooperative project for very-low-income residents, the price will be the lesser of the Government's investment or the market value, less administrative price reductions, if any.

* * * * *

Dated: June 17, 1986.

Vance L. Clark,

Administrator.

[FR Doc. 86–14108 Filed 6–20–86; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-CE-21-AD; Amdt. 39-5328]

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd., Type Certificate (TC) A2PC, Models MU-2B, -10, -15, -20, -25, -26, -30, -35, -36 Airplanes and Mitsubishi Aircraft International, Inc; TC A10SW, Models MU-2B-25, -26, -26A, -35, -36A, -40 and -60 Airplanes

Correction

In FR Doc. 86–13394 beginning on page 21515 in the issue of Friday, June 13, 1986, make the following correction:

On page 21515, first column, in the **EFFECTIVE DATE** caption, "June 10, 1986", should read "June 12, 1986."

BILLING CODE 1505-01-M

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14 CFR Part 71

[Airspace Docket No. 86-ANM-21]

Redescription of the Boise, ID, Transition Areas

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This action makes a change in the written description of the Boise, Idaho, transition areas. The Boise VORTAC is being relocated 2.4 nautical miles east of its present location. There will be no change in the charted transition areas; however, the written description needs to be amended.

EFFECTIVE DATE: 0901 UTC, July 22, 1986.

FOR FURTHER INFORMATION CONTACT: Katherine G. Paul, ANM–535, Federal Aviation Administration, Docket No. 86–ANM–21, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, Telephone: (206) 431–2535.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to Part 71 of the Federal Aviation Regulations makes a change in the written description of the Boise, Idaho, transition areas. There will be no change in the charted transition areas.

I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor amendment in which the public would not be particularly interested. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Boise, Idaho—[Amended]

Remove "Boise VORTAC" and insert "43°34'06" N LON; 116°14'34" W LAT".

Remove "269° radial" and insert "269° bearing".

Remove "295° radial" and insert "295° bearing".

Issued in Seattle, Washington, on June 9, 1986.

David E. Jones,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86–14034 Filed 6–20–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 86–AGL–12]

Alteration of Transition Area; New Ulm, MN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to alter the New Ulm, Minnesota, transition area to accommodate two new NDB Standard Instrument Approach Procedures (SIAPs) to New Ulm Municipal Airport to serve Runways 15 and 33.

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

EFFECTIVE DATE: 0901 UTC, August 28, 1986.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION:

History

On Monday, April 21, 1986, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the New Ulm, Minnesota, transition area (51 FR 13527).

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

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the New Ulm, Minnesota, transition area to accommodate two new SIAPs to New Ulm Municipal Airport. The additional airspace designated for the NDB Runway 33 SIAP will be approximately a 2.5 miles extension from the 5 mile radius southeast of the airport with a width of 3 miles each side of the 162° bearing from the New Ulm NDB; and for the NDB Runway 15 SIAP approximately a 1 mile northeast width expansion to the existing extension northwest of New Ulm Municipal Airport.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

New Ulm, MN—[Amended]

That airspace extending upward from 700 feet above the surface within a 5 mile radius of New Ulm Municipal Airport (Lat. 44°19'00" N., Long. 94°29'45" W.) within 3 miles each side of the 315° bearing from New Ulm Municipal Airport, extending from the 5 mile radius area to 8 miles northwest of the airport; and 3 miles each side of the

162° bearing from New Ulm Municipal Airport, extending from the 5 mile radius area to 7.5 miles southeast of the airport.

Issued in Des Plaines, Illinois, on June 10, 1986.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 86-14039 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AGL-17]

Alteration to Cleveland Burke-Lakefront Airport, OH Control Zone

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to alter the published description for Cleveland Burke-Lakefront Airport, OH control zone by deleting Cleveland-Hopkins International Airport and inserting Cleveland-Cuyahoga County Airport.

EFFECTIVE DATE: 0901 UTC, August 28, 1986.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to Part 71 of the Federal Aviation Regulations modifies the published description for Cleveland Burke-Lakefront Airport, OH by replacing the words "Cleveland-Hopkins International Airport" with "Cleveland-Cuyahoga County Airport". The description as it presently reads erroneously lists Cleveland-Hopkins International Airport. There will be no changes to the existing designated airspace area.

I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because the action is a minor amendment in which the public would not be particularly interested. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§71.171 [Amended]

2. Section 71.171 is amended as follows:

Cleveland Burke-Lakefront Airport, OH—[Amended]

Delete: "Cleveland-Hopkins International Airport".

Insert: "Cleveland-Cuyahoga County Airport".

Issued in Des Plaines, Illinois, on June 5, 1986.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 86-14038 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ANM-9]

Alteration of Cedar City, UT, Control Zone and Transition Area

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This action alters the control zone and transition area at Cedar City, Utah, to provide controlled airspace to accommodate a new Instrument Landing System (ILS) approach to the Cedar City Municipal Airport. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, July 22, 1986.

FOR FURTHER INFORMATION CONTACT: Katherine G. Paul, ANM-535, Federal Aviation Administration, Docket No. 86-ANM-9, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2535.

SUPPLEMENTARY INFORMATION:

History

On April 4, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone and transition area of Cedar City, Utah (51 FR 11585). This action will provide controlled airspace to accommodate a new ILS approach to the Cedar City Municipal Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the control zone and transition area to provide controlled airspace to accommodate a new ILS approach to the Cedar City Municipal Airport.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal

Aviation Regulations (14 CFR Part 71) is amended as follows:

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Cedar City, Utah

Within a 5 mile radius of the Cedar City Municipal Airport (lat. 37°42'06" N., long. 113°05'50" W.) and within 2 miles on each side of the Cedar City VOR/DME 195° radial extending from the 5 mile radius zone to the VOR/DME; and, 2 miles on each side of MEGGI LOM (lat. 37°47'28.7" N., long. 113°01'14.2" W.) 214° bearing extending from the 5 mile radius zone to the LOM.

§ 71.181 [Amended]

3. Section 71.181 is amended as follows:

Cedar City, Utah

That airspace extending upward from 700' above the surface within 9.5 miles on the northwest side and 4.5 miles on the southeast side of the MEGGI LOM (lat. 37°47'28.7" N., long. 113°01'14.2" W.) 034° bearing extending from the LOM to 18.5 miles northeast of the LOM; and, that airspace extending from 1,200' above the surface within 7.5 miles east and 12 miles west of the Cedar City VOR/DME (lat. 37°47'14.5" N., long. 113°04'02.08" N.) 184° and 004° radials extending from 10.5 miles south to 22.5 miles north of the VOR/DME; and 5.5 miles north and 8.5 miles south of the 264° and 084° radials extending from 17.5 miles west and 7 miles east of the VOR, and 5 miles each side of the Milford, Utah, VORTAC (lat. 38°21'37.4" N., long. 113°00'44.8" W.) 169° radial extending from the VORTAC to 30.5 miles south of the VORTAC.

Issued in Seattle, Washington, on June 9, 1986.

David E. Jones,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86-14035 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin

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 Stutts Scientific Service, Inc., providing for manufacture of 5-, 10-, 20-, and 40-gram-per-pound tylosin Type A medicated articles. The Type A articles are intended for use in making Type C medicated feeds for use in swine, beef cattle, and chickens. The regulations are further amended to add the firm to the list of sponsors of approved applications.

EFFECTIVE DATE: June 23, 1986.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Stutts Scientific Service, Inc., P.O. Box 72, Ontario, CA 91762, is the sponsor of NADA 139-488 submitted on its behalf by Elanco Products Co. The NADA provides for manufacture of 5-, 10-, 20-, and 40-gram-per-pound tylosin Type A medicated articles used to make Type C medicated feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1)(i) through (vi). The NADA is approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary. The regulations are further amended to add the firm to the list of sponsors of approved NADA's.

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 effectivness 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 determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

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

21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 510—NEW ANIMAL DRUGS

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

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

2. In § 510.600 by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragragh (c)(2), to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Stutts Scientific Service, Inc., P.O. Box 72, Ontario, CA 91762	048696
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
048696	Stutts Scientific Service, Inc., P.O. Box 72, Ontario, CA 91762
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

4. In § 558.625 by adding new paragraph (b)(87), to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(87) To 048696: 5, 10, 20, and 40 grams per pound paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Dated: June 16, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-14048 Filed 6-20-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 172, 230, and 511

Miscellaneous Technical Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: By this final rule, the FHWA is substituting the publication entitled, "Federal Acquisition Regulation (FAR)," for the publication, "Federal Procurement Regulation (FPR)," which is cited in various sections of 23 CFR. This substitution is being made because the FPR citations are obsolete.

EFFECTIVE DATE: June 23, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Max I. Inman, Office of Fiscal Services, (202) 426-0562, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The FPR was a government-wide procurement regulation which was issued by the General Services Administration and codified as Chapter 1 of Subtitle A of Title 41 of the Code of Federal Regulations.

The FAR is a newer uniform government-wide acquisition regulation that replaced the FPR and other procurement regulations formerly used by the Department of Defense and the National Aeronautics and Space Administration. The FAR was published in the **Federal Register** on September 19, 1983, with an effective date of April 1, 1984. The FAR is codified as Chapter 1 of Title 48 of the Code of Federal Regulations.

Since the FPR has been replaced by the FAR, it is appropriate that references to the FPR in FHWA's regulation be changed to the corresponding references in the FAR. This rule being published today makes the necessary changes.

Since the changes being adopted in this document are technical in nature and make no substantive changes in the regulations, the FHWA finds good cause to make this amendment final without prior notice and opportunity for comment and without a 30-day delay in effective date required by the Administrative Procedure Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Accordingly, the amendments are effective upon issuance.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the policies and procedures of the Department of Transportation. The economic impact, if any, anticipated as a result of this action is so minimal, a full regulatory evaluation is not required.

In consideration of the foregoing, the FHWA hereby amends Parts 172, 230, and 511 of Title 23, Code of Federal Regulations, as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations regarding intergovernmental consultation on Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Parts 172, 230, and 511

Equal employment opportunity, Grant programs—transportation, Highways and roads, Research.

Issued on: June 17, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

PART 172—ADMINISTRATION OF NEGOTIATED CONTRACTS

1. The authority citation for Part 172 is revised to read as follows:

Authority: 23 U.S.C. 104(f), 114(a), 307(c), 315, and 402; 49 CFR 1.48(b).

§ 172.5 [Amended]

2. In § 172.5, the initial unnumbered paragraph is amended by removing the words "41 CFR Subtitle A, Chapter 1" and inserting in lieu thereof "48 CFR Chapter 1".

3. In § 172.7, paragraphs (d) and (f)(2) are revised to read as follows:

§ 172.7 Procurement standards.

* * * * *

(d) Contracting agencies may establish cost principles for determining the reasonableness and allowability of costs. Reimbursement will be limited to the Federal share of costs which are allowable under the Federal cost principles contained in 48 CFR, Chapter 1, Part 31, Federal Acquisition Regulation (FAR 31). Specifically, these are:

(1) For contracts between the State or local governments and commercial organizations, Subpart 31.2, as modified by § 31.103;

(2) For contracts between the State or local governments and educational institutions, Subpart 31.3; and

(3) For contracts between the State and local governments, or between local governments, Subpart 31.6.

* * * * *

(f) * * *

(2) Determining the reasonableness, allowability, and allocability of costs in accordance with the provisions of 48 CFR, Chapter 1, Part 31.

* * * * *

§ 172.9 [Amended]

4. In § 172.9, paragraph (a) is amended by removing the words "through Appendix H" and inserting in lieu thereof "through Appendix C".

5. In § 172.9, paragraph (c) is revised to read as follows:

§ 172.9 Contract provisions.

* * * * *

(c) *Patent rights.* Applicable patent rights provisions described in 48 CFR, Chapter 1, Part 27 regarding rights to inventions shall be included in contracts as appropriate.

* * * * *

PART 230—EXTERNAL PROGRAMS

6. The authority citation for Part 230 continues to read as follows:

Authority: 23 U.S.C. 101, 140(c), 304, and 315; 49 CFR 1.48(b).

§ 230.109 [Amended]

7. In § 230.109, paragraph (b) is amended by removing the words "Federal Procurement Regulations (41 CFR 1-12.805)" and "41 CFR 1-12.805-1(d)" and inserting in lieu thereof "Federal Acquisition Regulations (48 CFR, Chapter 1, Paragraph 22.803(c))" and "48 CFR, Chapter 1, Paragraph 22.804-2(c)", respectively.

PART 511—RESEARCH AND DEVELOPMENT (R&D) STUDIES AND PROGRAMS; GENERAL

8. The authority citation for Part 511 continues to read as follows:

Authority: 23 U.S.C. 307(c) and 315; 49 CFR 1.48(b).

§ 511.4 [Amended]

9. In § 511.4, paragraph (d) is amended by removing the words "Federal Procurement Regulations (41 CFR)" and

inserting in lieu thereof "Federal Acquisition Regulations (48 CFR)".

§ 511.7 [Amended]

10. In § 511.7, paragraph (d) is amended by removing the citation "41 CFR 1–9.1" and inserting in lieu thereof "48 CFR, Chapter 1, Part 27".

[FR Doc. 86–14120 Filed 6–20–86; 8:45 am]
BILLING CODE 4910–22–M

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23 CFR Part 820

Rural Highway Public Transportation Demonstration Program; Rescission of Regulation

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescission of regulation.

SUMMARY: This document rescinds the FHWA regulation on the Rural Highway Public Transportation Demonstration Program because the program is completed and the provisions are obsolete. The program administered by the FHWA has been superseded by the Public Transportation for Nonurbanized Areas program that is administered by the Urban Mass Transportation Administration (UMTA).

EFFECTIVE DATE: June 23, 1986.

FOR FURTHER INFORMATION CONTACT: Richard A. Torbik, Office of Planning, Planning Programs Division, 202–426–0233, or Michael J. Laska, Office of the Chief Counsel, 202–426–0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The provisions contained in 23 CFR Part 820 were issued to prescribe procedures for States to follow when applying for funds under the section 147 program for rural highway public transportation demonstration projects (section 147 of the Federal-Aid Highway Act of 1973, Pub. L. 93–87, 87 Stat. 250). Appropriations for the section 147 program were provided only in fiscal years 1975 and 1976. Demonstration projects were implemented and completed across the country. The results indicated that public transportation systems in rural areas and small urban areas were feasible and that Federal assistance on a continuing basis was necessary.

In 1978, Federal assistance funding was provided on a more permanent basis by the new section 18, Public Transportation For Nonurbanized Areas program (section 313 of the Surface Transportation Assistance Act of 1978, Pub. L. 95–599, 92 Stat. 2748, which added section 18 to the Urban Mass Transportation Act). The section 18 program was initially administered by the FHWA. On October 1, 1983, the Secretary of Transportation transferred the responsibility of administering the section 18 program from the FHWA to the Urban Mass Transportation Administration (UMTA). The section 18 program presently operates under procedures issued by UMTA (section 18 Program Guidelines and Grant Application Instructions, UMTA Circular 9040.1A, May 23, 1985). For these reasons Part 820 (FHPM 4–8–4, Rural Highway Public Transportation Demonstration Program) is no longer operative, and is, therefore, rescinded.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. No economic impacts are anticipated as a result of this action. Accordingly, a full regulatory evaluation is not required. Under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic effect on a substantial number of small entities.

For the reasons stated above, the FHWA finds good cause to rescind the regulation contained in 23 CFR Part 820 without notice and opportunity for comment and without a 30-day delay in effective date required under the Administrative Procedure Act since public comment is impracticable and unnecessary. In addition, notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information.

PART 820—RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROGRAM—[REMOVED]

In consideration of the foregoing, the FHWA hereby removes Part 820 "Rural Highway Public Transportation Demonstration Program" from Title 23, Code of Federal Regulations.

List of Subjects in 23 CFR Part 820

Demonstration program—public transportation, Highways and roads, Rural areas.

Authority: 23 U.S.C. 315; 49 CFR 1.48(c).

Issued on: June 17, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 86–14119 Filed 6–20–86; 8:45 am]
BILLING CODE 4910–22–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R–86–1285; FR–2230]

Mortgage and Loan Insurance Programs; Purchasing and Reproduction of HUD Forms

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises 24 CFR 200.7 and 200.142 to provide that HUD mortgage insurance forms may be printed by mortgagees or purchased from the Superintendent of Documents, U.S. Government Printing Office.

EFFECTIVE DATE: August 8, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James Peterson, Deputy Director, Office of Management, Room 9114, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–800. Telephone (202) 755–6614. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

At present, 24 CFR 200.7 and 200.142 state that HUD insurance forms and instructions may be obtained from any Federal Housing Administration field office. The Department has determined that this procedure is too costly. Mortgagees and borrowers would be adequately served, and could contribute to the cost of program administration, if such forms were sold and distributed by the Government Printing Office (GPO). This final rule provides that HUD mortgage insurance application forms may be printed by mortgagees or purchased from the Superintendent of Documents, U.S. Government Printing Office. The printed copies must be exact copies of the HUD-approved forms.

The Department will begin implementing this change for the application forms used in the single-family programs and in the section 235 Application for Assistance or Interest Reduction Payments. The title and

number of the forms and their current prices are as follows:

	Forms	Price for package of 50 forms
HUD-92004-F	Request for Verification of Deposit.	$6.50
HUD-92004-G	Request for Verification of Employment.	7.50
HUD-92051	Compliance Inspection Report	13.00
HUD-92800	Application for Property Appraisal and Commitment.	26.00
HUD-92900	Application for HUD/FHA Insured Mortgage.	20.00
HUD-92900-WS	Mortgage Credit Analysis Worksheet.	9.00
HUD-93102	Mortgagee's Certification and Application for Assistance and Interest Reduction Payments.	6.75

Approximately 60 days from the date of publication of this rule, HUD will no longer provide bulk supplies of the forms listed above. More information on this change and detailed ordering instructions will be provided to all HUD approved mortgagees by a mortgagee letter. The letter will list the U.S. Government Printing Office field offices where the application forms may be purchased.

The Department has determined with reference to this rule that notice and public procedure are unnecessary and that good cause exists to publish this document as a final rule. While mortgagees will experience minor additional expense associated with insured mortgage transactions, the Department regards this matter as largely procedural and as a question of agency practice.

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

HUD's revision of the procurement procedure for certain HUD documents is the kind of internal administrative procedure that 24 CFR 50.20(k) excludes from the requirements in 24 CFR Part 50, which implement section 102(2)(c) 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 rule would not have a significant economic impact on a substantial number of small entities. This final rule will save the Department thousands of dollars in printing costs relating to HUD mortgage insurance forms and will not significantly increase costs to individual mortgagees.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 21, 1986 under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum property standards, Incorporation by reference.

Accordingly, the Department amends 24 CFR 200.7 and 200.142 as follows:

PART 200—INTRODUCTION

1. The authority citation for 24 CFR Part 200 is revised to read as set forth below and any citation following any section in Part 200 is removed:

Authority: Titles I and II of the National Housing Act (12 U.S.C. 1701 through 1715z-18); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Subpart G is also issued under sec. 214, Housing and Community Development Act of 1980, as amended by sec. 329, Housing and Community Development Amendments of 1981 (42 U.S.C. 1436a).

2. Section 200.7 is revised to read as follows:

§ 200.7 Forms for mortgage and loan insurance.

Forms for filing applications for insurance or assistance under each of the various FHA mortgage and loan insurance programs are prescribed by the Secretary of HUD or the Secretary's designee. Forms used for application and application processing may be printed by mortgagees or may be purchased from the Superintendent of Documents, U.S. Government Printing Office. When fully executed, forms are submitted to the HUD office having jurisdiction over the area where the property is located for which insurance or assistance is requested. In the case of those counties approved by HUD as lender option counties for Single Family Programs, applications may be submitted to the office having jurisdiction over the property or any office that is geographically closer to the property.

2. Section 200.142 is revised to read as follows:

§ 200.142 Form and filing.

Any financial institution approved by the Commissioner as a mortgagee may apply for mortgage insurance. Application forms prescribed by the Secretary or his designee may be printed by the institution or may be purchased from the Superintendent of Documents, U.S. Government Printing Office. When fully executed, forms are submitted to the HUD office having jurisdiction over the area where the property is located for which insurance is requested. In the case of those counties approved by HUD as lender option counties for Single Family Programs, applications may be submitted to the office having jurisdiction over the property or any office that is geographically closer to the property.

Dated: May 5, 1986.

Silvio J. DeBartolomeis,

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

[FR Doc. 86-13917 Filed 6-20-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 550

Libyan Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Treasury Department is amending § 550.409 of the Libyan Sanctions Regulations ("the Regulations") to alter the interpretation of the scope of the prohibition on exports from the United States to Libya in § 550.202 of the Regulations. Exports of goods to third countries are prohibited where the exporter knows, or has reason to know, that exported goods are intended specifically for substantial transformation or incorporation abroad into manufactured products to be used in the Libyan petroleum or petrochemical industry. Similarly, exports of technology to third countries are prohibited where the exporter knows, or has reason to know, that exported technology is intended specifically for use abroad to manufacture, or for incorporation into,

products to be used in the Libyan petroleum or petrochemical industry. Other aspects of the interpretation in § 550.409 are generally unchanged. The Treasury Department is also amending the Regulations to reflect approval by the Office of Management and Budget of the information collection provisions contained in §§ 550.601 and 550.602 of the Regulations.

EFFECTIVE DATE: July 7, 1986 for § 550.409; June 23, 1986 for § 550.901.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Muench, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel. (202) 376-0408.

SUPPLEMENTARY INFORMATION: The Libyan Sanctions Regulations, 31 CFR Part 550 (51 FR 1354, January 10, 1986; 51 FR 2462, January 16, 1986; and 51 FR 19751, June 2, 1986) were issued by the Treasury Department in implementation of Executive Order 12543 of January 7, 1986 (51 FR 865, January 9, 1986) and Executive Order 12544 of January 8, 1986 (51 FR 1235, January 10, 1986). As originally published, § 550.409 of the Regulations exempted from the prohibition on exports to Libya exports of goods to third countries if, among other things, the goods were to be incorporated abroad into manufactured products or substantially transformed abroad prior to shipment to Libya. The amendment adopted in this notice makes the exemption in § 550.409 unavailable for such exports to third countries where the exporter knows, or has reason to know, that the third-country product produced using the U.S. exports is intended specifically for use in the Libyan petroleum or petrochemical industry. The amendment also extends the interpretation of § 550.409 expressly to cover exports of technology as well as goods.

Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply. Because the Regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulations.

List of Subjects in 31 CFR Part 550

Libya, Exports, Reporting and recordkeeping requirements.

PART 550—LIBYAN SANCTIONS REGULATIONS

31 CFR Chapter V, Part 550, is amended as set forth below:

1. The authority citation for Part 550 continues to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; E.O. 12543, 51 FR 875, January 9, 1986; E.O. 12544, 51 FR 1235, January 10, 1986.

2. The table of contents of Part 550 is amended by adding an entry for § 550.901 to previously reserved Subpart I as follows:

* * * * *

Subpart I—Miscellaneous

* * * * *

Sec.
550.901 Paperwork Reduction Act Notice.

Subpart D—Interpretations

3. Section 550.409 is revised to read as follows:

§ 550.409 Exports to third countries; transshipment.

(a) Exports of goods or technology (including technical data and other information) from the United States to third countries are prohibited if the exporter knows, or has reason to know, that:

(1) The goods or technology are intended for transshipment to Libya (including passage through, or storage in, intermediate destinations) without coming to rest in a third country and without being substantially transformed or incorporated into manufactured products in a third country, or

(2) The exported goods are intended specifically for substantial transformation or incorporation in a third country into products to be used in Libya in the petroleum or petrochemical industry, or

(3) The exported technology is intended specifically for use in a third country in the manufacture of, or for incorporation into, products to be used in Libya in the petroleum or petrochemical industry.

(b) For the purposes of paragraph (a) of this section:

(1) The scope of activities encompassed by the petroleum and petrochemical industries shall include, but not be limited to, the following activities: oil, natural gas, natural gas liquids, or other hydrocarbon exploration (including geophysical and geological assessment activity), extraction, production, refining, distillation, cracking, coking, blending, manufacturing, and transportation; petrochemical production, processing, manufacturing, and transportation;

(2) Exports subject to the prohibition in paragraph (a) include not only goods and technology for use in third-country products uniquely suited for use in the petroleum or petrochemical industry, such as oilfield services equipment, but also goods and technology for use in products, such as computers, office equipment, construction equipment, or building materials, which are suitable for use in other industries, but which are intended specifically for use in the petroleum or petrochemical industry; and

(3) Goods and technology are intended specifically for a third-country product to be used in Libya if the particular product is being specifically manufactured to fill a Libyan order or if the manufacturer's sales of the particular product are predominantly to Libya.

(c) Specific licenses may be issued to authorize exports to third countries otherwise prohibited by paragraph (a)(2) of this section in appropriate cases, such as those involving extreme hardship or where the resulting third-country products will have insubstantial U.S. content.

(d) Exports of goods or technology from the United States to third countries are not prohibited where the exporter has reasonable cause to believe that:

(1) Except as otherwise provided in paragraph (a) of this section, the goods will be substantially transformed or incorporated into manufactured products before export to Libya, or

(2) The goods will come to rest in a third country for purposes other than reexport to Libya, *e.g.*, for purposes of restocking the inventory of a distributor whose sales of the particular goods are not predominantly to Libya, or

(3) The technology will come to rest in a third country for purposes other than reexport to Libya.

(e) * * *

Note.—Exports or reexports of goods and technical data, or of the direct products of technical data (regardless of U.S. content), not prohibited by this part may require authorization from the U.S. Department of Commerce pursuant to the Export Administration Act of 1979, as amended, 50 U.S.C. App. section 2401 *et seq.*, and the Export Administration Regulations implementing that Act, 15 CFR Parts 368-399.

4. Subpart I is amended by adding § 550.901 to read as follows:

Subpart I—Miscellaneous

§ 550.901 Paperwork Reduction Act Notice.

The information collection requirements in §§ 550.601 and 550.602 have been approved by the Office of

Management and Budget and assigned control number 1505–0092.

Dated: June 16, 1986.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

Approved: June 16, 1986.

Francis A. Keating, II,

Assistant Secretary, (Enforcement).

[FR Doc. 88–14175 Filed 6–19–86; 1:55 p.m.]

BILLING CODE 4810–25–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 765

Rules Applicable to the Public

AGENCY: Department of the Navy, DOD.

ACTION: Removal of sections from CFR.

SUMMARY: This document removes §§ 765.4 and 765.5 from title 32 of the Code of Federal Regulations. This action is being taken because the underlying regulation, OPNAV Instruction 5510.1G, Department of the Navy Information and Personnel Security Program Regulation, no longer includes the language in §§ 765.4 and 765.5.

EFFECTIVE DATE: June 23, 1986.

FOR FURTHER INFORMATION CONTACT: Major John Cohn, USMC, (202) 763–3750.

PART 765—[AMENDED]

Accordingly, 32 CFR Part 765 is amended as follows:

1. The authority citations for Part 765 continue to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 133, 5031, 6011, unless otherwise noted.

§§ 765.4 and 765.5 [Removed]

2. Sections 765.4 and 765.5 are removed from Title 32, CFR.

Dated: June 16, 1986.

Harold L. Stoller, Jr.,

CDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 86–13870 Filed 6–20–86; 8:45 am]

BILLING CODE 3810–AE–M

32 CFR Part 766

Use of Department of the Navy Aviation Facilities by Civil Aircraft

AGENCY: Department of the Navy, DOD.

ACTION: Removal of sections from CFR.

SUMMARY: This document removes the requirement for the Report of Emergency Landing and the Unauthorized Landing Report. This action is taken to reduce reporting requirements.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER IINFORMATION CONTACT: CDR R.R. Bellamy, (202) 694–2390.

List of Subjects in 32 CFR Part 766

Aircraft, Federal buildings and facilities.

PART 766—[AMENDED]

Accordingly, 32 CFR Part 766 is amended as follows:

1. The authority citation for Part 766 is revised to read as follows:

Authority: 49 U.S.C. 1507.

§ 766.5 [Amended]

2. Section 766.5(i)(1) is removed. Sections 766.5(i) (2) through (5) are redesignated as §§ 766.5(i) (1) through (4).

§ 766.12 [Amended]

3. Section 766.12(b)(4) is removed. Section 766.12(b)(5) is redesignated as § 766.12(b)(4).

Dated: June 16, 1986.

Harold L. Stoller, Jr.,

CDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 86–13867 Filed 6–20–86; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

46 CFR Part 1

[Docket No. CGD 85–071]

Delegation of Authority; Suspension and Revocation Proceedings

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending Part 1 of Title 33 Code of Federal Regulations and Part 1 of Title 46 Code of Federal Regulations, pertaining to the delegation of authority concerning Suspension and Revocation Proceedings to reflect the change to references and citations brought about by codification of Subtitle II of Title 46, United States Code and the revision of Part 5 of Title 46 Code of Federal Regulations.

EFFECTIVE DATE: July 23, 1986.

FOR FURTHER INFORMATION CONTACT: CDR Donald D. Stansell, Commandant (G–MMI–1/24), U.S. Coast Guard, Washington, D.C. 20593, (202) 426–1455.

SUPPLEMENTARY INFORMATION: On August 26, 1983, Congress recodified the statutes pertaining to Suspension and Revocation Proceedings into Chapter 77, of Title 46 United States Code. On August 9, 1985, (50 FR 32184), the Coast Guard published a final rule updating the regulations pertaining to Suspension and Revocation Proceedings in Part 5 of Title 46 Code of Federal Regulations. Several references to these laws and regulations appearing in Part 1 of Title 33 and in Part 1 of Title 46 Code of Federal Regulations were not corrected. This rule amends authority citations and references of these parts to conform to the changes in Title 46 United States Code and Part 5 of the Code of Federal Regulations. These changes are being published as a final rule. An opportunity for notice and comment is unnecessary because these are rules of agency organization, procedures and practice.

Regulatory Evaluation

This final rule is considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulation policy and procedures (44 FR 11034; February 26, 1979). As this rule only corrects cross references and other citations it has been found to have no economic impact. Further evaluation is unnecessary. Due to the nature of the rule the Coast Guard certifies that this final rule will not have a significant impact on a substantial number of small entities.

List of Subjects

33 CFR Part 1

Administrative practice and proecedure, Authority delegations (Government agencies), Freedom of information, Penalties.

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies).

In consideration of the foregoing Part 1 of Title 33 and Part 1 of Title 46, Code of Federal Regulations are amended as follows:

33 CFR PART 1—[AMENDED]

1. The authority citation for subpart 1.01 is revised to read as follows and all other authority citations within the subpart are removed.

Authority: 14 U.S.C. 633; 49 U.S.C. 322; 49 CFR 1.45(b), 1.46; § 1:01–70 also issued under the authority of E.O. 12316, 46 FR 42237.

2. Section 1.01–40 is revised to read as follows:

§ 1.01–40 Delegation to the Vice Commandant.

The Commandant delegates to the Vice Commandant authority to take final agency action under 46 CFR Part 5, Subparts I, J and K on each petition to reopen a hearing and on each appeal from a decision of an Administrative Law Judge, except on petition or appeal in a case in which an order or revocation has been issued. This delegation does not prevent the Vice Commandant from acting as Commandant, as prescribed in 14 U.S.C. 47(a), for all purposes of 46 CFR Part 5.

46 CFR PART 1—[AMENDED]

3. The authority citation for Part 1 is revised to read as follows and all other authority citations within the part are removed:

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 49 CFR 1.45, 1.46; § 1.30 also issued under the authority of 44 U.S.C 3507.

4. Section 1.10 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.10 Suspension and revocation proceedings.

* * * * *

(b) The Commandant in 33 CFR 1.01–40 has delegated authority to the Vice Commandant to take final agency action under Subparts I, J, and K of Part 5 of this chapter on each proceeding except on a petition or appeal in a case on which an order of revocation has been issued.

(c) The Commandant assigns to his staff a Chief Administrative Law Judge who is an Administrative Law Judge appointed under section 3105 of Title 5 United States Code and whose assigment is to:

(1) Act as adviser and special assistant to the Commandant on matters concerning the administration of hearings conducted under Chapter 77 of Title 46 United States Code;

(2) Conduct hearings under Chapter 77 of Title 46 United States Code;

(3) Train new Administrative Law Judges assigned to conduct hearings under Chapter 77 and Title 46 United States Code;

(4) Review the written decisions and orders of each Administrative Law Judge assigned to conduct a hearing under Chapter 77 of Title 46 United States Code;

(5) Act as advisor to the Chief Counsel in preparation of the final action of proceedings conducted under Subparts I, J, and K of Part 5 of this chapter.

* * * * *

5. Section 1.25 is amended by revising paragraph (a) to read as follows:

§ 1.25 Judicial review.

(a) Nothing in this chapter shall be construed to prohibit any party from seeking judicial review of any Commandant's decision or action taken pursuant to the regulations in this part or Part 5 of this chapter with respect to suspension and revocation proceedings arising under Chapter 77 and Title 46 United States Code.

* * * * *

J.W. Kime,

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

June 18, 1986.

[FR Doc. 86–14089 Filed 6–20–86; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD11 86–01]

Special Local Regulations; Southern California Annual Marine Events

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule will add two marine events to Table 1 of section 100.1101 of Title 33, Code of Federal Regulations. This table lists the current annual marine events held in southern California. The City of Long Beach 4th of July Fireworks show and the International Catalina Ski race were inadvertently omitted from the previously published regulation. Special local regulations will be in effect during the times, dates and locations specified in the Eleventh Coast Guard District Notice to Mariners prior to each event listed in the Table. Through this action the Coast Guard intends to ensure the safety of spectators and participants on navigable waters during each event.

EFFECTIVE DATE: These regulations become effective June 10, 1986.

FOR FURTHER INFORMATION CONTACT: Lt. J.G. Jorge Arroyo, Eleventh Coast Guard District Boating Affairs Office, Union Bank Bldg., Suite 901, 400 Oceangate Boulevard, Long Beach, California 90822–5399, Tel: (213) 590–2331.

SUPPLEMENTARY INFORMATION: On 10 February 1986, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** (51 FR 4931) for these regulations. These two events where inadvertently not included in the table listed. These two events are added to that table; the regulation stays the same. An NPRM has not been published for this rulemaking and the rule is being made effective in less than 30 days after publication in order to permit timely publication in advance of the marine events involved. Although a Notice of Proposed Rulemaking has not been published, interested persons are encouraged to comment. Depending on comments received, an event may be canceled or changed.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Eleventh Coast Guard District Boating Affairs Office and LT David S. Riley, Project Attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulations

The City of Long Beach 4th of July Fireworks has traditionally been held in the harbor. This celebration attracts thousands of spectators and numerous spectator craft, therefore, regulations are needed to ensure the safety of life and property.

The Long Beach Ski Club sponsors the "International Catalina Ski Race." Approximately 100 skiers towed by high-speed performance craft participate in this high speed dash to Catalina Island and back. It is imperative that the start of the race needs to be cleared of spectator craft to provide for the safety of participants.

Prior to each event, the Coast Guard will publish detailed descriptions of the event in the Eleventh Coast Guard District Local Notice to Mariners. Special local regulations may be enforced, and vessels desiring to transit these areas may do so only with clearance from an official patrolling vessel.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary, due to the areas will being regulated for a short period of time.

Because the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

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

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

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

§ 100.1101 [Amended]

2. Add the following to Table 1 of § 100.1101:

CITY OF LONG BEACH 4TH OF JULY FIREWORKS

Sponsor: City of Long Beach
Date: 4 July
Location: A 500 foot radius around a barge located between Belmont Pier and Oil Island White, Long Beach Harbor, CA.

INTERNATIONAL CATALINA SKI RACE

Sponsor: Long Beach Boat & Ski Club
Date: Second Sunday in August
Location: From the Queen Mary at Long Beach, CA to Avalon Harbor, Catalina Island and return. Regulated Area: A 1,000 yard corridor from Queens Gate (Long Beach Harbor entrance), directly north to the Long Beach Downtown Marina breakwall.

Dated: June 10, 1986.

A. Bruce Beran,

Rear Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.

[FR Doc. 86-14091 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 110

[CGD3-86-18]

Temporary Regulation; Hudson River, Weehawken, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a temporary special anchorage area in the Hudson River between Piers "H" and "D" in Weehawken, New Jersey. This anchorage area is being established in conjunction with the construction of a temporary floating mooring facility to accommodate over 100 Coast Guard Auxiliary vessels operating under orders during Operation Sail '86. A barge will also be anchored in this area to provide fuel to boats and spectator vessels in the port area for Operation Sail '86.

DATES: This regulation becomes effective on June 10, 1986 and terminates on September 1, 1986.

ADDRESSES: Comments should be mailed to Commander, Coast Guard Group New York, Bldg. 109, Governors Island, New York, N.Y. 10004. The comments will be available for inspection and copying at the Vessel Movement Office, Bldg. 109, Governors Island, New York. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade T.S. Kuhaneck, Vessel Movement Officer, Commander, Coast Guard Group New York, at (212) 668-7933.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. A determination that rulemaking was needed was not made until May 6, 1986, and there was not sufficient time remaining to publish a proposal in advance of the event for which the regulation is needed and to allow for the construction of the temporary mooring facility associated with the site. Likewise, there was not sufficient time to provide for a delayed effective date. This regulation should have little or no economic impact and no adverse comments are expected concerning the terms of the regulation.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **"ADDRESS"** in this preamble. Commenters should include their names and addresses, identify the docket number for the regulation, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this notice are LTJG T.S. Kuhaneck, Project Officer, Coast Guard Group New York, and Mrs. M.A. Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The area being designated as an anchorage is bounded on the north by Pier "D", on the south by Pier "H", on the west by the shoreline of Weehawken, New Jersey, and on the east by the established pierhead line for this area. This special anchorage area is being temporarily established to accommodate over 100 Coast Guard Auxiliary vessels operating under official orders during the forthcoming Liberty Weekend and Operation Sail '86 festivities in New York Harbor. Also anchored in this area will be a barge providing fuel to boats and spectator vessels operating in the port area for OPSAIL '86. This regulation will not only allow these essential Coast Guard Auxiliary vessels to anchor safely, but will allow this badly needed fueling service to be available to the boating public. Additionally, after the OPSAIL '86 festivities, this area will be used as a marina facility. This area will be a special anchorage area for 80 days. This regulation is issued pursuant to 33 U.S.C. 2030, 2035, and 2070 as set out in the authority citation for all of Part 110.

Lists of Subjects in 33 CFR Part 110

Anchorage grounds.

PART 110—[AMENDED]

Final Regulation

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. In § 110.60, a temporary paragraph (y) is added to read as follows for the period June 10, 1986 through September 1, 1986. Because this is a temporary rule, this change will not appear in the Code of Federal Regulations.

§ 110.60 Port of New York.

* * * * *

(y) *Hudson River, at Weehawken, New Jersey.* For the period from 6:00 a.m. June 10, 1986, until 6:00 a.m. September 1, 1986, the area enclosed by the following coordinates is a special temporary anchorage area: Beginning at a point on the New Jersey shoreline at latitude 40° 45' 39" North, longitude 74° 01' 17" West; thence to latitude 40° 45' 35" North, longitude 74° 01' 09" West; thence to latitude 40° 45' 29" North, longitude 74° 01' 11" West; thence to latitude 40° 45' 34" North, longitude 74° 01' 22" West; thence along the shoreline to the point of beginning. (1) No vessel may anchor in this anchorage without

the permission of the Captain of the Port.

(2) When the use of this anchorage is required by Coast Guard or Coast Guard Auxiliary vessels, the vessels anchored therein shall move when the Captain of the Port directs them.

(3) No vessel may conduct bunkering or lightering operations in this anchorage without permission from the Captain of the Port.

Dated: June 5, 1986.

D.C. Thompson,

Vice Admiral, United States Coast Guard Commander, Third Coast Guard District.

[FR Doc. 86-14090 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 21

Subsistence Allowance for Dependents and Incarcerated Veterans

AGENCY: Veterans Administration.

ACTION: Final rules.

SUMMARY: The Veterans Administration is amending its regulations for the payment of subsistence allowance to incarcerated veterans and for payment of the portion of subsistence allowance payable to the veteran's dependents. The amendments liberalize payment of subsistence allowance to incarcerated veterans and terminate payment of the portion of the subsistence allowance payable to dependents earlier than under prior provisions. These amendments bring VA regulations into conformity with Pub. L. 97-253, Omnibus Reconciliation Act of 1982 and Pub. L. 97-306, Veterans Compensation, Education and Employment Amendments of 1982.

DATES: These amendments are effective on the same dates as the provisions of law which they implement. Provisions concerning incarcerated veterans become effective October 14, 1982, and provisions governing payments to veterans dependents are effective October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Karen Boies, Assistant Director, Policy and Program Development, Department of Veterans Benefits (282), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389-2886.

SUPPLEMENTARY INFORMATION: At pages 2408 and 2409 of the **Federal Register** of January 16, 1986, the VA published proposed amendments to 38 CFR 21.276, 21.322 and 21.324 concerning changes in payment of subsistence allowance to incarcerated veterans and to dependents of veterans pursuing rehabilitation programs under 38 U.S.C. chapter 31. Interested persons were given 60 days in which to submit their comments, suggestions or objections to the proposed amendments. Since no comments, suggestions or objections were received, these amendments are hereby adopted as final without change.

Under Pub. L. 97-306, section 205, subsistence allowance is not payable to an incarcerated veteran in training under the vocational rehabilitation program if the veteran has been convicted of a felony. Previously, payment of subsistence allowance to incarcerated veterans was generally precluded, both for veterans convicted of a felony and those not convicted of a felony. Sections 21.276, 21.322 and 21.324 are changed to incorporate these provisions of law.

Pub. L. 97-253, section 401, establishes new dates for terminating awards to dependents. Previously, the portion of a subsistence allowance payable for a dependent terminated at the end of the calendar year in which the veteran lost the dependent through death, divorce, or remarriage. Under the new provision the portion of the allowance for the dependent is terminated the end of the month in which the change in dependent status occurs. Sections 21.322 and 21.324 are amended to incorporate these provisions of law.

The amendments to §§ 21.276, 21.322 and 21.324 will better acquaint eligible veterans, educational institutions, and the public at large with the way the provisions will be implemented.

These regulations do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulation. The amendments will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant effect on the economy.

The Administrator has certified that these rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that the amendments simply make the regulations consistent with recent statutory changes. Thus, no regulatory burdens are imposed on small entities by these changes.

The Catalog of Federal Domestic Assistance Number is 64.116.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 9, 1986.

Thomas K. Turnage,

Administrator.

PART 21—[AMENDED]

38 CFR Part 21, Vocational Rehabilitation and Education is amended as follows:

1. Section 21.276 is amended by removing paragraphs (i), (j) and (k) and by revising paragraphs (b) through (h) to read as follows:

§ 21.276 Incarcerated veterans.

* * * * *

(b) *Definition.* The term "incarcerated veteran" means any veteran incarcerated in a Federal, State, or local prison, jail, or other penal institution for a felony. It does not include any veteran who is pursuing a rehabilitation program under ch. 31 while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony. (38 U.S.C. 1508(g))

(c) *Subsistence allowance not paid to an incarcerated veteran.* A subsistence allowance may not be paid to an incarcerated veteran convicted of a felony, but the VA may pay all or part of the veteran's tuition and fees. (38 U.S.C. 1508(g))

(d) *Halfway house.* A subsistence allowance may be paid to a veteran pursuing a rehabilitation program while residing in a halfway house as a result of a felony conviction when all of the veteran's living expenses are paid by a non-VA Federal, State, or local government program. (38 U.S.C. 1508(a) and (g))

(e) *Work-release program.* A subsistence allowance may be paid to a veteran in a work-release program as a result of a felony conviction. (38 U.S.C. 1508(g))

(f) *Services.* The VA may provide other appropriate services, including but not limited to medical, reader service, and tutorial assistance necessary for the veteran to pursue his or her rehabilitation program. (38 U.S.C. 1508(g))

(g) *Payment of allowances at the rates paid under ch. 34.* A veteran incarcerated for a felony conviction or a veteran in a halfway house or work-

release program who elects payment at the educational assistance rate paid under ch. 34 shall be paid in accordance with the provisions of law applicable to other incarcerated veterans training under ch. 34. (38 U.S.C. 1780(a))

(h) *Apportionment.* Apportionment of subsistence allowance which began before October 17, 1980 made to dependents of an incarcerated veteran convicted of a felony may be continued. (38 U.S.C. 1508(g), Pub. L. 97–306)

§ 21.322 [Amended]

2. Section 21.322 is amended by removing paragraph (f)(3) and by removing "1780(a)" from the authority cite following it.

3. In § 21.324, paragraph (n)(3) is removed, and paragraphs (c), (d), (e)(1), and (n)(2) are revised to read as follows:

§ 21.324 Reduction or termination dates of subsistence allowance.

* * * * *

(c) *Death of a dependent.* (1) Before October 1, 1982. Last day of the calendar year in which death occurs, unless the veteran's program is terminated earlier under other provisions. (38 U.S.C. 3013)

(2) *After September 30, 1982.* Last day of the month in which death occurs unless discontinuance is required at an earlier date under other provisions. (38 U.S.C. 3012(b), 3013)

(d) *Divorce* (1) *Before October 1, 1982.* Last day of the calendar year in which divorce occurs, unless the veteran's program is terminated earlier under other provisions. (38 U.S.C. 3013)

(2) *After September 30, 1982.* Last day of the month in which divorce occurs unless discontinuance is required at an earlier date under other provisions. (38 U.S.C. 3012(b), 3013)

(e) *Child.* (1) *Marriage.* (i) *Before October 1, 1982.* Last day of the month in which the marriage occurs, unless the veteran's program is terminated earlier under other provisions. (38 U.S.C. 3013)

(ii) *After September 30, 1982.* Last day of the month in which the marriage occurs, unless discontinuance is required at an earlier date under other provisions. (38 U.S.C. 3012(b), 3013)

* * * * *

(n) *Incarceration in prison or jail.*

* * *

(2) *Halfway house or work-release program.* The subsistence allowance of a veteran in a halfway house or work-release program as a result of conviction of a felony will be reduced under the provisions of § 21.276 the date on which the Federal government or a State or local government pays all of the veterans living expenses. (38 U.S.C. 1508(g))

* * * * *

[FR Doc. 86–14102 Filed 6–20–86; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL-3032-8]

Approval and Promulgation of State Implementation Plan, Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves amendments to Title 1 Chapter 1 Rules and Regulations for the Control of Air Pollution in Idaho and an amended Chapter VII *Approval Procedures for New and Modified Facilities,* which were submitted by the Idaho Department of Health and Welfare (IDHW) on April 19, 1985 as revisions to the Idaho State Implementation Plan (SIP). The primary changes involve the addition of a consolidated permit and emissions trading program which: (1) Establishes requirements for a permit to construct for new and modified stationary sources and facilities, including provisions for nonattainment areas, prevention of significant deterioration, and visibility protection; and (2) establishes requirements for operating permits, including provisions for emissions offsets, alternative emission limits (bubbles), and banking emission reduction credits. The effect of this action is to establish a SIP permitting and emissions trading program that will allow IDHW to issue all the Act's required permits and to issue operating permits, including the approval of certain emissions trading transactions (e.g. emission offsets) without the need for case-by-case federal approval. However, under this approval, IDHW-issued bubbles, and the use of banked emission reduction credits in bubbles, will still require case-by-case EPA approvals as SIP revisions.

EFFECTIVE DATE: August 22, 1986.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

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

Air Programs Branch (10A–83–7) Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Idaho, Department of Health and Welfare, 450 West State Street, Boise, Idaho 83720.

Copy of the State's submittal may be examined at: The Office of the Federal Register 1100 L Street NW., Room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone (206) 442–4253, (FTS) 399–4253.

SUPPLEMENTARY INFORMATION:

I. Background

On September 19, 1983, and January 11, 1984, IDHW submitted to EPA proposed amendments to its rules which would add a consolidated permit and emissions trading program to the Idaho SIP. On October 11, 1984 (49 FR 39866), EPA proposed approval of these proposed rule amendments as a revision to the Idaho SIP, contingent upon the IDHW's adoption of the rules without major changes. Furthermore, EPA proposed this approval based on certain understandings, as set forth in that **Federal Register** and reiterated below. IDHW has adopted and submitted the amended rules without substantive changes to the proposed amendments upon which EPA based its proposed approval. As such, EPA today is approving the amended rules as a revision to the Idaho SIP. EPA is also approving a revised Chapter VII *Approval Procedures for New and Modified Facilities* which describes the IDHW rules. For a complete discussion of the rule changes which EPA is today approving, see the above referenced **Federal Register.**

II. Response to Comments

EPA received numerous comments with regard to our proposed approval of the IDHW bubble provisions as a "non generic" bubble rule, that is, requiring all bubbles to be submitted as case-by-case SIP revisions. As EPA explained in a December 3, 1984 letter to the Administrator of the IDHW Division of the Environment (a copy of which is in the rulemaking docket), EPA's proposed approval as a "nongeneric" rule was based in part on the content of the IDHW bubble provisions themselves and in part upon the lack of final EPA criteria for approvable generic bubble rules. In the State's April 19, 1985, submittal of the adopted rules, IDHW formally requested that EPA approve the Emissions Trading provisions consistently with EPA's October 11, 1984 proposed approval as a "nongeneric"

rule. EPA understands that IDHW wishes to receive generic bubble authority in the future and EPA intends to follow through on its commitment to the Idaho legislature to minimize the federal/state duplication of effort. When EPA's final emissions trading policy statement is published, EPA will evaluate the IDHW provisions to determine the extent that generic authority can be conferred and will continue to work with IDHW to revise their regulations to obtain the generic bubble program which it desires.

III. Summary of Action

The IDHW regulations are substantially different in structure and organization than the EPA regulations they are designed to meet. However, with two exceptions, EPA has determined that the submitted revisions satisfy the requirements of the Act and EPA regulations with regard to: (1) the permitting of new and modified stationary sources, including the requirements for nonattainment areas, PSD, visibility, and offsets; and (2) ambient air quality standards, PSD increments, and area designations.

The provisions of Sections 1–1002 Definitions, 1–1012 Procedures and Requirements for Permits to Construct and Operating Permits, 1–1014 Stack Heights and Dispersion Techniques and 1–1101 Ambient Air Quality Standards and Area Classifications, taken together, satisfy EPA's permit requirements in 40 CFR 51.18, 51.24, and 51.307, with two exceptions. EPA's regulations (40 CFR 51.18(j)(3)(ii)(*c*)) contain a restriction on the use of permanent source shutdowns and curtailments as offsets for new or modified stationary sources in nonattainment areas, and a requirement that all limitations used to determine allowable emissions be federally enforceable (40 CFR 51.18(j)(1)(xi) and 51.24(b)(16)). The submitted IDHW regulations do not contain such provisions. However, EPA has recently proposed to rescind these restrictions (48 FR 38742, August 25, 1983), and final recission would make the IDHW regulation approvable. As such, EPA is approving the IDHW regulation with the understanding that (1) if, after EPA rulemaking is completed the restrictions have not been rescinded, IDHW will submit, within one year, revisions to its regulation to impose such restrictions, and (2) IDHW has made an enforceable commitment to refrain from using past source shutdowns or curtailments as emission offsets and to submit operating permits which are not already federally-enforceable to EPA for inclusion in the SIP, until such time as the EPA restriction is rescinded.

Since Section 1–1014 "Stack Heights and Dispersion Techniques" prohibits the use of stack heights exceeding good engineering practice, and the use of dispersion techniques, to meet emission limits, but does not include detailed provisions for implementing its provisions, EPA has requested, and IDHW has agreed, to ensure that, when approving PSD and other new source review and operating permits, the permits comply with the applicable provisions of EPA's revised stack height regulations (50 FR 27892, July 8, 1985). IDHW has also agreed to revise its stack height regulations by April 8, 1986, to be consistent with the new EPA requirements. EPA is therefore approving the IDHW permit program on the condition that IDHW complies with these two commitments.

The IDHW rules and regulations contain a "plantwide" definition of "facility" for netting purposes. However, the IDHW rules also contain a provision in subsection 1–1012.11 *Requirements for Emission Reduction Credit* which states "No emission reduction credit can be allowed for actual emissions which exceed those *allowed in a State Implementation Plan demonstrating attainment and maintenance of ambient air quality standards.*" (emphasis added). The IDHW has informed EPA that the effect of this provision is that netting of particulate emissions is not currently allowed within the primary and secondary total suspended particulate (TSP) nonattainment areas in Idaho since none have SIPs demonstrating attainment. However, netting of carbon monoxide emissions is allowed within the Boise-Ada County carbon monoxide nonattainment area since the SIP demonstrating attainment and maintenance of the carbon monoxide standard was approved by EPA on June 6, 1985 (50 FR 23811). The carbon monoxide strategy relies only on mobile source emission reductions and does not rely on emission reductions from new or existing facilities to ensure attainment. Therefore, the use of plantwide netting will not interfere with attainment and maintenance of standards in that area. Netting of particulate emissions will be able to take place in the primary and secondary TSP nonattainment areas when new SIPs are approved by EPA which demonstrate attainment and maintenance of the ambient standards. However, EPA will only approve such new TSP SIPs if the plantwide definition of "facility" will not interfere with attainment and maintenance of standards.

The IDHW permit to construct and operate requirements relating to prevention of significant deterioration (PSD) were effective on November 1, 1984 and do not apply retroactively to PSD permits issued by EPA prior to that date. As such, all EPA-issued PSD permits will remain in effect as the permit to construct and operate under section 165 of the Clean Air Act. However, IDHW has agreed to revise the operating permit for each source subject to EPA-issued PSD permits to make the emission limits and conditions of the IDHW permit consistent with the EPA permit. IDHW will issue these revised operating permits when the current permits come up for renewal and will submit the revised permits to EPA. EPA will review the operating permit to ensure consistency with the PSD permit, and if so, will delegate primary enforcement authority for the EPA-issued PSD permit to the IDHW. In this manner, the IDHW will eventually be the agency primarily responsible for enforcement and modification of all PSD sources in Idaho.

The provisions of Sections 1–1002 "Definitions" and 1–1101 "Ambient Air Quality Standards and Area Classifications," taken together, satisfy EPA's requirements in 40 CFR Part 50, 40 CFR 51.24, and 40 CFR Part 81.

The submitted revisions pertaining to emissions trading (the provisions for alternative emission limits and banking emission reduction credits in Sections 1–1002 "Definitions" and 1–1012 "Procedures and Requirements for Permits To Construct and Operating Permits") are approvable as a "nongeneric" bubble rule, rather than a "generic" bubble rule, because EPA is currently reevaluating the criteria for generic bubble programs as part of EPA's proposed emissions trading policy. As a result, IDHW will have to submit alternative emission limits (including any banked emission reduction credits used in a "bubble") to EPA as SIP revisions in order to change the applicable provisions of the federally-approved SIP. When EPA's final policy statement on emissions trading, specifically the scope and requirements for state generic rules, is published, EPA will evaluate the IDHW provisions with respect to approving them as a generic rule.

In summary, EPA today approves revisions to Title 1 Chapter 1 Rules and Regulations for the Control of Air Pollution in Idaho, submitted by IDHW to EPA on April 19, 1985 and with the condition and understandings discussed above.

There are two effects of this action: (1) To recognize that only Permits to Construct, issued by IDHW in accordance with the EPA-approved rules, are necessary for the construction or modification of stationary sources as required by sections 110, Part C (PSD), section 169A (pertaining to visibility), and Part D (pertaining to nonattainment areas) of the Act; and (2) to recognize that Operating Permits, including those with netting, offset or banking actions, approved by IDHW in accordance with the EPA-approved rules, are revisions to the Federally-approved SIP at the time of permit issuance and do not require case-by-case EPA approvals. However, any alternative emission limit (bubble), including any involving the use of banked emission reduction credits, and any compliance schedule extension, approved by IDHW in accordance with these rules will need to be approved by EPA as a SIP revision (meeting all applicable requirements) in order to change the applicable provisions of the Federally-approved SIP. (IDHW-approved variances must also be approved by EPA as SIP revisions in order to change the applicable SIP provisions.) Furthermore, this approval action satisfies the conditions relating to new source review that EPA placed upon approval of the Idaho SIP on July 30, 1982 (see 40 CFR 52.688). As such, EPA is today removing these conditions upon the Idaho SIP.

Under 5 U.S.C. 605(b), I certify that this revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 22, 1986. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Lee M. Thomas,

Administrator.

Dated: June 10, 1986.

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

PART 52—[AMENDED]

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

Subpart N—Idaho

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.670 is amended by adding paragraph (c)(24) as follows:

§ 52.760 Identification of plan.

* * * * *

(c) * * *

(24) A revised Chapter VII *Approval Procedures for New and Modified Facilities;* revised Sections 1–1002, 1–1012, 1–1013, 1–1014, and 1–1101 of Appendix A. 3 "Title 1, Chapter 1, *Rules and Regulations for the Control of Air Pollution in Idaho Manual;"* and the repeal of Sections 1–1003, 1–1102 through 1–1112, and 1–1900 through 1–1906 of Appendix A. 3 "Title 1, Chapter 1, *Rules and Regulations for the Control of Air Pollution in Idaho Manual;"* of the Implementation Plan for the Control of Air Pollution in the State of Idaho, submitted by the Director of the State of Idaho Department of Health and Welfare on April 19, 1985. (Sections 1–1003, 1–1102 through 1–1112, and 1–1900 through 1–1906 of Appendix A. 3 "Title 1, Chapter 1, *Rules and Regulations for the Control of Air Pollution in Idaho Manual"* were previously approved by EPA at 40 CFR 52.670(c)(19).) An April 3, 1986, commitment letter from the Director of the State of Idaho Department of Health and Welfare regarding stack height provisions.

(i) *Incorporation by reference.* (A) Revised Sections 1–1002, 1–1012, 1–1013, 1–1014, and 1–1101 of Appendix A. 3, "Title 1, Chapter 1, *Rules and Regulations for the Control of Air Pollution in Idaho Manual"* of the Implementation Plan for the Control of Air Pollution in the State of Idaho, as adopted by the Idaho Board of Health and Welfare on November 1, 1984. An April 3, 1986, commitment letter from the Director of the State of Idaho Department of Health and Welfare regarding stack height provisions.

(ii) *Other Materials.* (A) Revised Chapter VII *Approval Procedures for New and Modified Facilities* of the Implementation Plan for the Control of Air Pollution in the State of Idaho, submitted by the Director of the Idaho Department of Health and Welfare on April 19, 1985. (This revised chapter replaces an earlier version which was approved by EPA and incorporated by reference at 40 CFR 52.670(c)(19).)

(B) Sections 1–1003, 1–1102 through 1–1112, and 1–1900 through 1–1906 of Appendix A. 3 "Title 1, Chapter 1, *Rules and Regulations for the Control of Air Pollution in Idaho,"* of the Implementation Plan for the Control of Air Pollution in the State of Idaho, repealed by the Idaho Board of Health and Welfare on November 1, 1984. (These sections, noted as repealed, replace the earlier versions which were approved by EPA and incorporated by reference at 40 CFR 52.670(c)(19).)

3. Section 52.679 is revised to read as follows:

§ 52.679 Contents of Idaho State implementation plan.

Implementation Plan for the Control of Air Pollution in the State of Idaho

Chapter I—Introduction (submitted 1/15/80)
Chapter II—Administration (submitted 1/15/80)
Chapter III—Emissions Inventory (submitted 1/15/80)
Chapter IV—Air Quality Monitoring (submitted 1/15/80, 2/14/80)
Chapter V—Source Surveillance (submitted 1/15/80)
Chapter VI—Emergency Episode Plan (submitted 1/15/80)
Chapter VII—Approval Procedures for New and Modified Facilities (submitted 4/19/85)
Chapter VIII—Non-Attainment Area Plans
- VIII-a—Silver Valley Nonattainment Plan (submitted 1/15/80)
- VIII-b—Lewiston Nonattainment Plan (submitted 1/15/80, 12/4/80)
- VIII-c—Transportation Control Plan for the carbon monoxide of Ada County (submitted on 5/24/84, 1/3/85, and 3/25/85)
- VIII-d—Pocatello TSP Nonattainment Plan (submitted 3/7/80, 2/5/81)
- VIII-e—Soda Springs Nonattainment Plan (submitted 1/15/80)

Chapter IX—(Reserved)
Chapter X—Plan for Maintenance of National Ambient Air Quality Standards for Lead (submitted 2/3/84)
Appendix A—Legal Authority and Other General Administrative Matters (submitted 1/15/80)
Appendix A.2—Section 39–100, Idaho Code (submitted 1/15/80)
Appendix A.3—Rules and Regulations for control of Air pollution in Idaho Manual (submitted 1/15/80, 4/19/85)
- 1–1000 Legal Authority (submitted 1/15/80)
- 1–1001 Policy (submitted 1/15/80)
- 1–1002 Definitions (submitted 4/19/85)
- 1–1002.01 Act
- 1–1002.02 Actual Emissions
- 1–1002.03 Adverse Effect on Visibility
- 1–1002.04 Air Contaminant
- 1–1002.05 Air Pollution
- 1–1002.06 Air Quality
- 1–1002.07 Air Quality Criterion
- 1–1002.08 Allowable Emissions

1-1002.09 Ambient Air
1-1002.10 Ambient Air Quality Violation
1-1002.11 ASTM
1-1002.12 Attainment Area
1-1002.13 Background Level
1-1002.14 Baseline (Area, Concentration, Date)
1-1002.15 Best Available Control Technology (BACT)
1-1002.16 Board
1-1002.17 Btu
1-1002.18 Collection Efficiency
1-1002.19 Commence Construction or Modification
1-1002.20 Complete
1-1002.21 Construction
1-1002.22 Control Equipment
1-1002.23 Controlled Emission
1-1002.24 Criteria Pollutant
1-1002.25 Department
1-1002.26 Designated Facility
1-1002.27 Director
1-1002.28 Emission
1-1002.29 Emission Standard
1-1002.30 Emission Standard Violation
1-1002.31 Emissions Unit
1-1002.32 Equivalent Air-Dried Kraft Pulp
1-1002.33 Existing Stationary Source or Facility
1-1002.34 Facility
1-1002.35 Federal Class I Area
1-1002.36 Federal Land Manager
1-1002.37 Fuel-Burning Equipment
1-1002.38 Fugitive Dust
1-1002.39 Fugitive Emissions
1-1002.40 Hazardous Air Pollutant
1-1002.41 Hot-Mix Asphalt Plant
1-1002.42 Incinerator
1-1002.43 Indian Governing Body
1-1002.44 Indian Reservation
1-1002.45 Industrial Process
1-1002.46 Innovative Control Technology
1-1002.47 Integral Vista
1-1002.48 Kraft Pulping
1-1002.49 Lowest Achievable Emission Rate (LAER)
1-1002.50 Major Facility
1-1002.51 Major Modification
1-1002.52 Malfunction
1-1002.53 Mandatory Federal Class I Area
1-1002.54 Modification
1-1002.55 Monitoring
1-1002.56 Multiple Chamber Incinerator
1-1002.57 Net Emissions Increase
1-1002.58 New Stationary Source or Facility
1-1002.59 Nonattainment Area
1-1002.60 Noncondensables
1-1002.61 Odor
1-1002.62 Opacity
1-1002.63 Open Burning
1-1002.64 Operating Permit
1-1002.65 Particulate Matter
1-1002.66 Permit to Construct
1-1002.67 Person
1-1002.68 Portable Equipment
1-1002.69 ppm (parts per million)
1-1002.70 Primary Ambient Air Quality Standard
1-1002.71 Process or Process Equipment
1-1002.72 Process Weight
1-1002.73 Process Weight Rate
1-1002.74 Reasonable Further Progress (RFP)
1-1002.75 Salvage Operations
1-1002.76 Secondary Ambient Air Quality Standard
1-1002.77 Secondary Emissions
1-1002.78 Significant
1-1002.79 Significant Contribution
1-1002.80 Smoke
1-1002.81 Source
1-1002.82 Source Operation
1-1002.83 Stack
1-1002.84 Standard Conditions
1-1002.85 Stationary Source
1-1002.86 Time Intervals
1-1002.87 TRS (total reduced sulfur)
1-1002.88 Unclassifiable Area
1-1002.89 Uncontrolled Emission
1-1002.90 Visibility Impairment
1-1002.91 Wigwam Burner
1-1003 (Repealed)
1-1005 Reporting (submitted 1/15/80)
1-1006 Upset Conditions, Breakdown (submitted 1/15/80)
1-1008 Circumvention (submitted 1/15/80)
1-1009 Total Compliance (submitted 1/15/80)
1-1010 Sampling and Analytical Procedures (submitted 1/15/80)
1-1011 Provisions Governing Specific Activities (submitted 1/15/80)
1-1012 Procedures and Requirements for Permits to Construct and Operating Permits (submitted 4/19/85)
1-1013 Registration Procedures and Requirements for Portable Equipment (submitted 4/19/85)
1-1014 Stack Heights and Dispersion Techniques (submitted 4/19/85)
1-1015—1-1050 (Reserved)
1-1051—1-1055 Air Pollution Emergency Regulation (submitted 1/15/80)
1-1056—1-1100 (Reserved)
1-1101 Air Quality Standards and Area Classification (submitted 4/19/85)
1-1102—1-1112 (Repealed)
1-1113—1-1150 (Reserved)
1-1151—1-1153 Rules for Control of Open Burning (submitted 1/15/80)
1-1154—1-1200 (Reserved)
1-1201 Visible Emissions (submitted 1/15/80)
1-1202 (Reserved)
1-1203 General Restrictions on Visible Emissions From Wigwam Burners (submitted 1/15/80)
1-1204—1-1205 (Repealed)
1-1206—1-1250 (Reserved)
1-1251—1-1252 Rules for Control of Fugitive Dust (submitted 1/15/80)
1-1253—1-1300 (Reserved)
1-1301 Fuel Burning Equipment—Particulate Matter (submitted 1/15/80)
1-1302—1-1304 (Repealed)
1-1305—1-1325 (Reserved)
1-1326 (Repealed)
1-1327 Emission Limitations (submitted 1/15/80)
1-1328 Allowable Rate of Emission Based on Process Weight Rate—Table (submitted 1/15/80)
1-1329 Particulate Matter—New Equipment Process Weight Limitations (submitted 1/15/80)
1-1330 Particulate Matter—Existing Equipment Process Weight Limitations (submitted 1/15/80)
1-1331—1-1350 (Reserved)
1-1351—1-1355 Rules for Sulfur Content of Fuels (submitted 1/15/80)
1-1356—1-1400 (Reserved)
1-1401—1-1402 Rules for Control of Fluoride Emissions (submitted 1/15/80)
1-1403—1-1450 (Reserved)
1-1451—1-1452 Rules For Control of Odors (submitted 1/15/80)
1-1453—1-1500 (Reserved)
1-1501—1-1504 Rules for Control of Incinerators (submitted 1/15/80)
1-1505—1-1550 (Reserved)
1-1551—1-1553 Rules for Control of Motor Vehicle Emissions (submitted 1/15/80)
1-1554—1-1600 (Reserved)
1-1601—1-1605 Rules for Control of Hot-Mix Asphalt Plants (submitted 1/15/80)
1-1606—1-1650 (Reserved)
1-1651—1-1662 Rules for Control of Kraft Pulping Mills (submitted 1/15/80)
1-1663—1-1700 (Reserved)
1-1701—1-1704 (Repealed)
1-1705—1-1750 (Reserved)
1-1751—1-1755 Rules for Control of Rendering Plants (submitted 1/15/80)
1-1756—1-1800 (Reserved)
1-1801—1-1804 Rules For Control of Sulfur Oxide Emissions From Sulfuric Acid Plants (submitted 1/15/80)
1-1805—1-1850 (Reserved)
1-1869—1-1899 (Reserved)
1-1900—1-1906 (Repealed)
1-1907—1-1950 (Reserved)
1-1969—1-1999 (Reserved)
Appendix B Emissions Inventory—Ada County Carbon Monoxide Nonattainment Area (submitted 1/15/80)
Appendix G Permits—Silver Valley (submitted 1/15/80)
Appendix H Permits—Lewiston (submitted 12/4/80, 2/5/81)
Appendix J Permits—Pocatello (submitted 3/7/80)
Appendix K Permits—Soda Springs (submitted 1/15/80)
Beker Industries, 1973 Consent Order (40 CFR 52.670(c)(15))–SO_2 Emission Limitation (submitted 7/28/75)
40 CFR Part 52, Subparts A and N

4. Section 52.681 is added as follows:

§ 52.681 Permits to construct and operating permits.

(a) Emission limitations and other provisions contained in Permits to Construct or Operating Permits, issued by the State of Idaho Department of Health and Welfare in accordance with the federally-approved *Rules and Regulations for the Control of Air Pollution in Idaho Manual* Sections 1-1002 Definitions, 1-1012 Procedures and Requirements for Permits to Construct and Operating Permits, 1-1014 Stack Heights and Dispersion Techniques, and 1-1101 Ambient Air Quality Standards and Area Classifications, except for Operating Permits authorizing the use of alternative emission limits (bubbles) under Sections 1-1012.03(a)(1) and 1-1012.09 or compliance schedule

extensions under Section 1–1012.03(d), shall be the applicable requirements of the federally-approved Idaho SIP (in lieu of any other provisions) for the purposes of section 113 of the Clean Air Act and shall be enforceable by EPA and by any person in the same manner as other requirements of the SIP.

(b) Operating Permits authorizing the use of alternative emission limits (bubbles) under Sections 1–1012.03(a)(1) and 1–1012.09, including the use of banked emission reduction credits pursuant to Section 1–1012.10 in a bubble, and operating permits authorizing compliance schedule extensions under Section 1–1012.03(d), must be submitted to EPA for approval as revisions to the Idaho SIP before they shall become the applicable requirements of the SIP.

5. Section 52.683 is revised to read as follows:

§ 52.683 Significant deterioration of air quality.

(a) The *Rules and Regulations for the Control of Air Pollution in Idaho Manual*, specifically, Sections 1–1002 Definitions, 1–1012 Procedures and Requirements for Permits to Construct and Operating Permits, 1–1014 Stack Heights and Dispersion Techniques, and 1–1101 Ambient Air Quality Standards and Area Classifications, are approved as meeting the requirements of Part C for preventing significant deterioration of air quality.

(b) The requirements of sections 160 through 165 of the Clean Air Act are not met for Indian reservations since the plan does not include approvable procedures for preventing the significant deterioration of air quality on Indian reservations and, therefore the provisions of § 52.21 (b) through (w) are hereby incorporated and made part of the applicable plan for Indian reservations in the State of Idaho.

(c) The requirements of section 165 of the Clean Air Act are not met for sources subject to prevention of significant deterioration requirements prior to November 1, 1984, since the rules and regulations cited in (a) above were not in effect prior to that date. Therefore, the provisions of § 52.21 (b), (c), (d), and (h) through (w) are hereby incorporated and made part of the applicable plan for sources subject to § 52.21 prior to November 1, 1984.

6. Section 52.688 is revised to read as follows:

§ 52.688 Rules and regulations.

Stack Height Provisions Conditional Approval. Since Section 1–1014 "Stack Heights and Dispersion Techniques" of the *Rules and Regulations for the Control of Air Pollution in Idaho Manual*, prohibits the use of stack heights exceeding good engineering practice, and the use of dispersion techniques, to meet emission limits, but does not include detailed provisions for implementing its provisions, IDHW must ensure that, when approving PSD and other new source review and operating permits, the permits comply with the applicable provisions of EPA's revised stack height regulations (50 FR 27892, July 8, 1985). IDHW must also revise its stack height regulations by April 8, 1985, to be consistent with EPA's revised regulations.

[FR Doc. 86–13972 Filed 6–20–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 720

[OPTS-50002M; FRL-3035-1]

Revisions of Premanufacture Notification Regulations; Postponement of Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of postponement of effective date.

SUMMARY: EPA is postponing the effective date of the revisions to the premanufacture notice rule for 60 days in response to a request from the Chemical Manufacturers Association.

DATE: The effective date has been postponed until August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency Rm. E–543, 401 M St., SW., Washington, DC 20460, Toll-free: (800–424–9065). In Washington, DC: (554–1404). Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: EPA issued a final premanufacture notification (PMN) rule on May 13, 1983, (48 FR 21722). After receiving comments from the public, EPA postponed the effective date of the rule so that it could review several provisions. In the **Federal Register** of September 13, 1983 (48 FR 41132), EPA stated that the rule would become effective on October 26, 1983 with the exception of four provisions. EPA proposed modifications of those stayed provisions on December 27, 1984 (49 FR 50201). EPA issued a final rule on April 22, 1986, (51 FR 15096) revising the PMN rule. The revisions clarify and eliminate ambiguities in the stayed provisions of the rule and revise certain language in the rule to simplify the provisions affecting compliance and enforcement. The revisions were to become effective on June 5, 1986.

On May 30, 1986, EPA received a request from the Chemical Manufacturers Association (CMA) for a 60-day postponement of the effective date. CMA cited, as reason for its request, steps that its members must take to establish compliance with the new provisions. They referred to, in particular, the condition placed on the eligibility for the research and development exemption and the recordkeeping requirements. They noted that companies must assure that personnel are adequately trained and informed and must review and revise recordkeeping policies and practices. On June 5, 1986, EPA sent a letter to CMA notifying them of the Agency's decision to grant their request and to postpone the effective date of the rule until August 4, 1986. The Agency believes this postponement of the effective date is necessary to allow industry to make preparations to comply with the rule.

(15 U.S.C. 2604, 2607, and 2613)

Dated: June 13, 1986.

John A. Moore

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 86–14076 Filed 6–20–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

49 CFR Parts 420, 421, 422, 423 and 424

[CGD–86–038]

Cargo Container and Road Vehicle Certification for Transport Under Customs Seal

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is deleting the regulations in 49 CFR Parts 420 through 424. This change reflects the transfer of functions concerning certification of containers and road vehicles for transportation under customs seal, pursuant to international customs conventions, from the Secretary of Transportation (acting through the Coast Guard) to the Secretary of the Treasury (acting through the Customs Service.) New regulations have been published by the Customs Service to implement the international customs conventions.

EFFECTIVE DATE: June 23, 1986.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Jeffrey G. Lantz, Project Officer, (202) 426–4431.

SUPPLEMENTARY INFORMATION:

Executive Order 11459, dated March 7, 1969, designated the Secretary of Transportation to take appropriate action, including issuing regulations, to carry out the approval and certification of containers and vehicles for international transport of goods under customs seal pursuant to the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), done at Geneva on January 15, 1959 (TIAS 6633), and the Customs Convention on Containers, done at Geneva on May 18, 1956 (TIAS 6634). The Secretary of Transportation delegated this authority to the Coast Guard which published regulations for this purpose in Title 49, Code of Federal Regulations, Parts 420 through 424.

Executive Order 12445 of October 17, 1983, transferred the authority for the approval and certification of containers and road vehicles for transportation under customs seal from the Secretary of Transportation to the Secretary of the Treasury. On May 1, 1986, the Secretary of the Treasury, through the Customs Service, published regulations in the **Federal Register** (51 FR 16159) in 19 CFR Part 115 to supersede the Coast Guard regulations in 49 CFR Parts 420 through 424. The Customs Service regulations became effective on June 2, 1986.

Notice of Proposed Rulemaking

This rule merely deletes regulations that have been superseded and for which the Coast Guard no longer has the authority to administer. Therefore, under the provisions of 5 U.S.C. 553 this amendment is being issued as a final rule without publication of a notice of proposed rulemaking. Since the regulations in 49 CFR Parts 420 through 424 were superseded on June 2, 1986, the effective date of the regulations in 19 CFR Part 115, good cause exists for making these rules effective upon publication.

Drafting Information

The principal drafters of this document are LCDR Jeffrey G. Lantz, Office of Merchant Marine Safety and LT Sandra Sylvester, Office of Chief Counsel.

E.O. 12291 and DOT Regulatory Policies and Procedures

This final rule is considered to be non-major under E.O. 12291 and non-significant under DOT regulatory policies and procedures (49 FR 11034; February 26, 1979). This final rule merely deletes existing regulations that have been superseded. There is no economic impact from this action; therefore further evaluation is unnecessary.

Regulatory Flexibility Act

Since this final rule merely deletes existing regulations the Coast Guard certifies there is no economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Parts 420, 421, 422, 423 and 424

Administrative practice and procedures, Customs duties and inspection, Freight, Motor vehicles, Packaging and containers, Reporting and recordkeeping requirements.

Pursuant to the authority contained in 14 U.S.C. 633, Subchapter A of Chapter IV of Title 49 Code of Federal Regulations is amended as follows:

SUBCHAPTER A—[REMOVED AND RESERVED]

1. Subchapter A, consisting of Parts 420, 421, 422, 423 and 424 is removed and reserved.

Signed: June 18, 1986.

J. W. Kime,

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

[FR Doc. 86-14092 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-14-M

Proposed Rules

Federal Register
Vol. 51, No. 120
Monday, June 23, 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

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Canned White Potatoes

Correction

In FR Doc. 86–10333 beginning on page 17349 in the issue of Monday, May 12, 1986, make the following corrections:

§ 52.1815 [Corrected]

1. On page 17351, in Table 1, second column, under Diameter(inches), the first entry should read, "2 1/16".

§ 52.1817 [Corrected]

2. On the same page, in Table 11, in the second column, before the last line, insert the following: "56.7 g(2.0 oz)—10% may have a diameter of more than 25mm (0.98 in) but not more than 38mm (1.49 in)."

§ 52.1820 [Corrected]

3. On page 17353, in Table VI, in the second column, second line from the bottom, "90–10 points" should read "90–100 points".

4. On page 17354, in Table VII, in the second column, second line from the bottom, "90–110 points" should read "90–100 points".

BILLING CODE 1505-01-M

Packers and Stockyards Administration

9 CFR Part 205

Clear Title—Protection for Purchasers of Farm Products

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Notice of proposed amendments to rules.

SUMMARY: Interim final regulations were published on March 31, 1986 pursuant to section 1324 of the Food Security Act of 1985. The regulations related to the establishment of statewide central filing systems for "effective financing statements" as defined therein. The usual notice of proposed rulemaking and opportunity for comment were omitted because of a 90-day time limit which that legislation set for prescribing the regulations. This document is issued in response to numerous requests to modify the interim regulations.

Modifications are proposed for comment, of which the principal ones relate to:

(a) The counties or parishes by which a master list must be arranged;
(b) The format and medium of distribution of portions of the master list to registrants; and
(c) The categories of farm products by which a master list must be organized.

DATE: Comments must be received by July 23, 1986.

ADDRESS: Mail written comments to the Office of the Administrator, Packers and Stockyards Administration, Room 3039 South Building, USDA, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT:

James L. Smith, Deputy Administrator, Packers and Stockyards Administration, 3039A South Bldg., USDA, Washington, DC 20250, 202/447–7063.

John J. Casey, Packers and Stockyards Division, Office of the General Counsel, 2446 South Bldg., USDA, Washington, DC 20250–1400, 202/447–7357.

SUPPLEMENTARY INFORMATION: On March 31, 1986, interim final regulations were published, 51 FR 10795 et seq., pursuant to section 1324 of the Food Security Act of 1985, Pub. L. 99–198 (hereinafter "the Section"), headed "Protection For Purchasers of Farm Products."

Paragraphs (e) and (g) of that Section provide that certain persons may be made subject to a security interest in a farm product created by the seller under certain circumstances including the existence of a statewide "central filing system" (hereinafter "system") as defined, for an "effective financing statement" (hereinafter "EFS") as defined. Paragraph (c)(2) requires such a system to obtain certification from the Secretary of Agriculture, and requires the Secretary to certify such a system if it complies with the requirements of the Section.

Paragraph (i) provides: "The Secretary of Agriculture shall prescribe regulations not later than 90 days after the date of enactment of this Act to aid States in the implementation and management of a central filing system." The legislation does not give the Secretary any authority or responsibility as to matters other than central filing systems.

The Secretary's responsibilities under the Section were delegated to the Assistant Secretary for Marketing and Inspection Services, and to the Administrator of the Packers and Stockyards Administration (P&SA). P&SA was directed to prepare and issue regulations, carry out the Secretary's responsibilities, and certify such systems thereunder.

As stated in that document published March 31, requests to modify the interim regulations have been and will be considered. The usual notice of proposed rulemaking and opportunity to comment were omitted only because of the 90-day time limit in the legislation.

The decision upon a 30-day comment period, for the modifications proposed herein, is based on the desire of some States to have such systems established by the effective date of the legislation. It is hoped to have a final decision on the modifications as soon as possible consistent with the need for appropriate consideration of them, to accommodate such States.

Regulatory Flexibility Act

It has been determined that these regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980 (44 U.S.C. 250)

The information collection requirements have been approved by the Office of Management and Budget under Control No. 0590–0004.

General

One person objected that the interim regulations would create an "administrative nightmare" and be prohibitively expensive to implement. Another objected to "stumbling blocks in the regulations for putting central filing in place." The legislation is so written as to specify requirements for a

central filing system, and does not give the Secretary of Agriculture discretion to vary requirements in the interest of feasibility. The interim regulations were intended to require what the legislation requires and makes necessary, no more and no less.

One person stated that a misperception has arisen that States are compelled to have central filing systems operating by December 24, 1986, and requested clarification that this is not true. The legislation does not compel any State to do anything at anytime.

One person stated that his State already has a central filing system which does not yet comply with the legislation, but will be modified to do so. He wanted to know whether certification would be refused for a system reflecting pre-existing security interests not supported by EFS's as defined in the legislation. Accordingly an amendment to § 205.213 is proposed and set forth below.

Request for certification and processing thereof (§ 205.101)

One person suggested that, to insure that certification is given only to systems likely to work in practice and not just on paper, "substantiation of budget allocations for computer hardware and software necessary for a viable central filing system" be required. It is believed that § 205.101(b)(10) will make possible as much as can be done in this connection under the legislation.

Individual's name (§ 205.102(a))

One person observed that there are going to be EFS's, and queries from non-registrants, giving debtors' names without the surname first.

The problem of an EFS, containing an individual's name, not making clear which is the surname, is best dealt with by a printed form for the EFS so designed as to make clear which is the surname.

The problem of a query to a system, about an individual, not making clear what is the surname to be searched, is best dealt with by instructing the receivers of the queries to make sure that each person querying the system identifies the surname to be searched.

Cross indexing of names, however advisable, is discretionary with the State.

Corporate name containing individual's name (§ 205.102(b))

Several persons objected to this provision. One observed that it is not always possible to identify from a corporate name whether it contains an individual's name, citing the examples, "Gregory Pool Equipment Co." and "Coldwell Banker Co." Accordingly an amendment to § 205.102(b) is proposed and set forth below.

Name and address to be shown on EFS and master list (§§ 205.102, 205.103(a)(4) and 205.105(a)(2))

One person suggested clarification that a non-debtor will be shown on an EFS and master list entry only in case the debtor is not the same person as the one subjecting a product to a security interest. He also suggested requiring the showing of joint owners of a farm product subject to a security interest. Accordingly amendments to §§ 205.102, 205.103(a)(4) and 205.105(a) are proposed and set forth below.

Information of EFS (§ 205.103)

One person questioned the authority to require the EFS to show crop year when the legislation does not. The provision in § 205.103(a)(1) for crop year merely reflects the provision in § 205.107(b) that, while the EFS is not required to show crop year, if it does not, it must be regarded as applicable to the product in question for every year for which the EFS is effective.

One person stated that the Secretary of State's Office for her State had been advised that it would violate the Social Security Act to require social security numbers on U.C.C. financing statements. Any such provision in the Social Security Act would be superseded by the Clear Title legislation as to farm products, since the legislation requires the EFS to show such number and requires the master list to be organized according to such numbers. However, such a provision would not be superseded as to matters other than farm prodicts.

"County or parish" (§§ 205.103(a)(3), 205.104(a)(3), 205.105(a)(1), 205.207(c))

Several persons objected, on the basis of cost, to requiring a master list for one State to be arranged by counties or parishes in other States.

Several persons objected to requiring an EFS to show county or parish where a product is foreseen to be located in future.

Those objections raise the issue: when the legislation refers to a "county or parish," is that where a farm product is *produced*, where it is *currently located* after having been moved, or both such places?

An EFS and master list entry in a State, for a farm product *produced* in that State, will be effective after the same product is moved across a State line without being sold, as explained in § 205.210. Any system for one State will shortly reflect at least some products *currently located* in other States, since crops get harvested and moved, and animals get moved, often across State lines. However, moving a product across a State line does not change the State where it is *produced* which, as paragraph (e) (2) and (3), and (g)(2) (C) and (D) provide, determines where an EFS must be filed, and where a buyer, etc., must query a system, if there is one in that State.

One person commented that as a practical matter farm products produced in his State would rarely be moved across a State line without being sold, except possibly to storage in counties contiguous to his State, which he intends to reflect in the system he is developing.

One person commented that as a practical matter livestock continues to be in production until slaughter. Livestock moved outside the State of origin without being slaughtered would become livestock produced in the State to which they are moved, and would cease to be livestock produced in the first State, according to him.

Paragraph (c)(2)(C)(ii)(III) requires the master list to be arranged, within each farm product category, "geographically by county or parish." The question arises: does this refer to where a product is produced, where it is currently located after having been moved, or both such places?

Paragraph (c)(4)(D)(iv) requires an EFS to show "a description of the farm products subject to the security interest * * * and a reasonable description of the *property*, including county or parish in which the *property* is *located*." (emphasis added) The questions arise: does the word "property" refer to the farm product subject to the security interest, the place where it is produced, the place where it is currently located, or both such places; and must the EFS show where the product is produced, where it is currently located, or both such places?

Paragraphs (e)(2) & (3)and (g)(2)(C) & (D) make a buyer, commission merchant or selling agent subject to a security interest "in the case of a farm product *produced* in a State that has established a central filing system," under certain conditions. (emphasis added) Clearly these provisions apply only to a product *produced* in the State of the system, wherever that product is currently located, whether it is currently located inside or outside that State. These provisions do not apply to a product currently located in that State but not produced there.

Paragraph (c)(2)(C) provides for a master list to be created by compiling

EFS's. The legislation does not provide for any source of information for a master list other than an EFS. Thus if a master list is to be arranged by county or parish, either where a product is *produced*, where it is currently located, or both, that information must be provided by the EFS.

Since, as explained above, filing in a system is effective only as to products *produced* in the State of the system, and since an EFS is the only source of information for a system, an EFS must show where the product in question is *produced*, to ensure that it is *produced* in the State of that system. It seems consistent with this to arrange the master list by county or parish where a particular product is *produced*, as shown on the original EFS for it.

Where a product is currently located, if different from where it is *produced*, would be shown under "additional information" on the EFS or an amendment to the EFS, and on the master list, *if needed* to distinguish it from other such product owned by the same person but not subject to the particular security interest, as explained in § 205.207.

Accordingly amendments to §§ 205.103(a)(3), 205.104(a)(3), 205.105(a)(1), and 205.207(c) are proposed and set forth below.

Format of portion of master list distributed to registrants (§ 205.105(a))

Several persons objected to the format prescribed in the interim regulations.

One person objected to "problems in figuring out just what breakdowns in a master list must be made available," and suggested "diagraming what types of lists must be available."

One person objected that § 205.105, "as written, requires a complete listing of each EFS's information at least twice, and further repeat listings of each where more than one crop year is listed and where more than one county is listed." He suggested that the portion distributed to each registrant be "an alphabetical list within a farm product class, with a numerical cross-index to the alphabetical list at the end. The alphabetical list would include, for each EFS reported, all the information on county, crop year and amount."

Under *interim* §§ 205.104 and 205.105, the choices open to registrants would be (1) product and (2) county or parish. All registrants would have to specify products in which they are interested. Registrants *could* specify counties or parishes, unless they want information for every county or parish in the system. Each registrant would receive, for each product specified, and for each county or parish specified (or all counties in the system if none is specified), two lists, or one list in two sections, of the names, etc., and, for each, further details of the farm product if supplied on the EFS. One would have them in alphabetical order. The other would have the same information in numerical order.

Paragraph (c)(2)(C) requires the master list to *"arranged* within each such product" alphabetically, numerically, geographically by county or parish, and by crop year, not merely to *show* such information. Paragraph (c)(2)(D) requires the registration form for a buyer, etc. to indicate "the interest of each * * * in receiving the lists * * * [and] the farm products in which each * * * has an interest." Paragraph (c)(2)(E) requires distribution to each registrant of a copy "of those portions * * * that cover the farm products in which [the registrant] has registered an interest."

Thus the requirements of the legislation relate to arrangement of the master list, not to arrangement of the portions distributed to registrants. Clearly, registrants must be able to register for specified products. No reason can be imagined for requiring a master list to be arranged by county or parish, and by crop year, unless registrants were to be able to register for such products in specified counties or parishes (or all in the system), and for such products produced in specified crop years (or all in the system). Also the system must give registrants all the information for which they register since, as explained in § 205.208, they will only be subject to security interests of which they receive written notice. All such information must be available to any registrant in alphabetical or numerical order or both. The legislation does not require duplication of information if all the required information can be supplied to the registrant without duplication.

Accordingly an amendment to § 205.105(a) is proposed and set forth below.

"Written or printed form" requirement for portion of master list distributed to registrants (§ 205.105(b))

Several persons objected to the provision that distribution of portions of the master list in forms such as machine-readable magnetic tapes or discs, or microfiche, is permitted only in addition to written or printed form. Paragraph (c)(2)(E), providing for such distribution, contains the phrase "written or printed form." Compare that with 42 U.S.C. 2000aa–7:

(a) "Documentary materials", as used in this chapter, means materials on which information is recorded, and includes, but is not limited to, written or printed materials, photographs, motion picture films, negatives, video tapes, audio tapes, and other mechanically, magnetically or electronically recorded cards, tapes, or discs * * * *

Also compare it with a Michigan statute, quoted in *Kestenbaum v. Michigan State University*, 414 Mich. 510, 327 N.W. 2d 783 (1982), M.S.A. section 4.1801(2)(e):

"Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punches cards, discs, drums, or other means of recording or retaining meaningful content.

Such persons cited *Philips Elec. & P. Indus. Corp. v. Thermal & Elec. Indus.*, 450 F.2d 1164 (3 C. 1971), *In re Wyer*, 655 F.2d 221, 70 A.L.R.Fed. 786 (CCPA 1981), decisions cited therein, and Annot.: *Patents—"Printed Publication,"* 70 A.L.R.Fed. 796. Those involved statutory language denying a patent for an invention "described in a *printed publication* * * * before the invention thereof by the applicant." (emphasis added) That language was held to deny patents on the basis of microfilms of foreign patent applications which were accessible in the Library of Congress, the United States Patent Office, or the foreign patent office. See *Wyer*, 70 A.L.R.Fed. at 794, where the Court stated:

[T]he printed publication provision was designed to prevent withdrawal by an inventor, as the subject matter of a patent, of that which was already in the possession of the public. Thus, the question to be examined under § 102(b) is the accessibility to at least a pertinent part of the public, of a perceptible description of the invention, in whatever form it may have been recorded. * * *

Those decisions would be binding only in the patent application context in which they were written. However, see *Philips*, 450 F.2d at 1170, where the Court stated:

The field is rapidly undergoing change and improvement. To restrict our interpretation of section 102(a)'s "printed" publication requirement solely to the traditional printing press would ignore the realities of the scientific and technical period in which we live and the underlying rationale of section 102. We hold, therefore, that the term "printed" as used in section 102 can include documents duplicated by modern methods and techniques, including the now well established process of microfilming.

We conclude that there was a legislative intent not to give a system operator complete discretion as to the form of such distributions, and to

require information to be available in human-readable form to registrants if they want it. The basis for this is the choice of the phrase "written or printed form" in contrast with the broader language of the other legislation quoted above.

We conclude that system operators may in their discretion offer the information in other forms to registrants who want it in other forms. The basis for this is the above-quoted language of the Court in *Philips*, and the other decisions under the patent legislation cited above.

Senate and House members' staff who were involved in discussions of the legislation while it was pending advise privately that the intent of the phrase "written or printed form" was to relieve registrants of the expense of purchasing special equipment to decipher what they receive from system operators. They also advise privately that, whenever microfilm and microfiche were mentioned in the discussions, they were rejected. Such private advice is not the basis of the above construction, but provides additional support for it.

Accordingly an amendment to § 205.105(b) is proposed and set forth below.

"Farm products" (§§ 205.106, 205.206)

Several persons objected to the categories of "farm products" shown in the regulations, and the statement that miscellaneous categories of "farm products" are not permitted.

One person objected to the omission of aquatic products. The interim regulation provided for "other farm products (system must specify by name)." However, an amendment to § 205.206 is proposed and set forth below, in response to this objection.

As noted in § 205.206, the Conference Report on the legislation shows a clear legislative intent that the "farm products" be specific commodities. Thus the legislation does not permit miscellaneous categories of "farm products" such as "deciduous tree fruits" or "truck crop." However, it specifically permits "wheat" as a category though there are different kinds of wheat, so it does not require a breakdown such as "hard red wheat" and "soft white wheat."

It is proposed to amend the *regulation* (§ 205.106) on farm products to require only that the list for a system be as specific as the legislation requires, and place the previously-published list of farm products in the *interpretive opinion* (§ 205.206), permitting the required specificity to be varied from State to State to reflect conditions in each State.

Accordingly amendments to §§ 205.106 and 205.206 are proposed and set forth below.

"Crop year" for animals (§ 205.107)

Two persons objected to the requirement that a master list reflect crop year for animals. Paragraph (c)(2)(C)(ii)(IV) requires the master list to be arranged "within each such product * * * by crop year." The legislation contains no exception for animals. However the legislation does not require an EFS to show crop year and, as stated in § 205.107(b), an EFS not showing crop year would be applicable to the product in question for every year for which paragraph (c)(4)(F) makes the EFS effective.

One person indicated that any EFS for animals would not show crop year; in such a case, the master list would simply show those animals for every year for which the EFS is effective.

"Crop year" for trees (§ 205.107)

One person pointed out that the crop year for trees, year they are expected to be harvested, may be 30 years after filing. If the crop year for trees were year of planting, then the master list would contain many-year-old entries eventually anyway.

System operator (§ 205.201)

One person objected that the interim regulations are not broad enough to permit a county clerk to be a system operator. This was not intended. Accordingly a clarifying amendment to § 205.210 is proposed and set forth below.

EFS (§ 205.202)

One person objected to the opinion that an EFS need not be the same as a UCC financing statement or security agreement, but can be an entirely separate document meeting the definition in paragraph (c)(4). He stated in substance that the quoted House Committee Report, and the House Bill on which it reported, did not refer to a central filing system. This does not change the fact that the legislation contains a comprehensive definition of the term which does not include any requirement that the EFS be the instrument by which a security interest is created or perfected.

"Notice" of EFS (§ 205.204)

One person suggested clarification that the notice need not be signed. As § 205.204 states, the legislation does not contain any requirement for such notice except that an EFS must be filed somewhere pursuant to State law. Thus the legislation does not require the notice to be signed.

One person suggested that transfer of information from filing office to system operator should not be permitted to be done by telephone, as not mandated by law and subject to inaccuracies. The legislation does not specify any form of "notice" of an EFS as either mandated, permitted, or prohibited. Thus the form of such notice, that is, electronic filing, telephoned information, or other form of notice, is discretionary with the State.

Fees (§ 205.205)

In response to several inquiries, fees are discretionary with the State. However the fee structure must be a consideration in review for certification, since it was intended to be fair as to different industry segments. Accordingly a clarifying amendment to § 205.205 is proposed and set forth below.

Permitting a system for specified products and for all (§ 205.206)

Several persons objected to this, indicating that variations from State to State, as to what products are covered by central filing systems and what products are not, would cause confusion. Such variations are going to exist with or without a USDA opinion that a State can have a system for specified products and not for all, since it is discretionary with any State whether to have a system. Also there are some States in which large quantities of only a few products are produced.

"Amount" of farm products on EFS and master list (§ 205.207(b))

About an EFS and master list entry not showing an amount, the interim opinion states, "If they do not show an amount, this means that all of such product owned by the person in question is subject to the security interest in question." One person stated that this could be interpreted as expanding the scope of a security interest to cover product not originally subjected to it. Accordingly a clarifying amendment to § 205.207(b) and (c) is proposed and set forth below.

Liability of registrants and non-registrants (§ 205.208)

Several persons objected to the statement that registrants are not subject to security interests recorded in a system but not shown on portions which they receive. One suggested "that this whole section could be stated more simply by in some way saying that buyers are liable for a security interest once that security interest is distributed

on the list, whether or not a particular buyer subscribes to that portion of the list."

That suggested language is accurate as to registrants but not as to non-registrants. Paragraphs, (e)(3) and (g)(2)(D) make registrants subject to security interests only if they receive written notice of them. Paragraphs, (e)(2) and (g)(2)(C) make non-registrants subject to security interests recorded in a system whether or not they know about them, and whether or not distributed to registrants.

Distribution of portions of master list to registrants (§ 205.208)

One person recommended a requirement that distribution be at least monthly. The frequency of distribution necessary to provide timely information may vary according to product and region. As stated in § 205.208(e), the frequency of regular distribution will be a consideration in review for certification. However the legislation at paragraph (c)(2)(E) gives each State discretion as to this. A clarifying amendment to § 205.208(e) is proposed and set forth below.

Information to non-registrants upon request (§ 205.208)

One person, referring to paragraph (c)(2)(F), suggested that a system, for certification, be required to demonstrate ability to comply with the requirements for information to non-registrants on request. It will be. See § 205.101(5).

One person inquired whether inquiries from non-registrants must be received by phone and "oral confirmation" must be given by phone, and whether the system operator would be liable for damages if the line is busy, either when the query is to be made, or when the oral information is to be given. He also inquired how the system operator is to determine who is entitled to written confirmation of such information.

The matter of information to non-registrants on request was not addressed in the interim regulations. Accordingly it is proposed to do so in amendments to § 205.208 which are set forth below.

Amendment of EFS—"material change" (§§ 205.208, 205.209)

One person suggested that the material change, required to be reflected in an amendment to an EFS, be compelled to be conveyed to buyers, etc. Portions of the master list must be distributed to registrants as amended from time by the filing of new EFS's and amendments to previous EFS's. A clarifying amendment to § 205.208(e) is proposed and set forth below.

One person stated that § 205.209 does not specifically define what constitutes a "material change" requiring amending an EFS. See discussion in § 205.209(a).

Liability of buyers, etc., for errors and inaccuracies of notices generated by the system (§§ 205.208(f), 205.209(b))

Several persons objected that the interim regulations were inconsistent, in stating in § 205.208(f) that buyers, etc. would not be liable for errors and other inaccuracies of notices generated by the system, and also stating in § 205.209(b) that, if an EFS and master list entry are not amended to reflect a change through no fault of the secured party, the question of secured party protection is left for the courts to resolve on a case-by-case basis. Accordingly clarifying amendments to both of those provisions are proposed and set forth below.

One person suggested that § 205.209(b) be deleted entirely as serving no useful purpose. It is intended to respond to questions raised by interested persons.

Continuation of EFS (§ 205.209(d))

One person questioned the authority for the opinion that a continuation of an EFS is subject to the same requirement as an amendment. The basis for the opinion is that the EFS as first filed expires in a given time, that a continuation modifies it as to its expiration date, and that a continuation thus is an amendment and subject to the same requirement as an amendment, in the absence of a contrary provision in the legislation.

Obligations subject (§ 205.213)

One person objected to the opinion in § 205.213(c) that security interests existing prior to establishment of a system can be recorded in the system. The legislation contains nothing to limit its application to interests created after establishment of a system.

Litigation as to whether a system is operating in compliance (§ 205.214)

One person objected to the lack of any provision for verification that a system is operating in compliance, and the lack of any assurance for a secured party that filing with a system will provide any protection. These are inherent in the legislation.

One person recommended deletion of § 205.214 entirely. It is intended to give some information to non-lawyers which any lawyer already has.

List of Subjects in 9 CFR Part 205

Agriculture, Central filing system, Definitions, Certifications, Interpretive opinions.

Issued at Washington, DC June 18, 1986

B.H. Jones,

Administrator, Packers and Stockyards Administration.

Accordingly amendments to 9 CFR Part 205 are proposed and set forth below.

PART 205—CLEAR TITLE—PROTECTION FOR PURCHASERS OF FARM PRODUCTS

1. The authority for Part 205 is revised to read as follows:

Authority.—Sec 1324(i), Pub. L. 99-198, 99 Stat. 1535, 7 U.S.C. 1631; Secretary's Memorandum dated February 13, 1986; 7 CFR 2.17(e)(3), 2.56(a)(3), as amended June 17, 1986.

2. a. In the Table of Contents for 9 CFR Part 205, the headings of §§ 205.102, 205.105, 205.106 and 205.208 would be revised to read as follows:

Sec.

* * * * *

205.102 Name of person subjecting a farm product to a security interest, on EFS and master list—format.

* * * * *

205.105 Master list and portion thereof distributed to registrants—format.

205.106 Farm products.

* * * * *

205.208 Distribution of portions of master list—registration—information to non-registrants on request.

* * * * *

(b) Section 205.102 would be revised to read as follows:

§ 205.102 Name of person subjecting a farm product to a security interest, on EFS and master list—format

On an EFS, and on a master list, the name of the person subjecting a farm product to a security interest must appear as follows:

(a) In the case of a natural person, the surname (last name or family name) must appear first;

(b) In the case of a corporation or other entity not a natural person, the name must appear beginning with the first word or character not an article.

(c) Section 205.103(a) (3) and (4) would be revised and the introductory text of paragraph (a) is republished to read as follows:

§ 205.103 EFS—Minimum information.

(a) The minimum information necessary on an EFS is as follows:

* * * * *

(3) Each county or parish in the same State where the farm product is produced or to be produced;

(4) Name and address of each person subjecting the farm product to the

security interest, whether or not a debtor (see § 205.102);

* * * * *

(d) Section 205.104(a)(3) would be revised and the introductory text of paragraph (a) is republished to read as follows:

§ 205.104 Registration of buyer, commission merchant, or selling agent—minimum information.

(a) The minimum information necessary on a registration of a buyer, commission merchant, or selling agent is as follows:

* * * * *

(3) If registrant is interested only in such product or products produced in a certain county or parish, or certain counties or parishes, in the same State, the name of each such county or parish.

* * * * *

e. Section 205.105 would be amended by revising paragraphs (a) and (b) to read as follows:

§ 205.105 Master list and portion thereof distributed to registrants—format.

(a) The master list must contain all the information on all the EFS's filed in the system, so arranged that it is possible to deliver to any registrant all such information relating to any product, produced in any county or parish (or all counties or parishes), for any crop year, covered by the system. The system must be able to deliver all such information to any registrant, either in alphabetical order by the word appearing first in the name of each person subjecting a product to a security interest (see § 205.102), in numerical order by social security number (or, if other than a natural person, IRS taxpayer identification number) of each such person, or in both alphabetical and numerical orders, as requested by the registrant.

(b) Paragraph (c)(2)(E) requires the portion to be distributed in "written or printed form." This means recording on paper by any technology in a form which can be read by humans without special equipment. The system may, however, honor requests from registrants to substitute recording on any medium by any technology including, but not limited to, electronic recording on tapes or discs in machine-readable form, and photographic recording on microfiche.

* * * * *

f. Section 205.106 would be revised to read as follows:

§ 205.106 Farm products.

The farm products, according to which the master list must be organized as required by paragraph (c)(2), and which must be identified on an EFS as required by paragraph (c)(4)(D)(iv), must be specific commodities, species of livestock, and specific products of crops or livestock. The section does not permit miscellaneous categories.

g. Section 205.201 would be amended by revising the first sentence to read as follows:

§ 205.201 System operator.

The system operator can be the Secretary of State of a State, or any designee of the State pursuant to its law.

* * *

h. Section 205.205 would be amended by adding at the end a sentence to read as follows:

§ 205.205 Fees.

* * * The fee structure is discretionary with the State, but must be a consideration in review for certification since it was intended to be fair as to different industry segments.

i. Section 205.206 would be revised to read as follows:

§ 205.206 Farm products.

(a) The master list must be organized by farm product as required by paragraph (c)(2), and the farm product must be identified on an EFS as required by paragraph (c)(4)(D)(iv). The following is a list of such farm products.

Rice, rye, wheat, other food grains (system must specify by name).

Barley, corn, hay, oats, sorghum grain, other feed crops (system must specify by name).

Cotton.

Tobacco.

Flaxseed, peanuts, soybeans, sunflower seeds, other oil crops (system must specify by name).

Dry beans, dry peas, potatoes, sweet potatoes, taro, other vegetables (system must specify by name).

Artichokes, asparagus, beans lima, beans snap, beets, Brussels sprouts, broccoli, cabbage, carrots, cauliflower, celery, corn sweet, cucumbers, eggplant, escarole, garlic, lettuce, onions, peas green, peppers, spinach, tomatoes, other truck crops (system must specify by name).

Melons (system must specify by name).

Grapefruit, lemons, limes, oranges, tangelos, tangerines, other citrus fruits (system must specify by name).

Apples, apricots, avocados, bananas, cherries, coffee, dates, figs, grapes (& raisins), nectarines, olives, papayas, peaches, pears, persimmons, pineapples, plums (& prunes), pomegranates, noncitrus fruits (system must specify by name).

Berries (system must specify by name).

Tree nuts (system must specify by name).

Bees wax, honey, maple syrup, sugar beets, sugar cane, other sugar crops (system must specify by name).

Grass seeds, legume seeds, other seed crops (system must specify by name).

Hops, mint, popcorn, other miscellaneous crops (system must specify by name).

Greenhouse & nursery products produced on farms (system must specify by name).

Mushrooms, trees, other forest products (system must specify by name).

Chickens, ducks, eggs, geese, turkeys, other poultry or poultry products (system must specify by name).

Cattle & calves, goats, horses, hogs, mules, sheep & lambs, other livestock (system must specify by name).

Milk, other dairy products produced on farms (system must specify by name).

Wool, mohair, other miscellaneous livestock products produced on farms (system must specify by name).

Fish, shellfish.

Other farm products (system must specify by name).

(b) Note the definition of the term "farm product" at subsection (c)(5), and the Conference Report on Pub. L. 99-198, No. 99-447, December 17, 1985, at page 486.

(c) A State may establish a system for specified products and not for all. A State establishing a system for specified products and not for all will be deemed to be "a State that has established a central filing system" as to the specified products, and will be deemed not to be such a State as to other products.

j. Section 205.207 (b) and (c) would be revised to read as follows:

§ 205.207 "Amount" and "reasonable description of the property."

* * * * *

(b) Any EFS and master list entry will identify a product. If they do not show an amount, this constitutes a representation that all of such product owned by the person in question is subject to the security interest in question.

(c) Any EFS and master list entry will identify each county or parish in the same State where the product is or is to be produced. If they do not show any further identification of the location of the product, this constitutes a representation that all such product produced in each such county or parish, owned by such person, is subject to the security interest.

* * * * *

k. Section 205.208 would be amended, by revising paragraphs (e) and (f), and by adding new pargraphs (g) through (l), to read as follows:

§ 205.208 Distribution of portions of master list—registration—information to non-registrants on request.

* * * * *

(e) The section requires "regular" distribution, to registrants, of portions of the master list as amended from time to time by the filing of EFS's and amendments to EFS's. The requirement that the distribution be "regular" necessarily refers to an interval specified in advance. The interval may very according to product and region. The frequency of such distribution must be a consideration in review for certification since distribution must be timely to serve its purpose. While paragraph (c)(2)(E) (providing that distribution be made "regularly as prescribed by the State") gives each State discretion to choose the interval between distributions, whatever interval a State chooses will inevitably make possible some transactions in which security interests are filed in the systems but registrants are not subject to them.

(f) Legislative history of the Section shows that buyers, commission merchants, and selling agents are not intended to be liable for errors or other inaccuracies generated by the system. See Nov. 22, 1985 Cong. Rec., Senate, pg. S16300, and Dec. 18, 1985 Cong. Rec., House, pg. H12523.

(g) In furnishing to non-registrants "oral confirmation within 24 hours of any [EFS] on request followed by written confirmation," by a system operator pursuant to paragraph (c)(2)(F), any failure in use of a telephone caused by a "busy signal" could not be the basis of liability of the system operator. The basis for this is that paragraph (c)(2)(F) does not mention telephones. Also, while it mentions *furnishing* information orally, it does not contain any provision as to how queries are to be *received*, that is, orally, in writing, or otherwise.

(h) Of course it is to be expected that telephones would be used in most cases, but use of them is not required by the legislation and is discretionary with the State.

(i) In the matter of receiving queries and giving oral replies to them, paragraph (c)(2)(F) will be complied with if a system operator maintains an office and staff where a query can be received on business days and during business hours such as are regular in the State, and where an oral reply will be available on the regular business day following the day on which the query is received, at or before the time of day when it was received.

(j) Written confirmation is required, by paragraph (c)(2)(F), to be given to any non-registered buyer, commission merchant, or selling agent.

(k) Such a written confirmation pursuant to paragraph (c)(2)(F) does not alter the liability of the non-registrant querying the system and receiving information about a security interest recorded in it. The basis of this, as above, is that non-registrants are subject to security interests recorded in a system whether or not they know about them, and must query the system for their protection.

(l) The Section does not specify when or how the written confirmation must be furnished, but provides only that it must follow the oral information. Thus the time and method of furnishing written confirmation is discretionary with the State.

l. Section 205.209(b) would be revised to read as follows:

§ 205.209 Amendment or continuation of EFS.

* * * * *

(b) Where an owner of a product makes a change, such as planting a different crop or purchasing different animals from what was represented, without informing the secured party, so that the master list entry is rendered not informative, but the EFS and master list are not amended through no fault of the secured party, the section is silent as to the consequences. However, see the legislative history cited in § 205.208(f).

* * * * *

m. Section 205.213 would be amended by adding a new paragraph (d) to read as follows:

§ 205.213 Obligations subject—"person indebted"—"debtor."

* * * * *

(d) A system can be in compliance with the Section, although it reflects security interests not supported by EFS's as defined in the legislation, and although it reflects security interests on items other then farm products. However, paragraph (e)(2) and (3), and (g)(2)(C) and (D), will apply only as to entires reflecting farm products and supported by EFS's as defined in the Section, and it must be possible to distinguish the entries to which these provisions apply from the other entries.

[FR Doc. 86-14008 Filed 6-20-86; 8:45 am]

BILLING CODE 3410-KD-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-15-AD]

Airworthiness Directives; Arctic Aircraft Company Model Interstate S-1B2 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to Arctic Aircraft Company Model Interstate S-1B2 airplanes. This AD would require that the glide or dive operating airspeed limit (hereinafter referred to as the never-exceed speed) of Arctic Interstate S-1B2 airplanes operated as landplanes be reduced from its present value of 160 miles per hour to 142 miles per hour. The proposed reduction of the never-exceed speed will preclude the occurrence of possibility catastrophic flutter by limiting the airplane operation to a speed range with an upper limit too low to excite flutter of the elevators and/or even when those elevators and/or ailerons have no balance weights installed.

DATE: Comments must be received on or before July 27, 1986.

ADDRESSES: Arctic Aircraft Company Service Bulletin No. 5, dated April 15, 1986, and the FAA Approved Airline Flight Manual (AFM) for the Arctic Model Interstate S-1B2 airplane, Revision 7 dated April 15, 1986, applicable to this AD may be obtained from Arctic Aircraft Company; Post Office Box 6-141; Anchorage, Alaska 99502; Telephone (907) 243-1580, or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration; Central Region; Office of Regional Counsel; Attention: Rules Docket No. 86-CE-15-AD; Room 1558; 601 East 12th Street; Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon K. Mandell; FAA; Aircraft Certification Office, ANM-100A; 701 C Street, Box 14; Anchorage, Alaska 99513; Telephone (907) 271-5927.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such

written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration; Central Region, Office of the Regional Counsel; Attention: Airworthiness Rules Docket No. 86–CE–15–AD; Room 1558; 601 East 12th Street; Kansas City, Missouri 64106.

Discussion

On June 12, 1985, the FAA received a Malfunction or Defect (M or D) Report and two related Service Difficulty Reports in which the submitter stated that he had found the balance weights missing from both elevators of an Arctic Model Interstate S–1B2 airplane, when replacing the covering fabric. The reports were forwarded to the FAA Anchorage Aircraft Certification Office (ACO) for further investigation. Upon contacting the Arctic Aircraft Company (hereinafter referred to as the manufacturer), the FAA was informed that several Interstate S–1B2 airplanes had been built without elevator balance weights, and moreover that these airplanes had also been built without aileron balance weights. These weights are required as part of the approved type design of the Model Interstate S–1B2 airplane and were deemed essential during the original certification of the landplane version of the airplane, to assure freedom from flutter at all speeds up to and including the never-exceed speed of 160 miles per hour (MPH). The manufacturer incorrectly believed that (1) the weights were not essential to flutter prevention, (2) deletion of the weights had been approved, and (3) no drawing changes showing the deletion of balance weights from the elevators were required. The manufacturer also informed the FAA that all 29 Arctic Interstate S–1B2 airplanes manufactured as of September 1985, had been built without either elevator or aileron balance weights, and claimed that early in the certification program a flight test had been successfully conducted to the maximum design dive airspeed to demonstrate that the skiplane version of the Model Interstate S–1B2 without the balance weights is free from flutter. However, the manufacturer's own Statements of Conformity contradict his contention that the particular test airplane was presented for flight testing with the balance weights removed. The FAA determined, after further investigation, that Arctic Aircraft Company possessed no data substantiating the deletion of the weights from the Model Interstate S–1B2 type design. During January 1986, the manufacturer performed a ground vibration survey of a production airplane and determined the moments and products of inertia of the elevators and ailerons without the balance weights installed, but was unable to show that the Interstate S–1B2 airplane design complies with the flutter prevention criteria of its original certification basis at a never-exceed speed of 160 miles per hour, without the balance weights installed. The manufacturer was able to show that the Interstate S–1B2 airplane without balance weights complies with the flutter prevention criteria of its original certification basis at a never-exceed speed of 142 MPH and proposed that corrective action consist of a reduction in the never-exceed speed of the Interstate S–1B2 landplane.

Since the condition described is likely to exist or develop in other Arctic Model Interstate S–1B2 airplanes of the same design, the AD would require incorporating Arctic Aricraft Company Service Bulletin No. 5 which requires (1) re-marking the airspeed indicators so that the upper limit of the yellow arc and the location of the red radial line is 142 mph (123 knots) on all Model Interstate S–1B2 airplanes, (2) issuing revised FAA approved Airplane Flight Manuals for all Model Interstate S–1B2 airplanes, and (3) replacing the placards reading "SEAPLANE MANEUVERING SPEED 105 MPH (CAS)" and "SEAPLANE MAXIMUM SPEED 142 MPH (CAS)" with placards reading only "SEAPLANE MANEUVERING SPEED 105 MPH (CAS)."

The FAA has determined there are approximately 29 airplanes affected by the proposed AD. The cost of complying with the proposed AD is estimated to be $350 per airplane. The total cost is estimated to be $10,150 to the private sector. The cost is so small that compliance with the proposal will not have a significant financial impact on any small entities owning affected airplanes.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

2. By adding the following new AD:

Arctic Aircraft Company: Applies to Arctic Model Interstate S–1B2 "Tern" (Serial Numbers 1001 through 1029) airplanes certificated in any category.

Compliance: Required within the next 100 hours time-in-service (TIS) or within 31 calendar days after the effective date of this AD, whichever comes first, unless already accomplished.

To preclude the possibility of catastrophic flutter of the ailerons and/or the elevators during flight at high speeds, resulting in possible loss of the airplane, accomplish the following:

(a) Re-mark the airspeed indicator by removing that portion of the yellow arc that presently extends from 142 miles per hour (123 knots) to 160 miles per hour (139 knots), and the red radial line presently located at 160 miles per hour (139 knots), and marking a red radial line located at 142 miles per hour (123 knots).

(b) Replace the existing Airplane Flight Manual (AFM) with the FAA approved Airplane Flight Manual for the Arctic Model Interstate S–1B2 airplane, Revision 7, dated April 15, 1986. If the airplane is currently operated as a seaplane, detach the FAA

approved Seaplane Flight Manual Supplement from the existing Airplane Flight Manual and attach it to the new Manual. Also, detach any FAA approved Airplane Flight Manual Supplements required with currently-installed major alterations, from the existing Airplane Flight Manual and attach them to the new Manual.

(c) Check the airplane's instrument panel to determine if there is a placard reading "SEAPLANE MANEUVERING SPEED 105 MPH (CAS)" and "SEAPLANE MAXIMUM SPEED 142 MPH (CAS)". If so, remove the existing placard and replace it with the placard reading "SEAPLANE MANEUVERING SPEED 105 MPH (CAS)", supplied with Arctic Aircraft Company Service Bulletin No. 5.

(d) Accomplish the actions required in paragraph (a) of this AD at a certificated repair station with a Class 1 instrument rating or an appropriate limited instrument rating. The checks and actions required in paragraphs (b) and (c) of this AD may be accomplished by the owner/operator. Make the entries in the airplanes's maintenance records documenting the accomplishment of the inspections, checks, and actions required by this AD as prescribed by FAR 91.173.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager, Anchorage Aircraft Certification Office (ANM-100A); FAA; 701 C Street, Box 14; Anchorage, Alaska 99513.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Arctic Aircraft Company; Post Office Box 6-141; Anchorage, Alaska 99502; Telephone (907) 243-1580, or FAA; Office of the Regional Counsel; Room 1558; 601 East 12th Street; Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on June 12, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-14032 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-136-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9-80 (MD-80) Series Airplanes Equipped with Pratt and Whitney (P&W) JT8D-209, -217, or -217A Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require engine and airplane performance limitations on McDonnell Douglas Model DC-9-80 series airplanes equipped with Pratt and Whitney (P&W) JT8D-209, -217, or -217A engines. This action is prompted by FAA findings that a flutter condition exists in the low pressure compressor (LPC) 5th stage rotor blades within the engine operating envelope and below the LPG (N_1) rotor speed redline limit. This proposed AD is necessary to maintain an acceptable level of safety until modified blades are installed.

DATE: Comments must be received no later than July 30, 1986.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-136-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Izumikawa, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6327.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communication received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in the light of the comments received. All comments submitted will be available, both before and after the closing date of comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rule Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-136-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

During certification testing on three P&W JT8D-219 engines, fifth stage compressor blades failed at maximum power. One failure caused a complete loss of thrust. The FAA New England Engine Certification Office findings confirmed that the blade failures were caused by flutter, which necessitated a blade redesign to successfully pass the certification standards. Follow-on testing by P&W, also confirmed that the blade flutter problem exists in the prior JT8D-209, -217, and -217A series engines in certain environments. The FAA is presently considering a proposal to mandate blade replacement in these engines.

In the interim, this proposed AD would require engine and airplane performance limitations, N_1 rotor speed limits, Minimum Equipment List (MEL) restrictions, and a placard, to minimize the potential for engine failure from this cause.

It is estimated that 271 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required action, and that the average labor cost would be $40 per manhour. Based n these figures, the total cost impact of the AD is estimated to be $43,360.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC-9-80 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulation as follows:

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

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

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-80 (MD-80) series airplanes, certificated in any category, equipped with Pratt and Whitney (P&W) JT8D-209, -217, or -217A engines, listed in P&W Service Bulletin 5618, dated November 26, 1985. Compliance required as indicated, unless previously accomplished.

To prevent 5th stage compressor blade failure from flutter and the possibility of engine power loss, accomplish the following within 30 calendar days after the effective date of this airworthiness directive:

A. Revise the McDonnell Douglas DC-9-80 FAA-approved Airplane Flight Manual (AFM) MDC-J8480 (English) or MDC-J8480M (Metric) to add the following:

Section I—Limitations

1. *Engine operation with engine or engine and airfoil anti-ice on.*

a. Take off with ARTS—ON, is not permitted when operating within the pressure altitude and ambient temperature combinations listed in Table 1.

TABLE 1

Engine type JT8D-	Pressure altitude (feet)	Ambient temperature OAT (°C)
209	above 3700	above −25°
217	above 750	above −35°
217A	above 2700	above −15°

b. Maximum static takeoff thrust (MTO) must be reduced [minus delta Engine Pressure Ratio (EPR)], when operating within the pressure altitude and ambient temperature combinations listed in Table 2, and the maximum takeoff gross weight must be reduced in accordance with the prodedures established in Appendix 1 of the AFM.

Note.—The Appendix 1 limitation pertaining to thrust "lower than normal takeoff EPR" and to contaminated runways are not applicable when operating to the performance limitations of this AD.

TABLE 2

Engine type JT8D-	Pressure altitude (feet)	Ambient temperature OAT (°C)	Delta EPR
217	2000 to 4000	−30° to −15°	−.015
217A	above 2700	above −15°	−.035

c. Maximum inflight thrust for go around (GA) must be reduced (minus delta EPR), when operating within the pressure altitude and ram air temperature combinations listed in Table 3, and auto throttles must be off. The maximum takeoff gross weight, limited by fuel dump exemption requirements, and the maximum landing gross weight, limited by approach climb requirements, in the AFM, must be reduced by the weight decrement in Table 3.

TABLE 3

Engine type JT8D-	Pressure altitude (feet)	Ram air temperature RAT (°C)	Delta EPR	Weight decrement (lbs.)
217	1100 to 5000	−25° to −5°	−.015	2400
217A	above 3100	above 0°	−.035	5600

2. *Engine Indicating System*

a. Pressure Ratio Indicating System for each engine must have the pointer, digital counter, and maximum limit chevron operative prior to takeoff.

b. N_1 Tachometer System for each engine must be operative prior to takeoff.

Note.—The McDonnell Douglas DC-9 Master Minimum Equipment List (MMEL), Revison #21, dated November 1, 1984, and subsequent revisions, Page 77-1, Item 77-1, Press Ratio Indicating System (with Pointer *and* Digital Counter) (Series 80) and Maximum Limit Chevrons (Series 80), and Item 77-3, N_1 Tachometer Indicating, are affected by the above AFM Limitations which take precedence over the MMEL.

3. *LPC (N_1) Rotor Speed Flutter Limits* (Table 4)

a. Comply with maximum N_1 rotor speed limits in Table 4 if less than cockpit N_1 gage limits.

TABLE 4.—Maximum N_1 Rotor Flutter Speed Limits (%)

RAT	Pressure altitude (ft)									
°C	0	1000	2000	3000	4000	5000	6000	7000	8000	9000
−40	93.7	94.4	95.1	95.9	96.6	97.3	98.0	98.7	99.4	100.1
−30	95.1	95.7	96.3	97.0	97.6	98.2	98.8	99.5	100.1	100.7
−20	96.4	97.0	97.5	98.1	98.6	99.2	99.7	100.3	100.8	101.4
−10	97.8	98.2	98.7	99.2	99.6	100.1	100.6	101.0	101.5	102.0
0	99.1	99.5	99.9	100.3	100.7	101.0	101.4	101.8	102.2	102.6
10	100.4	100.8	101.1	101.4	101.7	102.0	102.3	102.6	102.9	103.2
20	101.8	102.0	102.2	102.5	102.7	102.9	103.1	103.4	103.6	103.8
30	103.1	103.3	103.4	103.6	103.7	103.9	104.0	104.1	104.3	104.4
40	104.4	104.5	104.6	104.7	104.7	104.8	104.9	104.9	105.0	105.0
50	105.7	105.8	105.8	105.8	105.8	105.8	105.7	105.7	105.7	105.7

b. For bleed configurations stated below, corrections in Table 5 (minus delta N_1%) must be applied to Table 4 (Maximum N_1 rotor flutter speed limits).

Note.—Abbreviations used below are as follows:

EIP-Engine Ice Protection
AIP-Airfoil Ice Protection
A/C-Air Conditioning
(−xxx)-JT8D dash number of model

TABLE 5—CORRECTION INCREMENTS APPLICABLE TO TABLE 4

Bleed configuration	Normal takeoff (Orange line flutter limit) (percent)	Maximum takeoff (Red line flutter limit)	Inflight takeoff (Red line flutter limit)
EIP—off	(−209), −3.7	All engines, no correction.	All engines, no correction.
AIP—off, A/C—on or off.	(−217), −4.7 (−217A), −3.7		
EIP—on	(−209), −5.7	All engines, −2.0%.	All engines, −3.0%.
AIP—off, A/C—on or off.	(−217), −6.7 (−217A), −5.3		
EIP—on	(−209), −5.7	All engines, −2.0%.	All engines, −4.4%.
AIP—on, A/C—on or off.	(−217), −6.7 (−217A), −5.3		

B. Install a cockpit placard near the engine N_1 speed indicators stating:

"Maximum N_1 limits must be established for each takeoff and go-around."

C. Terminating action for this AD is the installation of the modified blades, P/N 804505, in accordance with P&W Service Bulletin 5618, dated November 26, 1985, or later FAA-approved revisions, or other equivalent FAA-approved 5th stage blades.

D. A copy of this AD inserted in the FAA-approved AFM may be considered as an acceptable means of compliance with the required AFM revisions.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

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

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on June 16, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-14040 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-CE-14-AD]

Airworthiness Directives; Piper Model PA-42-1000 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain serial numbered Piper Model PA-42-1000 airplanes. This AD would require use of continuous ignition during landing. The FAA has received reports of engine flameouts when the power levers are retarded to ground idle during landing. These flameouts are believed to be caused by ice ingestion. The actions specified in the proposed AD are necessary to preclude possible power interruptions due to flameouts by providing a source of ignition to quickly reestablish combustion.

DATES: Comments must be received on or before July 27, 1986.

ADDRESSES: Piper Service Bulletin No. 816A, dated January 24, 1986, applicable to this AD may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida, 32960; Telephone (305) 567-4361 or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-14-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Moday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Gil Carter, FAA, Atlanta Aircraft Certification Office, ACE-140A, 1075 Innerloop Road, College Park, Georgia 30337; Telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-CE-14-Ad, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

There have been five reports of PA-42-1000 engine flameouts. One aircraft reported three instances. These flameouts have occurred in the landing phases of flight during or after an icing encounter. In April of 1985, the Garrett Turbine Engine Company (GTEC) issued Operating Information (OI) letter 331-11, which emphasized proper use of the engine inlet anti-ice system and provided additional information on the supplementary use of engine ignition in icing conditions. In addition to this letter, GTEC tested an automatic-relite ignition system and found it to be effective in quickly restoring power during a flameout sequence after ingestion of ice. The PA-42-1000 is equipped with an automatic-relite system which functions only at power settings at or above flight idle. If a flame-out occurs on landing roll-out, reverse thrust operation could result in an asymmetric condition and loss of control. Although no accidents or incidents have resulted from these flameouts, action must be taken to preclude routinely subjecting pilots to emergency procedures (engine failure) on landing roll-out, a critical phase of flight when condition exist such as short runways, crosswinds or contaminated runways with poor braking action. Therefore, an AD is being proposed requiring use of continuous ignition during landing on certain Model PA-42-1000 airplanes. The manufacturer has advised the FAA that airplanes after Serial Number 42-5527033 will have a wiring harness installed during production which will remove the pilot from the auto-ignition loop.

The actions of this proposed AD involve only a change in the POH/AFM procedures and do not require any modification to the airplane.

Therefore, it has been determined that the optimum compliance time for the proposed actions should be 10 hours time-in-service after the effective date of the AD.

Since the condition described is likely to exist or develop in other Piper Model PA-42-1000 airplanes of the same design, the Ad would require use of continuous ignition during landing as detailed in Piper Service Bulleting No. 816A. The FAA has determined there are approximately 28 airplanes affected by the proposed AD. The cost of amending the Pilots Operating Handbook and FAA approved Aircraft Flight Manual (POH/AFM) for these airplanes as required by the proposed AD is estimated to be $20 per airplane. The total cost is estimated to be $560 to the private sector.

The cost is so small that compliance with the proposal will not have a significant financial impact on any small entities owning affected airplanes.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

Part 14031—[Amended]

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

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

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

2. By adding the following new AD:

Piper:

Applies to Model PA-42-1000 (Serial Numbers 42-5527001 through and including 42-5527033) airplanes certificated in any category.

Compliance: Required within 10 hours time-in-service after the effective date of this AD, unless already accomplished.

To preclude engine flameout during landing, accomplish the following:

(a) Insert copies of this AD in the Pilots Operating Handbook and FAA approved Aircraft Flight Manual (POH/AFM) and operate as described herein:

(1) Insert the following in the Operating Limitations Section on pages 2-9: "USE OF CONTINUOUS IGNITION"—"Ignition must be turned ON prior to landing and remain ON until the landing is completed or until climb has been established following a balked landing."

(2) Insert the following in the Normal Procedures Section, pages 4-14, in the BEFORE LANDING CHECKLIST: "Ignition Switches . . . ON."

(3) Insert the following in the Normal Procedures Section, pages 4-15 in the BALKED LANDING checklist and pages 4-16 in the AFTER LANDING Checklist: "Ignition Switches . . . NORMAL."

Note: Piper Service Bulletin 816A, dated January 24, 1986, applies to the subject of this AD.

(b) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Atlanta Aircraft Certification Office, ACE-115A, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7428.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Piper Aircraft Corporation, Vero Beach, Florida, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on June 12, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-14031 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ASW-15]

Proposed Revision of Transition Area; Hebbronville, TX

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area at Hebbronville, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a new special instrument approach procedure to the Wyatt Ranch Airport, Hebbronville, TX. This action is necessary since a nonfederal nondirectional radio beacon (NDB) has been installed to serve the Wyatt Ranch Airport. Also, a review of Jim Hogg County Airport operations has revealed a need for additional 700-foot transition area airspace to accommodate the type aircraft currently using the airport. Coincident with this proposed action, the Wyatt Ranch Airport status will be changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATE: Comments must be received by August 7, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 86-ASW-15, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2622.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-ASW-15." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the Hebbronville, TX, transition area. This action will provide additional controlled airspace for Jim Hogg County Airport and also estalbish a 700-foot transition area for the Wyatt Ranch Airport. To enhance airport usage, a special instrument approach procedure is being developed for the Wyatt Ranch Airport utilizing the Wyatt Ranch NDB (PWY) as a navigational aid. The establishment of a special instrument approach procedure based on the PWY NDB entails the designation of regulatory airspace, a transition area, to encompass the Wyatt Ranch Airport and the new special instrument approach procedure at and above 700 feet above ground level within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under IFR and other aircraft operating under VFR. This proposed action will also change the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

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

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

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

Hebbronville, TX [Amended]

2. Section 71.181 is amended as follows:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jim Hogg County Airport (lat. 27°20'57" N., long. 98°44'12" W.), and within 3.5 miles each side of the 326-degree bearing from the NDB (lat. 27°21'13" N., long. 98°44'38" W.) extending from the 6.5-mile radius to 11.5 miles northwest of the NDB; within a 6.5-mile radius of the Wyatt Ranch Airport (lat. 27°25'17" N., long.: 98°36'28" W.); within 3 miles each side of the 322-degree bearing from the Wyatt Ranch NDB (lat. 27°25'58" N., long. 98°36'35" W.) extending from the 6.5-mile radius to 8.5 miles northwest of the NDB.

Issued in Fort Worth, TX, on June 6, 1986.

Richard L. Failor,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 86–14033 Filed 6–20–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 371

[Docket No. 60601–6101]

General License for Certified End-User Procedure

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: Export Administration is making available a new procedure designated G–CEU permitting exports under general license to qualified foreign parties known as "Certified End-Users". This procedure will allow pre-certified end-users to receive, without the exporter having to obtain a validated license, all commodities *not* restricted by 371.2 or by Supplement No. 1 to Part 373 of the Export Administration Regulations.

DATE: Comments should be received by August 22, 1986.

ADDRESS: Comments (six copies) should be addressed to Betty Ferrell, Regulations Branch, Export Administration, P.O. Box 273, U.S. Department of Commerce, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: John Black, Regulations Branch, Export Administration, Telephone: (202) 377–2440.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements and Invitation to Comment

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. However, because of the importance of the issues raised by these regulations, this rule is issued in proposed form and comments will be considered in developing final regulations. Accordingly, interested persons who wish to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule contains a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This collection is pending approval by the Office of Management and Budget. Persons wishing to comment on this collection of information should address their comments to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Commerce/International Trade Administration.

The period for submission of comments will close August 22, 1986. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review

and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4104, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

List of Subjects in 15 CFR Part 371

Exports, Reporting and recordkeeping requirements.

PART 371—[AMENDED]

Accordingly, the Export Administration Regulations are proposed to be amended as follows:

1. The authority citation for 15 CFR Part 371 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 et seq., as amended by Pub. L. 97–145 of December 29, 1981, and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 et seq.; E.O. 12532 of September 9, 1985 (50 FR 36881, September 10, 1985).

2. A new § 371.14 is added to read as follows:

§ 371.14 General License G-CEU: Certified End-Users.

A General License G–CEU for Certified End-Users is established to authorize U.S. exporters to ship to pre-certified foreign end-users all commodities not restricted by § 371.2 or by Supplement No. 1 to Part 373 of the Export Administration Regulations, without the U.S. exporter having to obtain an individual validated license. This procedure is a special privilege. It is reserved for foreign end-users that demonstrate and, thereafter, maintain an exceptional record of compliance with U.S. export and reexport control regulations. A certified End-User must use and retain the commodities obtained under G–CEU at its own facilities or dispose of them only to other Certified End-Users. Any other use or disposition requires prior individual authorization from the Office of Export Licensing of the Department of Commerce.

(a) *Eligible countries.* Commodities may be exported under General License G–CEU, or reexported under this procedure, only to countries listed in Supplement 2 to Part 373, plus Spain and Canada. Thereafter, other countries may be made eligible by the Department of Commerce in accordance with section 5(k) of the Export Administration Act of 1979, as amended.

(b) *End-use restriction.* (1) This procedure only authorizes a Certified End-User (i) to use the commodities obtained under General License G–CEU at its own facilities located in an eligible country, or (ii) to dispose of the commodities to other Certified End-Users, subject to all G–CEU restrictions.

Any other use or disposition requires prior individual authorization from the Office of Export Licensing in accordance with Part 374 of the Export Administration Regulations.

(2) This procedure does not authorize a Certified End-User to incorporate U.S. parts, components, or materials received under General License G–CEU into foreign-made end products for purposes of resale or reexport.

(c) *Eligible commodities.* All commodities may be exported to Certified End-Users except those excluded by Supplement No. 1 to Part 373 or by § 371.2 of the Export Administration Regulations and except those indicated by the Department of Commerce on the face of the particular consignee's approved Certification Statement.

(d) *Eligible End-Users*—(1) *Business enterprises.* To qualify, a business enterprise that is a candidate for certification must be a legal entity with an established place (or places) of business in one or more eligible countries. Affiliated enterprises must qualify separately.

(2) *Government entities.* A government agency (as described in § 375. 2(b)(3) of the Export Administration Regulations) of an eligible country may also become a Certified End-User upon being certified by the Department of Commerce as having met the applicable criteria set out below. Each such agency must qualify separately.

(3) *Notification.* Each Certified End-User that disposes of commodities originally received under General License G–CEU to another Certified End-User shall notify the new End-User that the commodities are subject to these General License G–CEU procedures and restrictions.

(e) *Certification criteria.* Each candidate for certification, whether a business enterprise or Government agency, will be reviewed by the Department of Commerce in order to determine whether there is a high expectation that such candidate would be a reliable end-user under this procedure. In this context, the assessment of reliability will take into account such factors as whether or not the candidate is—

(1) Currently approved as a consignee under one of the special licensing procedures described in Part 373 of the Export Administration Regulations or has had extensive experience as a consignee under individual validated licenses issued by the Department of Commerce; and

(2) Considered by the Department of Commerce to have carried out its obligations under such licenses in accordance with U.S. laws and regulations.

(f) *Publication of Certified End-Users.* The Department of Commerce will publish the names and addresses of Certified End-Users in **Federal Register** announcements, together with an indication of the commodities, if any, that may not be shipped under General License G–CEU to a particular Certified End-User. The Department of Commerce will also publish announcements in the **Federal Register** if:

(1) The Department suspends or revokes an end-user's certification under the terms of the General License, or

(2) A Certified End-User notifies the Department that it no longer wishes to participate in the procedure, or

(3) The Department of Commerce modifies the list of commodities that may not be shipped under General License G–CEU to a particular Certified End-User.

(g) *Request for approval as Certified End-User.*—(1) *Documents required.* Each candidate for Certified End-User shall submit to the Office of Export Licensing a Certification Statement and a Comprehensive Narrative Statement prepared in accordance with the following instructions:

(i) Certified End-User certification statement. Two originals of the following statement shall be typewritten on the official letterhead of the candidate and shall be manually signed by a responsible official who is authorized to bind the candidate to all of the undertakings and commitments set forth in the statement:

We request certification under the provisions of § 371.14 of the Export Administration Regulations of the U.S. Department of Commerce as a Certified End-

User eligible to receive exports and reexports of certain commodities. We understand and will comply fully with the provisions of General License G–CEU and with the Export Administration Regulations. We certify that the commodities that we receive under this authorization, either from a U.S. exporter or from another Certified End-User, will be used and retained by us at our own facilities or disposed of only to another Certified End-User. We will not otherwise resell, reexport or dispose of commodities received directly or indirectly under General License G–CEU without prior written authorization from the Office of Export Licensing. We will cooperate with the U.S. Department of Commerce in the pre-certification procedure and make available such records as are necessary to establish our credibility and reliability to participate in this procedure.

We certify that all facts contained in this Certification Statement and all attachments are true and correct to the best of our knowledge and belief.

We shall promptly send a supplemental Statement to the Office of Export Licensing notifying them of any change in material facts set forth in this Statement that occurs at any time after this Statement has been prepared and forwarded to the Office of Export Licensing.

(Date)

(Typed or printed name of applicant)

(Signature of person authorized to execute this certification)

(Typed or printed name and title of person executing certification)

(Address—including street address or other description of physical location)

(Telephone no., telex no., and name of designated contact person)

(ii) Comprehensive Narrative Statement. The candidate shall also submit a Comprehensive Narrative Statement describing the nature of candidate's principal activities (business or governmental, as applicable); the estimated annual volume of imports per year under General License G–CEU; an overview of the likely commodities to be obtained under the General License G–CEU procedure; and the expected uses of the imported commodities. Each candidate shall also indicate whether it or any affiliated entity currently participates in any special licenses (as described in Part 373 of the Export Administration Regulations) and provide applicable license and consignee numbers.

(2) *Mailing address.* Two original copies of the Certification Statement and the Comprehensive Narrative Statement should be mailed to: Special Licensing Division, Office of Export Licensing, Room 1087, U.S. Department of Commerce, Washington, DC 20230.

(h) *Action on requests for qualification as Certified End-User.* (1) Before qualifying a foreign entity as a Certified End-User, the Department of Commerce must be fully satisfied that the candidate can be relied upon to adhere to the conditions of the license and the Export Administration Regulations, and that certification will not prove detrimental to national security interests. Each request for certification will be reviewed by the Office of Export Licensing and the Office of Export Enforcement to determine the reliability of the candidate. An initial review may also entail, in the U.S. and abroad, a pre-certification audit, including inspection of documents and interviews of end-user officials. If the Department of Commerce cannot establish the reliability of the candidate, it will deny the request for certification. However, failure to obtain approval to participate in the General License G–CEU procedure does not preclude receipt of U.S. exports under other general or validated licenses.

(2) *Approval of requests.*—(i) *Validation.* The Office of Export Licensing will validate and return to the foreign entity one copy of the Certification Statement with a stamp that includes a facsimile of the U.S. Department of Commerce seal and a series of numbers to indicate the year, month, and a day on which the Statement was validated.

(ii) Certification validity period. The Certified End-User certification will be valid for two years from the last day of the month in which it is issued, unless terminated by the end-user or suspended or revoked by the Department of Commerce. A request to continue certification thereafter for an additional 2-year period should be submitted at least 90 days prior to the expiration date and should include a new Certification Statement and Comprehensive Narrative Statement.

(iii) End-User number. The Certified End-User number will be indicated along with the validation stamp. This will be a four-digit number prefixed by the letters "G–CEU".

(3) *Requests returned without action or rejected.* When a request for certification is incomplete or otherwise unacceptable, the candidate will be notified in writing of the action taken and of the reasons therefor.

(i) *Export clearance*—(1) Value of shipments. There is no value limit or shipments made under this General License. However, the value of each shipment must be shown on the Shipper's Export Declaration.

(2) *Confirmation of eligibility*—(i) Approval code. Prior to shipment, the exporter shall contact the Department of Commerce at a telephone number to be specified in the Notice or Final Rulemaking, in order to confirm (A) that the proposed recipient of the commodities is still an authorized Certified End-User and (B) that the commodity(ies) intended for export are not excluded from eligibility by a Department of Commerce notation to that effect on the face of the approved Certification Statement.

Once the exporter confirms the eligibility of both the Certified End-User and the commodities proposed for export, the Department of Commerce employee will give the exporter an "approval code" number that will be indicated by the exporter on the Shipper's Export Declaration.

(ii) *Shipper's Export Declaration.* A Shipper's Export Declaration covering an export made under this procedure shall be prepared in accordance with standard instructions, except that the Certified End-User number (the letters "CEU" followed by the four digit number assigned by the Department Commerce upon certification) followed by a hyphen (-) and by the multidigit "approval code" discussed in paragraph (i)(2)(i) of this section shall be inserted in the space that is provided for the license number.

(3) *Mail shipments.* Shipments by mail shall be made in accordance with the instructions contained in § 386.1(b).

(j) *Records.* Certified Certified End-Users and U.S. exporters shipping pursuant to this general License shall comply with all applicable recordkeeping requirements set forth in § 387.13 of the Export Administration Regulations.

(k) *Suspension or revocation of certification.* A Certified End User's authorization to receive exports under General License G–CEU may be suspended or revoked at anytime, with or without notice. Immediately upon being notified that its authorization to participate in the G–CEU procedure has been suspended or revoked, the Certified End-User shall immediately return its validated certification to the Office of Export Licensing.

(l) *Withdrawal from participation in the General License G–CEU program.* If a Certified End-User no longer wishes to participate in this procedure, it shall return its validated certification to the Office of Export Licensing with a written request to have its name removed from the list of Certified End-User. Following receipt of this request for withdrawal, the Department of Commerce will place a notice in the **Federal Register** that such

foreign entity is no longer a Certified End-User.

Dated: June 18, 1986.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 86-14117 Filed 6-18-86; 4:33 pm]

BILLING CODE 3510-DT-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 64

[Order No. 1138-86]

Designating Officers and Employees of the United States for Coverage Under Section 1114 of Title 18 of the United States Code

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule will designate categories of federal officers and employees who, in addition to those already designated by statute, warrant the protective coverage of federal criminal law. There will be federal jurisdiction to prosecute the killing, attempted killing, kidnapping, forcible assault, intimidation or interference with any of the federal officers or employees designated by this regulation while they are engaged in or on account of the performance of their official duties.

DATE: Comments must be received on or before June 23, 1986.

FOR FURTHER INFORMATION CONTACT: Stanley Rothstein/Richard Edwards, Attorneys, General Litigation and Legal Advice Section, Criminal Division, U.S. Department of Justice, Box 887, Ben Franklin Station, Washington, DC 20044 (202/724/7144).

SUPPLEMENTARY INFORMATION: Part K of Chapter X of the Comprehensive Crime Control Act of 1984 amended 18 U.S.C. 1114, which prohibits the killing of designated federal employees, to authorize the Attorney General to add by regulation other federal personnel who will be protected by this section. The categories of federal officers and employees covered by section 1114, are, by incorporation, also protected, while engaged in or on account of the performance of their official duties, from a conspiracy to kill, 18 U.S.C. 1117; kidnapping, 18 U.S.C. 1201(a)(5); and forcible assault, interference, or intimidation, 18 U.S.C. 111. Consistent with the legislative history and purpose of 1114, this protective coverage is being extended to those federal officers and employees whose jobs involve inspection, investigative or other law enforcement responsibilities or whose work involves a substantial degree of physical danger from the public that may not be adequately addressed by available state or local law enforcement resources.

The Department of Justice has determined that this rule will not significantly burden the economy or individuals and therefore is not significant for the purposes of E.O. 12291 and that a regulatory analysis is not required for this rule making by the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

List of Subjects in 28 CFR Part 64

Crime, Government employees, Law enforcement officers.

By virtue of the authority vested in me as Attorney General by 28 U.S.C. 509, 5 U.S.C. 301, and 18 U.S.C. 1114, it is proposed to add a new Part 64 to 28 CFR which will read as follows:

PART 64—DESIGNATION OF OFFICERS AND EMPLOYEES OF THE UNITED STATES FOR COVERAGE UNDER SECTION 1114 OF TITLE 18 OF THE UNITED STATES CODE

Sec.

64.1 Purposes.

64.2 Designated officers and employees.

Authority: 18 U.S.C. 1114, 28 U.S.C. 509, 5 U.S.C. 301.

§ 64.1 Purpose.

This regulation designates categories of federal officers and employees, in addition to those who are already designated by the statute, who will be within the protective coverage of 18 U.S.C. 1114, which prohibits the killing or attempted killing of such designated officers and employees. The categories of federal officers and employees covered by section 1114 are, by incorporation, also protected, while they are engaged in or on account of the performance of their official duties, from a conspiracy to kill, 18 U.S.C. 1117; kidnapping, 18 U.S.C. 1201(a)(5); and forcible assault, intimidation, or interference, 18 U.S.C. 111.

This protective coverage has been extended to those federal officers and employees whose jobs involve inspection, investigative or law enforcement responsibilities, or whose work involves a substantial degree of physical danger from the public that may not be adequately addressed by available state or local law enforcement resources.

§ 64.2 Designated officers and employees.

The following categories of federal officers and employees are designated for coverage under section 1114 of title 18 of the United States Code:

(a) Officers of the United States Parole Commission;

(b) Resettlement specialists and conciliators of the Community Relations Service of the Department of Justice;

(c) Attorneys of the Department of Justice;

(d) Attorneys and employees assigned to perform investigative, inspection and audit functions of the Office of Inspector General of any "establishment" as the term is defined by 5 U.S.C. App. 3 Sec. 11, and of the Offices of Inspector General of the following Federal agencies and departments:

(1) The Federal Emergency Management Agency;

(2) The United States Government Printing Office;

(3) The Department of State;

(4) The Department of Energy;

(5) The United States Information Agency; and

(6) The Department of the Treasury;

(e) Officers of the Federal Protective Service of the General Services Administration;

(f) Field-level employees of the Department of Agriculture designated to perform loan making and loan service functions;

(g) Employees of the Bureau of Census employed in field work conducting censuses and surveys;

(h) Criminal investigators employed by a United States Attorney's Office;

(i) Employees of a United States Attorney's Office assigned to perform debt collection functions;

(j) Members of the United States military services who are military police officers or who have been assigned to guard and protect property of the United States under the administration and control of a United States military service;

(k) Officers and employees of the Bureau of Prisons;

(l) Officers and employees of the United States Environmental Protection Agency assigned to perform or to assist in performing investigative, inspection, or law enforcement functions; and

(m) Officers and employees of the United States Nuclear Regulatory Commission assigned to perform or to assist in performing investigative, inspection, or law enforcement functions.

Dated: June 12, 1986.

Edwin Meese III,

Attorney General.

[FR Doc. 86-14047 Filed 6-20-86; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 183

[CGD 85-059]

Ventilation Standards

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: This notice proposes amendments to the Ventilation Regulations in Subpart K of Part 183 of Title 33, Code of Federal Regulations. The Coast Guard undertook a reveiw of its regulations governing construction standards which apply to the manufacture of recreational boats in an effort to reduce the burden of existing regulations, while ensuring that boats are built to an adequate level of safety. Based upon the review effort, it has been determined that two of the requirements for natural ventilation do not contribute to improved boating safety. Therefore, these proposed amendments would relieve existing regulatory burdens upon recreational boat manufacturers.

DATE: Comments must be received on or before August 22, 1986.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/21), (CGD 85-059), U.S. Coast Guard, Washington, DC 20593. Comments will be available for examination at the Marine Safety Council (G-CMC/21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593, between 8 am and 4 pm, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Alston Colihan, Office of Boating, Public, and Consumer Affairs (G-BBS/43), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593 (202) 426-1065, between 8 am and 4 pm Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Each comment submitted should include the name and address of the person submitting it, identify this notice [CGD 85-059] and the specific section of the proposal to which the comment applies, and give the reasons for the comment. Those desiring acknowledgment that their comment has been received should enclose a stamped, self-addressed postcard or envelope. The proposal may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on the proposal. Copies of all written comments received will be available for examination by interested persons. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the **Federal Register** if written requests for a hearing are received and it appears that an opportunity to make oral presentations will aid the ruelmaking process.

Drafting Information

The principal persons involved in drafting this proposal are Mr. Alston Colihan, Project Manager, Office of Boating, Public, and Consumer Affairs, and LT. Sandra Sylvester, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Amendment

The National Boating Safety Advisory Council has been consulted and its opinions and advice have been considered in the formulation of this proposed rule. The Council recommended an amendment to the ventilation regulations to delete the requirement for vents and cowls to face forward and also to delete the requirement for manufacturer testing to show adequate air flow. The transcripts of the proceedings of the National Boating Safety Advisory Council at which this proposed rule was discussed are available for examination in Room 4304, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The minutes of the meetings are available from the Executive Director, National Boating Safety Advisory Council, c/o Commandant (G-BBS), U.S. Coast Guard, Washington, DC 20593.

Since applicable portions of the Federal Boat Safety Act of 1971 have been recodified as Chapter 43 of Subtitle II of Title 46 of the United States Code (U.S.C.), the authority citation for Part 183 is being revised to reflect the recodification.

Section 183.620(b) of Title 33, Code of Federal Regulations prescribes construction and testing requirements for natural ventilation systems. Section 183.620(b)(1) requires that each supply opening in a natural ventilation system face forward and be located on the exterior surface of the boat. Tests have shown that many openings act as ventilation openings in the boat and the direction in which these openings are facing has less impact on the effectiveness of the natural ventilation system than does the overall configuration of the boat. Under the proposal, the requirement for these openings to face forward would be removed.

Section 183.620(b)(2) requires that air flow into or out of the supply or exhaust openings of a natural ventilation system when the boat is in a wind flowing from bow to stern at a velocity of 10 miles per hour when the engine is not operating. These same tests have shown that the airflow velocity inside a properly installed natural ventilation system may be so minimal and variable as to strain the ability of conventional airflow measuring devices. Under the proposal, § 183.620(b)(2) would be deleted.

Regulatory Evaluation

These proposed regulations are considered to be nonmajor under Executive Order No. 12291 and nonsignificant under the DOT Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979). The economic impact of this proposal has been found to be so minimal that further evaluation is unnecessary. The proposal to eliminate the requirement that supply openings face forward and the requirement for testing to show adequate airflow is a relief from the application of the current standard. There is no increased cost per boat. Since the impact of this proposal is expected to be minimal, the agency certifies that it will not have a significant economic impact on a substantial number of small entities. These proposed amendments would result in minimal savings in the costs of manufacturing some boats.

List of Subjects in 33 CFR Part 183

Marine safety.

In consideration of the foregoing, the Coast Guard proposes to amend Part 183 of Title 33, Code of Federal Regulations as follows:

PART 183—BOATS AND ASSOCIATED EQUIPMENT

1. The authority citation for Part 183 is revised to read as follows (all other authority citations in Part 183 are removed):

Authority: 46 U.S.C. 4302; 49 CFR 1.46(n)(1).

2. Section 183.620 is amended by revising paragraph (b) to read as follows:

§ 183.620 Natural ventilation system.

* * * * *

(b) Each supply opening required in § 183.630 must be located on the exterior surface of the boat.

* * * * *

Dated: June 18, 1986.

L.C. Kindbom,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR. Doc. 86-14093 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Education Loans in Default

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: To be eligible to defer repayment of a VA (Veterans Administration) education loan a veteran must continue training as at least a half-time student. If a veteran has been granted an education loan which becomes payable by virtue of his or her ceasing to train at the half-time or greater rate for nine months, the VA is required to arrange repayment. If a payment is not forthcoming as scheduled under the agreed repayment plan, the loan is placed in default. For many years the VA has followed a policy that once such a veteran's loan has been placed in default, that default is not set aside even though the veteran subsequently reenrolls in training at the half-time or greater rate. This policy has appeared in internal agency documents, but not in the Code of Federal Regulations. The VA's experience has been that this policy would be easier to administer if it appeared in the Code of Federal Regulations. This proposal does this, and better informs the public as to the VA's policy when a default has occurred on an educational loan.

DATE: Comments must be received on or before July 23, 1986.

ADDRESS: Send written comments to: Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until August 6, 1986.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, (202) 389-2092.

SUPPLEMENTARY INFORMATION: 38 CFR 21.4504(d) is amended to make clear that once a default has occurred on an education loan, the veteran's subsequent reenrollment at a half-time or greater rate will not set aside the default.

The VA had determined that this amended regulation does not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulation will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs certifies that this proposed regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the proposed regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulation simply makes clear and continues present VA policy and it concerns only VA education loans to individual veterans. No regulatory burdens are imposed upon small entities.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 6, 1986.

Thomas K. Turnage,

Administrator.

PART 21—[AMENDED]

38 CFR Part 21, VOCATIONAL REHABILITATION AND EDUCATION is amended by revising § 21.4504(d) to read as follows:

§ 21.4504 Promissory note.

* * * * *

(d) *Default.* Whenever the VA determines that a default, in whole or in part, has occurred on any such loan the eligible veteran or other eligible person shall be notified that the amount of the default shall be recovered from the eligible veteran or other eligible person concerned in the same manner as other debt due the United States. Once a default has occurred, the veteran's or eligible person's subsequent reentrance into training at the half-time or greater rate shall not be the basis for rescinding the default. A default may only be rescinded when the VA has been led to create the default as a result of a mistake of fact of law. (38 U.S.C. 1798(e)(1)).

* * * * *

[FR Doc. 86-14103 Filed 6-20-86; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50546; FRL-3035-4]

Toxic Substances; Poly (2-Hydroxypropyl) Melamine, Polymers with 5-Isocyanato-1-(Isocyanatomethyl)-1,3,3-Trimethylcyclohexane, 2-hydroxyethyl Acrylate-Blocked; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for a chemical substance poly (2-hydroxypropyl) melamine, polymers with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexamine, 2-hydroxyethyl, acrylate-blocked which was the subject of premanufacture notice (PMN) P-85-703 and a TSCA section 5(e) consent order issued by EPA. The Agency believes that this substance may be hazardous to human health and that the uses described in this proposed rule may result in significant human or environmental exposure. As a result of this rule, certain persons who intend to manufacture, import, or process this substance for a significant new use would be required to notify EPA at least 90 days before commencing such an activity. The required notice would provide EPA with the opportunity to evaluate the intended uses and, if necessary, prohibit or limit that activity before it occurs.

DATE: Written comments should be submitted by August 22, 1986.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-790), Office of Toxic

Substances, Environmental Protection Agency, Rm. E-209, 401 M St., SW., Washington, DC 20460.

Comments should include the docket control number OPTS-50546. Nonconfidential versions of comments received on this proposal will be available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in Rm. E-107 at the address given above. For further information regarding the submission of comments containing confidential business information, see Unit XII of this preamble.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulation procedures as submitters of premanufacture notices (PNMs) under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR Part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities on which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires the Agency to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR Part 707. Persons who intend to import a substance are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Persons who import a substance identified in a final SNUR must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification requirements appears at 40 CFR Part 707.

II. Applicability of General Provisions

Om the **Federal Register** of September 5, 1984 (49 FR 35011), EPA promulgated general provisions applicable to SNURs (40 CFR Part 721, Subpart A). The general provisions are discussed there in detail and interested persons should refer to that document for further information. EPA is proposing that these general provisions apply to this SNUR except as discussed in this preamble and set forth in § 721.76. April 22, 1986 (51 FR 15104), EPA proposed revisions to the general provisions, some of which would apply to this person SNUR.

III. Summary of This Proposed Rule

The chemical substance which is the subject of this proposed SNUR is identified as a poly (2-hydroxypropyl) melamine, polymers with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, 2-hydroxyethyl acrylate-blocked. It was the subject of PMN P-85-703. EPA is proposing to designate the following as significant new uses of the substance:

1. Use other than in industrial uses.

2. Any method of disposal, other than by incineration or landfilling, which meets all applicable local, State and Federal regulations.

3. Any manner or method of manufacturing, importing, or processing, associated with any use of the designated substance without establishing a program whereby:

a. Any person who may be dermally exposed to the substance must wear:

i. Gloves which have been determined to be impervious to the substance;

ii. Clothing which covers any other exposed areas of the arms, legs, and torso;

iii. Chemical safety goggles or equivalent eye protection.

b. Any person who may be exposed to the PMN substance in the form of an aerosol or mist spray application or roller coating operations, in addition to the equipment specified in 3.a.i. through iii. must wear a category 23c respirator.

c. Potentially exposed individuals are informed of the possible hazards and required protective equipment.

d. Distribution in commerce, without affixing to each container of the substance a label in accord with proposed § 721.76(a) (3) (i) (D).

e. Distribution in commerce without the provision of a Material Safety Data Sheet (MSDS). The MSDS includes, at a minimum, the language specified in proposed § 721.76 (a) (3) (i) (D), and specifies the requirement for protective equipment in proposed § 721.76 (a) (3) (i) (A).

The substance in question is an acrylate. On April 4, 1986 (51 FR 11591), EPA proposed a SNUR for four chemical substances reported to EPA in PMNs P-84-341, P-84-342, P-84-343, and P-84-344 which also are acrylates. The proposed SNUR for these four substances would establish a new § 721.76 in a table format for acrylate SNURs. EPA is proposing that the substance which was the subject of PMN P-85-703 would be added to one of the tables in § 721.76. To review and comment on this proposed addition, interested persons should consult the previous proposal for a complete discussion of the table format, the significant new uses, and the recordkeeping requirements.

EPA has received a substantial number of PMNs for acrylates, has issued section 5(e) orders for most such substances, and will be following up on many of those orders with SNURs to ensure that the other manufacturers, importers, and processors are treated equally. EPA has virtually indentical human health concerns for such acrylates and has prescribed virtually identical controls on human exposure and environmental releases for such acrylates in the section 5(e) orders. Accordingly, to simplify the process of proposing and promulgating SNURs for such acrylates, and to make the significant new uses as consistent as possible, EPA will use the proposed new § 721.76 for such acrylates and will add additional acrylates to § 721.76 through individual proposals such as this.

IV. Background

On March 22, 1985, EPA received a PMN which the Agency designated as P-85-703. EPA announced receipt of the PMN in the **Federal Register** of April 5, 1985 (50 FR 13652). The notice submitter intends to manufacture the substance for use in industrial inks, coatings, and adhesives.

The notice submitter claimed its identity, process information, and use as confidential business information (CBI). Under section 14(a)(4) of TSCA, the Agency may disclose CBI relevant in any proceeding. "[D]isclosure in such a proceeding shall be made in such a manner as to preserve confidentiality to the extent practicable without impairing

the proceeding." EPA is not convinced that this rulemaking will be so impaired by these claims as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any of the CBI at this time. The Agency specifically requests comment on this approach for this SNUR rulemaking. For purposes of clarity, this substance will be referred to by its PMN number and the name used in the PMN.

Based upon results obtained from bioassays on structurally similar substances, the Agency believes that the substance may cause cancer. These analogue substances are: neopentylglycol diacrylate, pentaerythritol triacrylate, 2-ethylhexyl acrylate, ethyl acrylate, triethylene glycol diacrylate, and tetraethylene glycol diacrylate. Based on the results of neurotoxicity testing of a starting material and impurity of the substance, hydroxyethyl acrylate, the Agency believes that the substance may cause neurotoxicity. Also, data on these structural analogues indicate that the substance can be absorbed by passing through the skin, gastrointestinal tract, and lungs into the body.

During the review of the PMN, the Agency concluded that the uncontrolled manufacture, import, processing, distribution in commerce, use, and disposal of the substance may present an unreasonable risk of injury to human health. Therefore, EPA regulated the substance under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of its health effects.

EPA concluded that the use of appropriate protective equipment will significantly reduce exposure and potential risks to humans. A section 5(e) consent order requiring the use of appropriate controls was negotiated with the notice submitter. The order became effective September 12, 1985. The terms of the proposed SNUR are the same as those of the consent order.

By issuing a section 5(e) consent order that allows controlled commercial production and distribution of the substance, EPA adopted a regulatory approach which is appreciably less burdensome than an order prohibiting manufacture of the substance until additional data are submitted. At the same time, the section 5(e) consent order protects human health by requiring precautionary controls pending the development of the data needed for a reasoned evaluation of the risks associated with the substance.

Section 5(e) orders apply only to the notice submitter. When the notice submitter commences commercial manufacture of the substance and submits Notice of Commencement of Manufacture or Import to EPA, the Agency will add the substance to the TSCA Chemical Substances Inventory. When a substance is listed on the Inventory, other persons may manufacture, import, or process the substance without controls. Therefore, EPA is proposing to designate the uses set forth in the third column of the table as significant new uses so that the Agency can review these uses before they occur.

Through a SNUR, the Agency would ensure that all manfacturers, importers, and processors are subject to similar reporting requirements. In addition, a SNUR would afford EPA the opportunity to review exposure and toxicity information on the substance before a significant new use occurs and, if necessary, take action to ensure that persons will not be exposed to levels of the substance that are potentially hazardous.

V. Determination of Proposed Significant New Uses

To determine what would constitute significant new uses of P–85–703, EPA considered relevant information about the toxicity of the substance, likely exposures associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA. Based on these considerations, EPA proposes to define the significant new uses of the substance as set forth in the third column of the table.

EPA has already determined in the section 5(e) order that unrestricted manufacture, import, processing, distribution in commerce, use, and disposal of P–85–703 may present an unreasonable risk of injury to human health. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that the uses of the substance would be significant.

VI. Recordkeeping

To ensure compliance with this proposed rule and to assist enforcement efforts, EPA is proposing, under its authority in section 5 and 8(a) of TSCA, that in addition to meeting the requirements in § 721.17, the following records be maintained for 5 years after the date of their creation by persons who manufacture, import, or process P–85–703:

1. Any determination that gloves are impervious to the substance.

2. Names of persons who have been informed in accordance with proposed § 721.76(a)(3)(i)(C), the dates on which they are informed, and the means by which they are informed.

3. The name and address of each person to whom the substance is sold or transferred and the date of such sale or transfer.

4. Copies of the MSDS for the substance.

5. Copies of all labels used for the substance.

6. Any names used for the substance and the accompanying dates of use.

7. Information on disposal of the substance, including dates waste material is disposed of, location of disposal sites, volume of disposed solid material, estimated volume of any liquid wastes containing the PMN substance, and method of disposal.

These recordkeeping requirements would apply to manufacturers, importers, and processors including small manufacturers, importers, and processors because the small business exemption of section 8(a) of TSCA is not applicable when the chemical substance which is the subject of the rule also is the subject of a section 5(e) order.

The Agency considered omitting these specific recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult without them. The basis for the Agency's recordkeeping requirements has been set forth in the preambles to previously proposed SNURs. Persons interested in a complete discussion of this issue should read the proposed SNUR for P–83–370 published in the **Federal Register** of January 13, 1984 (49 FR 1753).

VIII. Exemptions to Reporting Requirements

EPA has codified, in § 721.19, general exemption provisions covering SNUR reporting. On a case-by-case basis, the Agency may modify these provisions. However, in this case, the Agency is proposing that § 721.19 apply in its entirety.

On April 22, 1986 (51 FR 15906), EPA issued amendments to 40 CFR Part 720, the premanufacture notification rule, including revisions of §§ 720.36 and 720.78(b) which contain detailed rules for the section 5(h)(3) exemption for chemical substances manufactured or imported in small quantities solely for research and development. Because §§ 720.36 and 720.78(b) were not in effect when EPA codified § 721.19, the Agency has relied on the definition of "small quantities solely for research and development" in § 720.3(cc) and section 5(h)(3) of TSCA to determine whether activities by manufacturers, importers, and processors of substances identified

in SNURs qualify under this exemption. On April 22, 1986, EPA proposed amendments to 40 CFR Part 721 which would redesignate § 721.19 and § 721.18 and which would contain a new § 721.19 establishing detailed rules to the section 5(h)(3) exemption for SNURs and which would ultimately apply to this SNUR. The proposed new § 721.19 is similar to the revised §§ 720.36 and 720.78(b). Until the SNUR amendments are promulgated, manufacturers, importers, and processors of chemical substances identified in SNURs may look to §§ 720.36 and 720.78(b) and the proposed new § 721.19 for guidance in complying with the section 5(h)(3) exemption.

Section 721.19(g) of the general SNUR provisions exempts persons from SNUR reporting when they manufacture (the term manufacture includes import) or process the substance solely for export and label the substance in accordance with section 12(a)(1)(B) of TSCA. While EPA is concerned about worker exposure during manufacture and processing of the substance, section 12(a) of TSCA prohibits EPA from requiring reporting of such manufacture or processing for a significant new use. However, such persons would be required to notify EPA of such export under section 12(b) of TSCA (see § 721.7 of the general SNUR provisions). Such notification will allow EPA to monitor manufacture and processing activities which are not subject to significant new use reporting.

The term "manufacture solely for export" is defined in § 720.3(s) of the PMN rule; an amendment clarifying this definition was issued on April 22, 1986 (41 FR 15906). The term "process solely for export" is defined in § 721.3 of the general SNUR provisions in a similar fashion. Thus persons would be exempt from reporting under this SNUR if they manufacture or process the substance solely for export from the United States under the following restrictions: (1) There is no use of the substance in the United States except in small quantities solely for research and development; (2) processing is restricted to sites under the control of the manufacturer or processor; and (3) distribution in commerce is limited to purposes of export or processing solely for export. If a person manufactured or processed the substance both for export and for use in the U.S., the manufacturing or processing activity would not be "solely for export" because the manufacture and processing would be for use in the U.S.

VIII. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

To establish a significant new use rule, the Agency must determine that the use is not ongoing. In this case, the chemical substance in question has just undergone premanufacture review. When the notice submitter begins manufacture of the substance, the submitter will send EPA a Notice of Commencement of Manufacture, and the substance will be added to the Inventory. The notice submitter is prohibited by the section 5(e) order from undertaking the activities which the Agency is proposing be designated as significant new uses. Therefore, at this time, the Agency has concluded that these uses are not ongoing. However, EPA recognizes that once the chemical substance identified in this SNUR is added to the Inventory, it may be manufactured, imported, or processed by other persons for a significant new use as defined in this proposal, before promulgation of the rule.

EPA believes that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR, rather than as of the promulgation of a final rule. If uses begun during the proposal period of the SNUR were considered ongoing, any person could defeat the SNUR by initiating the proposed significant new uses before the rule became final. Therefore, it would be extremely difficult for the Agency to establish SNUR notice requirements.

Thus, persons who begin commercial manufacture, import, or processing of P-85-703 for a significant new use between proposal and promulgation of this rule would have to cease that activity before the effective date of this rule. To resume their activities, these persons would have to comply with all SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA recognizes that this interpretation of TSCA may disrupt commercial activities of persons who begin manufacture, import, or processing of the substance for a significant new use during the proposal period. However, this proposal constitutes notice of that potential disruption; and, persons who commence a proposed significant new use do so at their own risk.

The Agency, not wishing to unnecessarily disrupt the commercial activities of persons who manufacture, import, or process for a proposed significant new use prior to promulgation of a final SNUR, has proposed a new § 721.18(h) in Subpart A of 40 CFR Part 721 (51 FR 15104) to allow for advance SNUR compliance (i.e., compliance prior to the date of promulgation).

IX. Determining When a Substance Is The Subject of This Proposed Rule

EPA is proposing significant new uses which are confidential. The Agency is also proposing that these significant new uses would remain confidential in the final rule. EPA believes it is appropriate to keep these significant new uses confidential to protect the interests of the original notice submitter. EPA specifically requests comments on this issue.

EPA is proposing to reveal the significant new uses described in § 721.76(a)(2) only to a manufacturer, importer, or processor who has shown a *bona fide* intent to manufacture, import, or process the substance. To establish a *bona fide* intent, persons must submit the information required under § 721.6(b) (1) through (3) along with the intended use of the substance. EPA will make a determination as to whether the person has established a *bona fide* intent to manufacture, import, or process the substance. If the person has established a *bona fide* intent, EPA will inform the person whether or not the intended use is a significant new use under this rule.

X. Test Data and Other Information

EPA recognizes that, under TSCA section 5, persons are not required to develop any particular test data before submitting a significant new use notice. Rather, persons are only required to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential health risks that may be posed by a significant new use of this substance, EPA encourages SNUR notice submitters to conduct tests that would permit a reasoned evaluation of the potential risks posed by this substance when utilized for an intended use. The Agency believes that the results of a 2-year rodent bioassay would adequately characterize possible carcinogenic effects of the substance. This study may not be the only means of addressing the potential risks. SNUR notices submitted for significant new uses without such test data may increase the likelihood that EPA will take action under section 5(e).

EPA encourages persons to consult with the Agency before selecting a protocol for testing the substance. As part of this prenotice consultation, EPA

will discuss the test data it believes necessary to evaluate a significant new use of the substance. Test data should be developed according to TSCA good laboratory practices standards at 40 CFR Part 792. Failure to do so may lead the Agency to find such data to be insufficient to reasonably evaluate the health effects of the substance.

EPA urges SNUR notice submitters to provide detail information on human exposure that will result from the significant new uses. In addition, EPA encourages persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by substitutes.

XI. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturing, import, or processing of this chemical substance. The Agency's economic analysis is available in the public file. This economic analysis is summarized below.

The only direct costs that will definitely occur as a result of the promulgation of this SNUR will be EPA's costs of issuing and enforcing the SNUR. It is estimated that the Agency costs of issuing a SNUR is $10,504 to $17,628. While enforcement costs may also be incurred, EPA cannot quantify them at this time.

Subsequent to promulgating the SNUR, the Agency believes that there would be three possible outcomes for firms that would manufacture, import, or process the substance. The firms could: (1) Manufacture, import, or process the substance within the limits of the SNUR; (2) manufacture, import, or process the substance under the circumstances requiring the submission of a SNUR notice; or, (3) not manufacture or process the substance because of the restrictions imposed by the SNUR. The costs of these outcomes are summarized below.

If a company decides to manufacture, import, or process P–85–703 within the limits of the SNUR, it will not incur the cost of submitting a SNUR notice. The only cost to the company would be the cost of specific protective equipment, recordkeeping, labeling, and imperviousness determinations. Protective equipment and recordkeeping costs, due to their recurring nature, are calculated as present value cost over an estimated 10-year life of the substance.

Each worker will be required to wear gloves (which are determined to be impervious to the chemical substance), other protective clothing, and chemical safety goggles. EPA estimates that the annual cost of this equipment comes to about $840 per worker. Permeation tests to determine if the gloves are impervious to P–85–703 have been estimated to cost $500 per test per substrate (annualized cost of $80). These tests may cost up to $7,000 to $10,000 if different substrates (i.e., different compositions of gloves) are tested (annualized cost of $1,630). To the extent a company is able to extrapolate from previous tests, draw from knowledge of similar types of chemicals, or rely on the glove manufacturer's specification as the basis for determining imperviousness, these costs may be less.

EPA assumes that the other required protective clothing is standard equipment for every worker regardless of whether or not they work with P–85–703.

A company would also be required to inform the workers of the hazards associated with the chemical substance with an MSDS, with appropriate warning labels, and as part of a training program in safety meetings. In addition, the company would be required to maintain certain records. The initial cost of the labeling requirements is estimated to be between $135 to $500, which is the cost of developing the label. Other labeling costs are expected to be minimal. The annualized cost of labeling is $80. The present value of the cost of complying with the recordkeeping requirements over a 10-year period is estimated to be $1,520 (the annualized cost is $250).

EPA will incur only enforcement costs once the SNUR has been issued.

If a company decides to produce the substance without complying with the limits of the SNUR, it will incur the cost of filing a SNUR notice ($1,400 to $8,000). The submitter may also experience up to a 3.2 percent reduction in profits due to delays in manufacturing or processing, and the cost of regulatory follow-up, if any.

If a company elects to test for cancer effects, the estimated cost would be $850,000, plus the cost of delay and the cost of any regulatory follow-up.

EPA costs following promulgation of the SNUR would include the cost of reviewing the SNUR notice, estimated at $7,100, and the costs of modifying the terms of the SNUR if the information provided indicates that EPA's concerns would be adequately addressed by use of a different type of exposure control. This cost is estimated at $8,700.

Some companies could find the cost of controlling exposure and potential testing costs too expensive to justify production, processing, and/or use. Therefore, there would be no direct costs as a result of the SNUR. The companies and society could lose benefits associated with the manufacture or processing of P–85–703. However, the fact that the original PMN submitter intends to manufacture the substance under the conditions of the section 5(e) consent order indicates that the intended use of P–85–703 will still return an acceptable profit under the terms of the SNUR.

The Agency has not quantified the benefits of the proposed SNUR. In general, benefits will accrue if the proposed action leads to the identification and control of unreasonable risks before significant adverse health effects occur. The proposal and promulgation of the SNUR provide benefits to society by minimizing or eliminating potential health and environmental effects for this chemical substance. In addition, the use of personal protective equipment will give workers protection against a number of potentially dangerous chemicals, in addition to the PMN substance. The submitter will benefit from the SNUR because marketing restrictions contained in the section 5(e) consent order can be lifted once the SNUR is in effect. In the section 5(e) order, the submitter was prohibited from selling the PMN substance to formulators and other potential customers who would not cure the product. This restriction can be lifted when the SNUR is in effect.

XII. Confidential Business Information

Any person who submits comments which the person claims as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in acordance with the procedures in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XIII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–50546). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The PMN for the substance.

2. The **Federal Register** notice of receipt of the PMN.

3. The section 5(e) consent order.

4. The economic analysis of the proposed rule.

5. The toxicology support document.

6. The engineering support document.

The Agency will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record.

EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record containing sanitized copies from which CBI has been deleted is available to the public in the OTS Public Information Office from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The OTS Public Information Office is located in Rm. E–107, 401 M St., SW., Washington, DC.

XIV. Regulatory Assessment Requirements

A. *Executive Order 12291*

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "major rule" because it will not have an effect on the economy of $100 million or more, and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of compliance with this proposed rule, for the reasons discussed in Unit XI of this preamble, EPA believes that the cost will be low. EPA believes that, because of the nature of the proposed rule and the substance involved, there will be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact may be limited because such factors are unlikely to discourage innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. *Regulatory Flexibility Act*

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA has determined that this proposed rule would not have a significant impact on the a su'ostantial number of small businesses. The Agency cannot determine whether parties affected by this proposed rule are likely to be small businesses. However, EPA expects to receive a few notices for the substance. Therefore, the Agency believes that the number of small businesses affected by this rule would not be substantial even if all the SNUR notice submitters were small firms.

C. *Paperwork Reduction Act*

OMB has approved the information collection requirements in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. *et seq.* has assigned OMB control number 2070–0012 to this rule. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Recordkeeping and reporting requirements, Significant new uses.

Dated: June 13, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 721—[AMENDED]

Therefore, it is proposed that 40 CFR Part 721 be amended as follows:

1. The authority citation for Part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. In proposed § 721.76 by adding a new chemical to paragraph (a)(2)(ii), redesignating paragraphs (a)(3)(i)(C) (*4*) and (*5*) and (D)(*1*) (*ii*) and (*iii*) as (a)(3)(i)(C) (*5*) and (*6*) and (D)(*1*) (*iii*) and (*iv*), respectively, and adding a new paragraph (a)(3)(i) (C)(*4*) and (D)(*1*)(*ii*) to read as follows. Paragraphs (a)(3)(i)(C) (*5*) and (*6*) and (a)(3)(i)(D)(*1*)(*iii*) and (*iv*) are republished for the convenience of the reader.

§ 721.76 Certain acrylates.

(a) * * *

(2) * * *

(ii) *Substances with confidential identities or nonconfidential identities and no CAS number.*

PMN No.	Chemical name	Significant new uses from paragraph (a)(3)	Specific requirements from paragraph (b)
*	*	*	*
P–85–703	Poly (2-hydroxypropyl) melamine, polymers with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethyl cyclohexane, 2-hydroxyethyl acrylate-blocked.	(a)(2)(i)(A) (*1*) through (*3*), (B)(1)(iv), (C) (*1*) through (*6*), (D)(*1*) (*i*) through (*iv*) (*2*)(*3*), (E)(*1*)(*2*)(ii) (A), (B)(iii).	b(1), b(2) (i) through (vii).

(3) * * *

(i) * * *

(C) * * *

(*4*) That chemicals similar in structure to the substance have been found to cause neurotoxic effects in laboratory animals.

(*5*) That to protect themselves, they must wear the protective equipment described under paragraph (a)(3)(i)(A) of this section while handling the substance.

(*6*) That to protect themselves they must use the controls described in paragraph (a)(3)(i)(B) of this section during spray application and roller coating operations during which they might be exposed to the substance in the form of an aerosol or mist.

(D) * * *

(*1*) * * *

(*ii*) Chemicals similar in structure to [insert appropriate name] have been found to cause neurotoxic effects in laboratory animals.

(*iii*) To protect yourself, you must wear chemical safety goggles or equivalent eye protection, impervious gloves, and protective clothing while handling this material.

(*iv*) You must wear respirator during spray application or roller coating operations.

* * * * *

[FR Doc. 86–14077 Filed 6–20–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 764

[OPTS–91005; FRL–3034–9]

4,4-Methylene Bis (2-Chloroaniline); Termination of Regulatory Investigation and Transfer of Information to the Occupational Safety and Health Administration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Termination of Regulatory Investigation and Transfer of Information to the Occupational Safety and Health Administration.

SUMMARY: This notice announces termination of EPA's regulatory investigation addressing potential occupational risks associated with the commercial use of 4,4'-methylene bis (2-

chloroaniline), also known as MBOCA. MBOCA is an aromatic diamine-curing agent used in the manufacture of certain polyurethane articles and coatings. This action closes the Advance Notice of Proposed Rulemaking (ANPR) published in the **Federal Register** of May 23, 1983, (48 FR 22954) which initiated the regulatory investigation. In accordance with section 9(d) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2608(d), EPA is transmitting to the Department of Labor's Occupational Safety and Health Administration (OSHA), for its consideration, all information contained in EPA's public record, including comments received in response to the ANPR and information that EPA developed on alternative methods for limiting exposure to the chemical.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll-free: (800-424-9065), In Washington, DC.: (554-1404), Outside the USA: (Operator—554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

EPA has issued a notice, which was published in the **Federal Register** of May 23, 1983 (48 FR 22954), entitled "4,4'-Methylene Bis(2-Chloroaniline); Initiation of Regulatory Investigation." The notice announced EPA's intention to consider regulatory approaches under TSCA to govern the commercial use of MBOCA. In response, EPA received 21 written comments addressing a variety of issues including the nature of the risk posed by MBOCA, the availability of substitutes, and practical means for reducing exposure to the substance.

Bioassays using mice, rats, and dogs have demonstrated that MBOCA, an aromatic diamine chemical substance, causes cancer in laboratory animals. The results of epidemiology studies involving MBOCA production and user populations are only suggestive of a human cancer link. Based on this evidence, MBOCA meets EPA's proposed Cancer Risk Assessment Guidelines criteria, published in the **Federal Register** of November 23, 1984 (49 FR 46294), for classification as a probable human carcinogen.

About 400 companies in the U.S. currently use MBOCA to manufacture polyurethane articles and surface coatings. All MBOCA consumed by these users is now imported, most often in the physical form of solid particles. Workers who process or use MBOCA may be exposed through dermal contact with, or inhalation of, MBOCA dust generated from these particles. Such exposure can be significant when plant managers and workers fail to follow good industrial hygiene practices when handling the chemical. The substance is often detected in the urine of directly exposed workers. Unhygienic MBOCA handling techniques can result not only in the exposure of workers who directly handle the substance, but can also contaminate the workplace and expose other workers.

Exposure to MBOCA outside the workplace is unlikely but possible. A significant release of the chemical to the environment occurred during the 1970's from an MBOCA manufacturing site in Michigan. Action by that State's government resulted in production ceasing at that site in 1979 and no commercial manufacture has taken place in the U.S. since. With regard to release from MBOCA processing and using facilities, EPA believes human exposure outside the workplace is largely confined to instances where workers inadvertently transport MBOCA dust, adhering to their clothing, from the workplace. This so-called "track out" can occur by failure to follow good industrial hygiene practices within the workplace and can cause contamination of the workers' home environment.

II. Present Action and Rationale

EPA has ended its regulatory investigation of MBOCA and herewith closes the ANPR that initiated that investigation. Having promulgated reporting and recordkeeping requirements applicable to anyone intending to manufacture MBOCA in the U.S., as discussed below, EPA has no further plans for issuing regulations to govern MBOCA processing or use.

This action is being taken because EPA believes that the potential risks discussed in the ANPR are, as a matter of policy, more appropriately addressed by OSHA. In addition, because of its expertise in workplace risk assessment, OSHA is better able to evaluate the adequacy of EPA's public record to support the need for regulation. EPA and OSHA recently signed a memorandum of understanding which recognizes the responsibilities of each agency regarding the regulation of toxic substances posing risks in the workplace. It further specifies how the agencies will coordinate certain of their activities and handle referral of occupational chemical risks from EPA to OSHA under section 9 of TSCA. The Agency has consistently kept OSHA informed of EPA activities before and during this regulatory investigation.

OSHA has statutory authority to prevent or reduce to a sufficient extent the risks associated with the processing and use of MBOCA in the workplace. In order to assist OSHA in its deliberations, and in accordance with section 9(d) of TSCA, 15 U.S.C. 2608(d), EPA will provide OSHA with all pertinent information developed during EPA's regulatory investigation or that becomes available to the Agency in the future. EPA has not made an unreasonable risk determination in the case of MBOCA. Therefore, the Agency is transferring its public record on this matter to OSHA under the principles of section 9(d) of TSCA, rather than submitting a report to OSHA under section 9(a).

III. EPA Activities Concerned With MBOCA

Since issuing the ANPR, EPA has: (1) Investigated a variety of technical means for reducing exposure arising from the processing and use of MBOCA; (2) promulgated reporting and recordkeeping requirements applicable to anyone who intends to manufacture the chemical in the U.S.; and (3) prepared and disseminated an information bulletin, called a Chemical Advisory, to all persons who use or process MBOCA.

Alternatives for Reducing Exposure

EPA's investigation of alternative means for reducing workplace exposure concentrated, for the most part, on improvements in the way MBOCA could be distributed in commerce. However, EPA also examined the availability of processing equipment that could be used to reduce workplace exposure.

MBOCA is currently imported into the U.S. predominantly in fiberboard drums, each holding from 60 to 70 kilograms; the chemical is contained in a polyethylene bag which serves as an inner liner to the drum. Depending upon the sophistication of the particular user or processor, MBOCA is removed from these containers by manual scooping or by remote handling techniques using, for example, vacuum transfer equipment.

Vacuum transfer and other remote transfer methods can reduce workplace exposure to MBOCA below that which may occur during manual scooping. With manual scooping, a person must reach into the drum potentially exposing his or her entire arm to dermal contact with MBOCA and perhaps inhaling its dust. Although a conscientious person observing good industrial hygiene practices will wear personal protective

equipment when performing this operation, the current package nevertheless presents an opportunity for abuse and significant exposure. Even with vacuum transfer, the current package affords an opportunity for potentially high exposure. As the amount of MBOCA remaining in the shipping container becomes low, the flexible polyethylene inner liner is often sucked into the nozzle of the vacuum hose, preventing further removal of the chemical. Clearing this obstruction and then removing the remaining MBOCA from the container, perhaps by manual scooping, increases the opportunity for exposure.

In response to these shortcomings, the Polyurethane Manufacturers Association (PMA), a trade organization that represents domestic distributors and user/processors of MBOCA and other urethane-related chemicals, developed a prototype dispensing drum designed to remedy the deficiencies identified above. This dispensing drum prevents transfer by scooping and permits complete, unobstructed transfer by vacuum techniques. Using gravity feed, MBOCA is dispensed manually by placing the drum on its side in a holding rack, tilting it slightly downward from the horizontal, and controlling the flow of MBOCA particles from the drum through a flexible plastic sleeve, or discharge hose, attached to the drum port. In 1984, the PMA suggested to EPA that the Agency consider issuing a MBOCA packaging and labeling rule under TSCA that would incorporate the specifications of their dispensing drum.

As part of its investigation of potenital benefits of this new package, EPA conducted an experiment that compared, under laboratory conditions, the levels of MBOCA contamination that result during manual transfer of the chemical from the current container and from the dispensing drum. The experimenters performed repeated transfer operations from each package using simulated workplace handling techniques and then measured the trace amounts of MBOCA that were borne in the immediately surrounding ambient air, that were deposited at randomly selected locations within the experiment chamber, and that adhered to portions of the protective clothing worn by the person performing the transfer operations. The data from that experiment indicated that the level of contamination was generally lower when using the dispensing drum compared to scooping from the present container. These results suggest that use of the dispensing drum, along with adherence to good industrial hygiene practices, can reduce one source of workplace contamination by, and human exposure to, MBOCA.

EPA supports the approach taken by the PMA to develop improved packaging that can reduce the opportunity for careless exposure to MBOCA in the workplace and encourages its voluntary implementation. The drum considered by EPA, however, was a prototype design that most certainly could benefit from trial and experience gained in actual use. In the event that OSHA believes further controls are needed to prevent or reduce the risks posed by exposure to MBOCA in the workplace, that agency has sufficient statutory authority to address these risks.

During its investigation, EPA also studied the use of meltable plastic bags containing premeasured amounts of the chemical as an alternative approach to MBOCA packaging and processing and investigated the availability of specialized equipment that could be used for remotely handling and processing the chemical. Although EPA's study of meltable plastic bags yielded inconclusive results concerning their practical feasibility, its investigation of alternative processing equipment revealed a range of engineering approaches available to processors for reducing exposure in the workplace using remote handling techniques. The results of all these studies are contained in reports that are part of EPA's public record concerning MBOCA, and will be provided to OSHA for its consideration.

Reporting and Recordkeeping Requirements for Potential U.S. Manufacturers

A second phase of activities was the development of reporting and recordkeeping requirements applicable to any person intending to manufacture MBOCA for commercial purposes in the U.S. Although the substance is not now manufactured domestically, past experience with domestic manufacturing indicated a need for EPA to scrutinize closely such operations and to assess their potential for uncontrolled release of MBOCA to the workplace and surrounding environment. Accordingly, EPA promulgated in the **Federal Register** of April 18, 1986 (51 FR 13220) a reporting and recordkeeping rule under TSCA that will govern potential manufacturers of MBOCA. Information developed under that rule will provide EPA with an opportunity to evaluate the proposed manner or method of production, before such manufacturing begins. If necessary, EPA can then initiate regulatory action under TSCA to prohibit or limit this activity in order to prevent risks to human health or the environment.

Issuance of an MBOCA Chemical Advisory

The third phase of EPA activities has involved the preparation and dissemination of a Chemical Advisory. This information bulletin was prepared to alert plant managers and those who directly work with MBOCA of the potential hazards posed by exposure to the chemical. The bulletin recommends means by which persons can prevent or reduce exposure and informs such persons of urinalysis methods that can gauge human exposure to MBOCA and thereby help identify processing techniques that lead to high exposures. The PMA, through its member MBOCA distributors, aided EPA in 1985 in distributing the Advisory to all known MBOCA processors and users in the U.S. Since then, EPA has been pleased to receive numerous inquiries for more information concerning MBOCA and referral advice.

IV. Public Record

EPA has established a public record for today's action under the docket number OPTS–91005. The record includes the following kinds of information:

(1) **Federal Register** notices pertaining to this action.

(2) Support documents prepared before and after issuance of the ANPR.

(3) Public comments to the ANPR.

(4) Other **Federal Register** notices.

(5) Written communications.

This record is available for inspection in the Office of Toxic Substances Reading Room, Rm. E–107, 401 M St., SW., Washington, DC, Monday through Friday from 8 a.m. to 4 p.m., excluding legal holidays.

Dated: June 7, 1986.

Lee M. Thomas,

Administrator.

[FR Doc. 86–14075 Filed 6–20–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Florida Population of Audubon's Crested Caracara

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: Audubon's crested caracara *(Polyborus plancus audubonii)* is a hawk that occurs from Florida, southern Texas and Arizona, and northern Baja California, south to Panama, and also on Cuba and the Isle of Pines. The Service is proposing that the Florida population be determined to be a threatened species under the Endangered Species Act of 1973 (Act), as amended. Habitat losses appear to be the principal threat to this bird. This proposal, if made final, would implement the protection and recovery provisions of the Act for the Florida population of the crested caracara. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by August 22, 1986. Public hearing requests must be received by August 7, 1986.

ADDRESS: Comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, Endangered Species Field Office, 2747 Art Museum Drive, Jacksonville, Florida 32207. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley, Field Supervisor, at the above address (904/791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

John James Audubon (1834) discovered a caracara *(Polyborus plancus audubonii)* in Florida near St. Augustine (where it no longer occurs) on November 21, 1831, and published a full account of it under the name *Polyborus vulgaris*. Synonyms of the present scientific name are *Polyborus plancus cheriway*, *Polyborus cheriway audubonii*, and *Caracara cheriway audubonii*. The Service follows the American Ornithogists' Union (1983) for usage of the generic and specific names *Polyborus plancus* and the American Ornithologists' Union (1957) in the use of the subspecific name *audubonii* for the Florida population of the crested caracara. In addition to the vernacular name crested caracara, this bird is also known as Audubon's caracara, the caracara eagle, the Mexican eagle, and the Mexican buzzard.

The crested caracara is about the size of an osprey, except for shorter wings, with a length of 535 to 585 millimeters (21 to 23 inches), wingspread of about 1220 millimeters (48 inches). The caracara has yellow legs, which are very long for a hawk, and a massive bluish bill. Sexes are similarly plumaged; younger birds are browner than adults. A complete description can be found in the numerous and readily available bird identification books.

Polyborus plancus audubonii occurs primarily from northern Baja California, southwestern Arizona, southern Texas, and central Florida, south to Panama, and also on Cuba and the Isle of Pines. It is also found, rarely, in southern New Mexico and southwestern Louisiana. Other subspecies range into South America as far as Tierra del Fuego and the Falkland Islands. The Florida population is isolated from the remainder of the subspecies' range in the southwestern U.S. and Central America. This isolated population was at one time a common resident in the prairie region of central Florida, from northern Brevard County in the north, south to Fort Pierce, Lake Okeechobee, Rocky Lake (Hendry County), the Okaloosa Slough, and Everglades (Collier County). It has been reported from as far north as Nassau County, and from as far south as the lower Florida Keys (Monroe County). Available evidence indicates that the range of this species in Florida has experienced a long-term and continuing contraction, with the birds rarely found now as far north as Orlando or on the east side of the St. Johns River. The region of greatest abundance is a five-county area (Glades, De Soto, Highlands, Okeechobee, and Osceola) north and west of Lake Okeechobee (sprunt 1954, Layne *in* Kale 1978, Layne 1985). Birds can still be found in Charlotte, Hardee, and Polk Counties.

The crested caracara is a bird of open country. Dry prairies with wetter areas and scattered cabbage palm *(Sabal palmetto)* constitute the typical habitat, although it also occurs in improved pasture lands and even in lightly wooded areas with more limited stretches of open grassland (Layne *in* Kale 1978). It is an opportunistic feeder; its diet includes both carrion and living prey. The living prey are largely small turtles and turtle eggs. In addition to these items, caracaras are known to prey on insects, fish, frogs, lizards, snakes, birds, and small mammals. A pair will sometimes join forces to subdue a larger animal such as a rabbit or egret (Layne 1985). Sprunt (1954) noted that caracaras are frequently seen feeding on carrion with vultures.

Adult caracaras maintain large territories, usually with their mates. Pair bonds are strong, apparently persisting until one of the mates dies. As the breeding season approaches, the pair begins to spend more time at the nest site. The nest, a bulky structure of slender vines and sticks, is usually located in a cabbage palm. The breeding peak is from January to March, with the usual clutch being two or three eggs. Incubation lasts about 32 days, and the young leave the nest at about 8 weeks of age. The family group usually remains together for two or three months after the young fledge (Layne 1985).

Based on early naturalists' notes, published accounts, and museum specimens it appears that caracaras in Florida have undergone a severe decline in numbers and distribution since the early 1930's. The major cause of this decline has been habitat loss. Habitat available to caracaras has decreased greatly, and continues to decrease, as native prairies and pasturelands are lost to real estate developments or intensive agricultural uses (Layne 1985).

In the early 1950's, the total State population of Audubon's crested caracara was estimated to be about 250 (Chandler *in* Sprunt 1954). In the late 1960's, Funderberg and Heinzman (1967) voiced concern over the decline in the population. Heinzman (1970) published results of a 4 year survey (1967–1970) indicating fewer than 100 individuals in about 58 localities remained in the State. Stevenson (1975) assumed a similar population size for 1974. However, Layne (*in* Kale 1978), in a preliminary analysis of records from 1973 to 1975, arrived at a minimum estimate of 350 individuals. A more refined estimate, based on data gathered from 1973 to 1978, indicated the existence of about 150 active territories (300 adults) and about 100 immatures, giving a total population in Florida of between 400 and 500 individuals (Layne 1985).

Most caracaras occur on privately owned lands in Florida. A few birds may wander east to Merritt Island, Cape Canaveral, and Patrick Air Force Base, or north to Ocala National Forest, but these would only be transients. The only Federal land on which the bird might permanently reside is the Air Force's Avon Park Bombing Range in Polk and Highlands County. However, bombing range personnel have informed the Service that, although caracaras are occasionally seen in the area, to the best of their knowledge none have nested there in recent years (Paul Ebersbach, pers. comm., December 5, 1985).

The Audubon's crested caracara is classified as a threatened species by the Florida Committee on Rare and Endangered Plants and Animals (Kale 1978) and by the Florida Game and Fresh Water Fish Commission (Wood 1985). It is classified as a category 2 species in the Service's September 18, 1985, "Review of Vertebrate Wildlife" (50 FR 37958).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangerd or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Florida population of Audubon's crested caracara (*Polyborus plancus audubonii*) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range

The crested caracara in Florida is a bird of the open prairie country and nearby wetter areas having scattered cabbage palms for nesting. Large areas of this type of habitat have been lost to citrus groves, tree plantations, improved pastures, other agricultural uses, and real estate development. As the growth rate of Florida's human population has increased and habitat loss has accelerated, the main portion of the caracara's range has contracted. Now the birds are rarely seen as far north as Orlando or on the east side of the St. Johns River.

B. Overutilization for commercial, recreational, scientific, or educational purposes

Not applicable.

C. Disease or predation

Not applicable.

D. The inadequacy of existing regulatory mechanisms

Both Federal (Migratory Bird Treaty Act, 16 U.S.C. 703–711) and State (Chapter 39–27, Florida Administrative Code) laws offer protection for the caracara, but they do not protect habitat. Despite these laws, caracaras are still being killed in the erroneous belief that they are predators on newborn calves or because their large size and conspicuousness make them tempting targets for vandals (Layne *in* Kale 1978, Layne 1985). Large numbers of caracaras were apparently destroyed in vulture trapping operations in earlier years, and some are probably still being taken in illegal vulture traps (Layne *in* Kale 1978).

E. Other natural or manmade factors affecting its continued existence

Population growth in southcentral Florida has resulted in increased numbers of roads and greater traffic. This, coupled with the caracara's predilection for feeding along roads, has probably increased mortality (Layne *in* Kale 1978).

The current number of breeding caracaras (300 birds) is low relative to most other large raptors in Florida. In addition, these birds are long lived, has low reproductive rates, and have large, widely dispersed territories. These factors make the species very susceptible to natural or human caused catastrophes, such as hurricanes and poisoning (pesticides, herbicides, etc.). In addition, the low number of caracaras in Florida may reduce the genetic viability of the population and make it more vulnerable to these stresses than would otherwise be the case. Finally, the scarcity of the birds, combined with their scattered territories, makes it difficult to detect changes in numbers. Thus, the caracara could experience a significant decline that might jeopardize the population before evidence of the decline became apparent. The caracara is highly vulnerable, and the Florida population should be closely monitored to ensure its continued health and survival.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Florida population of Audubon's crested caracara as a threatened species. Because this bird is still widespread in distribution, and appears to be reproducing satisfactorily, it is not in danger of extinction at the present time throughout all or a significant portion of its range. However, its habitat is rapidly being altered, its numbers (300 adult birds) are low for a raptor species, and it has a low reproductive rate. Thus, the bird is likely to become an endangered species in the foreseeable future.

For these reasons, the Florida population of Audubon's crested caracara is proposed for listing as threatened rather than endangered. If the Service were to take no listing action for this bird, it would demonstrate a failure to acknowledge the best scientific data available concerning the threats the caracara faces and, therefore, would be in violation of the statutory mandates of the Act. Critical habitat is not being proposed for the Florida population of Audubon's crested caracara for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species. Adult caracara are spread very thinly over a wide area of southcentral Florida, and each pair maintains a large territory. A determination of critical habitat would necessitate delineating the precise boundaries occupied by each pair of birds. Not only are data lacking for these delineations, but they might actually be detrimental to the survival of the species in Florida. The caracara is a large and spectacular bird. To publish precise locality data and maps showing where birds occur (as would be required for a determination of critical habitat) might draw large numbers of people (including some vandals) to view them, who could inadvertently, or deliberately, interfere with the normal activities of the birds. This could pose an additional threat to the survival of the species in Florida.

Based on the above, the Service feels that a determination of critical habitat would not benefit the species, and might pose an additional threat to its survival. Therefore, a determination of critical habitat is not prudent for the Florida population of the crested caracara.

Available Conservation Measures

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

Section 7(a) of the Act, as amended, requires Federal Agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 (see revision at 51 FR 19926; June 3, 1986). Section 7(a)(4) requires Federal

agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The caracara is a wide ranging bird that could wander occasionally onto lands administered by the Service (Merritt Island National Wildlife Refuge), National Aeronautics and Space Administration (Kennedy Space Center), Air Force (Cape Canaveral Air Force Station and Patrick Air Force Base), and the Forest Service (Ocala National Forest). At such time, these agencies may need to take reasonable and prudent measures to assure the protection and health of the birds. However, these Federal lands are outside the present primary range of caracara; the birds would only be transient on them and would not be expected to nest or remain for any significant period of time. Therefore, there would be little or no effect on the above Federal agencies.

The Air Force's Avon Park bombing Range in Polk and Highlands Counties is within primary caracara range. Although Bombing Range personnel (Paul Ebersbach, pers. comm., December 5, 1985) report no nesting pairs on the Bombing Range at present, it is possible that caracaras might take up residence there at any time. With the publication of this proposal, the Air Force is now required to confer informally with the Service on any of its activities at the Bombing Range that are likely to jeopardize the continued existence of the caracara. If this bird is listed and if actions on the Bombing Range may affect this species, the Air Force would have to enter into formal consultation with the Service.

There would be no effect on the activities of private landowners as a result of listing this bird unless Federal funds or permits were involved in the activity. In such cases, the funding or permitting Federal agency would have to insure that the activity would not jeopardize the continued existence of the crested caracara before providing the funds or issuing the permits to the private landowner. However, the Service is not aware of any cases at the present time where activities of private landowners would be affected by the listing.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that had been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available. Since the caracara is not in trade and is already protected under 50 CFR Part 10 (migratory bird regulations), such permits for economic hardship are not expected.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, illegal take or other relevant data concerning any threat (or lack thereof) to the Florida population of Audubon's crested caracara;

(2) The location of any additional pairs of caracaras in Florida;

(3) The reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on the Florida population of Audubon's crested caracara will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Endangered Species Field Supervisor, Endangered Species Field Office, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

National Environmental Policy Act

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

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Author

The primary author of this proposed rule is John L. Paradiso, Endangered Species Field Office, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580 or FTS 946/2580).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

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

Authority.—Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*)

2. It is propsed to amend § 17.11(h) by adding the following, in alphabetical order under BIRDS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Birds							
*	*	*	*	*	*		
Caracara, Audubon's crested	*Polyborus plancus audubonii*	U.S.A. (AZ, FL, LA, NM, TX) south to Panama; Cuba.	USA. (FL)	T		NA	NA
*	*	*	*	*	*		

Dated: May 30, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–14025 Filed 6–20–86; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 51, No. 120
Monday, June 23, 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 COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: June 23, 1986.

FOR FURTHER INFORMATION CONTACT: William L. Matthews of Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews. The Department has received timely requests, in accordance with §§ 353.53a(a)(1), (2), and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than June 30, 1987.

Antidumping duty proceedings and firms	Periods to be reviewed
Impression fabric from Japan:	
Marubeni	05/85-04/86
Mitsui	05/85-04/86
Nissei	05/85-04/86
Portable electric typewriters from Japan:	
Avanti	05/85-04/86
Brother	05/85-04/86
Canon	05/85-04/86
Fujitsu	05/85-04/86
Fuji Xerox	05/85-04/86
Nakajima	05/85-04/86
Olympia	05/85-04/86
Panasonic	05/85-04/86
Ricoh	05/85-04/86
Sharp	05/85-04/86
Silver Seiko	05/85-04/86
TEC	05/85-04/86
Toyko Juki	05/85-04/86
Towa Sankoden	05/85-04/86
Carbon steel pipes and tubes from Taiwan:	
An Mau	05/85-04/86
Far East	05/85-04/86
Kao Hsing Chang	05/85-04/86
Yieh Hsing	05/85-04/86

Countervailing duty proceedings	Periods to be reviewed
Bricks from Mexico	07/84-12/85
Ceramic Tile from Mexico	07/84-12/85
Rayon Staple Fiber From Sweden	10/83-12/85

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675 (a)) and §§ 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c); 50 FR 32556, August 13, 1985).

Dated: June 11, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-14097 Filed 6-20-86; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; University of California et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with §§ 301.5(a)(3) and 301.5(a)(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.: 82-00144. Applicant: University of Southern California, Electrical Engineering Department, University Park, Los Angeles, CA 90007. Instrument: Excimer Laser, Model TE-430. Manufacturer: Lumonics, Inc., Canada. Intended use: The article is intended to be used for studies of electrically excited gases including hydrogen and semiconductors with impurities including GaP:Zn. Laser induced fluorescence will be used to measure the effects of excited states in pulsed electrically excited gases and of impurities in semiconduction. Fluorescence produced by the laser will be analyzed. The article will also be used for educational purposes in the courses: Electrical Engineering 790 and Physics 790. Application received by Commissioner of Customs: March 23, 1982.

Docket No.: 86-206. Applicant: Norfolk General Hospital, Division of Medical Center Hospitals, 600 Gresham Drive, Norfolk, VA 23507. Instrument: Lithotripter. Manufacturer: Dornier Medizintechnik GmbH, West Germany. Intended use: The instrument is intended to be used for studies of kidney stones. The objective of the investigations is the expansion of knowledge of shockwave technology, particularly the study of stones of calculi in different levels of the ureter to determine whether ultrasound can be used to treat such stones without damaging surrounding or peripheral structures. Studies will also be conducted to determine if stones down in the true pelvis, behind the pelvic bondes in the ilia, can be reached with ultrasound. In addition, the instrument will be used to expand the use of shockwave treatment by educating students in its application. Application received by Commissioner of Customs: May 30, 1986.

Docket No.: 86-218. Applicant: Mississippi State University, Mississippi Forest Products Utilization Laboratory, P.O. Drawer FP, Mississippi State, MS

39762. Instrument: Gas Chromatograph/Mass Spectrometer/Data System, Model MS 80 with Accessories. Manufacturer: Kratos Analysis Instruments, United Kingdom. Intended use: The instrument is intended to be used for a broad range of research activities related to the utilization of wood. The general areas of research are as follows:

(1) Environmental Chemistry of Wood Preservation (Pentachlorophenol and creosote),

(2) On-site Biological Degradation of Waste from the Wood Preserving Industry,

(3) Pretreatment of Wood for Chemical Conversion and Modification of Components,

(4) Chemical Utilization of Wood Components,

(5) Lighting Depolymerization.

In addition, the instrument will be used to support graduate student research at both the Master's and Doctoral levels for the following departments: Forest Products Utilization Laboratory (Wood Science Technology), Chemistry, Forestry, Biology and Health and Nutrition. Application received by Commissioner of Customs: May 28, 1986.

Docket No.: 86–220. Applicant: Bronx Municipal Hospital Center, Pelham Parkway South & Eastchester Road, Bronx, NY 10461. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended Use: Studies of tissues obtained from surgical pathology, autopsy pathology, cardiac and hepatic biopsies and animal tissues with relevance to ongoing research impacting on pathogenesis of human heart failure and liver disease. Studies will be primarily descriptive for diagnostic purposes. Application Received by Commissioner of Customs: May 30, 1986.

Docket No.: 86–221. Applicant: Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, NY 10461. Instrument: Electron Microscope, Model JEM–100CX with Accessories. Manufacturer: JEOL, Japan. Intended Use: The instrument will be used to conduct the following research:

(1) Ultrastructural analysis of secretory mutants of the ciliates *tetrahymena* and *paramecium*,

(2) Analysis of the structure and function of cilia,

(3) Organization of the actin-based cell cortex,

(4) Biosynthesis and intracellular sorting of membrane and secretory proteins, and

(5) Structural analysis of photoconversion mutants of *Halobacteria*.

Application Received by Commissioner of Customs: May 30, 1986.

Docket No.: 86–222. Applicant: Rice University, P.O. Box 1892, Houston, TX 77251. Instrument: Stopped-Flow Spectrophotometer, Model SF–51 with Accessories. Manufacturer: Hi-Tech Scientific, United Kingdom. Intended Use: This instrument will be of general use for the investigation of the rates of fast chemical reactions in solution providing information regarding the absorbence of a solution as a function of time in the millisecond time scale. These results will lead to the determination of the rate laws and rate constants for the chemical reactions. The reactions under investigation will be inorganic redox reactions in aqueous anhydrous media. Specific planned studies include oxidation of NO and SO_2 by certain coordination complexes in aqueous solution. In anhydrous media, planned studies include the reversible reactions of O_2 with certain Cu(1) complexes. In all cases the objective will be to gain fundamental insight into the kinetics and mechanisms of inorganic reactions. The instrument will also be used for educational purposes in post-doctoral, graduate and undergraduate research. The educational objective of the research will be to train students in the careful extraction and analysis of data, and to present students with a descriptive knowledge of inorganic reactivity. Application Received by Commissioner of Customs: June 3, 1986.

Docket No.: 86–223. Applicant: Hillsborough County Hospital Authority, Davis Island, Tampa, FL 33606. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended Use: This instrument is intended to be used to produce reportable clinical results on specimens obtained from renal biopsies and neoplasms. The instrument will also be used in a pathology residency training program with residents rotating through the electron microscopy section for training and educational update. Application Received by Commissioner of Customs: June 3, 1986.

Docket No.: 86–224. Applicant: University of Maryland at Baltimore, Department of Physiology, 655 W. Baltimore Street, Baltimore, MD 21201. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended Use: The instrument will be used for studies of cells and isolated membranes from epithelial tissue, nerve, muscle and viruses. The objectives of the experiments are to: (1) Understand mechanisms of hormonal regulation of transport, (2) determine role of cytoskeletal and membrane components in neuromuscular junction organization, (3) characterize the effect of enzymes on DNA structure and their role in DNA packaging and (4) determine the organization of calcium pump in muscle sarcoplasmic reticulum. Application Received by Commissioner of Customs: June 3, 1986.

Docket No.: 86–225. Applicant: Good Samaritan Hospital and Medical Center, 1015 NW. 22nd Avenue, Portland, OR 97210. Instrument: Electronically Controlled Digital Camera System for Detecting and Analyzing Motion. Manufacturer: Northern Digital, Canada. Intended Use: The instrument will be used to study the motion of the limbs and joints of human subjects while they stand on a movable platform. Experiments will be conducted to identify and understand the movements used by normal adults to control posture and balance and to apply that knowledge to problems of postural control in patients with neurological disorders which impair balance. Application received by Commissioner of Customs: June 3, 1986.

Docket No.: 86–226. Applicant: University of Pennsylvania, Department of Biochemistry and Biophysics, School of Medicine G3, Philadelphia, PA 19104. Instrument: Preparative Quencher/Stopped-flow System, PQ/SF–53CD with UV-Visible Spectrophotometer Unit (SU–40A). Manufacturer: Hi-Tech Scientific Ltd., United Kingdom. Intended use: The instrument is intended to be used to investigate the protein folding mechanism for globular proteins, including cytochrome c and the basic pancreatic trypsin inhibitor. The kinetics of the conformational transitions associated with refolding will be studied on a ms timescale. Experiments will be conducted to gain insight into the mechanism of protein folding, an unsolved fundamental problem in molecular biology, by using novel applications of rapid mixing techniques in combination with NMR to obtain a detailed structural and kinetic characterization of the folding process for selected proteins. Application received by Commissioner of Customs: June 3, 1986.

Docket No.: 86–227. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 808, Livermore, CA 94550. Instrument: Thermal-ionization, Multicollector Mass Spectrometer, Model 354. Manufacturer: V.G. Isotopes Ltd., United Kingdom. Intended Use: The instrument will be used for studies of (a) materials of interest to the nuclear weapons test program, (b) geological

samples (terrestrial and extraterrestrial), (c) nuclear chemistry research samples, and (d) environmental monitoring samples. Specifically the instrument will be used for measuring isotopic compositions in the materials above. Elements to be analyzed are those that are amenable to the thermal-ionization technique, which includes, but is not limited to, the elements Mg, K, Ca, Ti, Sr, Rb, rate-elements, Pb, and the actinides. Application received by Commissioner of Customs: June 5, 1986.

Docket No.: 86–228. Applicant: Bowman Gray School of Medicine, 300 South Hawthorne Road, Winston-Salem, NC 27103. Instrument: Electron Microscope, Model EM 10CA/CR/C. Manufacturer: Carl Zeiss, West Germany. Intended use: The instrument will be used to study the ultrastructure of biological specimens including normal and transplanted retina, developing limbs, developing retinas, artery walls from normal and cholesterol elevated animals, aging hippocampus, various neural tissues from normal and chronically stressed animals, and developing spinal cord. In these studies the goal is to examine the changing ultrastructure either through development or in experimental versus normal conditions. Application received by Commissioner of Customs: June 3, 1986.

(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. 86–14111 Filed 6–20–86; 8:45 am]

BILLING CODE 3510–DS–M

Transportation and Related Equipment, Technical Advisory Committee; Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held July 10, 1986, 9:30 a.m., Herbert C. Hoover Building, Room B841, 14th Street and Constitution Avenue, NW., Washington, DC.

The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 19, 1985, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377–4217. For further information or copies of the minutes contact Margaret A. Cornejo, 202–377–2583.

Dated: June 16, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86–14098 Filed 6–20–86; 8:45am]

BILLING CODE 3510–DT–M

National Oceanic and Atmospheric Administration

Permits; Pacific Coast Groundfish and Ocean Salmon Fisheries

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

ACTION: Notice of issuance of an experimental fishing permit.

SUMMARY: This notice announces the issuance of an experimental fishing permit (EEP) to a U.S. fisherman to delay until landing the sorting of salmon incidentally taken in a mid-water trawl fishery targeting on Pacfic whiting in the fishery conservation zone (FCZ) off the coast of Oregon. The permit authorizes an experimental fishing practice which is otherwise prohibited by Federal regulations. This action is authorized by the fishery management plans (FMPs) for Pacific coast groundfish and for ocean salmon off Washington, Oregon, and California and their implementing regulations.

EFFECTIVE DATES: April 21, 1986, through October 31, 1986.

ADDRESS: Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206–526–6150.

SUPPLEMENTARY INFORMATION: The FMPs and their implementing regulations at 50 CFR Parts 661 and 663 specify that experimental fishing permits (EFPs) may be issued to authorize fishing that is otherwise prohibited by the FMPs and regulations. The procedures for issuing EFPs are contained in the regulations at §§ 661.8 and 663.10..

An EFP application to delay until landing the sorting of salmon incidentally taken in a mid-water trawl fishery targeting on Pacific whiting in the FCZ of the coast of Oregon was received on March 17, 1986. Current salmon regulations at § 661.5(b)(2) and groundfish regulations at § 663.7(i) prohibit the retention of any species of salmonid caught in trawl nets. A notice acknowledging receipt of the application, describing the proposal, and requesting public comment was published in the **Federal Register** on April 1, 1986 (51 FR 11088). No comments were received. The application was considered by the Pacific Fishery Management Council, including the directors of the fishery management agencies of Oregon, Washington, California, and Idaho, at its April 1986 public meeting in Eureka, California. The Council recommended that NMFS issue an EFP for the purposes described in the application, and NMFS has decided to issue the EFP under the provisions of §§ 661.8 and 663.10.

The EFP authorizes experimental fishing, targeting on Pacific whiting, using legal mid-water trawl gear subject to all existing regulations, except that upon retrieval of the net after each tow, the permittee will immediately place the entire catch in the vessel's hold under refrigeration without handling or sorting of the catch. The catch will be sorted at a shoreside processing plant in Charleston, Oregon, at the conclusion of each trip. Salmon incidentally caught will be disposed of by authorized agents of the Oregon Department of Fish and Wildlife (ODFW). The experimental fishery will occur in the FCZ off Oregon from April 21, 1986, to October 31, 1986. Under the terms and conditions of the EFP, the permittee must provide advance notification of landing the catch so that agents of NMFS or ODFW may observe the landing and collect information. The permittee is required to maintain and submit detailed logs on the operation.

Further details or a copy of the permit may be obtained from the address above.

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

Dated: June 18, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-14088 Filed 6-20-86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; Mystic Marinelife Aquarium (P13S)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. *Applicant*:

a. Name: Mystic Marinelife Aquarium.

b. Address: 55 Coogan Blvd., Mystic, Connecticut 06355.

2. Type of Permit: Public Display.

3. Name and Number of Marine Mammals: Atlantic Bottlenose Dolphins (*Tursiops truncatus*), 4.

4. Type of Take: Permanent removal from the wild for captive maintenance.

5. Location of Activity: Gulf of Mexico.

6. Period of Activity: Four years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, DC;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Building, St. Petersburg, Florida 33702.

Dated: June 11, 1986.

Samuel W. McKeen,

Chief, Management and Budget Staff, National Marine Fisheries Service.

[FR Doc. 86-14124 Filed 6-20-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Extension of Visa Waiver for Certain Cotton Terry Bar Mops

June 17, 1986.

On August 12, 1985 a notice was published in the **Federal Register** (50 FR 32467), which described a visa waiver procedure for certain shipments of cotton terry bar mops in Category 369pt. (only T.S.U.S.A. number 366.1955), exported on or before September 30, 1985, which do not precisely meet the specifications of the TARIFF SCHEDULES OF THE UNITED STATES that they be 15 to 17 inches in width by 18 to 20 inches in length.

The purpose of this notice is to advise the public that the visa waiver is being extended to include imports through July 31, 1986, regardless of the date of export.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-14095 Filed 6-20-86; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Textile Consultations With the Republic of South Africa

June 17, 1986.

On May 30, 1986, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of South Africa to enter into consultations concerning exports to the United States of cotton yarn in Categories 300/301, produced or manufactured in South Africa.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with South Africa, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of cotton yarns in categories 300/301, produced or manufactured in South Africa and exported to the United States during the twelve-month period which began on May 30, 1986 and extends through May 29, 1987 at a level of 1,678,914 pounds.

A summary market statement for this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of this category is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the Arrangement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Republic of South Africa—Market Statement

Categories 300/301—Cotton Sales Yarn

May 1986.

Summary and Conclusions

United States imports of cotton yarns—Category 300/301—from the Republic of South Africa during year ending March 198 6 were 1.9 million pounds, up 78 percent from the 1.1 pounds imported a year earlier. There were only 449,000 pounds imported from the Republic of South Africa in 1983.

During year ending March 1986, 56 percent of the imports from the Republic of South Africa in Categories 300/301 were combed

cotton/polyester yarns. The Republic of South Africa's trade accounted for 5 percent of the total imports of these type yarns. The U.S. market for this type yarn has been disrupted by imports and imports from the Republic of South Africa contribute to this disruption. These imports from the Republic of South Africa are entered at duty-paid landed values which are below the U.S. producer price for comparable yarns. The continuation of increasing low-priced imports from the Republic of South Africa threatens to exacerbate the market disruption occurring in the U.S. for such yarns.

The impact of imports of these combed cotton/polyester yarns is demonstrated by the production, import, market share, and import ratio data for such yarns with counts 31's and finer.

U.S. Production and Market Share

U.S. production of combed cotton/polyester sales yarn, counts 31's and finer, fell sharply during 1985 compared to 1984. For 1985, production dropped 21 percent below the level of 1984.

The U.S. producer's share of the market for domestically produced and imported combed cotton/polyester sales yarn, 31's and finer, declined from 91 percent in 1983 to 58 percent in 1985.

Imports and Import Penetration

Imports of combed cotton/polyester yarns, 31's and finer, increased sharply in 1984 to 8.8 million pounds; up 172 percent from 1983. Imports in 1985 continued to increase, reaching a record level of 15.1 million pounds, and were almost twice the level of 1984.

The ratio of imports to domestic production in 1985 was 73.5 percent, more than seven times the 10.4 percent of 1983.

Duty-Paid Values and U.S. Producers' Price

The Republic of South Africa is a low cost supplier of these combed cotton/polyester yarns. These yarns entered at landed, duty-paid values far below the U.S. producers' price for comparable yarns.

[FR Doc. 86-14096 Filed 6-20-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; 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, 9 July 1986.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

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 developments 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: June 18, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-14069 Filed 6-20-86; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Wednesday, 23 July 1986.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 201 Varick Street, New York, NY 10014.

FOR FURTHER INFORMATION CONTACT: Harold Slater, 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 AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs 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: June 18, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-14070 Filed 6-20-86; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

Categorical Exclusion of Certain Federal Activities From Environmental Documentation

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of categorical exclusions.

SUMMARY: The nationwide permit in 33 CFR 330.5(a)(23) published by the Corps of Engineers in its interim final rules on October 5, 1984, provided for categorically excluding certain Federal activities from environmental documentation provided certain conditions were met. The Department of Transportation, Federal Highway Administration, has requested the Corps concurrence in that agency's proposed categorical exclusions which were recently published in the **Federal Register**. The Corps of Engineers is soliciting comments on this proposal which will be used in making final decisions on this matter.

DATE: Written comments must be received on or before July 23, 1986.

ADDRESS: HQDA, DAEN-CWO-N. Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Leonard Kotkiewicz or David Barrows at (202)272-0199.

Dated: June 16, 1986.

Approved:

Dennis J. York,

Colonel, Corps of Engineers, Executive Director of Civil Works.

The U.S. Department of Transportation, Federal Highway Administration, has requested that the Office of Chief of Engineers concur in

their proposed categorical exclusion determination in order that they may utilize the nationwide permit published at 33 CFR 330.5(a)(23) when their proposed rule "Environmental Impact and Related Procedures" published in the **Federal Register** on August 1, 1983, is finalized. The nationwide permit at 33 CFR 330.5(A)(23) reads:

Activities, work, and discharges undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where that agency or department has determined, pursuant to the CEQ Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Part 1500 et seq.), that the activity work, or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment and the Office of the Chief of Engineers (ATTN: DAEN–CWO–N) has been furnished notice of the agency or department's application for the categorical exclusion and concurs with that determination.

The permit is subject to conditions listed at 33 CFR 330.5(b) and the management practices listed at 33 CFR 330.6

Upon concurrence by the Office of the Chief of Engineers, and when the Federal Highway Administration's proposed rule is finalized, activities categorically excluded by the Federal Highway Administration will be authorized by nationwide permit and would require an individual permit review only at the discretion of a division engineer.

The Federal Highway Administration's categorical exclusions were published on August 1, 1983, at 48 FR 34894. Those which may be subject to Department of the Army authority are listed below.

Comments are invited on the appropriateness of authorizing the Federal Highway Administration categorically excluded activities under the subject nationwide permit and, if necessary, any conditions that should be imposed to ensure that activities comply with provisions of the Clean Water Act.

List of Those Federal Highway Administration Categorical Exclusions Which May Be Subject to Department of Army Permit Authority

23 CFR 771.113

Federal Highway Administration.

Categorical Exclusions

(Note.—The numbering of the categorical exclusions listed below correspond to the numbering used by the Federal Highway Administration at 48 FR 34894.)

(c) The following actions meet the criteria for CEs in the CEQ regulation (§ 1508.4) and § 771.115(a) of this regulation and normally do not require any further NEPA approvals by the Administration:

(3) Construction of bicycle and pedestrian lanes, paths, and facilities.

(4) Activities included in the State's "highway safety plan" under 23 U.S.C. 402 (such as improvements to interchanges).

(6) The installation of noise barriers or alterations to existing publicly-owned buildings to provide for noise reduction.

(7) Landscaping.

(8) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.

(9) Emergency repairs under 23 U.S.C. 125.

(12) Improvements to existing rest areas and truck weigh stations.

(15) Alterations to buildings or vehicles in order to make them accessible for elderly and handicapped persons.

(18) Track and railbed maintenance and improvements when carried out within the existing right-of-way.

(d) Additional actions which meet the criteria for a CE in the CEQ regulation (§ 1508.4) may be designated as CEs only after Administration approval. The applicant shall submit documentation which demonstrates that the speciic conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:

(1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing).

(2) Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.

(3) Bridge construction or reconstruction of the construction or grade separation to replace existing at-grade railroad crossings.

(4) Transportation corridor fringe parking facilities.

(5) Construction of new truck weigh stations or rest areas.

(8) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.

(9) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.

(10) Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks, and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.

(11) Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community.

[FR Doc. 86–14094 Filed 6–20–86; 8:45 am]
BILLING CODE 3710–08–M

Defense Logistics Agency

Privacy Act of 1974; Notice of a Computer Matching Program Between the Department of Defense (DoD)/ Department of Housing and Urban Development (HUD)

AGENCY: Defense Manpower Data Center (DMDC), Defense Logistics Agency (DLA), Defense.

ACTION: Notice of a new ongoing computer matching program between the Department of Defense (DoD) and the Department of Housing and Urban Development (HUD).

SUMMARY: DoD proposes a new ongoing computer matching program by matching DoD records of civilian, active duty military, retired military and reserve military personnel with HUD records of individuals receiving housing assistance. The purpose of the match is to identify individuals receiving housing assistance who have income above the amount necessary to receive these benefits.

DATES: The proposed action will be effective without further notice July 23, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mr. Robert J. Brandewie, Deputy Director, Defense Manpower Data Center, 550 Camino El Estero, Suite 200, Monterey, California 93940–3231. Telephone: (408) 375–4131, Autovon: 878–2951.

SUPPLEMENTARY INFORMATION: This computer match will be performed by DoD after HUD supplies records of individuals receiving housing assistance. HUD as the source agency will be responsible for reviewing the earnings information supplied by DoD to determine if any individuals have underreported income in order to receive housing assistance. Set forth below is the information required by the paragraph 5.f. of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget (47 FR 21656 May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget on June 13, 1986, pursuant to Appendix I to OMB Circular No. A–130—"Federal Agency Responsibilities for Maintaining Records About Individuals" dated December 12, 1985.

Dated: June 17, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer Department of Defense.

Report of a New Ongoing Matching Program Between the Department of Defense (DOD)/Department of Housing and Urban Development (HUD)

a. *Authority:* The legal authority under which the computer match is being conducted is 10 U.S.C. 136 and 127, 12 U.S.C. 1702, 42 U.S.C. 3711, 42 U.S.C. 3717, 42 U.S.C. 1437 *et seq.* and the Housing and Community Amendments of 1981 (Pub. L. 97–35, 95 Stat. 408), 5 U.S.C. 552a and OMB Revised Supplemental Guidance for Conducting Matching Programs (47 FR 21656, May 19, 1982).

b. *Program Description:* This new ongoing matching program will identify families receiving excessive housing assistance from HUD which results from unreported or underreported family income received from the DoD. The matching will compare income reported by assisted housing recipients to current DoD active duty, reserve military, retired military and DoD civilian personnel currently receiving compensation or benefits from the DoD to determine continued eligibility for the assistance.

HUD, as the source agency, will submit to the DoD the names, social security numbers (if available) and other relevant identifying information on individuals receiving assisted housing benefits. DoD, as the matching agency, will perform the match by computer at the Defense Manpower Data Center (DMDC) by matching these individuals against current records of DoD civilian, active duty, retired and reserve employees. DoD will then provide HUD with the social security number, last name, first name, salary, rank and address of resultant "hits". HUD will conduct follow-up work on the "hits" at the housing authorities, subsidized multifamily projects and mortgagees involved in administering the assisted housing programs. This work will include verification of income sources reported by assisted housing recipients, interviews with individuals knowledgeable about the case(s) and preparation of case files to determine continued eligibility for housing assistance benefits or possible investigation and prosecution. If individuals are determined not be be eligible, HUD will pursue collection through any legal action that may be required. Any actions taken as a result of the match will comply with all applicable due process standards.

c. *Records to be Matched:* The systems of records subject to the Privacy Act to be matched are as follows:

HUD Record System (Source Agency)

(1) System Identification: HUD/H–11.

System Name: Multifamily Tenant Certification System.

Federal Register Citation: 48 FR 38685, August 25, 1983.

DoD Record System (Match Agency)

(2) System Identification: S322.10 DLA–LZ.

System Name: Defense Manpower Data Center Data Base.

Federal Register Citation: 50 FR 51899, December 20, 1985.

d. *Period of the Match:* This ongoing matching program will begin as soon as possible after this public notice becomes effective as set forth under "Date" in the preamble of this notice and will be conducted no more than quarterly thereafter. The matching program will remain in effect for a period of five (5) years unless modified by agreement by either DoD or HUD.

e. *Security:* Manual files and computer tapes are stored in secure areas with access by authorized personnel only.

f. *Retention and Disposition of Records:* Tapes received by DoD will be returned to HUD upon successful completion of the match. "Hit" records will be used by HUD to determine benefit eligibility. If eligibility is established, the record will be filed in the official file folder. If eligibility is to be denied, the record will be used for investigation, prosecution and collection of any debt. Information on non "hit" records will not be used for any purposes. DoD agrees that the information provided by HUD will not be used or disclosed without the specific permission of HUD and that files concerning non "hit" individuals will not be used for any purpose unless agreed by HUD.

[FR Doc. 86–14068 Filed 6–20–86 8:45 am]

BILLING CODE 3810–01–M

Privacy Act of 1974; Computer Matching Program with Veterans Administration

Correction

In FR Doc. 86–13183 appearing on page 21213 in the issue of Wednesday, June 11, 1986, make the following corrections:

In the first column, in the **"ADDRESS"** Caption, last line, the Autovon phone number should have read "878–2951". Also in the first column, the heading entitled "FOR FURTHER INFORMATION CONTACT" should have read **"SUPPLEMENTARY INFORMATION"**.

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Proposed Consent Order; Total Petroleum, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of execution of proposed Consent Order with Total Petroleum, Inc. and opportunity for public comment.

SUMMARY: Pursuant to 10 CFR 205.199J, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of the execution of a consent order with Total Petroleum, Inc. (Total). The consent order resolves all remaining issues of Total's compliance with the Federal Petroleum Price and Allocation regulations. Total will pay $5 million to the Department of Energy which will be the subject of a petition for the implementation of a special refund proceeding under 10 CFR Part 205, Subpart V.

ERA will receive comments on the consent order for a period of thirty (30) days following publication of this notice, and consider all comments received in determining whether to make the consent order final.

DATE: Comments must be received by 5:00 P.M. on the thirtieth day following

publication of this notice, July 23, 1986. Address comments to the contact below.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, Washington, DC 20585, Telephone: 202–252–4387.

Copies of the consent order may be received free of charge by writing to the address above, or may be obtained at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, Room 1E–190, Washington, DC.

SUPPLEMENTARY INFORMATION: Total is a producer and refiner of crude oil and a marketer of petroleum products, and as such, is subject to the Federal petroleum price and allocation regulations (the regulations), and to the jurisdiction of the DOE. During the period of the consent order, January 1, 1973 through January 27, 1981 (the settlement period), Total was under audit by the DOE to determine its compliance with the regulations. During the audit, compliance questions were raised and enforcement documents were issued. This consent order resolves the outstanding enforcement actions, as well as all other administrative and civil compliance issues for the settlement period, whether or not raised in a previous enforcement action.

ERA's audit addressed all aspects of Total's compliance with the regulations, including its refining, processing, importation and marketing of crude oil and covered products, and the entitlements programs. During the course of the audit, ERA issued Notices of Probable Violation and a Proposed Remedial Order (PRO), and entered into consent orders with Total and with Vickers Petroleum Inc., which was acquired by Total.

There are three remaining enforcement matters currently pending against Total: A PRO alleging violations of the entitlements regulations through the improper use of processing agreements; a consent order which was intended to resolve issues concerning Total's compliance with the refiner pricing regulations; and a consent order with Vickers Petroleum Inc., a firm which was acquired by Total in 1980.

Under the PRO, case number N00S90160, Office of Hearings and Appeals case number HRO–0295, Total was alleged to have entered into processing agreements for the purpose of improperly increasing its receipt of small refiner bias benefits. The PRO alleged a violation of $907,960, plus interest of $1,179,797 calculated through May 1985.

In the consent order, case number 540S00227, Total was required to roll back its prices to refund $8 million in retail sales of motor gasoline, and to pay $2 million to DOE for non-retail sales of motor gasoline and middle distillate. Although the consent order was not published for comment at the time of its execution in January 1981, or subsequently issued as final consent order, Total implemented the price rollback. DOE reviewed the records of the rollback and is satisfied that it meets the terms of the 1981 consent order. However, Total did not pay the $2 million to DOE, a matter resolved in this consent order.

The Vickers consent order, case number 740S01234, required Vickers to roll back its prices in retail sales of motor gasoline by $6,300,000 and to refund $2,850,000 to the DOE for further disbursement. While Vickers made the required payment, DOE's review of the records of the price rollback indicated that Vickers had not correctly computed the amount to be credited, and had not refunded an adequate amount. Vickers, and later Total, which purchased and merged Vickers into Total, maintained that it has refunded more than required under the terms of the consent order. This issue is also resolved by this consent order.

Neither Total nor DOE retreat from the positions each has taken previously, and each believes that its factual and legal positions are meritorious. The parties desire to resolve all remaining issues without resort to protracted, complex litigation. DOE believes that the terms and conditions of the consent order provide a satisfactory resolution of disputed issues and that the consent order is in the public interest.

Terms and Conditions of the Consent Order

Total will pay $5 million to the DOE. DOE will hold the funds in an interest bearing account, and petition the DOE Office of Hearings and Appeals to implement special refund proceedings under 10 CFR Part 205, Subpart V. Of the $5 million, $2 million is attributable to issues concerning the entitlements PRO, and the remainder, $3 million, is attributable to issues concerning refined products. Under the Subpart V regulations, parties claiming injury may submit claims for refunds.

DOE will dismiss its entitlements case against Total in OHA case HRO–0295 and Total and DOE each release each other from all claims, liabilities and causes of action each may have under the regulations. The consent order also addresses matters concerning enforcement of the consent order, reporting and recordkeeping and procedures for issuing it as a final order. Upon becoming final, the consent order will be a final order of DOE to which Total will have waived its right to administrative or judicial review. The consent order does not constitute an admission by Total or a finding by DOE of a violation of the regulations.

Submission of Comments

Interested persons are invited to submit written comments concerning this consent order to the address above. All comments received by the thirtieth day following the publication of this notice wil be considered by ERA before determining whether to issue this consent order as a final order. Any modifications to the consent order which ERA determines significantly change the terms and conditions will be published for comment. ERA will publish notice of any action on the consent order in the **Federal Register**. If ERA determines to issue the order as a final order, it will become final on the date of publication of that notice.

Any information considered confidential by the person submitting it must be identified as such in accordance with 10 CFR 205.9(f).

Issued in Washington DC, June 17, 1986.

Carl A. Corrallo,

Solicitor, Economic Regulatory Administration.

[FR Doc. 86–14067 Filed 6–20–86; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate costs of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are

to be effective July 1, 1986. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Department of Energy, Energy Information Administration, 1000 Independence Avenue, SW., Room BE–034, Washington, DC 20585, Telephone: (202) 252–6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on April 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceiling is described in Section III.

State:	*Per million BTU's*
Alabama	$1.59
Arizona [1]	1.43
Arkansas [1]	1.79
California	1.38
Colorado [2]	1.68
Connecticut [1]	1.66
Delaware [1]	1.81
Florida	1.56
Georgia	1.61
Idaho [2]	1.68
Illinois	1.78
Indiana [1]	1.88
Iowa [1]	1.95
Kansas	1.86
Kentucky [1]	1.88
Louisiana	1.74
Maine [1]	1.66
Maryland [1]	1.81
Massachusetts	1.51
Michigan [1]	1.88
Minnesota [1]	1.95
Mississippi	1.66
Missouri	1.57
Montana [2]	1.68
Nebraska [1]	1.95
Nevada [1]	1.43
New Hampshire [1]	1.66
New Jersey [1]	1.81
New Mexico [1]	1.79
New York	1.73
North Carolina [1]	1.74
North Dakota [1]	1.95
Ohio	1.69
Oklahoma [1]	1.79
Oregon [1]	1.43
Pennsylvania [1]	1.81
Rhode Island [1]	1.66
South Carolina [1]	1.74
South Dakota [1]	1.95
Tennessee	1.67
Texas	1.70
Utah [2]	1.68
Vermont [1]	1.66
Virginia [1]	1.74
Washington [1]	1.43
West Virginia	1.86
Wisconsin [1]	1.88
Wyoming [2]	1.68

[1] Region based price as required by FERC Interim Rule, issued on April 2, 1981, in Docket No. RM–79–21.
[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during April 1986 was $18.42 per barrel. The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which the incremental pricing threshold becomes effective. The prices found in *Platt's Oilgram Price Report* are given for each trading day in the form of high and low prices for No. 2 fuel oil in Metropolitan New York and Northern New Jersey. A lag adjustment factor was calculated using the average of the low posted price for these two areas for the ten trading days ending June 13, 1986, and dividing that price by the corresponding average price computed from prices published by Platt's for the month of April 1986. This lag adjustment factor was applied to the April price yielding $16.95 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective July 1, 1986, is $3.80 per million BTU's.

Section III. Method Used to Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81–27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on November 6, 1981, in Docket No. RM81–28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: For each selling price, the number of gallons sold to large industrial users in the months of February 1986, March 1986, and April 1986.[3] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used To Determine Alternative Price Ceilings

(1) Calculation of Volume-Weighted Average Price

The prices which will become effective July 1, 1986, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, February 1986, March 1986, and April 1986. Reported prices for sales in February 1986 were adjusted by the percent change in the nationwide volume-weighted average price from February 1986 to April 1986. Prices for March 1986 were similarly adjusted by the percent change in the nationwide volume-weighted average price from March 1986 to April 1986. The volume-weighted 3-month average of the adjusted February 1986 and March 1986, and the reported April 1986 prices were then computed for each State.

(2) Adjustment for Price Variation

States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B. (1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

[3] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

(3) Calculation of Ceiling Price

The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of February 1986, March 1986, and April 1986. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) Lag Adjustment

The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending June 13, 1986, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of April 1986. A regional lag adjustment factor was similarly calculated for four regions. These are: One for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Region B

Delaware, Maryland, New Jersey, New York, Pennsylvania

Region C

Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Virginia

Region D

Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, Wisconsin

Region E

Iowa, Kansas, Missouri, Minnesota, Nebraska, North Dakota, South Dakota

Region F

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Region G

Colorado, Idaho, Montana, Utah, Wyoming

Region H

Arizona, California, Nevada, Oregon, Washington

Issued in Washington, DC, June 18, 1986.

L.A. Pettis,

Deputy Administrator, Energy Information Administration.

[FR Doc. 86-14191 Filed 6-20-86; 8:45 am]

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Federal Energy Regulatory Commission

[Docket Nos. RM85-1-170 and SA86-7-002]

Lone Star Gas Co.; Order Granting Request for Refund

Issued: June 17, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On December 23, 1985, Lone Star Gas Company, a Division of ENSERCH Corporation (Lone Star) filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and Subpart K of Part 385 of the Commission's Rules of Practice and Procedure, together with the $6,000 filing fee required under § 381.401 of the Commission's Regulations. The application sought a waiver of the restrictions in the transitional provisions of Order No. 436.[1] As such, the Commission's February 6, 1986 order [2] treated the application as a request for waiver rather than a petition for adjustment.

On April 17, 1986, Lone Star filed a petition seeking a refund of the filing fee submitted with the petition for adjustment. Lone Star alleges that a refund is due on the grounds that the Commission treated the application as a request for waiver under Order No. 436, for which no filing fee is required.

Refunds of fees submitted under Part 381 are governed by § 381.109 of the Commission's Regulations.[3] Section 381.109 clearly provides that "[f]ees established under [Part 381] may be refunded only if the related filing is withdrawn within fifteen (15) days of the date of filing or, if applicable, before the filing is noticed in the **Federal Register**."

Section 385.1104(b)(3) of the Commission's Regulations requires that notice of petitions for adjustment be published in the **Federal Register**. In light of the decision to treat the pleading as a request for waiver, however, notice of Lone Star's petition for adjustment was not published in the **Federal Register**. Accordingly, Lone Star's petition for refund of the $6,000 filing fee submitted with its December 23, 1985 filing is granted.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-14071 Filed 6-20-86; 8:45 am]

BILLING CODE 6717-01-M

[1] 33 FERC ¶ 61,007 (1985), 50 FR 42,408 (October 18, 1985).

[2] 34 FERC ¶ 61,181 (1986).

[3] Fees Applicable to Natural Gas Pipelines, 50 FR 40,332 (October 3, 1985), FERC Statutes and Regulations ¶ 30,662.

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3036-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382-2740 or FTS 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Asbestos Demolition and Renovation (Subpart M)—Information Requirements (EPA ICR #0111). (This is a reinstatement of a previously approved ICR; there are no changes.)

Abstract: The owner or operator of an asbestos demolition or renovation operation shall provide notice of each such operation when the amount of asbestos involved is above a threshold level. EPA uses notices to assure that proper procedures will be used, and to plan inspections.

Respondents: Owners or operators of asbestos demolition or renovation operations.

* * * * *

Title: National Emission Standards for Hazardous Pollutants (NESHAP) for Beryllium (EPA ICR #0193). (This is a reinstatement of a previously approved ICR; there are no changes.)

Abstract: Sources shall apply for approval of construction or modification. Upon approval, sources shall notify EPA of anticipated and actual startup and emission test dates. Test results shall be reported and records maintained. Sources choosing to meet ambient concentration standards must report on sampling method/sites and air quality data. Approved sources shall continuously monitor specified sites, maintain records, and report concentrations monthly.

Respondents: Owners or operators of all extraction plants, ceramic plants, foundries, incinerators, and propellant plants which process beryllium ore, beryllium, beryllium oxide, beryllium alloys, or beryllium-containing waste. Owners or operators of machine shops which process beryllium, berryllium oxides, or any alloy when such alloy contains more than five percent beryllium by weight.

* * * * *

Office of Emergency and Remedial Response

Title: Love Canal Habitability Study—Pilot Air Sampling Program (EPA ICR #1301). (This a new collection.)

Abstract: EPA will collect indoor and outdoor air samples at selected locations in or near residences in the Love Canal Emergency Declaration Area (EDA) and comparison areas (Cheektowaga and Tonawanda, New York). Sampling results will be used for planning and design of the Habitability Study of the EDA.

Respondents: Selected residents in or near Love Canal, Cheektowaga, and Tonawanda, New York.

* * * * *

Office of Water

Title: Certification for Exemption from Monitoring and Notification of Process Changes in Effluent Regulations (EPA ICR #1014). (This is a renewal of existing regulations; no changes are proposed.)

Abstract: Effluent limitation regulations for several industrial categories require monitoring for specific pollutants. Certain facilities may obtain monitoring exemptions by demonstrating to the permit or control authority (EPA, state agency, or publicly owned treatment works) that the pollutant is not present in their discharges. Canmaking facilities are required to notify EPA of certain process changes.

Respondents: Aluminum forming, coil coating, canmaking, porcelain enameling, pharmaceuticals manufacturing, pulp and paper, and steamelectric generating industries.

* * * * *

Agency PRA Clearance Requests Completed by OMB

EPA ICR #0168, National Pollutant Discharge Elimination System (NPDES) Requirements for Approved State Programs, was approved 4/7/86 (OMB #2040-0057; expires 4/30/88).

EPA ICR #0257, State Conducted Inventory of Injection Wells, was approved 5/21/86 (OMB #2040-0105; expires 4/30/87).

EPA ICR #0328, Spill Prevention Control and Countermeasure Plan and Review, was approved 5/30/86 (OMB #2050-0021; expires 8/31/86).

EPA ICR #0368, Underground Injection Control Permit Application and Permittee Reporting, was approved 6/9/86 (OMB #2040-0104; expires 4/30/87).

EPA ICR #0370, Underground Injection Control Permit Application and Permittee Reporting, was approved 6/9/86 (OMB #2040-0042; expires 4/30/87).

EPA ICR #0597, Tolerance Petitions and New Inert Ingredient Clearance, was approved 5/21/86 (OMB #2070-0024; expires 5/31/89).

EPA ICR #0812, Information Requirements for Location Standards, was approved 6/2/86 (OMB #2050-0010; expires 4/1/86).

EPA ICR #0814, Storage and Treatment Permitting Standards—Amendments Based on Hazardous and Solid Waste Amendments of 1984 (HSWA), was approved 5/29/86 (OMB #2050-0009; expires 3/31/86).

EPA ICR #0995, Land Disposal Permitting Standards—Amendments Based on Hazardous and Solid Waste Amendments of 1984 (HSWA), was approved 5/29/86 (OMB #2050-0007; expires 9/30/88).

EPA ICR #0999, Incinerator Permit Standards, was approved 5/29/86 (OMB #2050-0002; expires 9/30/86).

EPA ICR #1276; Asbestos: Proposed Mining and Import Restrictions and Proposed Manufacturing, Importation and Processing Prohibitions, was approved 6/2/86 (OMB #2070-0082; expires 6/30/87).

EPA ICR #1297, Underground Storage Tank Notification Awareness Survey, was approved 5/25/86 (OMB #2050-0057; expires 2/29/87).

EPA ICR #1280, Call-In of Confidential Statements of Formula and Product Chemistry Data Pre-Test, was approved 5/21/86 (OMB #2070-0083; expires 5/31/87).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street SW., Washington, DC 20460, and

Wayne Leiss (ICRs #0111 and 0193), Nancy Baldwin (ICR #1301), or Rick Otis (ICR #1014), Office of Management and Budget, Office of Information and Regulatory Affairs,

New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, DC 20503

Dated: June 16, 1986.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 86-14176 Filed 6-20-86; 8:45 am]

BILLING CODE 6560-50-M

[AD-FRL-3036-1]

Assessment of Phenol as a Potentially Toxic Air Pollutant

AGENCY: Environmental Protection Agency.

ACTION: Notice of phenol assessment results and solicitation of information.

SUMMARY: This notice announces the results of EPA's assessment of phenol as a candidate for regulation under the Clean Air Act. The Agency has concluded that the health data base for phenol is insufficient in several respects. As regards carcinogenicity, the available data are considered inadequate to determine the carcinogenic potential of phenol exposure; as such, the Agency classifies phenol as a Group D (inadequate evidence) carcinogen under its weight-of-evidence criteria for cancer data. As regards noncancer health effects, there are not enough data to determine whether the adverse health effects at lower exposure levels observed in the few animal studies performed to date may be extrapolated to humans and at what levels such effects might be observed in humans. Given this current lack of information, the EPA does not plan to initiate rulemaking for phenol under the Clean Air Act at this time. Given the limited opportunity for prior public review of the health and exposure information incorporated in this notice, the Agency is soliciting comment on this finding. This finding has no effect on the regulation of phenol as a volatile organic compound in order to attain the national ambient air quality standards (NAAQS) for ozone. In addition, this notice does not preclude any State or local air pollution control agency from specifically regulating emission sources of phenol.

DATE: Written comments pertaining to this notice must be received on or before September 22, 1986.

ADDRESSES: Submit comments (duplicate copies are preferred) to: Central Docket Section (A-130), Environmental Protection Agency, Attn: Docket No. A-85-27, 401 M Street SW., Washington, DC. Docket A-85-27, which contains information relevant to this notice, is located in the Central Docket Section of the U.S. Environmental Protection Agency, West Tower Lobby Gallery I, 401 M Street SW., Washington, DC. The Docket may be inspected between 8:00 a.m. and 4:30 p.m. on weekdays, and a reasonable fee may be charged for copying.

Availability of Related Information

Information on the availability of the Health Assessment Summary Document for phenol, "Summary Review of the Health Effects Associated with Phenol: Health Issue Assessment," EPA-600/8-86-003F, can be obtained from ORD Publications, CERI-FR, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268 (Telephone: 513-684-7562 commercial/684-7562 FTS). The document (PB 86-178076) is available through the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. The above document and other information on the sources, emissions, and environmental fate are summarized in several reports which are found in the docket.

FOR FURTHER INFORMATION CONTACT: Robert Kellman, Pollutant Assessment Branch (MD-12), Strategies and Air Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711 (Telephone: 919-541-5645 commercial/629-5645 FTS).

SUPPLEMENTARY INFORMATION: The EPA initiated an assessment of phenol based on the knowledge that this chemical is produced in large quantities (ranked thirty-fourth among the top fifty high-production chemicals in 1983) and has been demonstrated to be acutely toxic to humans at high exposure levels. In the course of this assessment, the Agency has collected the available relevant information and today's notice provides a summary of this information on the following topics: Production and uses; emissions; atomospheric fate; health effects; monitored ambient concentrations; and exposure estimates.

Production and Uses

In 1983, phenol production was approximately 1.2 million megagrams (1.3 million tons) and was produced nationally from plants with total capacity of 1.4 million megagrams (1.6 million tons). As detailed in Table 1, most of the phenol produced is used as a chemical intermediate in the production of other organic chemicals. (*1*)

Sources and Emissions

Phenol is emitted to the air from a variety of sources, including phenol production facilities as well as from facilities producing other chemicals where phenol is used as an intermediate. Table 2 presents a summary of emitting source categories and their respective estimated emissions. Emission ranges are presented where emissions from the various source categories are not well characterized. In addition to the anthropogenic sources given in Table 2, phenol is naturally emitted from animal waste and decomposition of organic wastes and may be produced from the photodegradation of atmospheric benzene. Based on the available information, certain chemical plants that both produce phenol and subsequently use it as in an intermediate (caprolactam and bisphenol-A production plants) appear to be the largest single sources. (*2*)

TABLE 1.—USES OF PHENOL [1]

Uses	Percent of phenol production	Examples of end products
Phenolic resins	45	Surface coatings, molding compounds.
Bisphenol-A	20	Epoxy resins.
Caprolactam	13	Nylon 6 and 66 fibers, plastics and film.
Alkyl-phenols	5	Oil additives, surfactants.
Cresols and xylenols	5	Oil & gasoline additives.
Aniline	3	Chemical intermediate for polyurethanes and plastics.
Miscellaneous	5	Aspirin and other drugs, dyes.
Export	4	

[1] *Summary Review of the Health Effects Associated with Phenol.* Health Issue Assessment, Office of Health and Environmental Assessment, U.S. EPA, January 1986 (EPA-600/8-86-003F).

TABLE 2.—EMISSION ESTIMATES FOR PHENOL SOURCE CATEGORIES*

Source	No. of sources	Emissions [a] (Mg/yr)
Production	14	226-2820
Transport and handling		196
Chemical intermediates:		
Caprolactam	1	77-232
Bisphenol A	2	74-159
Phenolic resins	90-125	77-235
Nonylphenol	13	19-54
Salicylic acid	4	9-11
Dodecyl phenol	3	2-11
Pentachlorophenol		24
p-Nitrophenol		22
Trichlorophenol		11
User storage, transport and handling		392
Miscellaneous [c]		135
Auto exhaust [d]		(*)
Residential wood [d] combustion		115-1880
Coke ovens		(*)

* *Souce Screening for Phenol,* Office of Air Quality Planning and Standards, U.S. EPA report prepared by RADIAN Corporation, July 1985.

[a] A number of emission estimates were available to the Agency and this column reflects the range of estimates.

[b] Phenol has been detected in auto exhaust. Data insufficient for estimating national emissions.

[c] Includes production of chlorophenol, polyvinyl chloride, polycarbonate resins, cresyldiphenyl phosphate, octyl phenol, salicylates and other.

[a] Based on limited data, catalytic converters appear to be over 90% effective in reducing phenol emissions from automobiles and wood-burning stoves.
[b] Unknown.

Atmospheric Fate

Once emitted into the atmosphere, phenol may be subject to several removal mechanisms. While there is speculation that phenol undergoes photodecomposition in the atmosphere and that some phenol may be removed by wet precipitation, atmospheric oxidation via the hydroxyl and nitrate radicals appears to be the dominant fate-determining pathway for atmospheric phenol. The anticipated products formed from photodegradation of phenol are dihydroxybenzenes, nitrophenols, and ring cleavage products.(*1*) In one smog chamber study, a mixture of phenol, propylene, butane and NO_2 was irradiated. In the study, 2-nitrophenol and 4-nitrophenol were specifically identified as photochemical products and together these two chemicals accounted for about 11% of the reacted phenol while the remaining products were unidentified. Also, in other smog chamber studies, phenol has been detected as a product of photodecomposition of benzene in the presence of NO_x.(*3*) The toxicity potential of phenol photodegradation products is mostly unknown except for the theoretical product para-dihydroxybenzene (its formation has not been confirmed in smog chamber studies); this chemical has a Threshold Limit Value (TLV) of about 0.4 parts of phenol per million parts of air by volume (ppmv) to protect against chronic exposure leading to eye damage.

Because of the paucity of experimental data, the atmospheric half-life for reactions between hydroxyl radicals and phenol has been estimated by theoretical calculations. Based on data derived from structure activity relationships, the half-life in the atmosphere for phenol was calculated to be about 0.5 days. In polluted atmospheres, reactions with NO_3 radicals could dominate and the half-life of phenol may be less than one minute.(*1*)

In the one phenol smog chamber study mentioned above, the estimated half-life of phenol was about 4.5 hours (disappearance rate of 0.113 hr^{-1}).(*3*) With an estimated half-life of several hours, the Agency expects that the effects of photodegradation on downwind phenol concentrations at nearby receptors will be relatively small under typical atmospheric conditions, but the half-life estimate is short enough so that significant global atmospheric buildup would not be expected.

Health Effects

As a first step in assessing whether a chemical should be regulated under section 112 of the CAA, the Agency prepares a Health Assessment Summary (HAS) for determining if the available health effects data are sufficient to permit a determination on the need for regulation. The available health and exposure information on phenol are summarized in the following sections.

The EPA's Health Assessment Summary for phenol(*1*) describes a number of human health effects associated with exposure to the chemical. Phenol is a highly toxic compound that may enter the body via skin absorption, vapor inhalation, or ingestion. Absorption of phenol from solutions in contact with the skin or from inhalation may be very rapid. Based on available human and animal data, exposure to relatively large doses of phenol by any route can lead to serious illness or death. Toxic doses of phenol exhibit similar symptoms in both humans and animal species: initial increases in heart rate followed by a rapid decline in blood pressure, labored breathing, decline in body temperature, cough, cyanosis (bluish discoloration of skin and mucous membranes) and pulmonary edema (abnormal accumulation of fluid). Death can occur within minutes and is usually due to respiratory failure. The ingestion of as little as 15 grams of phenol has been fatal in suicide victims.

Although there are no reported occupational epidemiological studies of a large number of employees, there are several specific case studies that address human responses to phenol exposure at various concentrations and durations. Employees inside a conditioning room for phenol-impregnated asbestos suffered marked irritation of the nose, throat, and eyes when exposed for 5- to 10-minute periods (total exposure of 50 minutes) to a mixture of phenol at 48 ppmv and formaldehyde at 8 ppmv. The role of phenol as a causative agent is obscured by the fact that formaldehyde alone at 8 ppmv has been shown to cause such irritation. Workers at the same plant continuously exposed to a phenol concentration of 4 ppmv experienced no respiratory irritation, although the odor of phenol was noticeable.

Also, in a controlled experiment, 8 subjects were exposed to phenol concentrations from 1–5 ppmv over several 8-hour exposure periods. The author did not report any ill effects from the exposure.

A Russian study reported 29 poisonings of employees who quenched coke with a waste water solution containing phenol. Concentrations for phenol in air samples collected in work areas ranged from 0.1–3.2 ppmv. The study concluded that phenol at concentrations from 2.3 to 3.2 ppmv may have been implicated in the intoxications. No other pollutant measurements were reported in this area, and the nature of the phenol poisoning was not further characterized. Because the results appear to be inconsistent with other better documented or controlled studies and because such effects may have been produced by some other substance in the effluents from either the waste water or the coking process, the HAS concurs with the conclusion reached by the National Institute for Occupational Safety and Health (NIOSH) that "it is inappropriate to assume that these conditions were produced by phenol."(*4*)

Although no acute inhalation studies were found, exposure of rats to phenol at 236 ppmv for 8 hours resulted in eye and nose irritation, loss of coordination, tremors, and prostration.

Several subchronic toxicity studies via inhalation have been reported for various species of animals. With respect to inhalation, guinea pigs, rabbits and rats were exposed to phenol concentrations of 25 ppmv for 7 hours per day for 74 days. The guinea pigs experienced 42 percent mortality after 28 days of exposure, the rabbits experienced some lung, liver and kidney damage after the full exposure period and the rats were not affected. Additional inhalation studies on rats, mice, and monkeys demonstrated a no-observed-effect level (NOEL) at 5 ppmv, i.e., no significant adverse toxic effects were observed at 5 ppmv after 90 days of exposure. One abstract in the Russian literature reported changes in blood enzyme activity, excitation of certain muscles, and decreased body weight when rats were exposed to low concentrations (0.02 to 1 ppmv) of phenol vapor. The abstract did not supply sufficient detail to evaluate the experimental protocols or interpret properly the study results which appear to be inconsistent with other rat experiments.

No inhalation studies for chronic toxicity were found in the available literature. However, two chronic oral studies were reported. A drinking water study demonstrated that growth, fecundity, and general condition were normal for rats up to 5000 parts per million by weight (ppmw), the no-observed-effect level (NOEL). Above 5000 ppmw, the growth of the rats was affected, and at 12,000 ppmw there was

no reproduction. The only effect observed in the other available study was a dose-related decrease in weight gain, though to be associated with decreased water consumption.

The present data base concerning the genotoxicity of phenol indicates no evidence of maternal toxicity or structural teratogenicity in rats exposed via oral doses from 30 to 120 mg/kg/day of phenol on days 6–15 of gestation compared to controls. With increasing doses, average fetal body weight/litter decreased. Adverse effects on reproduction were demonstrated for rats only when the phenol concentration in the drinking water exceeded 5000 ppmw. The only available inhalation study (Russian literature) demonstrated increased incidence of preimplantation loss and early postnatal death in the offspring of rats exposed to phenol concentrations in air of 0.13 and 1.3 ppmv throughout pregnancy. Similar to the Russian studies mentioned earlier, these results were not well documented and the quality of the experiment cannot be verified.

The potential mutagenicity of phenol has been examined using a variety of *in vitro* test systems. Tests indicative of genetic damage resulting from phenol exposure include chromosomal studies and studies on inhibition of DNA synthesis and repair in cultured human cells. Although equivocal on balance, the presence of positive findings could be construed as limited evidence of mutagenic potential.

Several skin painting studies suggest that phenol may be a tumor promoter and/or weak skin carcinogen in specially inbred sensitive strains of mice. One mechanism suggested for the possible tumor promotion of phenol stems from its known potential as a nonspecific irritant. However, two mouse skin painting studies demonstrated that the tumorigenic response normally exhibited by benzo(a)pyrene (BaP) exposure was slightly inhibited when a solution containing both BaP and phenol was applied. This partial inhibitory effect was also confirmed by other researchers in similar studies. A recent drinking water study demonstrated an increased incidence of some types of tumors (lymphoma, testicular) in male rats in a low-dose phenol group. However, the relevance of this observation was weakened because tumor incidence was not significantly elevated in the high-dose phenol group (both low and high dose exposure groups contained the same number of animals).

Based on the nature and limitations of the carcinogenicity data, the Agency has concluded that there is inadequate evidence to evaluate the carcinogenic potential of phenol. Accordingly, phenol is classified as a Group D compound using the EPA weight-of-evidence criteria for carcinogenicity.(5)

In summary, the available toxicity data, while limited, tend to support a no-observed-effect level for humans and animals at chronic and sub-chronic exposure levels of about 5 ppmv. Health effects may occur in both humans and animals following acute and sub-chronic exposures to phenol concentrations of 48 and 25 ppmv, respectively. There are limited and somewhat contradictory data which suggest that phenol may have mutagenic potential in mammalian cell test systems. There are also contradictory results regarding phenol's role as a tumor promoter. On balance, the Agency judges the data inadequate to evaluate phenol's carcinogenicity and genotoxic potential.

Monitored Ambient Concentrations

Limited data are available on the levels of phenol found in ambient air. Ninety samples were collected at nine separate locations throughout the U.S. in both urban and rural areas. The maximum average annual concentration of 0.078 ppmv was measured in El Paso, Texas (based on 22 samples). In the Grand Canyon, phenol concentrations could not be detected in seven 24-hour samples using analytic techniques with estimated detection limits of less than 0.00003 ppmv. Within this data base, the highest single measurement made over a 24-hour period was 0.42 ppmv and was detected at the same site as the highest measured annual average—El Paso.(6) Based on the available location data for the sources in Table 2, the Agency believes that the ambient data were not collected at sites near major point sources. These data indicate that for urban and rural areas without major industrial phenol sources phenol concentrations are typically well below the NOEL of 5 ppmv.

Exposure Estimation (7)

Human exposure to air emissions of phenol was estimated by a short-term screening model. The model employs a point source Gaussian air dispersion model and applies several reasonable worst case assumptions for source location, emissions, meteorology and terrain. The EPA selected for this analysis the largest emitting sources and, based on a range of emissions estimates available to the Agency, calculated the maximum levels of phenol that could occur near each plant. This analysis indicates that, based on this range of emissions, maximum concentrations may range from 2 to 12 ppmv for 15 minutes, from 1.5 to 10 ppmv for 60 minutes and from 1.1 to 7 ppmv for 8 hours in the vicinity of the plant. Although the Agency regards these concentration ranges a reasonable worst case estimates, the emission rates used in this analysis are derived from estimates of annual releases and may not be representative of accidental or intermittent emissions. On balance, however, the available information suggests that the highest concentrations predicted to occur near large sources are probably overestimates.

Because the odor of phenol is distinct and objectionable to most people and because the odor threshold is low (0.05 ppmv)(1) in relation to the estimated levels, complaints would be expected from residents near the plants if concentrations approached those estimated. Yet, the appropriate local air pollution agencies indicate that such complaints have not been received nor had local agency personnel detected much of a phenol odor on or off plant property during recent inspections. Also, local agencies supplied some limited sampling data which supported their beliefs that the EPA had overestimated emissions.(8),(9) For example, at one of the larger facilities, several days of monitoring indicated that phenol concentrations as measured by the National Institute for Occupational Safety and Health (NIOSH) on plant property at points very near the fugitive sources were near but below 5 ppmv. Concentrations off the plant property would be expected to be considerably lower. At a second large plant, the local agency conducted a several day monitoring study at points just off company property and no phenol concentrations above 0.05 ppmv were detected.

In summary, the concentrations predicted from the short-term modeling exercise indicate potential cause for concern, since these concentrations exceed the NOEL of 5 ppm as well as the relevant occupational limits. Some indication that these predicted concentrations may be on the high side is provided by a limited set of monitoring data supplied for two facilities. On balance, the evidence is not extensive enough to rule out the possibility that levels (near the NOEL and occupational limits) may be experienced near certain facilities.

Existing Regulations and Recommendations

NIOSH, (4) the Occupational Safety and Health Administration (OSHA) and the American Conference of Governmental Industrial Hygienists

(ACGIH) have made recommendations or have adopted regulations for maximum inhalation exposures to phenol (Table 3). These standards and recommendations are all designed to protect the average healthy worker against health effects associated with exposures in the workplace.

TABLE 3.—MAXIMUM OCCUPATIONAL EXPOSURE LEVELS

Group	Maximum exposure level (ppmv)	Protects Against	Averaging Time
NIOSH	5	All documented effects including eye, nose, throat irritation	10 hours.
	16	do	15 minutes.
	100	Imminent danger to life and health (IDLH).	30 minutes.
ACGIH	5	All documented effects including eye, nose, throat irritation.	8 hours.
	10	do	15 minutes.
OSHA	5	do	8 hour time-weighted average.

Because of its known toxicity at high exposure levels (phenol has been used as a suicidal agent), phenol is regulated under the Resource Conservation and Recovery Act (RCRA) and the Clean Water Act (CWA). Under RCRA, phenol as a commercial chemical product or as an off-specification chemical product is considered by EPA to be a hazardous waste under certain conditions as defined by 40 CFR Part 261. Such hazardous wastes must be managed in accordance with requirements adopted by the EPA or States in accordance with 40 CFR Parts 260–271. Also, phenol is listed as a hazardous water pollutant under section 307 of the CWA.

Phenol is currently listed s a hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Under section 101(14) of CERCLA, Reportable Quantities (RQs) are established for substances specified in the CERCLA, as well as substances listed or designated under certain sections of the Clean Water Act, the RCRA, the CAA (section 112) and the Toxic Substances Control Act (50 FR 13456–13522; April 4, 1985). Section 103 (a) of the CERCLA requires any release of phenol to the environment (including the air) that is equal to or greater than 1000 pounds in any 24-hour period must be reported to the National Response Center [NRC] (telephone 800–424–8802 or 202–426–2675 for the Washington, DC metropolitan area). The 24-hour period refers to the period within which a reportable quantity of a hazardous substance must be released for the release to be considered reportable; it does not refer to the time available for a person to report a release. Such reporting must occur immediately.

Conclusions

Based on the information currently available to the Agency, EPA has concluded that the available health information for phenol is insufficient to warrant specific Federal regulation of routine phenol emissions under the Clean Air Act at this time. The following uncertainties are associated with this conclusion:

- Although the health data are judged inadequate to judge phenol's potential to cause cancer in humans, ther are data suggesting that phenol may exhibit tumor promotion ability and mutagenic potential.

- Several methodologies for the extrapolation of results from animal studies to human inhalation exposure for non-cancer health effects are available. Uncertainties include differences among species in the metabolism of a particular chemical, pharmacokinetic differences within a species depending on the route of administration, and differences in sensitivity among exposed individuals.

- Routine phenol emissions are not well characterized. In addition, EPA's techniques for estimating for short-term concentrations resulting from routine emissions are based on screening models and not extensive site-specific modeling. As indicated above, the limited monitoring data available show levels lower than the concentrations predicted by the modeling exercise.

- The concentrations estimated from the short-term modeling exercise do not account for emissions resulting from accidental releases or intermittent or batch operations, thus providing a potential for underestimation of short-term concentrations.

Because of these uncertainties, the EPA is considering the need for further research and testing that would be necessary before a final regulatory determination can be made.

Alternatives under consideration include the nomination of phenol to the National Toxicology Program (NTP), the proposal of testing requirements under section 4(a) of the Toxic Substances Control Act, and additional short-term testing by EPA's Office of Research and Development. Depending on the nature of the studies conducted, results would not be expected sooner than ½ year with lifetime carcinogenicity bioassays requiring several years.

In addition to the health data, there are uncertainties associated with the lack of information or of short-term phenol emissions and the impact of such emissions on public health. The EPA invites comments and information pertinent to these matters as well as the nature of the determination made today. A further notice will be published upon completion of the necessary studies, if warranted, or if public comments suggest a need to revise the EPA's present conclusion.

Dated: June 17, 1986.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

References

(1) *Summary Review of the Health Effects Associated with Phenol:* Health Issue Assessment, Office of Health and Environmental Assessment, U.S. EPA, January 1986 (EPA–600/8–86–003F).

(2) *Source Screening for Phenol*, Office of Air Quality Planning and Standards, U.S. EPA report prepared by RADIAN Corporation, July 1985.

(3) *Atmospheric Reaction Products from Hazardous Air Pollutant Degradation*, Battelle-Columbus Laboratories report for Atmospheric Sciences Research Laboratory, U.S. EPA, March, 1985.

(4) *Criteria for A Recommended Standard. . . .Occupational Exposure to Phenol*, U.S. Health Education & Welfare, National Institute for Occupational Safety and Health, July 1976.

(5) The *Federal Register*, Volume 49, No. 227, November 23, 1984, pages 46294–301.

(6) *Volatile Organic Chemicals in the Atmosphere: An Assessment of Available Data*, SRI International Report for the Environmental Sciences Laboratory, U.S. EPA, EPA–600/3–83–027 (A), April 1983.

(7) *Preliminary Exposure Modeling for Phenol Atmospheric Emissions*, Office of Air Quality Planning and Standards, U.S. EPA, November 1985.

(8) *In Deputy Survey Report: Occupational Hazard Control Options for Chemical Process Unit Operations at U.S. Steel Corporation, USS Chemicals Division Site, Haverhill, Ohio*, NIOSH Report No. 101–15b, April 1985.

(9) *Environmental Sampling and Analysis of Airborne Contaminants Identified As Skin Irritants:* Deer Park, Texas, Texas Air Control Board paper as presented at the Air Pollution Control Association Specialty Conference on Measurement and Monitoring on Noncriteria (Toxic) contaminants in Air, March 22–24, 1983.

[FR Doc. 86–14078 Filed 6–20–86; 8:45 am]

BILLING CODE 6560–50–M

[FRL-3036-2]

California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of scope of waiver of Federal preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it adopted amendments to its 1981 Exhaust Emission Standards and Test Procedures and that it adopted Section 1968, Title 13 of the California Administrative Code. The amendments extend the required maintenance interval for oxygen sensors from 30,000 miles to 50,000 miles on 1988 and later model year vehicles so equipped. Section 1968 requires that 1988 and later model year vehicles equipped with three-way catalyst systems with feedback control be equipped with an on-board malfunction and diagnostic system for pinpointing malfunctioning emission control components. I find these actions to be within the scope of previous waivers of Federal preemption granted to California for its allowable maintenance regulations, its Exhaust Emission Standards and Test Procedures for 1981 and subsequent model year vehicles and for its regulations requiring a maintenance warning signal for oxygen sensors. Since these amendments are within the scope of previous waivers, a public hearing or comment period to consider them is not necessary. However, if any party asserts an objection to these findings within 30 days of the date of publication of this notice, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings. Otherwise, these findings will be final at the expiration of this 30-day period.

DATES: Any objection to the findings in this notice must be filed within 30 days of the date of this notice; otherwise, at the expiration of this 30-day period, these findings will become final. Upon the receipt of any timely objection, EPA will consider scheduling a public hearing and, if necessary, a subsequent notice of a public hearing will be published in the **Federal Register.**

ADDRESSES: Any objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division (Mail Code EN 340–F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Copies of the CARB's actions at issue in this notice, a decision document containing an explanation of my determination, and documents used in arriving at this determination, are available for public inspection during normal working hours (8:00 am to 4:00 pm) at the Environmental Protection Agency, Central Docket Section, Gallery I, 401 M Street, SW., Washington, DC 20460 (Docket EN 85–14). Copies of the decision document can be obtained by contacting Ms. McKnight as noted below:

FOR FURTHER INFORMATION CONTACT: Cynthia Garrett McKnight, Attorney/Advisor, Manufacturers Operations Division (EN 340–F), U.S. Environmental Protection Agency, Washington, DC 20460, (202) 382–2521.

SUPPLEMENTARY INFORMATION: Under section 209(b) of the Clean Air Act, as amended (Act), the Administrator must waive Federal preemption for California's standards and accompanying enforcement procedures unless certain findings are made. If California acts to amend previously waived standards or enforcement procedures, the change may be included within the scope of the previous waiver if, (1) if does not undermine California's determination that its standards, in the aggregate, are as protective of public health and welfare as comparable Federal standards; (2) the amendments do not affect the consistency of California's requirements with section 202(a) of the Act; and (3) raise no new issues concerning EPA's previous waiver determinations.

In a letter dated October 25, 1985, California requested EPA's concurrence in its view that these amendments are within the scope of previous waivers of Federal preemption.

I have determined that CARB's actions are within the scope of waivers of Federal preemption previously granted pursuant to section 209(b) of the Clean Air Act, as amended (Act).[1] Specifically, the changes extend the minimum maintenance interval for oxygen sensors from 30,000 miles to 50,000 miles for 1988 and subsequent model year vehicles and also require the installment of an onboard malfunction and diagnostic system on 1988 and subsquent model year vehicles equipped with three-way catalyst systems.

These changes do not undermine California's determination that its standards are, in the aggregate, at least as protective as Federal standards. In addition, they cause no inconsistency with section 202(a) of the Act and raise no new issues regarding previous waiver dicisions. A full explanation of my determination is contained in a decision document, which may be obtained as noted above.

My decision will affect not only persons in California but also manufacturers located in other states that must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby find that this decision is of nationwide scope and effect. Accordingly, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of the date of publication. Under section 307(b)(2), of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

This action is not a rule as defined by section 1(a) of the Executive Order 12291, 46 FR 13193 (February 19, 1981). Therefore, it is exempt from review by the Office of Management and Budget required for rules and regulations by Executive Order 12291. Additionally, a Regulatory Impact Analysis is not being prepared for this within the scope determination since it is not a rule.

This action is not a "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2) because EPA is not required to undergo prior "notice and comment" under section 553(b) of the Administrative Procedure Act or any other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Dated: June 10, 1986.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 86–14079 Filed 6–20–86; 8:45 am]

BILLING CODE 6560-50-M

[1] 45 FR 54132 (August 14, 1980); 43 FR 32182 (July 25, 1978); 49 FR 18887 (May 3, 1984).

[OPP-50651A; FRL-3035-7]

Issuance of Experimental Use Permits; Genetically Engineered Microbial Pesticides; Steven E. Lindow

AGENCY: EPA.

ACTION: Notice.

SUMMARY: EPA has granted two experimental use permits (55269–EUP–1 and 55269–EUP–2) to Dr. Steven E. Lindow, of the University of California, for small-scale field testing of two genetically engineered microbial pesticides. These are among the first genetically engineered microbial pesticides for which experimental use permits (EUPs) have been approved. These permits are issued in accordance with, and subject to, the provisions of 40 CFR Part 172, which define EPA procedures for the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:.

55269–EUP–1. Issuance. Dr. Steven E. Lindow, University of California, Berkeley, CA 94720. This EUP allows the application of a total of 3.6×10^{13} colony forming units (CFUs) of the genetically engineered product UCBPPL.1 (*Pseudomonas syringae*, Strain Cit7dellb in an aqueous solution) to potato plants to evaluate the control of frost damage caused by naturally occurring ice nucleating bacteria. The total acreage authorized in this EUP is approximately 1.0 acre (0.15 acre will be treated with the product in each of 3 years) in the State of California only. The EUP is effective from May 13, 1986 to May 12, 1989. This EUP is issued subject to several limitations, among which is the requirement that the crop be destroyed or used for research purposes only.

55269–EUP–2. Issuance. Dr. Steven E. Lindow, University of California, Berkeley, CA 94720. This EUP allows the application of a total of 3.6×10^{13} CFUs of the genetically engineered product ECBPP2.1 (*Pseudomonas syringae*, Strain TLP2dell in an aqueous solution) to potato plants to evaluate the control of frost damage caused by naturally occurring ice nucleating bacteria. The total acreage authorized in this EUP is approximately 1.0 acre (0.15 acre will be treated with the product in each of 3 years) in the State of California only. The EUP is effective from May 13, 1986 to May 12, 1989. This EUP is issued subject to several limitations, among which is the requirement that the crop be destroyed or used for research purposes only.

Both experiments involve strains of naturally occurring ice nucleating bacteria that have been genetically altered to delete the ice nucleating characteristic. The altered bacteria are referred to in this notice as "INA$^-$ products," as opposed to the naturally occurring ice nucleating (INA$^+$) and non-ice nucleating (non-INA) bacteria.

The experimental design calls for treating potato seed pieces with the INA$^-$ Products just prior to planting. After emergence of potato plant foliage, the plants will be sprayed with the INA$^-$ products. The first planting will be in May and the second planting will be in August. This regime will be followed each year of the 3-year experiment. The selection of two experimental test plots takes advantage of slightly different microclimates present at these two locations.

The purpose of the experiments is to evaluate the potential of the INA$^-$ products to control frost damage under actual field conditions. In the experiments, the INA$^-$ products will be applied to the plants for the purpose of determining the specificity of competition of bacteria on plant surfaces, whether or not wild types of *P. syringae* can readily coexist with genetically constructed (INA$^-$) strains, and the efficacy of the modification of leaf surface microflora of potato plants in allowing the plants to withstand subfreezing temperatures.

Conditions of issuance of both EUPs include: limiting tests to two small plots owned or leased by the University of California at Tulelake, California; wearing of gloves, hats, goggles, respirators, and disposable clothing by applicators; observing a 12-hour reentry interval after application; disposing of unused material and rinse water by autoclaving; monitoring of deposition of INA$^-$ products onto surrounding nontarget vegetation; monitoring of bacterial populations in the soil and on insects associated with treated potato plants; and requiring notification to the Agency of the exact date of the spray application 15 days prior to the applications.

Upon receipt, the Agency determined that these EUP applications may be of regional and national significance, and in accordance with 40 CFR 172.11(a) issued a Notice of Receipt of Application in the **Federal Register** of March 24, 1986 (51 FR 10114) and solicited public comments.

The Agency received public comments from Edward Lee Rogers, acting as counsel for the Foundation on Economic Trends, Jeremey Rifkin, et al.; William A. Anderson, II on behalf of the Regents of the University of California; and Henry Peck and Andrew R. Gigler, private citizens.

Of the public comments received by the Agency, only comments from the Foundation on Economic Trends and from the private citizens expressed objections to the issuance of these EUPs. The private citizens' objections did not cite any substantive scientific issues relating to these particular EUPs; rather they objected to the concept of genetic engineering research on a generic basis. The major issues raised in the public comments and the Agency's responses are summarized as follows. The Agency's complete response to comments received on these EUP applications is available upon request.

Comment. The Foundation on Economic Trends raised three primary issues specific to the issuance of the EUPs: (1) The persistence, competitiveness, and outward dissemination from the test plot of the INA$^-$ products and the corresponding impact on precipitation patterns; (2) the introduction of "novel" microorganisms that may give "rise to the possibility of different and/or unpredictable behavior and impacts in the environment"; and (3) the potential for expanding plant pathogenicity as a result of deleting a gene.

Agency Response. Based on the Agency's evaluation of the supporting data supplied pursuant to 40 CFR Part 158 and specific requests, the Agency has concluded these data are adequate to reach a regulatory decision regarding issuance of the EUPs and their subsequent impact on the environment. In the evaluation of the supporting data, sufficient studies are available to show that, at the low levels likely to be present outside the test sites, the INA$^-$ products should not overrun the naturally occurring epiphytic flora present outside the test site, but rather coexist with them. At these low levels, the INA$^-$ products would not have any significant impact on those populations of indigenous bacteria that some have suggested may have an effect on precipitation patterns. Dr. Lindow's data and the literature demonstrate that the INA$^-$ products have very similar, naturally occurring non-ice nucleating counterparts in nature. There is no scientific evidence or rationale for suspecting that the INA$^-$ products may give rise to any "different and/or unpredictable behavior and impacts in the environment." Dr. Lindow tested both the INA$^-$ products and their parental strains for plant pathogenicity in a wide variety of crop, weed, and

other ecologically important plant species. These tests support the conclusion that neither the INA⁻ products nor their parental strains are plant pathogens and that deletion of a small portion of one gene had no effect on plant pathogenicity. Dr. Lindow's EUP applications provide extensive data to support the conclusion that the INA⁻ products pose no foreseeable risk of plant pathogenicity, effects on precipitation patterns or effects on the range and survival of frost sensitive or tolerant plants and insects.

The Agency's review of the applications, supporting data, and comments received also indicates that approval of Dr. Lindow's applications subject to appropriate conditions would provide the type of information needed for subsequent regulatory decisionmaking on these and other similar products. If the anticipated pesticidal properties are borne out in these experimental tests, their benefits to agricultural production and to society would be significant. These products could lengthen the productivity of frost sensitive plants by increasing the growing season and could afford the agricultural producers a means of combating untimely frost (e.g., during blossoming). Both of these effects would result in economic benefits to the consumer. Also, these products could be expected to replace other pesticidal chemicals which act by nonselectively destroying the epiphytic flora of the plant. The action of INA⁻ bacteria is likely to be less disruptive to the surrounding ecosystems.

It is the Agency's view that the data requirements needed to support an EUP have been adequately satisfied and that a point has been reached in the research and development of these two products where small-scale field studies are warranted. Remaining questions on efficacy and questions regarding possible environmental effects of INA⁻ products can best be answered by conducting carefully controlled and monitored small-scale field studies. The Agency believes that, although issues of potential hazards from this release of genetically engineered microbial pesticides have been raised, those issues have been satisfactorily addressed by information provided by Dr. Lindow and from other relevant sources. This opinion is based on reviews by Agency scientific staff, other Federal agency personnel (National Science Foundation, National Institutes of Health, and The Food and Drug Administration), and by a special subpanel of EPA's Scientific Advisory Panel. It is the Agency's conclusion that approval and issuance of these two EUPs under the conditions imposed will not result in unreasonable adverse effects on humans or the environment. Therefore, the Agency has decided to issue these two EUPs.

Dated: June 13, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 86-14073 Filed 6-20-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-42061A; FRL-3035-6]

Supplemental Notice of Intent to Approve Tribal Fort Berthold Pesticide Plan and Cooperative Enforcement Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of intent to approve a State plan.

SUMMARY: The Tribal Chairman for the Fort Berthold Indian Reservation in the State of North Dakota has submitted to EPA, through the Department of the Interior (DOI), a plan for the certification of applicators of restricted use pesticides for approval. Notice was published in the **Federal Register** of July 31, 1985 (50 FR 31011), of the intention of the Regional Administrator, EPA, Region VIII, to approve this plan. The Tribes have since submitted a cooperative agreement for enforcement of pesticide use. EPA is republishing at this time its notice of intent to approve the certification plan, and providing notice of its intent to sign the cooperative enforcement agreement with the Tribes. This republication provides the public with the opportunity to comment on the cooperative agreement as well.

DATE: Comments should be submitted on or before July 23, 1986.

ADDRESS: Address comments, identified by the control number OPP-42061A to: Edward L. Stearns, Air and Toxics Division (8AT-TS), Region VIII, Environmental Protection Agency, Suite 1300, 999 18th St., Denver, CO 80202-2413.

See Supplementary Information for addresses where the plan and comments are available for public inspection.

FOR FURTHER INFORMATION CONTACT: Edward Stearns (303-293-1745).

SUPPLEMENTARY INFORMATION: In accordance with the provisions of sections 4(a)(2) and 23(a)(1) and (2) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 136b), and 40 CFR Part 171, Alyce Spotted Bear, Chairman, Three Affiliated Tribes, Fort Berthold Reservation, North Dakota, has submitted a Tribal Plan for the Certification of Commercial and Private Applicators of Restricted Use Pesticides and a Cooperative Agreement for enforcement to the U.S. Environmental Protection Agency (EPA) for approval.

A second notice is hereby given of the intention of the Regional Administrator, EPA, Region VIII, to approve this plan and cooperative agreement.

The Natural Resources Department has been designated the lead agency for the administration of the pesticide applicator and enforcement program.

Cooperating agencies include the North Dakota Department of Agriculture and North Dakota Cooperative Extension Service. The North Dakota Department of Agriculture is the lead agency for the Pesticide Applicator Certification Plan for the State of North Dakota. North Dakota certification provides the basis for certification on the Reservation. The North Dakota Cooperative Extension Service conducts the training and testing necessary for applicators to be certified by the State. The Extension Service will be responsible for any training needed on the Reservation.

Legal authority for the program is contained in the Fort Berthold Reservation Pesticide Code. A copy of this code is attached to the State Plan.

The plan lists the personnel available within the Department that will carry out the certification and enforcement. Because of the small size of the program only one part-time person will be needed. The funding for this program comes primarily from grants from the U.S. Environmental Protection Agency. The Tribes do have the authorty to levy taxes should Federal funding stop. The current annual cost of the program is $25,333.00.

The Natural Resources Department will submit an annual report to EPA by October 1 of each year and other reports as requested by the Administrator of EPA.

The Tribes estimate that approximately 100 applicators will need to be certified. Both certified commercial and private applicators will be issued a certification credential indicating the category or limitations. The certification credential is to be presented to the pesticide dealer at the time a restricted use pesticide is purchased.

The certification plan for Fort Berthold requires that applicators be certified by the State of North Dakota or by the DOI as a prerequisite to Tribal certification. Both the State of North Dakota and the DOI have certification

plans previously approved by EPA. The DOI Plan does not have provisions for certification of private applicators. The Tribes will not recognize certification in the Forest Pest Control category as meeting the prerequisite for certification since there is no forest pest control work on the Reservation. The applicator categories and standards of competency in the North Dakota and Interior plans are basically the same as those listed in 40 CFR Part 171. The Tribes will not require any additional demonstration of competency by the applicator. Certifications issued by the Tribes will be valid until the expiration date on their current certificate from the State of North Dakota or DOI. Both the State of North Dakota and the DOI provide a 3-year certification for commercial applicators and the State provides a 5-year certification for private applicators. The Tribes will not allow certification for a period longer than that allowed by these two agencies.

Other pesticide regulatory activities and authorities in the plan include a regular program of applicator inspection, product sampling, investigations of accidents and complaints, and enforcement against pesticide violations.

EPA received numerous letters during the initial 30-day comment period. The concerns focused primarily on jurisdictional and enforcement issues related to the pesticide plan, rather than on the technical adequacy of the certification plan itself. Since the comments received did not challenge the sufficiency of the Tribal certification plan, the response contained herein will address the enforcement aspects on which comments were received. EPA intends with this notice to address the concerns raised in the initial comment period, explain what measures both the Tribes and EPA have taken to respond to these concerns, and open a new 30-day period to elicit comments on the revisions to the approval process.

The primary concern in comments in the initial 30-day period was that EPA intended by this action to grant jurisdiction over non-Indians to the Tribes and either take it away from the State or duplicate the State program. No such action was intended. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) does not independently grant jurisdictional authority over pesticide use. One of the basic prerequisites for delegation is that the Tribes have certain legal jurisdictional authorities. The Tribes' legal counsel has provided EPA with a written affirmation of the authority and jurisdiction of the Tribes to conduct this program. The DOI has approved a Constitutional Amendment that provides for tribal jurisdiction within the exterior boundaries of the reservation over Indians and non-Indians. DOI has also ratified the Tribal Pesticide Code and Pesticide Applicator Certification Plan. In approving the plan, the DOI determined that the Tribes had civil authority over all people within the exterior boundaries of the reservation. The Tribal Plan and Code satisfy the requirements of FIFRA, which authorizes Tribes to administer this program. EPA agrees with the administrative determinations of the Tribes and the DOI that the Tribes have authority and jursidiction within the exterior boundaries of the Reservation.

Most comments expressed concern that while non-Indians represent a majority of the Reservation population, they have "no voice, no vote, and no representation in Tribal government." Concern was expressed that delegation of this program would increase tension between the groups involved and that the Tribes would implement the program in a discriminatory manner. EPA and the Tribes took this comment into consideration very seriously, and added two elements to the program to provide assurance of fair application of its provisions.

First, EPA and the Tribes have drafted a cooperative agreement that addresses division of enforcement responsibilities. EPA will retain concurrent jurisdiction with the Tribes regarding enforcement of FIFRA on the reservation. The Tribes will be provided the first opportunity to take enforcement action on suspected violations. If, within 30 days after receipt of a complaint referral from EPA, the Tribes have not initiated an investigation, EPA may conduct its own investigation of the complaint. If, within 30 days after completion of the investigation of a complaint referral, the Tribes have not commenced appropriate enforcement action, EPA may act upon the violation to the extent authorized by FIFRA, as amended. At the option of the Tribes, complaints or violations may be referred to EPA Region VIII for action. Other provisions in the agreement relate to revocation of the program, program elements, types of inspections, and reports.

Second, the Tribes have created a Pesticide Code Violation Hearing Procedure, that includes an administrative hearing panel. The Hearing Procedure provides an additional forum for those parties who wish to appeal the Department's enforcement actions. The Hearing Panel will include at least one non-Indian member.

Several comments suggested that delegation of this program would cause financial damage to pesticide dealers based on the Reservation because certified applicators would go elsewhere to buy restricted pesticides to avoid detection by the Tribes. The Three Affiliated Tribes have previously entered into a Cooperative Agreement with the North Dakota Department of Agriculture to share enforcement information on pesticide applicators and work cooperatively to avoid questions of jurisdiction. In addition, the Tribes and State have agreed to work on a more comprehensive and detailed cooperative agreement to deal with specific jurisdictional and enforcement issues that may arise.

EPA hopes that these modifications will satisfy the concerns expressed during the first public comment period. EPA is republishing at this time its notice of intent to approve the certification plan, and also its intent to sign the cooperative enforcement agreement with the Tribes. The republication provides the public with an opportunity to comment on the cooperative agreement as well.

Copies of the plan, Tribal Code, Cooperative Agreement, and Administrative Hearing Procedures are available for review at the following locations during normal business hours:

1. Three Affiliated Tribes, Department of Natural Resources, Tribal Office Building, New Town, North Dakota 58763, (701–627–3627).

2. EPA Region VIII, Toxic Substances Branch, Rm. 2456, 999 18th St., Denver, Colorado 80295, (303–293–1730).

3. Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202, (202–557–3262).

Interested persons are invited to submit written comments on the plan and the cooperative agreement.

Dated: May 6, 1956.

John G. Welles,

Regional Administrator, Region VIII.

[FR Doc. 86–14080 Filed 6–20–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 85-166, Phase II, Part 1]

Common Carrier Services; Investigation of Special Access Trariffs of Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order regarding special access rate reductions and justifications.

SUMMARY: The Common Carrier Bureau has determined that, as a general matter, special access rate reductions and justifications filed by certain Bell Operating Companies (BOCs) on May 1, 1986 adequately ensure that the scheduled June 1, 1986 rate equalization step in the Commission-prescribed special access transition plan will not unreasonably prejudice any customer, including other common carriers (OCCs) which have benefited from transition plan rate discounts. This action was taken to ensure just and reasonable charges for telecommunications services.

EFFECTIVE DATE: May 29, 1986.

FOR FURTHER INFORMATION CONTACT: Michael Wack, Common Carrier Bureau, Tariff Division, (202) 632-6917.

SUPPLEMENTARY INFORMATION: This is a summary of the Common Carrier Bureau's Memorandum Opinion and Order, CC Docket No. 85-166, Phase II, Part 1, adopted May 28, 1986, and released May 29, 1986.

The full text of Commission decisions are available for public inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete texts of these decisions also may be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

I. Background and Discussion

In March 1985, the Commission prescribed a one-year transition plan in order to moderate proposed increases in rates for special access lines provided by BOCs to certain OCCs.[1] Pursuant to this plan, which covers lines in place as of November 8, 1984, the OCCs received a 50 percent discount on the tariffed rate during the first six months special access tariffs were in effect (generally, from April through september of 1985) and a 25 percent discount on the tariffed rate during the next six months. The OCCs were scheduled to begin paying full rates for these lines as of Apri, 1, 1986.

In an Order released on March 27, 1986,[2] the Common Carrier Bureau temporarily extended the special access transition plan until June 1, 1986 in 15 states because its analysis of data submited by BOCs providing service in these states indicated that their rates of return in the special access category apparently were excessive or would become so if the transition plan were to expire as scheduled. The *Extension Order* directed these BOCs [3] to file on May 1, 1986, either justifications for the currently effective rates or traffic revisions calculated to reduce their rates of return in each of the 15 states [4] to authorized levels.

On May 1, 1986 BOCs filed rate justifications for the following states: Indiana, Ohio, New Mexico, Minnesota, Nebraska, Idaho and Virginia. Rate reductions were filed that day for the following states: Kansas, Ohlahoma, Texas, Michigan, Iowa and North Dakota. BOCs in New Jersey and Delaware informed the Commission on May 1 of their intention to file revisions on May 15, 1986 in those states. Western Union and MCI Telecommunications Corporation (MCI) filed comments on the rate reductions and petitions to reject or to suspend and investigate the rate revisions.

On May 29, 1986, in a Memorandum Opinion and Order by the Chief, Common Carrier Bureau, the Bureau concluded that, as a general matter, the justifications and rate reductions filed by the BOCs adequately addressed the concern raised in the *Extension Order*, namely, that the final rate equalization step in the Commission's special access transition plan occur without unreasonably prejudicing any customer of special access services, including OCCs which had benefitted from transition plan rate discounts.[5] The Bureau rejected arguments by Western Union and MCI that the BOCs should be required to supply additional information about their rates prior to termination of the transition plan. In so doing, the Bureau noted that all of the rates in question remained under investigation and that the detailed analysis of the rates sought by MCI and Western Union, and final determinations as to the lawfulness of these rates, would be made in a forthcoming Order.

In addition, the Bureau agreed with Western Union and MCI that the May 1, 1986 filing of New Jersey Bell and the Diamond State Telephone Company was inadequate.[6] The Bureau directed these BOCs to file their revisions, with accompanying tariff support materials, according to a notice schedule in line with that established in the *Extension Order*. The Bureau also extended the special access transition plan in Delaware and New Jersey pending its review of such revisions.

II. Ordering Clauses

Therefore, it is ordered, that the Petitions to Reject or, in the Alternative, Suspend and Investigate Northwestern Bell Tariff F.C.C. No. 52, Transmittal No. 1080, filed May 16, 1986 by MCI Telecommunications Corporation is granted to the extent indicated herein and is otherwise denied.

It is further ordered, that the Petition to Investigate Southwestern Bell Telephone Tariff F.C.C. No. 68, Transmittal No. 1372, Michigan Bell Telephone Company Tariff F.C.C. No. 38, Transmittal No. 591 and Northwestern Bell Telephone Company Tariff F.C.C. No. 52, Transmittal No. 1081, filed May 14, 1986 by the Western Union Telegraph Company is granted to the extent indicated herein and is otherwise denied.

It is further ordered, that the Michigan Bell Telephone Company is directed to file tariff revisions on May 30, 1986 to become effective June 1, 1986, in accordance with the discussion herein.

It is further ordered, that the special access transition plan prescribed by the Commission in March 1985 is modified by extending it until June 30, 1986 for the

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[1] *See* Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I and Phase II, Part 1, FCC 85-100, 50 FR 11440 (Mar. 21, 1985).

[2] See Investigation of Special Access Tariffs of Local Exchange Carriers, CC Docket No. 85-166, Phase II, Part 1, Memeo No. 3436, 51 FR 1569 (Apr. 25, 1986) (Extension Order), petitions for reconsiderations filed.

[3] The BOCs in quesiton are: Michigan Bell, Ohio Bell, Indiana Bell, Northwestern Bell, Pacific Northwest Bell, Mountain Bell, Southwestern Bell, and the Chesapeake and Potomac Telephone Companies of Virginia, Delaware and New Jersey.

[4] The states in quesiton are: Michigan, Ohio, Indiana, Virginia, Delaware, New Jersey, Iowa, Minnesota, Nebraska, North Dakota, Idaho, New Mexico, Kansas,Oklahoma and Texas.

[5] The Bureau, however, did order Michigan Bell to file revisions which would correct an error in its May 1 filing. Michigan Bell's error consisted of understating its January 1986 special access revenue.

[6] New Jersey Bell and Diamond State filed jointly under the aegis of their regional holding company, Bell Atlantic Corporation.

New Jersey Bell Telephone Company and the Diamond State Telephone Company. Tariff revisions reflecting this modification should be filed by such carriers on not less than one days' notice to be effective June 1, 1986. For this purpose, we waive §§ 61.56 and 61.58 of the Commission's Rules, 47 CFR 61.56, 61.58, and assign Special Permission No. 86–394.

William J. Tricarico,

Federal Communications Commission.

[FR Doc. 86–14057 Filed 6–20–86; 8:45 am]

BILLING CODE 6712–01–M

Digital Paging Systems of Philadelphia et al.; Correction

In re application of CC Docket No. 86–198:

	File No.
Digital Paging Systems of Philadelphia, Inc., for a Construction Permit for additional two-way facilities for Station KGI775 to operate on frequency 454.075 MHz in the Public Land Mobile Service at Bethlehem, Pennsylvania.	21685–CD–P/L–1–85
For a Construction Permit for additional two-way facilities for Station KGI775 to operate on frequency 454.075 MHz in the Public Land Mobile Service at Pottstown, Pennsylvania.	22918–CD–85
Pocono Mobile Radio Telephone Company, for a Construction Permit for additional two-way facilities for Station KDS328 to operate on frequency 454.075 MHz in the Public Land Mobile Service of Phillipsburg, New Jersey; Salisbury Township, Pennsylvania, and Ironton, Pennsylvania.	23028–CD–P/ML–3–85

Released: June 16, 1986.

We have become aware of an error in the Memorandum Opinion and Order Designating Applications for Hearing, FCC Mimeo No. 4851, released on June 4, 1986 (51 FR 21801, June 16, 1986), in the captioned proceeding. Line 1 on page 2 of the Order should read: "additional facilities at Phillipsburg, New Jersey, Salisbury Township,"

Federal Communications Commission.

Kevin J. Kelley,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 86–14058 Filed 6–20–86; 8:45 am]

BILLING CODE 6712–01–M

New TV Stations; Applications for Consolidated Hearing; Cascade Television Ltd. et al.

1. The Commission has before it the following mutually exclusive application for a new TV station:

Applicant and city/state	File No.	MM Docket No.
A. Cascade Television Limited, Blacksburg, VA.	BPCT–851220KH	86–172
B. New River Communications, Inc., Blacksburg, VA.	BPCT–860212KG	
C. Southwest Virginia Television, Blacksburg, VA.	BPCT–860212KL	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding heading at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, A, C
Satellite, C
Comparative, A, B, C
Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86–14049 Filed 6–20–86; 8:45 am]

BILLING CODE 6712–01–M

New TV Station; Applications for Consolidated Hearing; Central Virginia Educational Television Corp.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant and City/State	File No.	MM Docket No.
A. Central Virginia Educational Television Corp., Charlottesville, VA.	BPCT–851224KH	86–215
B. Shenandoah Valley Educational, Charlottesville, VA.	BPET–860115KF	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Comparative-Noncommercial Educational TV, A, B
Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86–14050 Filed 6–20–86; 8:45 am]

BILLING CODE 6712–01–M

New TV Station; Applications for Consolidated Hearing; Coastal Broadcasting Partners

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant and city/state	File No.	MM Docket No.
A. (See Attachment).....		86–173

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a

consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, C,F,G,H, I
Comparative, A, B, C, D, E, F, G, H, I, J, K L
Ultimate, A, B, C, D, E, F, G, H, I, J, K L

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

ATTACHMENT

Applicant and city/state	File No.	MM Docket No.
A. Coastal Broadcasting Partners, A California Limited Partnership, Avalon, CA.	BPCT-851206KE	86-173
B. Parker TV Broadcasting, Inc., Avalon, CA.	BPCT-860207KI	.....
C. Catalina 54 Broadcasting, Ltd., Avalon, CA.	BPCT-860207KJ	.....
D. Avalon, Catalina Broadcasters, Avalon, CA.	BPCT-860210KE	.....
E. ES Posible Minority Media Telecommunications, Inc., Avalon, CA.	BPCT-860210KH	.....
F. Christine E. Shaw, Avalon, CA.	BPCT-860210KI	.....
G. Golden Shores Broadcasting, Inc., Avalon, CA.	BPCT-860210KJ	.....
H. Patrick D. Sisneros d/b/a Catalina Broadcasters, Avalon, CA.	BPCT-860210KK	.....
I. Catalina Television Partners, A California Limited Partnership, Avalon, CA.	BPCT-860210KL	.....
J. Island Broadcasting Limited Partnership, A California Limited Partnership, Avalon, CA.	BPCT-860210KM	.....
K. Avalon Broadcasting, Avalon, CA.	BPCT-860210KN	.....
L. David H. Wagner, d/b/a DHW Communications, Avalon, CA.	BPCT-860210KO	.....

[FR Doc. 86–14051 Filed 6–20–86; 8:45 am]

BILLING CODE 6712-01-M

New TV Station; Application for Consolidated Hearing; Gali Communications, Inc.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant and city/state	File No.	MM Docket No.
A (See Attachment)	.....	86-180

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, B, C, D, G.
Rule 73.685, A, F, G.
Comparative, A, B, C, D, E, F, G, H.
Ultimate, A, B, C, D, E, F, G, H.

3. If there is any non-standardized issue(s) in this proceding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

ATTACHMENT

Applicant and city/state	File No.	MM Docket No.
A. Gali Communications, Inc., Denver, CO.	BPCT-851230KE	86-180
B. Urban Minority Broadcasting Institute, Inc., Denver, CO.	BPCT-860212KF	.....
C. Stanly Group Broadcasting Inc., Denver, CO.	BPCT-860212KH	.....
D. David H. Wagner d/b/a Denver Communications, Denver, CO.	BPCT-860212KI	.....
E. Continental Divide Television, Ltd., Denver, CO.	BPCT-860212KK	.....
F. Amador Broadcasting Limited, Denver, CO.	BPCT-860212KM	.....

ATTACHMENT—Continued

Applicant and city/state	File No.	MM Docket No.
G. Lomas De Oro Broadcasting Corporation, Denver, CO.	BPCT-860212KO	.....
H. Spanish International Communications Corporation, Denver, CO.	BPCT-860212LI	.....

[FR Doc. 86–14052 Filed 6–20–86; 8:45 am]

BILLING CODE 6712-01-M

New TV Station; Applications for Consolidated Hearing; East Tennessee Public Communications Corp.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant and city/state	File No.	MM Docket No.
A. East Tennessee Public Communications Corporation, Knoxville, TN.	BPET-860107KG	86-213
B. Knoxville Community Broadcasting, Inc., Knoxville, TN.	BPET-860305KQ	
C. Lincoln Memorial University, Knoxville, TN.	BPET-860305KT	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. the letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Comparative-Noncommercial Educational TV, A, B, C
Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW.,

Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86-14053 Filed 6-20-86; 8:45 am]

BILLING CODE 6712-01-M

New TV Station; Applications for Consolidated Hearing; Don Thomas Moore

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant and city/state	File No.	MM Docket No.
A. Don Thomas Moore, Denver, CO.	BPCT-851231KE	86-171
B. Rochon Dibble, d/b/a Sky High Telecommunications Co. Ltd., Denver, CO.	BPCT-860212KN	.....
C. High Seas Communications Corp., Denver, CO..	BPCT-860212KP	.....
D. Brassell and Romero, Denver, CO.	BPCT-860212LG	.....
E. George S. Flinn, Jr. and Jimmy C. Cowsert, d/b/a Mountain States Telecasters, Denver, CO.	BPCT-860212LH	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, D
Rule 73.685, B, C
Comparative, A, B, C, D, E
Ultimate, A, B, C, D, E

3. It there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDC in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86-14054 Filed 6-20-86; 8:45 am]

BILLING CODE 6712-01-M

New TV Station; Applications for Consolidated Hearing; New Jersey Public Broadcasting Authority

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant and city/state	File No.	MM Docket No.
A. New Jersey Public Broadcasting Authority, West Milford, NJ.	BPET-851231KF	86-216
B. New Jersey Hispanic Educational Television Corporation, Inc., West Milford, NJ.	BPET-860212KE	
C. Family Stations of New Jersey, West Milford, NJ.	BPET-860212KJ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

[See Appendix) B
Air Hazard, A, B, C
Minimum Separations, A, B,
Comparative-Noncommercial Educational TV, A, B, C
Ultimate, A, B, C

3. It there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text many also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

APPENDIX

Issue

1. To determine, with respect to B (New Jersey Hispanic Educational Television Corporation, Inc.) (a) whether its officers, directors, and members of the governing board are broadly representative of the educational, cultural, and civic groups in the community; and (b) in light of the evidence adduced pursuant to the foregoing issue, whether the applicant is qualified to be a Commission licensee.

[FR Doc. 86-14055 Filed 6-20-86; 8:45 am]

BILLING CODE 6712-01-M

New TV Station; Applications for Consolidated Hearing; Mark L. Woodlinger

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant and city/state	File No.	MM Docket No.
A. Mark L. Woodlinger, Billings, MT	BPCT-851120KH	86-109
B. Yellowstone Valley Community Television, Inc., Billings, MT	BPCT-860110KE	.....
C. BHC Associates, Billings, MT	BPCT-860110KG	.....
D. Eagle Communications, Inc., Billings, MT	BPCT-860110KJ	.....
E. Richard J. Fox, d/b/a Comanche Enterprises, Billings, MT	BPCT-860110KK	.....
F. Southeast Montana Broadcasting, Inc., Billings, MT	BPCT-860110KL	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, A, B, C, D, E, F
Main Studio, E
Comparative, A, B, C, D, E, F
Ultimate, A, B, C, D, E, F

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86-14056 Filed 6-20-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Statement of Policy Regarding Disclosure by the FDIC of Statutory Enforcement Actions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Change in effective date.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is postponing implementation of its May 6, 1985 statement of policy, scheduled to become effective on July 1, 1986, which provides for the FDIC to publicly disclose the final orders it issues in conjunction with formal enforcement actions. Upon the proposal to issue comprehensive disclosure rules by the Office of the Comptroller of the Currency ("OCC"), the FDIC Board of Directors delayed the initial implementation of the statement of policy from January 1 to July 1, 1986, in order to review its disclosure policy and to work with the OCC on a uniform disclosure approach. Additional time is needed to develop a uniform disclosure approach. Therefore, the FDIC is delaying the effective date of its statement of policy from July 1, 1986 to January 1, 1987.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT: Robert F. Storch, Planning and Program Development Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-6905.

SUPPLEMENTARY INFORMATION: On May 6, 1985, the Board of Directors of the FDIC adopted a statement of policy, originally scheduled to become effective on January 1, 1986, which provides for the FDIC to publish and make available to the public in agency press releases the names of all banks and persons to whom the FDIC has issued final orders in conjunction with formal enforcement actions. In addition, brief descriptions of the nature of the enforcement actions taken and summaries of the orders are to be incorporated into the press releases for each action disclosed. This policy applies to insurance termination orders, cease-and-desist orders, removal orders, suspension orders, civil money penalty orders, and capital directives.

On October 30, 1985, the OCC published for a 90-day comment period a comprehensive disclosure regulation that would be applicable to all national banks. 50 FR 45372 (1985). In view of this action by the OCC, the FDIC Board of Directors determined to review its disclosure policy, to work with the OCC on a uniform disclosure approach, and to delay the initial implementation of the statement of policy from January 1, to July 1, 1986. 50 FR 52557 (1985). The FDIC finds that additional time is needed to consider thoroughly the many complex issues raised as a more comprehensive policy is being developed. The FDIC is, therefore,l delaying the effective date of its existing policy statement on disclosure of enforcement actions for an additional six months.

Accordingly, the Statement of Policy Regarding Disclosure by the FDIC of Statutory Enforcement Actions that was adopted by the FDIC Board of Directors on May 6, 1985 (50 FR 20619 (1985)) and amended by the Board of Directors on December 16, 1985 (50 FR 52557)) is further amended by removing the date "July 1, 1986" from the seventh paragraph and inserting in its place the date "January 1, 1987."

By order of the Board of Directors, this 16th day of June, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-14099 Filed 6-20-86; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal, Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010637-012.

Title: North Europe-U.S. Atlantic Conference.

Parties:

Atlantic Container Line (G.I.E.)
Dart-ML Limited
Hapag-Lloyd AG
Intercontinental Transport (ICT)
Sea-Land Service, Inc.
Trans Freight Lines
United States Lines, Inc.
Compagnie Generale Maritime (CGM)

Synopsis: The proposed amendment clarifies the agreement authority provision by providing that the authority of its members with respect to containers, chassis and related equipment extends to container equipment provided by shippers as well as that provided by members.

By order of the Federal Maritime Commission.

Dated: June 18, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86-14101 Filed 6-20-86; 8:45 am]

BILLING CODE 6730-01-M

Performance Review Board; Membership

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board.

FOR FURTHER INFORMATION CONTACT: William J. Herron, Jr., Director of Personnel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573.

SUPPLEMENTARY INFORMATION: Sections 4314(c)(1) through 4314(c)(5) of Title 5 U.S.C., require each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. A performance review board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, and make appropriate recommendations to the appointing authority relative to the

performance of the senior executive. The members for the Commission's performance review board are:

1. James J. Carey, Vice Chairman.
2. Thomas F. Moakley, Commissioner.
3. Edward J. Philbin, Commissioner.
4. Francis J. Ivancie, Commissioner.
5. Charles E. Morgan, Chief Administrative Law Judge.
6. Seymour Glanzer, Administrative Law Judge.
7. Norman D. Kline, Administrative Law Judge.
8. Joseph N. Ingolia, Administrative Law Judge.
9. John E. Cograve, Managing Director.
10. Wm. Jarrel Smith, Jr., Director, Bureau of Administration.
11. Robert D. Bourgoin, General Counsel.
12. John Robert Ewers, Secretary.
13. Robert A. Ellsworth, Director, Bureau of Economic Analysis.
14. Joseph C. Polking, Director, Bureau of Agreements and Trade Monitoring.
15. Robert G. Drew, Director, Bureau of Tariffs.
16. Edward Patrick Walsh, Director, Bureau of Investigations.

Edward V. Hickey, Jr.,

Chairman.

[FR Doc. 86-14123 Filed 6-20-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Application to Engage de novo in Permissible Nonbanking Activities; Banctenn Corp.

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 14, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *BancTenn Corp.*, Kingsport, Tennessee; to engage through its subsidiary BancTenn Mortgage Corp., Kingsport, Tennessee, in making, acquiring, and servicing or mortgage loans and other similar extensions of credit pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in Sullivan and Unicoi Counties, Tennessee.

Board of Governors of the Federal Reserve System, June 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-14042 Filed 6-20-86; 8:45 am]

BILLING CODE 6210-01-M

First Holding Company of Park River, Inc., et al., Formations of, Acquisitions by, and Mergers of Bank Holding Companies;

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 16, 1986.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue Minneapolis, Minnesota 55480:

1. *First Holding Company of Park River, Inc.*, Park River, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares First Bank Park River, N.A., Park River, North Dakota.

b. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Smith Associated Banking Corporation*, Little Rock, Arkansas; to acquire at least 98 percent of the voting shares of Stephens Security Bank, Stephens, Arkansas. Comments on this application must be received by July 14, 1986.

Board of Governors of the Federal Reserve System, June 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-14043 Filed 6-20-86; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Renewal of Advisory Panel on Procurement and Supply

Correction

In FR Doc. 86-13437 appearing on page 21625 in the issue of Friday, June 13, 1986, in the last line, the telephone number should read "703-557-7970".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Garrison Unit Joint Tribal Advisory Committee; Re-Establishment

This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the General Services Administration, notice

is hereby given that the Secretary of the Interior is re-establishing the Garrison Unit Joint Tribal Advisory Committee.

The purpose of the committee shall be to study and report its recommendations to the Secretary on the following aspects of the Garrison Unit insofar as they apply to the Fort Berthold and Standing Rock Reservations:

a. Full potential for irrigation;

b. Financial assistance for on-farm development costs;

c. Development of shoreline recreation potential;

d. Return of excess lands;

e. Protection of reserved water rights; and

f. Funding of all items above from the Garrison Diversion Unit funds, if authorized.

The Committee is to provide its report to the Secretary within sixty days from the date of its re-establishment.

Further information regarding the committee may be obtained from the Deputy Assistant Secretary—Indian Affairs, U.S. Department of the Interior, 18th & C Streets, NW., Washington, DC 20240.

The certification of re-establishment is published below.

Certification

I hereby certify that the Garrison Unit Joint Tribal Advisory Committee is in the public interest in connection with implementing the recommendations of the Garrison Diversion Unit Commission.

Note.—This notice must be published in the **Federal Register** at least fifteen days prior to the filing of the committee charter with the appropriate committees of Congress. The committee may not meet or take action prior to the time the charter is filed.

Dated: June 11, 1986.

Donald Paul Hodel,

Secretary of the Interior.

[FR Doc. 86-14046 Filed 6-20-86; 8:45 am]

BILLING CODE 4310-02-M

Take Pride in America Campaign Logo and Slogan Prescription

AGENCY: Department of the Interior.

ACTION: Notice.

SUMMARY: The phrase "Take Pride in America" is hereby prescribed as the official Slogan, and the Take Pride in America symbol depicted below is hereby prescribed as the official Logo, of the Take Pride in America public service campaign, a program of the United States Department of the Interior. Notice is given to protect the distinctive Take Pride in America Slogan and Logo against proliferation by unauthorized persons, and to assure against their use for purposes other than representing the Take Pride in America public service campaign in authorized advertising, informational materials, badges, identification cards, or other insignias, and other promotional items, and for those purposes which, in the determination of the Department of the Interior are consistent with the goals of the Take Pride in America campaign.

EFFECTIVE DATE: June 20, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia Giorgi, Take Pride in America Task Force, Department of the Interior, Office of the Secretary, Room 6214, Washington, DC, 20240; telephone 202/343-1726.

SUPPLEMENTARY INFORMATION: In making this prescription, I give notice that, under section 701 of Title 18 of the United States Code, whoever manufactures, sells, or possesses any badge, identification card, or other insignia of the design herein prescribed, or any colorable imitation thereof, or photographs, prints, or in any other manner makes or executes any engraving, photograph, print, or impression in the likeness of any such badge, identification card, or other insignia or any colorable imitation thereof, except as authorized under regulations made pursuant to law, shall be fined not more than $250 or imprisoned not more than six months, or both.

The Department of the Interior will proceed to secure servicemark registrations under sections 1051, 1053 and 1115 of Title 15 of the United States Code for the Take Pride in America Slogan and Logo.

Gerald Riso,

Assistant Secretary for Policy, Budget and Administration.

TAKE PRIDE IN AMERICA

[FR Doc. 86-13980 Filed 6-20-86; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

Alaska Native Selections; Waiver of Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Waiver of 43 CFR 2653-4(c) and 43 CFR 2653-9(c).

SUMMARY: On October 1, 1985, the Calista Corporation, an Alaska Native Regional Corporation, requested the Secretary of the Interior to waive the regulations in 43 CFR 2653.4(c) in order to reopen its regional land selection period to permit the correction of a minor selection error and also to waive the regulations in 43 CFR 2653.9(c) to suspend the requirement for a minimum two mile linear exterior boundary for the east boundary of section 34, Township 23 North, Range 64 West, Seward Meridian, Alaska, to permit conveyance of lands that do not conform to the requirement of that section.

The conveyance of these lands to the Calista Corporation would enable the Corporation to proceed with planned development activities. Further, this conveyance will neither impair the rights of any third parties, nor impair land management planning and principles for public lands remaining after the conveyance, nor leave unduly fragmented parcels of public lands.

In furtherance of the request of the Calista Corporation, the regulations in 43 CFR 2653.4(c) and 43 CFR 2653.9(c) are hereby waived.

EFFECTIVE DATE: June 23, 1986.

ADDRESS: Any questions or inquiries should be sent to: Director (311), Bureau of Land Management, Room 3653, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ted Stephenson, (202) 343-6511.

Dated: June 16, 1986.

Donald Paul Hodel,

Secretary of the Interior.

[FR Doc. 86-14087 Filed 6-20-86; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Grand Junction District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Grand Junction District advisory council meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 that a meeting of the Grand Junction District Advisory Council will be held on

Tuesday, July 29, 1986, and Wednesday, July 30, 1986.

SUPPLEMENTARY INFORMATION: The meeting on Tuesday, July 29 will held at the Glenwood Springs Resource Area Office, 50629 Highway 6 & 24, Glenwood Springs, CO 81601; from 2–5 p.m. A public comment period is scheduled for 4 p.m.

On Wednesday, July 30, beginning at 8 a.m., the Council will tour several project sites in the western portion of the Glenwood Springs Resource Area.

The full-day field trip is open to the public; however, transportation and food will be provided for Council members.

Dated: June 16, 1986.

Richard Freel,

District Manager, Grand Junction District.

[FR Doc. 86–14065 Filed 6–20–86; 8:45 am]

BILLING CODE 4310–JB–M

Realty Action, Recreation and Public Purpose Sale, Public Land in Lincoln County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—R&PP Sale; Public Lands, Lincoln County, Wyoming.

SUMMARY: The following public lands near the community of Etna, Lincoln County, Wyoming have been found suitable for sale for recreational or public purpose use. The lands will be classified for sale under the Recreation and Public Purposes Act, as amened (43 U.S.C. 869 et seq.).

6th Principal Meridan, Wyoming

T. 36 N., R. 199 W.

Sec. 14: SE¼NE¼, N½SE¼.

Containing 120 acres more of less

The State of Wyoming, Game and Fish Department proposes to use this 120 acre tract as a winter feed ground for elk. This tract has been identified as critical winter elk range and is necessary for successful management of elk in the Greys River area. This tract will provide access and recreational opportunities to the public. The sale of the land for recreational or public purpose use would be in the public interest.

Sale of the lands will be subject to the following reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. BLM right-of-way grant W–79411, which reserves a 100' wide right-of-way to the United States and any other valid existing right decumented on the official land records at the time of patent issuance.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

4. Any other reservations that the Authorized Officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public lands laws, including the general mining laws, except for sale under the Recreation and Public Purposes Act. For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed sale or classification of the lands to the District Manager, Rock Springs District Office, P.O. Box 1869, Rock Springs, Wyoming 82901. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

If, after 18 months following the effective date of classification, the proposed sale has been cancelled, then the segregative effect of the classification shall automatically expire and the lands classified shall return to their former status without further action by the Authorized Officer.

Dated: June 13, 1986.

Donald J. Seibert,

Acting District Manager.

[FR Doc. 86–13939 Filed 6–20–86; 8:45 am]

BILLING CODE 4310–22–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30837]

Alabama and Florida Railroad Co.; Acquisition and Operation; Exemption

Alabama and Florida Railroad Company (A&F) has filed a notice of exemption (1) to acquire and operate a certain Seaboard System Railroad, Inc. (SBD) line extending from Georgiana, AL to Geneva, AL (A&F will purchase the track while leasing the underlying real property from SBD), and (2) to lease and operate SBD's line from Crestview, FL to Florala, AL. Any comments must be filed with the Commission and served on: Ellen M. Burger, of Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800, 1350 New York Avenue, NW., Washington, DC 20005–4797, (202) 628–2000. This transaction will also involve the issuance of securities by A&F that will be a class III carrier. The issuance of these securities is an exempt transaction under 49 CFR 1175.1 (51 FR 4928 (February 10, 1986)).

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Dated: June 9, 1986.

By the Commission, Richard L. Lewis, Acting Director, Office of Proceedings.

Noreta R. McGee,

Acting Secretary.

[FR Doc. 86–14065 Filed 6–20–86; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–19 (Sub-No. 116X)]

Baltimore and Ohio Railroad Co.; Abandonment Exemption in Muskingum County, OH

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from the requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Baltimore and Ohio Railroad Company (B&O) of approximately 9.12 miles of rail line between Valuation Station 3+71 at Fair Oaks (milepost 1.64) and Valuation Station 487+00 at Philo (milepost 10.76) in Muskingum County, OH.

DATES: This exemption is effective July 23, 1986. Petitions to stay must be filed by July 8, 1986, and petitions for reconsideration must be filed by July 18, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–19 (Sub-No. 116X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Lawrence H. Richmond, 100 N. Charles St., Baltimore, MD 21201.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275–7693.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: June 16, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-14066 Filed 6-20-86; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Privacy Act of 1974; Systems of Records

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of amendment of systems of records and appendix.

SUMMARY: NARA proposes to publish a technical change to three systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a), and a new address for the Office of Federal Records Centers in Washington, DC. The specific changes to the notices being amended are set forth below, followed by the new address.

DATES: Comments must be received on or before July 23, 1986. The amendments will become effective July 23, 1986, unless NARA publishes notice to the contrary.

ADDRESS: Comments should be addressed to Adrienne C. Thomas, Director, Program Policy and Evaluation Division (NAA), National Archives and Records Administration, Washington, DC 20408. Telephone (202) 523-3214 or (FTS) 523-3214.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard, Program Policy and Evaluation Division (NAA). Telephone (202) 523-3214 or (FTS) 523-3214.

SUPPLEMENTARY INFORMATION: On March 7, 1986, (51 FR 8148) the National Archives and Records Administration published its new systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a). When the systems notices were written, certain information was inadvertently omitted from NARA 1, Researcher Application Files, NARA; NARA 2, Reference request Files, NARA; and NARA 22, Employee Related Files, NARA. NARA 1 and NARA 2 are being amended to include the Picket Street Annex as a location where the records are maintained, and NARA 22 is being amended to include records pertaining to employees of companies holding contracts with NARA. The revised systems appear below.

The appendix which lists the addresses of the locations where NARA systems of records are maintained is being amended by adding after the address for the Office of the **Federal Register** the new address of the Office of Federal Records Centers, which moved on May 9, 1986.

Dated: June 17, 1986.

Frank G. Burke

Acting Archivist of the United States.

NARA 1

SYSTEM NAME:

Researcher Application Files NARA.

SYSTEM LOCATION:

This system of records is located in the National Archives Building, Presidential Libraries, Washington National Records Center, Pickett Street Annex, National Personnel Records Centers, Federal Records Centers, and National Archives Field Branches. The addresses are listed in the appendix following the NARA Notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers who apply to use records in the National Archives, Pickett Street Annex, Presidential Libraries, National Archives Field Branches and Federal Records Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications to use records including name, address, telephone number, occupation, research topic, educational level, and field of interest.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108 2203(f)(1), and 2907.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by employees of NARA who have a need for the records in the performance of their duties to identify and record the individuals who use records in the National Archives and other repositories listed above, to provide a means of contacting the individual if additional information of research interest to him or her is found, and to mail notices of events and programs of interest to users of the records in the National Archives. The routine use statements A, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARA.

After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records are cut off annually, held one year, and retired. After 14 additional years they are destroyed. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESSES:

NARA officials with responsibility for this geographically dispersed system of records are the Assistant Archivist for the National Archives at the National Archives Building and at the Pickett Street Annex, the directors of the Presidential Libraries, the directors of the National Archives Field Branches, and the directors of the Federal Records Centers at the addresses listed for these locations in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials cited above at the appropriate repository where individuals have used records.

RECORD ACCESS PROCEDURES:

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the directors of the Presidential Libraries, the directors of the National Archives Field Branches, or the directors of Federal Records Centers, depending on where individuals have used records. In person requests may be made during business hours listed for each location in the appendix following the NARA Notices. For written requests, the individual should provide full name, address, and telephone number, and the approximate dates records were used. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or student or

employee identification. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Researchers.

NARA 2

SYSTEM NAME:

Reference Request Files, NARA.

SYSTEM LOCATION:

This system of records is located in the National Archives Building, Presidential Libraries, Washington National Records Center, Pickett Street Annex, National Personnel Records Center, National Archives Field Branches, Federal Records Centers, and the National Audiovisual Center. The addresses are listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers and correspondents requesting information from the records in the National Archives, Presidential Libraries, Pickett Street Annex, National Archives Field Branches, Federal Records Centers, and the National Audiovisual Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, reference slips, receipts for money, deposit account records, reproduction orders, reference logs, lending files, and reference files pertaining to requests for information, including all or parts of the following: requester's name, address, telephone number, occupation, research topic, educational level, and field of interest.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108, 2203(f)(2) and 2907.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by employees of NARA who have a need for the records in the performance of their duties to record requests for information and the responses to those requests; to maintain control over information requests received and answered; to enable future contact with the requester if required; to assist in the preparation of standard replies to similar questions; to facilitate preparation of statistical and other reports; to maintain control of records being used; to establish researcher accountability for records; to record payment for reproduction orders and funds placed on deposit; to record loans of materials or records from the above locations; and, when requested by a researcher, to write recommendations for researchers for grants or employment. The routine use statements A, F, ad G, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY:

The records within this system are primarily retrieved by name.

SAFEGUARDS:

During normal working hours of operation, records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors which are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records which are: (1) Created in the administration of loans are cut off after the return of the materials, held one year, and destroyed.

(2) Created in the process of providing reference service by mail are cut off annually, held two years, and destroyed.

(3) Created in the process of providing records to researchers in National Archives research rooms are cut off annually, held one year and retired. After 14 additional years they are destroyed.

These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESSES:

Depending on where the records are located, the system managers are: The Assistant Archivist for the National Archives for records located at the National Archives Building and at the Pickett Street Annex; the Director at the National Audoivisual Center; the directors of the Presidential Libraries; the directors of National Archives Field Branches, and the directors of Federal Records Centers at the addresses listed for these locations in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials listed above at the appropriate repository where individuals have used records or directed inquiries. The addresses are listed in the appendix following the NARA Notices.

RECORD ACCESS PROCEDURES:

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the directors of the Presidential Libraries, the directors of National Archives Field Branches, or the directors of Federal Records Centers, or the Director of the National Audiovisual Center depending on where individuals used records or directed inquiries. In person requests may be made during normal business hours listed for each location in the appendix following NARA notices. For written requests, provide full name, address, telephone number, and the approximate dates of the correspondence or transaction. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or student or employee identification. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

Researchers, correspondents, and employees of the National Archives.

NARA 22

SYSTEM NAME:

Employee Related Files, NARA.

SYSTEM LOCATION:

This system of records may be maintained at the supervisory or administrative offices at all NARA facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former and current NARA employees, applicants for employment, volunteer workers, relatives of employees of the National Personnel Records Center, and employees of NARA contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of employee related records maintained by operating officials for the purpose of administering personnel matters affecting their employees, uncompensated workers, and employees of contractors. The documents include, but are not limited to, information on the individuals relating to name, social security number, birth date, home and emergency addresses and telephone numbers, personnel actions, professional registration, qualifications, training, congressional employee relief bills, injuries, employment history, awards and other recognition, counseling, warnings, reprimands, grievances, appeals, conduct, leave, pay,

attendance, work assignments, performance, assessments, applications for permits and passes, indebtedness complaints, travel, and outside employment. The documents include military service data on employees of the National Personnel Records Center and their relatives accumulated by operating officials in administering the records security program at the Center. This system does not include official personnel files which are covered by the Office of Personnel Management's systems of records OPM/GOVT–1 through 9.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Titles 5 and 31 U.S.C. generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system of records are used to initiate requests for personnel actions, to plan and schedule training, to counsel employees on their performance, to establish a basis for proposing recommendations for disciplinary actions, and to carry out personnel management responsibilities in general. The routine use statements A, B, C, D, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card files, magnetic tape and disks, and computer printouts.

RETRIEVABILITY:

The records within this system are primarily retrieved by name.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable file cabinets, lockable desk drawers, and/or in secured rooms.

RETENTION AND DISPOSAL:

Records are reviewed annually, documents are updated, and irrelevant documents destroyed. No copies of records are retained in this system after the original or copies of the same records have been purged from the Official Personnel Folders. When an employee leaves the agency through transfer or other separation, the records in this system are immediately forwarded to the office maintaining the Official Personnel Folder. There the records are screened to ensure that there are no records that should be permanently filed in the Official Personnel Folder. The records in this system are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative officers in NARA field facilities, the Administrative Services Division, and all NARA supervisors maintaining employee related files. The addresses of administrative officers and NARA supervisors are listed in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information about whether an individual is a part of this system of records may be obtained from the supervisors at the appropriate repository where the individuals have records. If not known general inquiries should be made to the appropriate Head of the Offices or Staffs. Their addresses are listed in the appendix following the NARA Notices.

RECORDS ACCESS PROCEDURE:

Requests from current NARA employees to gain access to information pertaining to them should be directed to their supervisor or to their personnel officer at the appropriate address listed in the appendix following the NARA Notices, or to the Director, Personnel Services Division (601 D St. NW., Washington, DC 20408; mailing address: National Archives (NAP), Washington, DC 20408) which is applicable. Former NARA employees should direct requests to gain access to information pertaining to them to the appropriate personnel officer at the address listed in the appendix. Employees of NARA contractors should direct requests to the Administrative Services Division at the National Archives Building, 8th and Pennsylvania Avenue NW., Washington DC; mailing address: National Archives (NAS), Washington, DC 20408. For identification requirements refer to the agency regulations as outlined in 36 CFR Part 1202.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

The individuals themselves, other employees, supervisors, contractors, personnel records, and third parties submitting indebtedness complaints.

Appendix—Addresses of Locations

Washington, DC Metropolitan Area Facilities

Office of Federal Records Center, The Ridell Building, 1730 K Street NW., 3rd Floor, Room 300, Washington, DC.,

Mailing address: National Archives and Records Administration (NC), Washington, DC 20408.

* * * * *

[FR Doc. 86–14044 Filed 6–20–86; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Workshop on In-Vehicle Alcohol Test Devices

Notice is hereby given that the National Highway Traffic Safety Administration is sponsoring a 1 day workshop to be held at 400 Seventh Street, SW., Washington, DC 20590, from 9 am to 5 pm on September 17, 1986, in Room 2230.

The purpose of the meeting is to bring interested parties together, including manufacturers, legislators, researchers, safety-related program personnel, and the general public to consider the state of the art of in-car alcohol test devices and to identify relevant issues regarding their development and applications.

Agenda: A series of sessions will comprise the workshop. These sessions will deal with the following topics:

- Status of Performance Type In-Car Testers: Recent developments and the satate of the art in devices that require the driver to take a performance test, e.g., turn steering wheel to align a pointer, will be discussed in relation to practical applications.
- Status of Breath Testing In-Car Devices: A number of alcohol breath testing devices have been tested by the Department. What can and can't they do?
- Manufacturer's Issues: A number of private organizations have taken steps to promote or market test devices. This session will consider the state of the art in terms of questions, problems, and issues faced by both breath test devices and automotive manufacturers.
- User Issues: Test devices have already been used and are being used on a limited basis by the judicial system. Other applications concern use of these devices by owners of fleets and the general public. This session will discuss the issues, problems, and requirements from the perspective of these groups.
- Research Issues: Two basic types of devices (breath testing and performance based devices) have been examined experimentally in two contexts (ignition interlock and driver warning system). Is there a need for further research and, if so, what kinds?

Each of the sessions will consist of one or more 5–10 minute presentations

followed by a discussion period. The sessions will be held sequentially so that everyone can attend all of the sessions. It is anticipated that a summary of workshop sessions and/or workshop papers—based on the presentations—will be published at a later date. For more information about this workshop call Dr. Marvin Levy, Office of Driver and Pedestrian Research, Research and Development, telephone (202) 426–2977.

Issued on June 18, 1986.

Michael M. Finkelstein,

Associate Administrator for Research & Development.

[FR Doc. 86–14118 Filed 6–20–86; 8:45 am]

BILLING CODE 4910–59–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension. New.

2. The title of the information, collection: Bankruptcy Filing; Notification Requirements, 10 CFR Parts 30, 40, 60, 61, 70, and 72.

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: NRC licensees named as debtor under Title 11, U.S. Code.

6. An estimate of the number of responses: 5 per year.

7. An estimate of the total number of hours needed to complete the requirement or request: 2.5 per year.

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: In the event a licensee files for bankruptcy, the licensee must notify the NRC so the agency can take appropriate measures to protect the public health and safety. A licensee need take no action until commencement of a proceeding naming the licensee as debtor under Title 11 (Bankruptcy), U.S. Code.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Office is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 17th day of June 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86–14109 Filed 6–20–86; 8:45 am]

BILLING CODE 7590–01–M

Intent To Relocate Records for the Zion Nuclear Power Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent to relocate the records for the Zion Nuclear Power Station.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is moving the Local Public Document Room (LPDR) records collection for Commonwealth Edison Company's Zion Nuclear Power Station from the Zion-Benton Public Library District (Library), Zion, Illinois, to another as yet undertermined location. The collection which measures 72 shelf feet of material, is being relocated due to lack of space in the library to house the collection. As of August 30, 1986, the library will no longer have use of the building where the collection is now kept. The purpose of this notice is to invite public comment on possible LPDR sites.

DATE: Comment period expires July 23, 1986. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before this date.

ADDRESSES: Written comments may be submitted to Mr. John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Jona L. Souder, Chief, Local Public Document Room Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–492–7536, or Toll Free 800–638–8081.

SUPPLEMENTARY INFORMATION: Since 1978, the Zion-Benton Public Library District, located at 2400 Gabriel Avenue, Zion, Illinois, has served as the Local Public Document Room repository for records relating to the Zion Nuclear Power Station. The document collection includes essentially all publicly available records considered by the NRC in the licensing and regulation of the Zion Nuclear Power Station. Because of the growth in the size of the collection, the library no longer has the space necessary to house the material and it will have to be relocated.

Among the factors the NRC will consider in selecting a new location for the collection are:

(1) The willingness and ability of the library to house and maintain the collection;

(2) The physical facilities available, including shelf space, work space and copying and micrographics equipment;

(3) The willingness and ability of the library staff to assist the public locate records;

(4) The public accessibility of the library, including parking, ground transportation, and hours of operation, particularly evening and weekend hours;

(5) The proximity (within 50 miles) of the library to the Zion Nuclear Power Station located in Zion, Illinois; and

(6) The proximity of the library to existing user groups of the collection, if known.

Public comments are requested on the desirability to moving the Zion Nuclear Power Station LPDR collection to any appropriate library in the vicinity of the Zion Nuclear Power Station.

Dated at Bethesda, Maryland, this 17th day of June 1986.

For the U.S. Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 86–14110 Filed 6–20–86; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–23324; File No. SR–Amex–86–12]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change

On April 25, 1986, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and

Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the requirements for Amex market makers participating in the AUTO–EX pilot program. The pilot, which has been operating since December, 1985, provides for the automatic execution and reporting of certain Major Market Index ("XMI") orders. Under the pilot, XMI orders of ten or fewer contracts which are entered into the Amex's electronic order routing system ("AUTOAMOS") receive automatic, rather than manual, executions. Orders routed through the system are executed at the best prevailing price at the time the order is entered into AUTOAMOS. The contra side of the trade is assigned on a rotational trade-by-trade basis to one of the Amex market makers who has signed onto the system, or to the specialist, who participates with the market makers in the rotation.[3]

The proposed rule change was noticed in Securities Exchange Act Release No. 23195 (May 2, 1986), 51 FR 17420 (May 12, 1986). No comments were received on the proposal.

The Amex proposes to ease the participation requirements imposed on its market makers when the pilot was initially developed. Specifically, the present proposal would reduce the minimum net capital requirement from $100,000 to $50,000; delete the trading volume requirement; and reduce the current, minimum one-week participation requirement to a daily one. In place of the trading volume requirement, market makers would be required to be in the XMI trading crowd during the majority of the business day any day they have signed on the system. Market makers will be permitted to participate on a daily basis, but any market maker participating any day during the expiration week would be required to sign on the system on expiration Friday. Failure to fulfill this latter requirement will result in a prohibition from participation in the pilot for the next expiration month.

The Amex states that these modifications are consistent with the requirements of the Act because they broaden the opportunity for market makers to participate in the AUTO–EX pilot, while continuing to meet the needs of the pilot program. The Commission concurs in this rationale and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6,[4] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Dated: June 16, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86–14112 Filed 6–20–86; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1985).

[3] For a complete description of the AUTO–EX pilot, *see* Securities Exchange Act Release Nos. 22306 (August 9, 1985), 50 FR 32930 and 22610 (November 8, 1985) 50 FR 47480.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Incorporated

June 17, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

PSE, Inc., Common Stock, $0.01 Par Value (File No. 7–9001)

Home Shopping Network, Inc., Common Stock, $0 01 Par Value (File No. 7–9002)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 9, 1986, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86–14115 Filed 6–20–86; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f (1982).

[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.30–3(a)(12) (1985).

[Rel. No. 34–23325; File No. SR–NASD–86–12]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted on May 1, 1986, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to revise the specifications and study outline for the General Securities Representative (Series 7) examination. The amended Series 7 will cover new securities products such as, index options, interest rate options, and foreign currency options.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 23220, May 8, 1986) and by publication in the **Federal Register** (51 FR 17846, May 15, 1986). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: June 16, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86–14113 Filed 6–20–86; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

June 17, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stock:

Horn & Hardart Company, Common Stock, $0.66⅔ Par Value (File No. 7–8999)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 9, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86–14116 Filed 6–20–86; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–23323; File No. PHLX 86–15]

Self-Regulatory Organizations; Notice and Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc.; Relating to ECU Strike Price Intervals

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 4, 1986, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange ("PHLX" or "Exchange") proposes to revise certain of its strike price policies to permit the orderly introduction of $.02 strike price intervals for European Currency Unit ("ECU") put and call option contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

This proposal will provide for the orderly introduction of $.02 strike price intervals for the European Currency Unit. Currently, the Exchange has in place $.01 strike price intervals for its May, June, July, September, December and March series. Under the proposal, the Exchange will retain these strike prices for these series; in addition, the Exchange will list new strike prices in $.02 intervals in accordance with those policies previously approved by the Commission. Beginning with the June 1987 series, strike prices will be listed in $.02 intervals and no $.01 strike prices will be listed.

Since the initiation of foreign currency options trading in ECU on the PHLX on February 12, 1986, the underlying spot price of ECU has increased in value versus the U.S. dollar 8.95 percent in 99 days. The PHLX presently offers 126 outstanding put and call series to investors in ECU options. Due to the increased volatility of the ECU as compared with the Deutsche Mark and Swiss Franc relative to the U.S. dollar, the PHLX believes that $.02 strike price intervals are necessary to focus markets on a narrower range of ECU options series.

The proposed rule change is consistent with section 6(b)(5) of the 1934 Act in that it will facilitate transactions in securities and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing.

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the PHLX. All submissions should refer to the file number in the caption above and should be submitted by July 14, 1986.

IV. Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof, in that a change from .01 to .02 strike price intervals should help avoid the excessive proliferation of options series in ECUs. Accordingly, the Commission believes that PHLX should be permitted to apply the proposed intervals for newly introduced series in ECUs as of June 16, 1986.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 16, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-14114 Filed 6-20-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 25.939-1; Evaluating Turbine Engine Operating Characteristics

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 25.939-1, Evaluating Turbine Engine Operating Characteristics. The AC provides guidelines for the evaluation of turbine engine (turbojet, turboprop, and turboshaft) operating characteristics for subsonic transport category airplanes. These guidelines describe a method of demonstrating compliance with the applicable airworthiness requirements.

DATE: Advisory Circular 25.939-1 was issued by the Transport Airplane Certification Directorate in Seattle, Washington, on March 19, 1986.

How to obtain copies: A copy of AC 25.939-1 may be obtained by writing to the U.S. Department of Transportation, M-494.3, Subsequent Distribution Unit, Washington, DC 20590.

Issued in Seattle, Washington, on June 9, 1986.

Leroy A. Keith,

Manager, Aircraft Certification Division, Northwest Mountain Region.

[FR Doc. 86-14037 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Envornmental Impact Statement; Douglas County, KS

AGENCY: Federal Highway Administration (FHWA), DOT

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Douglas County, Kansas.

FOR FURTHER INFORMATION CONTACT: Robert K. Crow, District Engineer, FHWA, Rm. 240 444 S.E. Quincy, Topeka, Kansas 66683, Telephone: (913) 295-2558. R.E. Olson, Chief of Rural & Urban Development, Kansas Department of Transportation, State Office Building, Topeka, Kansas 66612, (913) 296-3861.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Kansas Department of Transportation, City of Lawrence and Douglas County will prepare an Environmental Impact Statement for a proposed highway project known as the South Lawrence Arterial. If constructed the project would be primarily on new locations, and developed initially as a two lane road (ultimately as a four land roadway). The corridor runs east-west near 31st Street in south Lawrence from K-10 to the Clinton Dam and north-south from Clinton Dam to the Kansas Turnpike; a distance of approximately 13 miles.

The project is intended to provide for projected traffic demands and to reduce existing congestion on the 23rd and Iowa St. arterials. Several alternatives will be considered including the no build. Also incorporated into the study will be various alignments within the corridor.

Three public information meetings have been held to keep the local citizens informed of the study. These meetings have provided early coordination with appropriate Federal, State, local agencies and private organizations who have expressed interest in this proposed project.

A public hearing will be held in Lawrence during the development of the Environmental Impact Statement. Public notice will be given of the time and place of the hearing and where the Draft Environmental Impact Statement will be available for review and comment.

Issued on: June 16, 1986.

Robert K. Crow,

District Engineer, Kansas Division, Federal Highway Administration, Topeka, Kansas.

[FR Doc. 86-14086 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-22-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-234]

Certain Upper Body Protector Apparatus for Use in Motosports; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Torsten Hallman Racing, Inc. (Hallman & Stilmotor.)

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on June 6, 1986.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By Order of the Commission.

Issued: June 19, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-14215 Filed 6-20-86; 8:45 am]

BILLING CODE 7020-02-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 120
Monday, June 23, 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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Monday, June 30, 1986, 2:00 p.m. (eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Refinement of EEOC's Investigative Techniques Applicable to Uncooperative Respondents

Closed

1. Litigation Authorization; General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.

Please telephone (202) 634–6748 at all times for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

Dated: June 18, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 86–14143 Filed 6–19–86; 10:16 am]

BILLING CODE 6750–06–M

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SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (51 FR 19811 June 2, 1986 and 51 FR 22165, June 18, 1986).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Friday, June 13, 1986.

CHANGE IN THE MEETING: Additional meeting/Time change.

The following item will be considered at an open meeting scheduled for Thursday, June 19, 1986, at 10:00 a.m.:

The Commission will consider the proposed testimony to be given by Chairman Shad on June 23, 1986 before the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce concerning Financial Reporting and the Role of the Independent Auditor. For further information, please contact Robert Kueppers at (202) 272–2130.

The time of the open meeting previously scheduled for 10:00 a.m. on Thursday, June 26, 1986, has been changed to *2:30 p.m.*

Commissioner Cox, as duty officer, determined that Commission business required the above changes 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 contact: Patrick Daugherty at (202) 272–3077.

Shirley E. Hollis,

Acting Secretary.

June 19, 1986.

[FR Doc. 86–14159 Filed 6–23–86; 11:32 am]

BILLING CODE 8010–01–M

federal register

Monday
June 23, 1986

Part II

Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs; Final Rules

Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs

AGENCIES: National Capital Planning Commission; National Commission for Employment Policy; Nuclear Regulatory Commission; National Credit Union Administration; Commodity Futures Trading Commission; Tennessee Valley Authority; Department of State; United States Information Agency; Inter-American Foundation; Japan-United States Friendship Commission; Navajo & Hopi Indian Relocation Commission; Occupational Safety and Health Review Commission; Pension Benefit Guaranty Corporation; Federal Mine Safety and Health Review Commission; Advisory Council on Historic Preservation; Pennsylvania Avenue Development Corporation; Commission of Fine Arts; Committee for Purchase from the Blind and Other Severely Handicapped; National Endowment for the Arts; Federal Maritime Commission; Interstate Commerce Commission;
ACTION: Final rule.

SUMMARY: This regulation requires that the agencies listed above operate all of their programs and activities to ensure nondiscrimination against qualified handicapped persons. It sets forth standards for what constitutes discrimination on the basis of mental or physical handicap, provides a definition for handicapped person and qualified handicapped person, and establishes a complaint mechanism for resolving allegations of discrimination. This regulation is issued under the authority of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in programs or activities conducted by Federal executive agencies.

EFFECTIVE DATE: August 22, 1986.

ADDRESSEES: See individual agencies below. Copies of this regulation are available on tape for persons with visual impairments. They may be obtained from the Coordination and Review Section, Civil Rights Division, Department of Justice, Washington, DC, 20530; (202) 724-2222 (Voice) or 724-7678 (TDD).

FOR FURTHER INFORMATION CONTACT: See individual agencies below.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by the following agencies (hereinafter "the agencies"): National Capital Planning Commission, National Commission for Employment Policy, U.S. Nuclear Regulatory Commission, National Credit Union Administration, Commodity Futures Trading Commission, Tennessee Valley Authority, United States Department of State, U.S. Information Agency, Inter-American Foundation, Japan-United States Friendship Commission, Navajo & Hopi Indian Relocation Commission, Occupational Safety and Health Review Commission, Pension Benefit Guaranty Corporation, Federal Mine Safety and Health Review Commission, Advisory Council on Historic Preservation, Pennsylvania Avenue Development Corporation, Commission of Fine Arts, Committee for Purchase from the Arts, Federal Maritime Commission, Interstate Commerce Commission. As amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Sec. 119, Pub. L. 95-602, 92 Stat. 2982), section 504 of the Rehabilitation Act of 1973 states that—

> No otherwise qualified handicapped individual in the United States, . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance *or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after*

the date on which such regulation is so submitted to such committees.

(29 U.S.C. 794) (amendment italicized))

On August 28, 1984, 21 agencies jointly published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register**. 49 FR 34132. That NPRM was based on a prototype developed by the Department of Justice (DOJ) and revised by DOJ in respose to the comments it received on its NPRM, published December 16, 1983. 48 FR 55996. Each agency individually received and analyzed comments. On the basis of their analysis, the agencies participating in this publication decided to adopt this final rule. Because the rule selected is identical for all the participating agencies, they are able to publish it jointly, and are doing so in order to minimize costs and expedite its issuance. The rule adopted by each agency will be codified in that agency's portion of the Code of Federal Regulations, as indicated in the information provided for the individual agencies below.

Section 504 requires that regulations that apply to the programs and activities of Federal executive agencies shall be submitted to the appropriate authorizing committees of Congress and that such regulations may take effect no earlier than the thirtieth day after they have been so submitted. The Department of Justice, on behalf of the agencies participating in this joint rulemaking, is submitting these regulations to the Senate Committee on Labor and Human Resources and its Subcommittee on the Handicapped and to the House Committee on Education and Labor and its Subcommittee on Select Education. Each regulation will become effective on August 22, 1986.

One commenter said that the agency should have tailored the regulation to its particular programs and activities instead of adopting the Justice Department's prototype. The agencies participating in this publication have found that the programs that they conduct are not so unique as to require special regulatory language and that this regulation is therefore appropriate for them.

The substantive nondiscrimination obligations of the agencies, as set forth in this rule, are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. *See* 28 CFR Part 41 (section 504 coordination regulations for federally assisted programs). This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal government should have the same section 504 obligations as recipients of Federal financial assistance. 124 Cong. Rec. 13901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *id.*; 124 Cong. Rec. 13897 (remarks of Rep. Brademas); *id.* at 38552 (remarks of Rep. Sarasin).

There are, however, some language differences between this final rule and the Federal government's section 504 regulations for federally assisted programs. These changes are based on the Supreme Court's decision in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), and the subsequent circuit court decisions interpreting *Davis* and section 504. *See Dopico* v. *Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association* v. *Lewis*, 655 F.2d 1272 (D.C. Cir. 1981) (*APTA*); *see also Rhode Island Handicapped Action Committee* v. *Rhode Island Public Transit Authority*, 718 F.2d 490 (1st Cir. 1983).

This interpretation is supported by the recent decision of the Supreme Court in *Alexander v. Choate*, 105 S. Ct. 712 (1985), where the Court held that the regulations for federally assisted programs did not require a recipient to modify its durational limitation on Medicaid coverage of inpatient hospital care for handicapped persons. Clarifying its *Davis* decision, the Court explained that section 504 requires only "reasonable" modifications, 105 S. Ct. at 721, and explicitly noted that "[t]he regulations implementing § 504 [for federally assisted programs] are consistent with the view that *reasonable* adjustments in the nature of the benefit offered must at times be made to assure meaningful access." *Id.* at n.21 (emphasis added).

Incorporation of these changes, therefore, makes this section 504 federally conducted regulation consistent with the Federal government's section 504 federally assisted regulations, as interpreted by the Supreme Court. Many of these federally assisted regulations were issued prior to the judicial interpretations of *Davis*, subsequent lower court cases interpreting *Davis*, and *Alexander;* therefore their language does not reflect the interpretation of section 504 provided by the Supreme Court and by the various circuit courts. Of course, these federally assisted regulations must be interpreted to reflect the holdings of the Federal judiciary. Hence the agencies believe that there are no significant differences between this final rule for federally conducted programs and the Federal government's interpretation of section 504 regulations for federally assisted programs.

This regulation has been reviewed by the Department of Justice under Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp., p. 298). It has also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206). It is not a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR, 1981 Comp., p. 127) and, therefore, a regulatory impact analysis has not been prepared. This regulation does not have an impact on small entities. It is not, therefore, subject to the Regulatory Flexibility Act (5 U.S.C. 601–612).

Section-by-Section Analysis and Response to Comments

Section __.101 Purpose.

Section __.101 States the purpose of the rule, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

No comments were received on this section and it remains unchanged from the proposed rule.

Section __.102 Application.

The regulation applies to all programs or activities conducted by the agencies. Under this section, a federally conducted program or activity is, in simple terms, anything a Federal agency does. Aside from employment, there are two major categories of federally conducted programs or activities covered by this regulation: those involving general public contact as part of ongoing agency operations and those directly administered by the agencies for program beneficiaries and participants. Activities in the first category include communication with the public (telephone contacts, office walk-ins, or interviews) and the public's use of the agency's facilities. Activities in the second category include programs that provide Federal services or benefits. No comments were received on this section.

Section __.103 Definitions.

"Assistant Attorney General."

"Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids." "Auxiliary aids" means services or devices that enable pesons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Auxiliary aids are addressed in § __.160(a)(1). Comments on the definition of "auxiliary aids" are discussed in connection with that section.

"Complete complaint." "Complete complaint" is defined to include all the information necessary to enable the agency to investigate the complaint. The definition is necessary, because the 180 day period for the agency's investigation (*see* § __.170(g)) begins when it receives a complete complaint.

"Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted.

One commenter objected to the omission of the phrase "or interest in such property" from the definition of "facility." As explained the preamble to the NPRM, the term "facility," as used in this regulation, refers to structures, and does not include intangible property rights. The definition, therefore, has no effect on the scope of coverage of programs, including those conducted in facilities not included in the definition. The phrase has been omitted because the requirement that facilities be accessible would be a logical absurdity if applied to a lease, life estate, mortgage, or other intangible property interest. The regulation applies to all programs and activities conducted by the agency regardless of whether the facility in which they are conducted is owned, leased or used on some other basis by the agency. The term "facility" is used in §§ __.149, __.150, and __.151.

"Handicapped person." The definition of "handicapped person" is identical to the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31).

"Historic preservation programs," "Historic properties," and "Substantial impairment." These terms are defined in order to aid in the interpretation of § __.150 (a)(2) and (b)(2), which relate to accessibility of historic preservation programs. The definition of "historic properties" published in the Notice of Proposed Rulemaking has been altered to conform to the definition included in section 4.1.7 (1)(a) of the Uniform Federal Accessibility Standards (49 FR 31528, 31552). The revised definition expands coverage beyond properties listed or eligible for listing in the National Register of Historic Places to include properties designated as historic by State or local governments.

"Qualified handicapped person." The definition of "qualified handicapped person" is a revised version of the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32).

Paragraph (1) is an adaptation of existing definitions of "qualified handicapped person" for purposes of federally assisted preschool, elementary, and secondary education programs (*see, e.g.*, 45 CFR 84.3(k)(2)). It provides that a handicapped person is qualified for preschool, elementary, or secondary education programs conducted by the agency, if he or she is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive these services from the agency. In other words, a handicapped person is qualified if, considering all factors other than the handicapping condition, he or she is entitled to receive education services from the agency.

Paragraph (2) deviates from existing regulations for federally assisted programs because of intervening court decisions. It defines "qualified handicapped person" with regard to any program other than those covered by paragraph (1) under which a person is required to perform services or to achieve a level of accomplishment. In such programs a qualified handicapped person is one who can achieve the purpose of the program without modifications in the program that would result in a fundamental alteration in its nature. This definition is based on the Supreme Court's *Davis* decision.

In that case, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program were modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives." 44 U.S. at 410. It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways," *id.* at 413, and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It therefore concluded that the school was not required by section 504 to make such modifications that would result in "a fundamental alteration in the nature of the program." *Id.* at 410.

We have incorporated the Court's language in the definition of "qualified handicapped person" in order to make clear that such a person must be able to participate in the program offered by the agency. The agency is required to make modifications in order to enable a handicapped applicant to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant can achieve the purpose of the program offered; not whether the applicant could benefit or obtain results from some other program that the agency does not offer. Although the revised definition allows exclusion of some handicapped people from some programs, it requires that a handicapped person who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the nature of the program.

The definition of "qualified handicapped person" has been revised to make it clear that the agency has the burden of demonstrating that a proposed modification would constitute a fundamental alteration in the nature of its program or activity. Furthermore, in demonstrating that a modification would result in such an alteration, the agency must follow the procedures established in subparagraph __.150(a)(2) and paragraph __.160(d), which are discussed below, for demonstrating that an action would result in undue financial and administrative burdens. That is, the decision must be made by the agency head or his or her designee in writing after consideration of all available for the program or activity and must be accompanied by an explanation of the reasons for the decision. If the agency head determines that an action would result in a fundamental alteration, the agency must consider options that would enable the handicapped person to achieve the purpose of the program but would not result in such an alteration.

For programs or activities that do not fall under either of the first two paragraphs, paragraph (3) adopts the existing definition of "qualified handicapped person" with respect to services (28 CFR 41.32(b)) in the coordination regulation for programs receiving Federal financial assistance. Under this definition, a qualified handicapped person is a handicapped person who meets the essential

eligibility requirements for participation in the program or activity.

Some commenters stated that the proposal would change the definition of "qualified handicapped person" for employment. A new paragraph (4) has been added to make clear that "qualified handicapped person" is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § __.140. Nothing in this part changes existing regulations applicable to employment.

"Section 504." This definition makes clear that, as used in this regulation, "section 504" applies only to programs or activities conducted by the agency and not to programs or activities to which it provides Federal financial assistance.

Section __.110 Self-evaluation.

This section requires that the agency conduct a self evaluation of its compliance with section 504 within one year of the effective date of this regulation. The self-evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.5(b)(2)). Experience has demonstrated the self-evaluation process to be a valuable means of establishing a working relationship with handicapped persons that promotes both effective and efficient implementation of section 504.

This final rule uses the same provision adopted by the Department of Justice in its final rule implementing section 504 for its federally conducted programs. 28 CFR 39.110. The Department of Justice determined that this regulatory language was appropriate after it had analyzed the Federal Advisory Committee Act (5 U.S.C. app.), Executive Order 12024, and 41 CFR Part 101–6, the regulation of the General Services Administration implementing the Act.

This final rule provides that the agency shall provide an opportunity for interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the self-evaluation process and development of transition plans by submitting comments (both oral and written).

Section __.111 Notice.

Section __.111 Requires the agency to disseminate sufficient information to employees, applicants, participants, beneficiaries, and other interested persons to apprise them of rights and protections afforded by section 504 and this regulation. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public to describe the agency's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio.

Section __.111 Is a broader and more detailed version of the proposed rule's requirement (at § __.160(d)) that the agency provide handicapped persons with information concerning their rights. Because __.111 encompasses the requirement of proposed __.160(d), that latter paragraph has been deleted as duplicative.

Section __.130 General prohibitions against discrimination.

Section __.130 Is an adaptation of the corresponding section of the section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.51). This regulatory provision attracted relatively few public comments and has not been changed from the proposed rule.

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in §__.130 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. If the agency violates a provision in any of the subsequent sections, it will also violate one of the general prohibitions found in __.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of handicapped persons. The agency may not refuse to provide a handicapped person with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons (e.g., epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question. It would be permissible, therefore, to exclude without an individual evaluation all persons who are blind in both eyes from eligibility for a license to operate a commerical vehicle in interstate commerce; but it may not be permissible to disqualify automatically all those who are blind in just one eye.

In addition, section 504 prohibits more than just the most obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit afforded to a handicapped person be as effective as that afforded to others. The later sections on program accessibility (§§ __.149–__.151) and communications (§ __.160) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons, subparagraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate or different aids, benefits, or services when necessary to provide handicapped persons with an equal opportunity to participate in or benefit from the agency's programs or activities. Subparagraph (b)(1)(iv) requires that different or separate aids, benefits, or services be provided only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits, or services would be more effective, subparagraph (b)(2) provides that a qualified handicapped person still has the right to choose to participate in the program that is not designed to accommodate handicapped persons.

Subparagraph (b)(1)(v) prohibits the agency from denying a qualified handicapped person the opportunity to participate as a member of a planning or advisory board.

Subparagraph (b)(1)(vi) prohibits the agency from limiting a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Subparagraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny handicapped persons access to the agency's programs or activities. The phrase "criteria or methods of administration" refers to official written agency policies and to the actual practices of the agency. This subparagraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny handicapped persons an effective opportunity to participate.

Subparagraph (b)(4) specifically applies the prohibition enunciated in §__.130(b)(3) to the process of selecting sites for construction of new facilities or existing facilities to be used by the agency. Subparagraph (b)(4) does not apply to construction of additional buildings at an existing site.

Subparagraph (b)(5) prohibits the agency, in the selection of procurement contractors, from using criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

Paragraph (b)(6) prohibits the agency from discriminating against qualified handicapped persons on the basis of handicap in the granting of licenses or certification. A person is a "qualified handicapped person" with respect to licensing or certification, if he or she can meet the essential eligibility requirements for receiving the license or certification (*see* § __.103).

In addition, the agency may not establish requirements for the programs or activities of licensees or certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. For example, the agency must comply with this requirement when establishing safety standards for the operations of licensees. In that case the agency must ensure that standards that it promulgates do not discriminate against the employment of qualified handicapped persons in an impermissible manner.

Paragraph (b)(6) does not extend section 504 directly to the programs or activities of licensees or certified entities themselves. The programs or activities of Federal licensees or certified entities are not themselves federally conducted programs or activities nor are they programs or activities receiving Federal financial assistance merely by virtue of the Federal license or certificate. However, as noted above, section 504 may affect the content of the rules established by the agency for the operation of the program or activity of the licensee or certified entity, and thereby indirectly affect limited aspects of their operations.

Some commenters argued that the regulation should extend to the activities of licensees or certified entities, citing *Community Television of Southern California* v. *Gottfried*, 459 U.S. 498 (1983). In that case, the Court held that section 504 as applied to federally assisted programs did not require the Federal Communications Commission to prohibit discrimination on the basis of handicap by licensed broadcasters, but that "the policies underlying the Communications Act" might authorize the Commission to issue a regulation governing such discrimination. The Court did not, however, indicate that section 504 itself could serve as the source of such regulatory authority.

The Court has held that "the use of the words 'public interest' in a regulatory statute is not a broad license to promote the general public welfare. Rather the words take meaning from the purposes of the regulatory legislation." *National Association for the Advancement of Colored People* v. *Federal Power Commission*, 425 U.S. 662, 669 (1976). Section 504 does not of itself extend an agency's regulatory authority to the activities of licensees or certified entities.

Some commenters objected to the omission of a paragraph from the regulations for federally assisted programs that prohibits a recipient from providing significant assistance to an organization that discriminates. To the extent that assistance from the agency would provide significant support to an organization, it would constitute Federal financial assistance and the organization, as a recipient of such assistance, would be covered by the section 504 regulation for federally assisted programs. The regulatory "significant assistance" provision, however, would be inappropriate in a regulation applying only to federally conducted programs or activities.

Paragraph (c) provides that programs conducted pursuant to a Federal statute or Executive order that is designed to benefit only handicapped persons or a given class of handicapped persons may be limited to those handicapped persons.

Paragraph (d), discussed above, provides that the agency must administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

Section __.140 Employment.

Section __.140 Prohibits discrimination on the basis of handicap in employment by the agency. Courts have held that section 504, as amended in 1978, covers the employment practices of Executive agencies. *Gardner* v. *Morris*, 752 F.2d 1271, 1277 (8th Cir. 1985); *Smith* v. *U.S. Postal Service*, 742 F.2d 257, 259–260 (6th Cir. 1984); *Prewitt* v. *United States Postal Service*, 662 F.2d 292, 302–04 (5th Cir. 1981). *Contra McGuiness* v. *U.S. Postal Service*, 744 F.2d 1318, 1320–21 (7th Cir. 1984); *Boyd* v. *U.S. Postal Service*, 752 F.2d 410, 413–14 (9th Cir. 1985).

Courts uniformly have held that, in order to give effect to section 501 of the Rehabilitation Act, which covers Federal employment, the administrative procedures of section 501 must be followed in processing complaints of employment discrimination under section 504. *Smith*, 742 F.2d at 262; *Prewitt*, 662 F.2d at 304. Accordingly, § __.140 (Employment) of this rule adopts the definitions, requirements, and procedures of section 501 as established in regulations, of the Equal Employment Opportunity Commission (EEOC) at 29 CFR Part 1613. In addition to this section, § __.170(b) specifies that the agency will use the existing EEOC procedures to resolve allegations of employment discrimination.

The final rule has not been changed, except that a reference to the Equal Employment Opportunity Commission has been added. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (3 CFR, Comp. 1979, p. 206). Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employment on the basis of handicap. While this rule could define terms with respect to employment and enumerate what practices are covered and what requirements apply, the agency has adopted EEOC's recommendation that to avoid duplicative, competing, or conflicting standards with respect to Federal employment, reference in these regulations to the government-wide EEOC rules is sufficient. The class of Federal employees and applicants for employment covered by section 504 is identical to or subsumed within that covered by section 501. To apply different or lesser standards to persons alleging violations of section 504 could lead unnecessarily to confusion in the enforcement of the Rehabilitation Act with respect to Federal employment.

Section __.149 Program accessibility: Discrimination prohibited.

Section __.149 States the general nondiscrimination principle underlying the program accessibility requirements of sections __.150 and __.151.

Section __.150 Program accessibility: Existing facilities.

This regulation adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.57), with certain modifications. Thus, § __.150 requires that the agency's program or activity,

when viewed in its entirety, be readily accessible to and usable by handicapped persons. The regulation also makes clear that the agency is not required to make each of its existing facilities accessible (§ __.150(a)(1)). However, § __.150, unlike 28 CFR 41.56–41.57, places explicit limits on the agency's obligation to ensure program accessibility (§ __.150(a)(2), (a)(3)).

Paragraph (a)(2), which establishes a special limitation on the obligation to ensure program accessibility in historic preservation programs, is discussed below in connection with paragraph (b).

The "undue financial and administrative burdens" language found at § __.150(a)(3) (and paragraph (d) of § __.160, discussed below) is based on the Supreme Court's *Davis* holding that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the Court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. Since *Davis*, circuit courts have applied this limitation on a showing that only one of the two "undue burdens" would be created as a result of the modification sought to be imposed under section 504. *See, e.g., Dopico* v. *Goldschmidt, supra; American Public Transit Association* v. *Lewis (APTA), supra.*

This interpretation is also supported by the Supreme Court's recent decision in *Alexander* v. *Choate*, 105 S. Ct. 712 (1985). *Alexander* involved a challenge to the State of Tennessee's reduction of inpatient hospital care coverage under Medicaid from 20 to 14 days per year. Plaintiffs argued that this reduction violated section 504 because it had an adverse impact on handicapped persons. The Court assumed without deciding that section 504 reaches at least some conduct that has an unjustifiable dispact impact on handicapped people, but held that the reduction was not "the sort of disparate impact" discrimination that might be prohibited by section 504 or its implementing regulation (*id.* at 720).

Relying on *Davis*, the Court said that section 504 guarantees qualified handicapped persons "meaningful access to the benefits that the grantee offers" (*id.* at 721) and that "*reasonable adjustments* in the nature of the benefit being offered must at times be made to assure meaningful access." *Id.* at n.21 (emphasis added). However, section 504 does not require "'changes,' 'adjustments,' or 'modifications' to existing programs that would be 'substantial' . . . or that would constitute 'fundamental alteration[s] in the nature of a program'" (*id.* at n.20) (citations omitted).

Alexander supports the position, based on *Davis* and the earlier, lower court decisions, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodations is not discriminatory. Thus, failure to include such an "undue burdens" provision could lead to judicial invalidation of the regulation or reversal of a particular enforcement action taken pursuant to the regulation. This provision is therefore unchanged from the proposed rule.

Some commenters asserted that the holding in *Davis* was that the plaintiff was not a qualified handicapped person and that the subsequent reference to "undue financial and administrative burdens" was mere *dicta*. This view overlooks the interpretations of *Davis* provided by the Federal circuit court cases mentioned above. The *APTA* and *Dopico* decisions make it clear that financial burdens can limit the obligation to comply with section 504. *See also New Mexico Association for Retarded Citizens* v. *New Mexico*, 678 F.2d 847 (10th Cir. 1982). In addition, the Court in *Alexander* held that the "administrative costs" of subjecting any action affecting Medicaid recipients to a detailed analysis of its effects on handicapped people "would be well beyond the accommodations that are required under *Davis*." (105 S. Ct. at 725.)

One comment included a lengthy analysis opposing the undue burdens defense. This comment was premised on the assumption that the proposed regulation was substantively inconsistent with the regulations for federally assisted programs. This assumption is incorrect. Judicial interpretations have established that neither section 504 nor the regulations for federally assisted programs establish an unlimited obligation to modify programs or activities to accommodate handicapped persons.

This comment also argued that *APTA* is no longer good law, in view of the Supreme Court's decision in *Consolidated Rail Corp.* v. *Darrone*, 104 S. Ct. 1248 (1984) (*Conrail*), in which the Court said that Congress intended, through the 1978 amendments to the statute, to codify the HEW regulation. Other commenters also argued that *Conrail* prohibits departures from the language of the federally assisted regulation. The *Conrail* decision addressed only the question of employment coverage under the Statute and cannot be read to mean that Congress "codified" other parts of the regulation. Furthermore, the undue burdens defense is not inconsistent with the HEW regulation; in fact, the employment provisions of the HEW regulation—those addressed in *Conrail*—do include an "undue hardship" defense. This position is confirmed by the Supreme Court's decision in *Alexander*. There the Court referred to its previous recognition in *Conrail* of the regulation as "an important source of guidance on the meaning of § 504," *Alexander*, 105 St. Ct. at 722, n.24, and at the same time, as discussed above, emphasized that section 504 does not mandate extensive costs and administrative burdens.

The agency is adopting the proposed rule's procedural requirements for application of the "fundamental alteration" and "undue financial and administrative burdens" language. The agency believes that, in most cases, making an agency program accessible will not result in undue burdens. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. The burden of proving that compliance with § __.150(a) would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § __.170. Finally, even if there is a determination that making a program accessible will fundamentally alter the nature of the program, or will result in undue financial and administrative burdens, the agency must still take action, short of that outer limit, that will open participation in the agency program to disabled persons to the fullest extent possible.

One commenter argued that the decision that an action would result in undue burdens should be based on the resources of the agency as a whole. The agency believes that its entire budget is an inappropriate touchstone for making determinations as to undue financial

and administrative burdens. Parts of the agency's budget may be earmarked for specific purposes and are simply not available for use in making the agency's programs accessible to disabled persons.

Paragraph (b)(1) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the agency shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of handicapped persons. Structural changes in existing facilities are required only when there is no other feasible way to make the agency's program accessible. The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Section __.150(b)(2) provides an additional limitation on the obligation to ensure program accessibility that is applicable only to historic preservation programs. In order to avoid possible conflict between the congressional mandates to preserve historic properties on the one hand and to eliminate discrimination against handicapped persons on the other, § __.150(a)(2) provides that in historic preservation programs the agency is not required to take any action that would result in a substantial impairment of significant historic features of an historic property.

Nevertheless, because the primary benefit of an historic preservation program is uniquely the experience of the historic property itself, § __.150(b)(2) requires the agency to give priority to methods of providing program accessibility that permit handicapped persons to have physical access to the historic property. This priority on physical access may also be viewed as a specific application of the general requirement that the agency administer programs in the most integrated setting appropriate to the needs of qualified handicapped persons (§ __.130(d)). Only when providing physical access would result in a substantial impairment of signifiant historic features, a fundamental alteration in the nature of the program, or in undue financial and administrative burdens, may the agency adopt alternative methods for providing program accessibility that do not ensure physical access. Examples of some alternative methods are provided in § __.150(b)(2).

The special limitation on program accessibility set forth in § __.150(a)(2) is applicable only to programs that have preservation of historic properties as a primary purpose (*see supra* definition of "historic preservation program," § __.103). Narrow application of the special limitation is justified because of the inherent flexibility of the program accessibility requirement. Where historic preservation is not a primary purpose of the program the agency is not bound to a particular facility. It can relocate all or part of its program to an accessible facility, make home visits, or use other standard methods of achieving program accessibility without making structural alterations that might impair significant historic features of the historic property.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three years after the effective date of this regulation. Where structural modifications are required, a transition plan shall be developed within six months of the effective date of this regulation. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days.

Section __.151 Program accessibility: New construction and alterations.

Overlapping coverage exists with respect to new construction under section 504, section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Section __.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered to be readily accessible to and usable by handicapped persons in accordance with 41 CFR 101–19.600 to 101–19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). It is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act and because adoption of the standard will avoid duplicative and possibly inconsistent standards.

This regulation does not require that buildings leased after the effective date of the regulation meet the new construction standards of § __.151, rather than the program accessibility standard for existing facilities in § __.150. Federal practice under section 504 has always treated newly leased buildings as subject to the existing facility program accessibility standard. Unlike the construction of new buildings where architectural barriers can be avoided at little or no cost, the application of new construction standards to an existing building being leased raises the same prospect of retrofitting buildings as the use of an existing Federal facility, and the agency believes the same program accessibility standard should apply to both owned and leased existing buildings.

Section __.160 Communications.

Section __.160 Requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants, participants, and members of the public. These steps include procedures for determining when auxiliary aids are necessary under § __.160(a)(l) to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, the agency's program or activity. They also include an opportunity for handicapped persons to request the auxiliary aids of their choice. This expressed choice shall be given primary consideration by the agency (§ __.160(a)(1)(i)). The agency shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § __.160(d). That paragraph limits the obligation of the agency to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it (*see supra* preamble discussion of § __.150(a)(3)). Unless not required by § __.160(d), the agency shall provide auxiliary aids at no cost to the handicapped person.

One commenter argued that the communications section should require that communications for handicapped people be "equal" to those for non-handicapped people, not merely "effective." The regulation requires the agency to provide auxiliary aids to ensure that handicapped people have "an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency." Where the form of communication is different for handicapped people than for non-handicapped people (*e.g.*, oral instead of written for blind people, sign language instead of speech for deaf people) the effectivness of the communication is the only appropriate measurement of equality of treatment.

In some circumstances, a notepad and written materials may be sufficient to

permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly when the information being communicated is complex or exchanged for a lengthy period of time (*e.g.*, a meeting) or where the hearing-impaired applicant or participant is not skilled in spoken or written language. In these cases, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency intends to inform the public of: (1) The communications services it offers to afford handicapped persons an equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids when several different modes are effective.

When sign language interpreters are necessary, the agency may require that it be given reasonable notice prior to the proceedings of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature (§ __.160(a)(1)(ii)). For example, the agency need not provide eye glasses or hearing aids to applicants or participants in its programs. Similarly, the regulation does not require the agency to provide wheelchairs to persons with mobility impairments.

One commenter suggested that the language in proposed § __.160(a)(1)(ii) that states that the agency need not provide individually prescribed devices or readers for personal use or study be modified to state that such devices are not required for "nonprogram material." This suggestion has not been adopted because it is less clear than the existing formulation, which is intended to distinguish between communications that are necessary to obtain the benefits of Federal programs and those that are not, and which parallels the requirements of the Federal government's section 504 regulations for federally assisted programs. For example, a federally operated library would have to ensure effective communication between its librarian and a patron, but not between the patron and a friend who had accompanied him or her to the library.

Paragraph (b) requires the agency to provide information to handicapped persons concerning accessible services, activities, and facilities. Paragraph (c) requires the agency to provide signage at inaccessible facilities that directs users to locations with information about accessible facilities.

Section __.170 Compliance procedures.

One commenter suggested that the agency adopt the more comprehensive compliance procedures adopted by the Department of Justice in its regulation. The Department of Justice included very detailed procedures that were tailored to its needs and capabilities. The procedures in this rule are less detailed and more suitable for adoption by agencies with limited enforcement capacities, but follow the same basic scheme as those in the Department of Justice's rule. To the extent that additional procedural guidance is appropriate to the agency, the agency will adopt it in the form of internal guidelines.

Paragraph (a) specifies that paragraphs (c) through (1) of this section establish the procedures for processing complaints other than employment complaints. Paragraph (b) provides that the agency will process employment complaints according to procedures established in existing regulations of the EEOC (29 CFR Part 1613) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

Paragraph (c) of the proposed rule provided that the head of the agency would designate an official to be responsible for coordinating implementation of this section. Since the proposed rule was published, the Office of the Federal Register has developed a method whereby individual agencies participating in a joint publication may amend the jointly published regulatory text to incorporate individual variations. Accordingly, the participating agencies are making that designation through this publication and are also providing an address to which complaints may be sent.

The agency is required to accept and investigate all complete complaints (§ __.170(d)). If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal government (§ __.170(e)).

One commenter on the compliance procedures suggested that the agency should be required to refer a complaint to the appropriate agency when it does not have jurisdiction over it. The proposed rule merely required the agency to make reasonsable efforts to do so. The agency has not adopted this suggestion because of several possible circumstances in which the agency might not be able to successfully refer a complaint. For example, the agency might receive a complaint that no Federal agency would have jurisdiction over or that did not contain sufficient information to identify the appropriate agency.

Paragraph (f) requires the agency to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act or section 502 was designed, constructed, or altered in a manner that does not provide ready access to and use by handicapped persons.

Paragraph (g) requires the agency to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal (§ __.170(g)). One appeal within the agency shall be provided (§ __.170(i)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance (§ __.170(i)).

Paragraph (1) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Part 457

FOR FURTHER INFORMATION CONTACT: Katherine Barns Soffer, General Counsel, 1325 G Street NW., Washington, DC. 20576 (202) 724–0170 or (202) 724–7678 (TDD).

List of Subjects in 1 CFR Part 457

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 1 of the Code of Federal Regulations is amended as follows:

1. Part 457 is added as set forth at the end of this document.

PART 457—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL CAPITAL PLANNING COMMISSION

Sec.

Authority: 29 U.S.C. 794.

2. Part 457 is further amended by revising paragraph (c) in § 457.170 to read as follows:

§ 457.170 Compliance procedures.

* * * * *

(c) The Executive Director shall be responsible for coordinating implementation of this section. Complaints may be sent to Equal Employment Opportunity Director, National Capital Planning Commission, 1325 G Street NW., Washington, DC 20576.

* * * * *

Katherine Barns Soffer,
General Counsel.

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

1 CFR Part 500

FOR FURTHER INFORMATION CONTACT:
Michael Landini, National Commission for Employment Policy, Suite 300, 1522 K Street NW., Washington, DC 20005, (202) 724–1545, (202) 724–7678 (TDD).

List of Subjects in 1 CFR Part 500

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 1 of the Code of Federal Regulations is amended as follows:

1. Part 500 is added as set forth at the end of this document.

PART 500—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Authority: 29 U.S.C. 794.

2. Part 500 is further amended by revising paragraph (c) in § 500.170 to read as follows:

§ 500.170 Compliance procedures.

* * * * *

(c) The Director shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, National Commission for Employment Policy, Suite 300, 1522 K Street NW., Washington, DC 20005.

* * * * *

Carol J. Romero,
Acting Director, National Commission for Employment Policy.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 4

FOR FURTHER INFORMATION CONTACT:
Mr. Edward E. Tucker, Office of Small and Disadvantaged Business Utilization/Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–7697, (202) 724–7678 (TDD).

List of Subjects in 10 CFR Part 4

Administrative practice and procedure, Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal aid program, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped, Reporting and recordkeeping requirements.

Title 10 of the Code of Federal Regulations is amended as follows:

PART 4—NONDISCRIMINATION IN FEDERALLY ASSISTED COMMISSION PROGRAMS

1. The authority citation for Part 4 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 274, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, 88 Stat. 1242, as amended (42 U.SC. 5841); sec. 207, Pub. L. 95–604, 92 Stat. 3033.

Subpart A also issued under secs. 602–605, Pub. L. 88–352, 78 Stat. 252, 253 (42 U.S.C. 2000d–1—2000d–4); sec. 401, 88 Stat. 1254 (42 U.S.C. 5891). Subpart B also issued under sec. 504, Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 706); sec. 119, Pub. L. 95–602, 92 Stat. 2984 (29 U.SC. 794); sec. 122, Pub. L. 95–602, 92 Stat. 2984 (29 U.S.C. 706(6)). Subpart E also issued under 29 U.S.C. 794.

2. Subpart E is added to 10 CFR Part 4 to read as set forth at the end of this document.

Subpart E—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the U.S. Nuclear Regulatory Commission

3. In § 4.570, paragraph (c) is revised to read as follows:

§ 4.570 Compliance procedures.

* * * * *

(c) The Civil Rights Program Manager, Office of Small and Disadvantaged Business Utilization/Civil Rights, shall be responsible for coordinating implementation of this section. Complaints may be sent to Nuclear

Regulatory Commission, Washington, DC 20555.

* * * * *

Victor Stello, Jr.,
Executive Director for Operations.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 794

FOR FURTHER INFORMATION CONTACT:
Mr. Benny R. Henson, 1776 G Street, NW., Washington, DC 20456, (202) 357–1055, (202) 357–1050 (TDD).

List of Subjects in 12 CFR Part 794

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 12 of the Code of Federal Regulations is amended as follows:

1. Part 794 is added as set forth at the end of this document.

PART 794—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL CREDIT UNION ADMINISTRATION

Sec.
794.101 Purpose.
794.102 Application.
794.103 Definitions.
794.104–794.109 [Reserved]
794.110 Self-evaluation.
794.111 Notice.
794.112–794.129 [Reserved]
794.130 General prohibitions against discrimination.
794.131–794.139 [Reserved]
794.140 Employment.
794.141–794.148 [Reserved]
794.149 Program accessibility: Discrimination prohibited.
794.150 Program accessibility: Existing facilities.
794.151 Program accessibility: New construction and alterations.
794.152–794.159 [Reserved]
794.160 Communications.
794.161–794.169 [Reserved]
794.170 Compliance procedures.
794.171–794–999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 794 is further amended by revising paragraph (c) in § 794.170 to read as follows:

§ 794.170 Compliance procedures.

* * * * *

(c) The Director, Administrative Office, shall be responsible for coordinating implementation of this section. Complaints may be sent to NCUA, 1776 G Street NW., Room 7261, Washington, DC 20456.

* * * * *

Rosemary Brady,
Secretary of the Board.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 149

FOR FURTHER INFORMATION CONTACT:
Frank H. Alston, III, Equal Employment Opportunity Officer, Commodity Futures Trading Commission, 2033 K Street NW., Room 202, Washington, DC 20581, (202) 254–3275 (Voice) or (202) 724–7678 (TDD).

List of Subjects in 17 CFR Part 149

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 17 of the Code of Federal Regulations is amended as follows:

1. Part 149 is added as set forth at the end of this document.

PART 149—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE COMMODITY FUTURES TRADING COMMISSION

Sec.
149.101 Purpose.
149.102 Application.
149.103 Definitions.
149.104.149, 109 [Reserved]
149.110 Self-evaluation.
149.111 Notice.
149.112–149.129 [Reserved]
149.130 General prohibitions against discrimination.
149.131–149.139 [Reserved]
149.140 Employment.
149.141–149.148 [Reserved]
149.149 Program accessibility: Discrimination prohibited.
149.150 Program accessibility: Existing facilities.
149.151 Program accessibility: New construction and alterations.
149.152–149.159 [Reserved]
149.160. Communications.
149.161–149.169 [Reserved]
149.170 Compliance procedures.
149.171–149.999 [Reserved]

Authority: 29 U.S.C 794.

2. Part 149 is further amended by revising paragraph (c) in § 149.170 to read as follows:

§ 149.170 Compliance procedures.

* * * * *

(c) The Executive Director of the Commission shall be responsible for coordinating implementation of this section. Complaints may be sent to the Equal Employment Opportunity Officer, Commodity Futures Trading Commission, 2033 K Street NW., Room 202, Washington, DC 20581.

* * * * *

Jean Webb,
Secretary of the Commission.

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1313

FOR FURTHER INFORMATION CONTACT:
William L. Osteen, Jr., Associate General Counsel, Tennessee Valley Authority, E11 B37, 400 West Summit Hill Drive, Knoxville, Tennessee 37902, (615) 632–4142 (Voice), (615) 632–3461 (TDD).

List of Subjects in 18 CFR Part 1313

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 18 of the Code of Federal Regulations is amended as follows:

1. Part 1313 is added as set forth at the end of this document.

PART 1313—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE TENNESSEE VALLEY AUTHORITY

Sec.
1313.101 Purpose.
1313.102 Application.
1313.103 Definitions.
1313.104–1313.109 [Reserved]
1313.110 Self-evaluation.
1313.111 Notice.
1313.112–1313.129 [Reserved]
1313.140 Employment.
1313.141–1313.148 [Reserved]
1313.149 Program accessibility: Discrimination prohibited.
1313.150 Program accessibility: Existing facilities.
1313.151 Program accessibility: New construction and alterations.
1313.152–1313.159 [Reserved]
1313.160. Communications.
1313.161–1313.169 [Reserved]
1313.170 Compliance procedures.
1313.171–1313.999 [Reserved]

Authority: 29 U.S.C. 794; 16 U.S.C. 831–831dd.

2. Part 1313 is further amended by revising paragraph (c) in § 1313.170 to read as follows:

§ 1313.170 Compliance procedures.

* * * * *

(c) The Supervisor, Contracting and Community Assistance, shall be responsible for coordinating implementation of this section. Complaints may be sent to Supervisor, Contracting and Community Assistance, Tennessee Valley Authority, E5 B30, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

* * * * *

William F. Willis,
General Manager.

DEPARTMENT OF STATE

22 CFR Part 144

FOR FURTHER INFORMATION CONTACT:
Paul M. Coran, Attorney Adviser, Office of the Assistant Legal Adviser for Management, Department of State, Room 4427A N.S., Washington, DC 20520, (202) 647–4446 (Voice) or (202) 647–8996 (TDD).

List of Subjects in 22 CFR Part 144

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 22 of the Code of Federal Regulations is amended as follows:

1. Part 144 is added as set forth at the end of this document.

PART 144—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE UNITED STATES DEPARTMENT OF STATE

Sec.
144.101 Purpose.
144.102 Application.
144.103 Definitions.
144.104–144.109 [Reserved]
144.110 Self-evaluation.
144.111 Notice.
144.112–144.129 [Reserved]
144.130 General prohibitions against discrimination.
144.131–144.139 [Reserved]
144.140 Employment.
144.141–144.148 [Reserved]
144.149 Program accessibility: Discrimination prohibited.
144.150 Program accessibility: Existing facilities.
144.151 Program accessibility: New construction and alterations.
144.152–144.159 [Reserved]
144.160 Communications.
144.161–144.169 [Reserved]
144.170 Compliance procedures.
144.171–144.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 144 is further amended by revising paragraph (c) in § 144.170 to read as follows:

§ 144.170 Compliance procedures.

* * * * *

(c) The Deputy Assistant Secretary for Equal Employment Opportunity and Civil Rights shall be responsible for coordinating implementation of this section. Complaints may be sent to Deputy Assistant Secretary for Equal Employment Opportunity and Civil Rights, Department of State, 2201 C Street, NW., Room 3214, Washington, DC 20520.

* * * * *

Dated: May 15, 1986.

Kenneth Hunter,
Acting Associate Director for Personnel, Handicap Program Coordinator, Department of State.

UNITED STATES INFORMATION AGENCY

22 CFR Part 530

FOR FURTHER INFORMATION CONTACT:
Helen Murphy, Handicap Program Manager, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547, Telephone: Voice/TTY: (202) 485–7157.

List of Subjects in 22 CFR Part 530

Blind, Civil rights Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 22 of the Code of Federal Regulations is amended as follows:

1. Part 530 is added as set forth at the end of this document.

PART 530—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE UNITED STATES INFORMATION AGENCY

Sec.
530.101 Purpose.
530.102 Application.
530.103 Definitions.
530.104–530.109 [Reserved]
530.110 Self-evaluation.
530.111 Notice.
530.112–530.129 [Reserved]
530.130 General prohibitions against discrimination.
530.131–530.139 [Reserved]
530.140 Employment.
530.141–530.148 [Reserved]
530.149 Program accessibility: Discrimination prohibited.
530.150 Program accessibility: Existing facilities.
530.151 Program accessibility: New construction and alterations.
530.152–530.159 [Reserved]
530.160 Communications
530.161–530.169 [Reserved]
530.170 Compliance procedures.
530.171–530.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 530 is further amended by revising paragraph (c) in § 530.170 to read as follows:

§ 530.170 Compliance procedures.

* * * * *

(c) The Director, Office of Equal Employment Opportunity and Civil Rights, shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, Office of Equal Employment Opportunity and Civil Rights, United States Information Agency, 301 4th Street NW., Washington, DC 20547.

* * * * *

Woodward Kingman,
Associate Director, Bureau of Management.

INTER-AMERICAN FOUNDATION

22 CFR Part 1005

FOR FURTHER INFORMATION CONTACT:
Adolfo A. Franco Associate General Counsel, Inter-American Foundation, 151 Wilson Blvd., Rosslyn, VA 22209, Telephone: (703) 841–3894, TDD: (202) 724–7678.

List of Subjects in 22 CFR Part 1005

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 22 of the Code of Federal Regulations is amended as follows:

1. Part 1005 is added as set forth at the end of this document.

PART 1005—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE INTER-AMERICAN FOUNDATION

Sec.
1005.101 Purpose.
1005.102 Application.
1005.103 Definitions.
1005.104–1005.109 [Reserved]
1005.110 Self-evaluation.
1005.111 Notice.
1005.112–1005.129 [Reserved]
1005.130 General prohibitions against discrimination.

Sec.
1005.131–1005.139 [Reserved]
1005.140 Employment.
1005.141–1005.148 [Reserved]
1005.149 Program accessibility: Discrimination prohibited.
1005.150 Program accessibility: Existing facilities.
1005.151 Program accessibility: New construction and alterations.
1005.152–1005.159 [Reserved]
1005.160 Communications.
1005.161–1005.169 [Reserved]
1005.170 Compliance procedures.
1005.171–1005.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1005 is further amended by revising paragraph (c) in § 1005.170 to read as follows:

§ 1005.170 Compliance procedures.

* * * * *

(c) The General Counsel, Inter-American Foundation, shall be responsible for coordinating implementation of this section. Complaints may be sent to General Counsel, Inter-American Foundation, 1515 Wilson Boulevard, Rosslyn, Virginia 22209.

* * * * *

Charles M. Berk,
General Counsel.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

22 CFR Part 1600

FOR FURTHER INFORMATION CONTACT: Roberta Stewart, 1200 Pennsylvania Avenue NW., Suite 3416, Washington, DC 20004. Telephone: (202) 275–7712 (TDD) (202) 724–6768.

List of Subjects in 22 CFR Part 1600

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 22 of the Code of Federal Regulations is amended as follows:

1. Part 1600 is added as set forth at the end of this document.

PART 1600—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE JAPAN-UNITED STATES FRIENDSHIP COMMISSION

Sec.
1600.101 Purpose.
1600.102 Application.
1600.103 Definitions.
1600.104–1600.109 [Reserved]
1600.110 Self-evaluation.
1600.111 Notice.
1600.112–1600.129 [Reserved]
1600.130 General prohibitions against discrimination.
1600.131–1600.139 [Reserved]
1600.140 Employment.
1600.141–1600.148 [Reserved]
1600.149 Program accessibility: Discrimination prohibited.
1600.150 Program accessibility: Existing facilities.
1600.151 Program accessibility: New construction and alterations.
1600.152–1600.159 [Reserved]
1600.160 Communications.
1600.161–1600.169 [Reserved]
1600.170 Compliance procedures.
1600.171–1600.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1600 is further amended by revising paragraph (c) in § 1600.170 to read as follows:

§ 1600.170 Compliance procedures.

* * * * *

(c) The Executive Director, Japan-U.S. Friendship Commission, shall be responsible for coordinating implementation of this section. Complaints may be sent to Executive Director, Japan-U.S. Friendship Commission, 1200 Pennsylvania Avenue, NW., Washington, DC 20004.

* * * * *

Lindley S. Sloan,
Executive Director.

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 720

FOR FURTHER INFORMATION CONTACT: Paul Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona, 86002, Telephone (602) 779–2721 (Voice) or (202) 724–6768 (TDD).

SUPPLEMENTARY INFORMATION: Because the majority of agencies participating in this joint publication do not conduct housing programs, the jointly published regulation does not include a provision specifically applicable to such programs. The Navajo and Hopi Indian Relocation Commission does, however, conduct a housing program and therefore its regulation must include guidance on how its requirements affect such programs. When the Commission participated in the publication of the proposed rule, it therefore also proposed amending §§ 720.150 and 720.151 of the proposed rule by adding new paragraphs (c) and (b), respectively, requiring that any home provided by the agency must be readily accessible to and usable by any handicapped person who is a member of the household for which the home is being acquired or constructed. No comments were received on this proposal and it is included in this final rule without change.

List of Subjects in 25 CFR Part 720

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 25 of the Code of Federal Regulations is amended as follows:

1. Part 720 is added as set forth at the end of this document.

PART 720—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

Sec.
720.101 Purpose.
720.102 Application.
720.103 Definitions.
720.104–720.109 [Reserved]
720.110 Self-evaluation.
720.111 Notice.
720.112–720.129 [Reserved]
720.130 General prohibitions against discrimination.
720.131–720.139 [Reserved]
720.140 Employment.
720.141–720.148 [Reserved].
720.149 Program accessibility: Discrimination prohibited.
720.150 Program accessibility: Existing facilities.
720.151 Program accessibility: New construction and alterations.
720.152–720.159 [Reserved]
720.160 Communications.
720.161–720.169 [Reserved]
720.170 Compliance procedures.
720.171–720.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 720 is further amended by revising paragraph (c) in § 720.170 to read as follows:

§ 720.170 Compliance procedures.

* * * * *

(c) The Assistant Director for Relocation Operations shall be responsible for coordinating implementation of this section. Complaints may be mailed to Assistant Director for Relocation Operations, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002.

* * * * *

3. In § 720.150, paragraph (e) is added to read as follows:

§ 720.150 Program accessibility: Existing facilities.

* * * * *

(e) *Housing.* The agency shall ensure that any dwelling purchased for a relocatee household is readily accessible to and usable by any handicapped person who is a member of that household.

4. Section 720.151 is amended by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 720.151 Program accessibility: New construction and alterations

* * * * *

(b) The agency shall ensure that any dwelling that is constructed for a relocatee household is designed and constructed so as to be readily accessible to and usable by any handicapped person who is a member of that household.

Ralph Watkins,
Chairman.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2205

FOR FURTHER INFORMATION CONTACT: Jim Streeter, Special Counsel, OSHRC, 1825 K Street NW., Washington, DC 20006 (202) 634–7920, (TDD) messages: (202) 724–7678.

List of Subjects in 29 CFR Part 2205

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 29 of the Code of Federal Regulations is amended as follows:

PART 2205—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITES CONDUCTED BY THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Sec.
2205.101 Purpose.
2205.102 Application.
2205.103 Definitions.
2205.104–2205.109 [Reserved]
2205.110 Self-evaluation.
2205.111 Notice.
2205.112–2205.129 [Reserved]
2205.130 General prohibitions against discrimination.
2205.131–2205.139 [Reserved]
2205.140 Employment.
2205.141–2205.148 [Reserved]
2205.149 Program accessibility: Discrimination prohibited.
2205.150 Program accessibility: Existing facilities.
2205.151 Program accessibility: New construction and alterations.
2205.152–2205.159 [Reserved]
2205.160 Communications.
2205.161–2205.169 [Reserved]
2205.170 Compliance procedures.
2205.171–2205.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 2205 is further amended by revising paragraph (c) in § 2205.170 to read as follows:

§ 2205.170 Compliance procedures.

* * * * *

(c) The Executive Director shall be responsible for coordinating implementation of this section. Complaints may be sent to Executive Director, Occupational Safety and Health Review Commission, 1825 K Street NW., Washington, DC 20006

* * * * *

Paul M. Lyons,
Executive Director.
May 23, 1986.

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2608

FOR FURTHER INFORMATION CONTACT: Philip Hertz, Legal Department, Pension Benefit Guaranty Corporation (Code 22500), 2020 K Street, NW., Washington, DC 20006, (202) 956–5021, Persons with hearing impairments can obtain further information by calling our telecommunication devices for the deaf (TTY) at (202) 956–5069.

List of Subjects in 29 CFR Part 2608

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 29 of the Code of Federal Regulations is amended as follows:

1. Part 2608 is added as set forth at the end of this document.

PART 2608—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE PENSION BENEFIT GUARANTY CORPORATION

Sec.
2608.101 Purpose.
2608.102 Application.
2608.103 Definitions.
2608.104–2608.109 [Reserved]
2608.110 Self-evaluation.
2608.111 Notice.
2608.112–2608.129 [Reserved]
2608.130 General prohibitions against discrimination.
2608.131–2608.139 [Reserved]
2608.140 Employment.
2608.141–2608.148 [Reserved]
2608.149 Program accessibility: Discrimination prohibited.
2608.150 Program accessibility: Existing facilities.
2608.151 Program accessibility: New construction and alterations.
2608.152–2608.159 [Reserved]
2608.160 Communications.
2608.161–2608.169 [Reserved]
2608.170 Compliance procedures.
2608.171–2608–999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 2608 is further amended by revising paragraph (c) in § 2608.170 to read as follows:

§ 2608.170 Compliance procedures.

* * * * *

(c) The Equal Opportunity Manager shall be responsible for coordinating implementation of this section. Complaints may be sent to Pension Benefit Guaranty Corporation, 2020 K Street NW., Room 3700–A, Washington, DC 20006.

* * * * *

Kathleen Utgoff,
Executive Director, Pension Benefit Guaranty Corporation.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2706

FOR FURTHER INFORMATION CONTACT: L. Joseph Ferrara, Acting General Counsel, (202) 653–5610 or TDD (202) 724–7678, Federal Mine Safety and Health Review Commission, Suite 600, 1730 K St., NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: The Federal Mine Safety and Health Review Commission did not participate in the joint publication on August 28, 1984. Instead, it separately published a Notice of Proposed Rulemaking on September 27, 1984, 49 FR 38222. The proposed rule, however, was the same as that

published jointly by the other 21 agencies, and the Commission has decided to adopt the same final rule as the agencies participating in this publication. It is, therefore, joining those agencies in jointly publishing this final rule.

The Federal Mine Safety and Health Review Commission conducts all adjudicative proceedings and hearings required by the Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 801–825). When determining where hearings will be held, the Commission must consider both the convenience of the public or parties to a proceeding, and the extent to which delay or expense can be minimized. (30 U.S.C. 823(a) and the regulation promulgated thereunder, 29 CFR 2700.51.) This usually means that hearings are conducted in relatively rural areas at sites near the mining operation involved. With respect to hearings held at such locations, we will, of course, attempt to locate accessible facilities. Often, however, it is impossible to locate accessible facilities near the mining operation. In these instances, the Commission will include in the announcement of any hearing a notice that persons desiring to attend should inform the agency in advance of any accessibility features they may require. This announcement will be sent to parties who will attend the hearing, their representatives, and witnesses. Because the Commission's hearings are open to the public, the Commission will also notify the general public in the area where the hearing will be held, using the available media outlets in the rural area. If the Commission receives a request for an accessible hearing site in response to this announcement, the Commission will move the hearing to an accessible hearing site, even though this site is farther from the mining operation.

The notice will also ask handicapped persons to inform the agency of any auxiliary aids, such as sign language interpreters, that may be necessary. Thus, the Commission will, subject only to the limitations of § 2706.150(a)(3) and § 2706.160(d), ensure access for any handicapped person that gives reasonable advance notice or that we know will attend the hearing as a party, party's representative, or a witness.

List of Subjects in 29 CFR Part 2706

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 29 of the Code of Federal Regulations is amended as follows:

1. Part 2706 is added as set forth at the end of this document.

PART 2706—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sec.
2706.101 Purpose.
2706.102 Application.
2706.103 Definitions.
2706.104–2706.109 [Reserved]
2706.110 Self-evaluation.
2706.111 Notice.
2706.112–2706.129 [Reserved]
2706.130 General prohibitions against discrimination.
2706.131–2706.139 [Reserved]
2706.140 Employment.
2706.141–2706.148 [Reserved]
2706.149 Program accessibility: Discrimination prohibited.
2706.150 Program accessibility: Existing facilities.
2706.151 Program accessibility: New construction and alterations.
2706.152–2706.159 [Reserved]
2706.160 Communications.
2706.161–2706.169 [Reserved]
2706.170 Compliance procedures.
2706.171–2706.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 2706 is further amended by revising paragraph (c) in § 2706.170 to read as follows:

§ 2706.170 Compliance procedures.

* * * * *

(c) The General Counsel shall be responsible for coordinating implementation of this section. Complaints may be sent to General Counsel, Federal Mine Safety and Health Review Commission, 1730 K Street NW., Suite 600, Washington, DC 20001.

* * * * *

Ford B. Ford,
Chairman.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Part 812

FOR FURTHER INFORMATION CONTACT: Charlotte R. Bell, Associate General Counsel, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., #809, Washington, DC 20004. Telephone number (202) 786–0503, TDD Telephone number (202) 724–7678.

List of Subjects in 1 CFR Part 812

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 36 of the Code of Federal Regulations is amended as follows:

1. Part 812 is added as set forth at the end of this document.

PART 812—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

Sec.
812.101 Purpose.
812.102 Application.
812.103 Definitions.
812.104–812.109 [Reserved]
812.110 Self-evaluation.
812.111 Notice.
812.112–812.129 [Reserved]
812.130 General prohibitions against discrimination.
812.131–812.139 [Reserved]
812.140 Employment.
812.141–812.148 [Reserved]
812.149 Program accessibility: Discrimination prohibited.
812.150 Program accessibility: Existing facilities.
812.151 Program accessibility: New construction and alterations.
812.152–812.159 [Reserved]
812.160 Communications.
812.161–812.169 [Reserved]
812.170 Compliance procedures.
812.171–812.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 812 is further amended by revising paragraph (c) in § 812.170 to read as follows:

§ 812.170 Compliance procedures.

* * * * *

(c) The General Counsel shall be responsible for coordinating implementation of this section. Complaints may be sent to the General Counsel, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Washington, DC 20004.

* * * * *

John M. Fowler,
Acting Executive Director.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 909

FOR FURTHER INFORMATION CONTACT: James A. Alexander, Pennsylvania

Avenue Development Corporation, 1331 Pennsylvania Avenue, NW., Suite 1220 North, Washington, DC 20004–1703, Telephone: (202) 724–9088 or (202) 724–7678 (TDD).

List of Subjects in 36 CFR Part 909

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 36 of the Code of Federal Regulations is amended as follows:

1. Part 909 is added as set forth at the end of this document.

PART 909—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Sec.
909.101 Purpose.
909.102 Application.
909.103 Definitions.
909.104–909.109 [Reserved]
909.110 Self-evaluation.
909.111 Notice.
909.112–909.129 [Reserved]
909.130 General prohibitions against discrimination.
909.131–909.139 [Reserved]
909.140 Employment.
909.141–909.148 [Reserved]
909.149 Program accessibility: Discrimination prohibited.
909.150 Program accessibility: Existing facilities.
909.151 Program accessibility: New construction and alterations.
909.152–909.159 [Reserved]
909.160 Communications.
909.161–909.169 [Reserved]
909.170 Compliance procedures.
909.171–909.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 909 is further amended by revising paragraph (c) in § 909.170 to read as follows:

§ 909.170 Compliance procedures.

* * * * *

(c) The Executive Director shall be responsible for coordinating implementation of this section. Complaints may be sent to the General Counsel, Pennsylvania Avenue Development Corporation, 1331 Pennsylvania Avenue, NW., Suite 1220 North, Washington, DC 20004–1730.

* * * * *

M.J Brodie,
Executive Director.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Part 51–9

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509, Telephone: (703) 557–1145, TDD (202) 724–7678.

SUPPLEMENTARY INFORMATION: Pursuant to the Javits-Wagner-O'Day Act, 41 U.S.C. 47(c) (1982), the Committee for Purchase from the Blind and Other Severely Handicapped (Committee) has designated two central nonprofit agencies, National Industries for the Blind, and National Industries for the Severely Handicapped, Inc., to facilitate the distribution of orders of the Government for commodities and services to be procured pursuant to the Act. The National Federation of the Blind has submitted a comment requesting clarification of whether the central nonprofit agencies are federally conducted or federally assisted programs.

The central nonprofit agencies assist the Committee in carrying out its program. They are charged with making recommendations to the Committee regarding workshop qualifications, price changes based on market conditions, and additions to the Procurement List and with distributing equitably the orders of the Government among their participating workshops, 41 CFR 51–3.2 (1984). Thus, section 504 for federally conducted programs prohibits the Committee from allowing the central nonprofit agencies to discriminate in representing their participating workshops to the Committee or in distributing the orders of the Government on behalf of the Committee among their participating workshops, but does not reach the activities of the workshops. The central nonprofit agencies themselves are neither recipients of Federal financial assistance nor federally conducted activities by virtue of their relationship with the Committee. The central nonprofit agencies may be subject to section 503 of the Rehabilitation Act of 1973, as amended, to the extent that the central nonprofit agencies enter into a procurement contract with Federal agencies, 41 CFR 51–3.2(i).

List of Subjects in 41 CFR Part 51–9

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 41 of the Code of Federal Regulations is amended as follows:

1. Part 51–9 is added as set forth at the end of this document.

PART 51–9—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Sec.
51–9.101 Purpose.
51–9.102 Application.
51–9.103 Definitions.
51–9.104–51.9.109 [Reserved]
51–9.110 Self-evaluation.
51–9.111 Notice.
51–9.112–51–9.129 [Reserved]
51–9.130 General prohibitions against discrimination.
51–9.131–51–9.139 [Reserved]
51–9.140 Employment.
51–9.141–51–9.148 [Reserved]
51–9.149 Program accessibility: Discrimination prohibited.
51–9.150 Program accessibility: Existing facilities.
51–9.151 Program accessibility: New construction and alterations.
51–9.152–51–9.159 [Reserved]
51–9.160. Communications.
51–9.161–51–9.169 [Reserved]
51–9.170 Compliance procedures.
51–9.171–51–9.999 [Reserved]

Authority: 29 U.S.C 794.

2. Part 51–9 is further amended by revising paragraph (c) in § 51–9.170 to read as follows:

§ 51–9.170 Compliance procedures.

* * * * *

(c) The Executive Director shall be responsible for coordinating the implementation of this section. Complaints may be sent to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, Suite 1107, 1755

Jefferson Davis Highway, Arlington, Virginia 22202-3509.

* * * * *

C.W. Fletcher,
Executive Director.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1153

FOR FURTHER INFORMATION CONTACT:
Paula Terry, Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 682-5532, TTY Number: (202) 682-5496.

SUPPLEMENTARY INFORMATION:

Section 1153.130 General Prohibitions Against Discrimination.

Paragraph (b): The following is an additional, NEA-specific example of permissible use of an irrebutable presumption.

It would be permissible, therefore, to exclude without an individual evaluation all persons who are totally blind from eligibility to serve on a panel that screens slides of artwork; however, deaf individuals would be eligible to serve on the same panel.

No comments were received on this example.

List of Subjects in 45 CFR Part 1153

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 45 of the Code of Federal Regulations is amended as follows:

1. Part 1153 is added as set forth at the end of this document.

PART 1153—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL ENDOWMENT FOR THE ARTS

Sec.
1153.101 Purpose.
1153.102 Application.
1153.103 Definitions.
1153.104–1153.109 [Reserved]
1153.110 Self-evaluation.
1153.111 Notice.
1153.112–1153.129 [Reserved]
1153.130 General prohibitions against discrimination.
1153.131–1153.139 [Reserved]
1153.140 Employment.
1153.141–1153.148 [Reserved]
1153.149 Program accessibility: Discrimination prohibited.
1153.150 Program accessibility: Existing facilities.
1153.151 Program accessibility: New construction and alterations.
1153.152–1153.159 [Reserved]
1153.160 Communications.
1153.161–1153.169 [Reserved]
1153.170 Compliance procedures.
1153.171–1153.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1153 is further amended by revising paragraph (c) in § 1153.170 to read as follows:

§ 1153.170 Compliance procedures.

* * * * *

(c) The Director, Office for Civil Rights, shall be responsible for coordinating implementation of this section. Complaints may be sent to the Office of General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

* * * * *

F.S.M. Hodsoll,
Chairman, National Endowment for the Arts.

COMMISSION OF FINE ARTS

45 CFR Part 2104

FOR FURTHER INFORMATION CONTACT:
Charles H. Atherton, Secretary, Commission of Fine Arts, 708 Jackson Place, NW., Washington, DC 20006, (202) 566-1066 (Voice), (202) 724-7678 (TDD).

List of Subjects in 45 CFR Part 2104

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 45 of the Code of Federal Regulations is amended as follows:

1. Part 2104 is added as set forth at the end of this document.

PART 2104—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE COMMISSION OF FINE ARTS

Sec.
2104.101 Purpose.
2104.102 Application.
2104.103 Definitions.
2104.104–2104.109 [Reserved]
2104.110 Self-evaluation.
2104.111 Notice.
2104.112–2104.129 [Reserved]
2104.130 General prohibitions against discrimination.
2104.131–2104.139 [Reserved]
2104.140 Employment.
2104.141–2104.148 [Reserved]
2104.149 Program accessibility: Discrimination prohibited.
2104.150 Program accessibility: Existing facilities.
2104.151 Program accessibility: New construction and alterations.
2104.152–2104.159 [Reserved]
2104.160 Communications.
2104.161–2104.169 [Reserved]
2104.170 Compliance procedures.
2104.171–2104.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 2104 is further amended by revising paragraph (c) in § 2104.170 to read as follows:

§ 2104.170 Compliance procedures.

* * * * *

(c) The Secretary, Commission of Fine Arts, shall be responsible for coordinating implementation of this section. Complaints may be sent to Secretary, Commission of Fine Arts, 708 Jackson Place NW., Washington, DC 20006.

* * * * *

Charles H. Atherton,
Secretary, Commission of Fine Arts.

FEDERAL MARITIME COMMISSION

46 CFR Part 507

FOR FURTHER INFORMATION CONTACT:
William Jarrel Smith, Jr., Director, Office of Administration, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523-5866 (Voice) or (202) 343-3679 (TDD).

List of Subjects in 46 CFR Part 507

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 46 of the Code of Federal Regulations is amended as follows:

1. Part 507 is added as set forth at the end of this document.

PART 507—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL MARITIME COMMISSION

Sec.
507.101 Purpose.
507.102 Application.
507.103 Definitions.
507.104–507.109 [Reserved]
507.110 Self-evaluation.
507.111 Notice.
507.112–507.129 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 507 is further amended by revising paragraph (c) in § 507.170 to read as follows:

§ 507.170 Compliance procedures.

* * * * *

(c) The Director of Administration shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, Office of Administration, Federal Maritime Commission, 1100 L Street NW., Room 12211, Washington, DC 20573.

* * * * *

William Jarrel Smith, Jr.,

Director, Office of Administration.

INTERSTATE COMMERCE COMMISSION

49 CFR PART 1014

FOR FURTHER INFORMATION CONTACT: Gideon Ferebee, EEO Manager, Office of Human Relations, Interstate Commerce Commission, Room 3147, Washington, DC 20423, Voice: (202) 275–7503, TDD: (202) 275–1844.

SUPPLEMENTARY INFORMATION: As an independent Federal regulatory agency, the Commission is not an "Executive agency" under 5 U.S.C. 105 and therefore we conclude that it is not directly subject to section 504. The Commission's participation in the implementing regulation therefore is voluntary.

List of Subjects in 49 CFR Part 1014

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 49 of the Code of Federal Regulations is amended as follows:

1. Part 1014 is added as set forth at the end of this document.

PART 1014—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE INTERSTATE COMMERCE COMMISSION

Authority: 29 U.S.C. 794.

2. Part 1014 is further amended by revising paragraph (c) in § 1014.170 to read as follows:

§ 1014.170 Compliance procedures.

* * * * *

(c) The Equal Opportunity Officer shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, Office of Human Relations, Interstate Commerce Commission, Room 3147, Washington, DC 20423.

* * * * * *

James H. Bayne,

Secretary.

PART ___ ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY

Authority: 29 U.S.C 794

§ ___.101 Purpose.

This part effectuates section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ ___.102 Application.

This part applies to all programs or activities conducted by the agency.

§ ___.103 Definition.

For purposes of this part, the term—

"Assistant Attorney General" means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

"Complete complaint" means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

"Facility" means all or any portion of buildings, structures, equipment, roads,

walks, parking lots, rolling stock or other conveyances, or other real or personal property.

"Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

As used in this definition, the phrase:

(1) "Physical or mental impairment" includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in subparagraph (1) of this definition but is treated by the agency as having such an impairment.

"Historic preservation programs" means programs conducted by the agency that have preservation of historic properties as a primary purpose.

"Historic properties" means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate State or local government body.

"Qualified handicapped person" means—

(1) With respect to preschool, elementary, or secondary education services provided by the agency, a handicapped person who is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive education services from the agency.

(2) With respect to any other agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who meets the essential eligibility requirements and who can acheive the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature;

(3) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; and

(4) "Qualified handicapped person" is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § __.140.

"Section 504" means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

"Substantial impairment" means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

§§ __.104__.109 [Reserved]

§§ __.110 Self-evaluation.

(a) The agency shall, by August 24, 1987, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall provide an opportunity to interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The agency shall, until three years following the completion of the self-evaluation, maintain on file and make available for public inspection:

(1) a description of areas examined and any problems identified, and

(2) a description of any modifications made.

§ __.111 Notice

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the head of the agency finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

§§ __.112__.129 [Reserved]

§§ __.130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons

with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangments, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program activity with respect to handicapped persons.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discriminiation on the basis of handicap.

(6) The agency may not administer a licensing or certification program in a manner that subjects qualified handicapped persons to discrimination on the basis of handicap, nor may the agency establish requirements for the programs or activites of licensees or certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. However, the programs or activities of entities that are licensed or certified by the agency are not, themselves, covered by this part.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§§ __.131-__.139 [Reserved]

§ __.140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR Part 1613, shall apply to employment in federally conducted programs or activities.

§§ __.141-__.148 [Reserved]

§ __.149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § __.150, no qualified handicapped person shall, because the agency's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§ __.150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by handicapped persons;

(2) In the case of historic preservation programs, require the agency to take any action that would result in a substantial impairment of significant historic features of an historic property; or

(3) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § __.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods.*—(1) *General.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of the services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by handicapped persons. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate.

(2) *Historic preservation programs.* In meeting the requirements of § __.150(a) in historic preservation programs, the agency shall give priority to methods that provide physical access to handicapped persons. In cases where a physical alteration to an historic property is not required because of § __.150(a)(2) or (a)(3), alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide handicapped persons into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance.* The agency shall comply with the obligations established under this section by October 21, 1986, except that where structural changes in facilities are undertaken, such changes shall be made by August 22, 1989, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, by February 23, 1987 months after the effective date], a transition plan setting forth the steps necessary to complete such changes. The agency shall provide an opportunity to interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the official responsible for implementation of the plan.

§ __.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§ __.152 __.159 [Reserved]

§ __.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf person (TDD's) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and adminstrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § __.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§ __.161–__.169 [Reserved]

§ __.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR Part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 [29 U.S.C. 791].

(c) The head of the agency shall designate an official to be responsible for coordinating implementation of this section.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by handicapped persons.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by § __.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the head of the agency.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency

determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

§§ __.171__.999 [Reserved]

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Part III

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171, 172, and 173

Reportable Quantity of Hazardous Substances; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, and 173

[Docket No. HM-145E; Notice No. 86-3]

Reportable Quantity of Hazardous Substances

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations (HMR) by adding hazardous substances, including their reportable quantities, to the Hazardous Materials Table at § 172.101. RSPA is taking this action in response to the Environmental Protection Agency's (EPA) issuance of a final rule which adjusted or reaffirmed the reportable quantity (RQ) levels for many of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) hazardous substances. This proposed action is necessary to identify these materials in the HMR as hazardous substances and should promote easier identification of CERCLA hazardous substances for both shippers and carriers.

DATE: Comments must be received on or before August 25, 1986.

ADDRESSES: Dockets Branch (DHM-53), Office of Hazardous Materials Transportation, RSPA, U.S. Department of Transportation, Washington, DC 20590. Comments should be submitted, when possible, in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, DC. Dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Lee Jackson (202) 755-4990 or George Cushmac (202) 426-2311, Office of Hazardous Materials Transportation, RSPA, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(a) of CERCLA requires the Secretary of Transportation to list all "hazardous substances" as defined by CERCLA as "hazardous materials" under the Hazardous Materials Transportation Act (HMTA). By a final rule issued on March 19, 1981, Docket No. HM-145C [46 FR 17738], RSPA fulfilled this requirement by amending 49 CFR 172.101 to include a list of these materials immediately following the Hazardous Material Table (Table).

The definition of "hazardous substance" as defined in section 101(14) of CERCLA includes substances designated under section 307(a) and section 311 of the Federal Water Pollution Control Act (Clean Water Act or CWA), section 3001 of the Solid Waste Disposal Act (commonly known as the Resource Converstation and Recovery Act (RCRA)), and section 112 of the Clean Air Act (CAA). With the exception of substances designated under section 311 of the CWA, CERCLA also established the reportable quantities for hazardous substances from these sources at one pound and gave EPA the authority to adjust the size of the reportable quantity by regulations. While listing all of the CERCLA hazardous substances in the HMR, RSPA did not apply regulations under the HMTA to those substances that were not already subject to the HMR. If such action were taken, there would have been a vast increase in the number of shipments regulated under the HMR, many of them for relatively innocuous materials. During the incorporation of the CERCLA list of hazardous substances under HM-145C, RSPA indicated that when the EPA exercised its authority under section 102 of CERCLA to adjust the RQs for those substances, RSPA would again examine the question of whether to subject these substances to regulation under the HMTA.

In order to develop a coordinated regulatory program, RSPA has worked closely with EPA's Emergency Response Division on the designation of hazardous substances and adjustment of reportable quantities (RQs) since CERCLA was enacted.

EPA Action

In a Notice of Proposed Rulemaking (NPRM) issued on May 25, 1983 [48 FR 23552], EPA proposed to adjust the RQ level for 387 of the 698 CERCLA "hazardous substances". In this NPRM, EPA listed for the first time the "hazardous substances" designated by section 101(14) of CERCLA. This NPRM also discussed in detail the CERCLA notification requirements, the methodology and criteria used by the EPA to adjust the reportable quantity levels, and the RQ adjustments proposed under section 102 of CERCLA and section 311 of the CWA.

RSPA commented on this NPRM on August 8, 1983 [48 FR 35965]. In the comments, RSPA concurred with EPA's expressed intention "to work with DOT to develop a coordinated (sic) and integrated set of regulations so that shippers and carriers of hazardous substances will be subject to only one set of regulations" [48 FR 23560]. RSPA in turn expressed a commitment to examine to what extent CERCLA "hazardous substances" should be regulated under the HMR.

By Final Rule published in the **Federal Register** on April 4, 1985 [50 FR 13456], EPA exercised its authority under CERCLA and adjusted the RQs for 340 of the CERCLA hazardous substances. RSPA is responding to this EPA action by issuance of this NPRM.

DOT Action

As previously stated, EPA published an NPRM on May 25, 1983 [48 FR 23552]. This NPRM proposed to adjust the RQ levels for 387 of the 698 CERCLA hazardous substances. In response to the EPA NPRM, DOT published an Advance Notice of Proposed Rulemaking (ANPRM) on August 8, 1983 [48 FR 35965]. This ANPRM considered the regulatory impact that the incorporation of CERCLA hazardous substances into the HMR would place on shippers and carriers. Basically, the ANPRM examined the extent the HMR should apply to CERCLA hazardous substances. In this ANPRM, RSPA proposed eight regulatory alternatives as possible ways of incorporating the CERCLA hazardous substances into the HMR. These alternatives are repeated as follows:

Proposed Regulatory Alternatives

1. RSPA may issue a rule to incorporate all CERCLA "hazardous substances" into the Table as "hazardous substances" under the HMR, applying the RQ for each substance in effect at that time (including the statutory RQ of one pound for those substances for which EPA has not concluded its evaluations).

2. With regard to those CERCLA "hazardous substances" for which EPA has completed its evaluations and established RQs, RSPA may issue a rule to incorporate those substance into the Table as "hazardous substances" under the HMR, but withhold further action on all other CERCLA "hazardous substances" until EPA has completed its evaluations and established RQs for them.

3. RSPA may withhold further action until EPA has completed its evaluations and established RQs for all CERCLA "hazardous substances".

4. As a variation of Alternative 1, RSPA may issue a rule with regard only to those substances for which RSPA possesses adequate information concerning the need for and consequences of such a rule, and for

which the potential benefits outweigh the potential costs.

5. As a variation of Alternative 2, RSPA may issue a rule with regard only to those substance for which RSPA possesses adequate information concerning the need for and consequences of such a rule, and for which the potential benefits outweigh the potential costs.

6. As a variation of Alternative 3, RSPA may issue a rule with regard only to those substances for which RSPA possesses adequate information concerning the need for and consequences of such a rule, and for which the potential benefits outweigh the potential costs.

7. RSPA may do noting. This would mean that the only hazardous substances subject to the HMR would be those already listed in the Table.

8. RSPA may decline to apply the HMR to hazardous substances by removing those already listed in the Table and by not adding any others. This would return DOT to its traditional role of safety regulation under the HMTA.

Comments on Proposed Alternatives

Thirty-three commenters addressed these alternatives in their comments. The majority of commenters felt that RSPA should further regulate hazardous substances. Commenters taking this position either Alternative No. 1 or No. 2. Both of these alternatives are similar because they propose to regulate CERCLA hazardous substances under the HMR. The difference between these two alternatives in the manner in which hazardous substances are adopted into the HMR.

Under Alternative No. 1, all CERCLA hazardous substances would be regulated under the HMR following issuance of a final rule by RSPA. Those substances whose reportable quantity level had not been adjusted would still be regulated under the HMR at the statutory RQ of one pound. Under Alternative No. 2 only those substances that had EPA adjusted RQs would be regulated under the HMR. Those substances whose RQ values had not been adjusted would be listed but not regulated. RSPA would consider subjecting these substances to regulation when their RQs had been adjusted by EPA.

While each of the proposed regulatory alternatives provides a method for dealing with CERCLA hazardous substances, RSPA believes that the adoption of CERCLA hazardous substances into the HMR under Alternative No. 2 is the most effective course of action. This alternative complies with the Paperwork Reduction Act by controlling the additional paperwork burdens associated with regulating CERCLA hazardous substances. Review of the proposed alternatives indicates that while the choice of one of the other alternatives may be feasible, their selection is not warranted. Selecting Alternative No. 3, 4, 5, or 6 would require RSPA to either delay issuance of a rule on hazardous substances until EPA takes further action or require that RSPA issue a rule on hazardous substances based solely on RSPA's evaluation of these substances. RSPA does not believe that either approach is acceptable.

Alternative No. 7 proposes that RSPA do nothing. RSPA would continue to only regulate those substances that are already in the Table. From the comments RSPA received to this alternative, carriers are concerned that pursuing this course of action would ignore their need for additional information to be shown on shipping papers. This additional information is believed necessary to alert them to the fact that they are carrying hazardous substances and to inform them that if a "reportable" amount is spilled, a report is required by CERCLA. If RSPA were to take no further action, there would be no identification of new hazardous substances on shipping papers. For this reason, RSPA does not believe that selection of this alternative is warranted.

The selection of Alternative No. 8 would mean that RSPA would decline to regulate hazardous substances under the HMR. Choosing this alternative, RSPA would be acting on the premise that the regulatory controls which are currently in place for hazardous substances are adequate and that regulation under the HMR is not necessary. RSPA does not believe this. There is a need for carriers to have information about hazardous substances. If a carrier is aware that a hazardous substance is being transported and a spill occurs in a reportable quantity, the carrier can make the required spill report. Also, shippers should know as soon as possible what the final RQs are for hazardous substances, so they can finalize their instructions to shipping and operating personnel as well as to their carriers. They can also make any needed changes to their shipping documentation and training materials.

Considering the tremendous paperwork burden associated with the adoption of Alternative No. 1, and the fact that the selection of Alternative No. 2 will keep the HMR consistent with the EPA regulations, RSPA believes that Alternative No. 2 is the most practical way of satisfying these information needs.

It is RSPA's position that DOT has discretionary authority under Section 105 of the HMTA to determine whether, and to what extent, to regulate hazardous materials. [A detailed discussion of this position was provided in the ANPRM.] With regard to the CERCLA hazardous substances for which EPA has issued a final rule adjusting their reportable quantities, RSPA has decided to propose to add them all to the hazardous materials table.

Questions Posed in the ANPRM

RSPA requested that commenters to the ANPRM respond to fourteen questions regarding CERCLA hazardous substances. Specifically, these questions were aimed at giving RSPA an idea of the potential impact attributable to each of the proposed regulatory alternatives, and to assist RSPA in making the analyses required by Executive Order (E.O.) 12291 and 5 CFR Part 1320. Each question is repeated herein:

1. What is the anticipated frequency of shipments that are not currently subject to the HMR, but that would become subject to them if RSPA were to adopt RQs under the regulatory alternatives?

2. What new costs would the adoption of RQs under the regulatory alternatives impose on shippers and carriers of CERCLA "hazardous substances"?

3. What is the anticipated frequency of releases from shipments that would exceed the RQ and what is the likelihood of clean-up efforts resulting from the reporting of these releases?

4. What are the anticipated environmental benefits of such clean-up efforts?

5. With regard to these releases, what is the likelihood that clean-up would occur even if RSPA did not adopt one of the regulatory alternatives?

6. What would be the effect of the adoption of RQs under the regulatory alternatives on international commerce?

7. What would be the effect on the adoption of RQs under the regulatory alternatives on the potential for liability and on the insurability of shippers and carriers of CERCLA "hazardous substances"?

8. Some CERCLA "hazardous substances" are hazardous only in certain forms. For example, while lead and other heavy metals are designated as CERCLA "hazardous substances" they are hazardous only when they are in very small particles. Therefore, EPA has proposed to exempt from reporting releases of these metals except for particles that are less than 100 micrometers in diameter. Are there other CERCLA "hazardous substances" that are hazardous only in certain forms to which RSPA could similarly limit the applicability of the HMR?

9. If RSPA were to extend the applicability of its shipping paper and package marking requirements through the adoption of RQs

under the regulatory alternatives, would the increased frequency of their use tend to diminish their effectiveness as hazard warnings?

10. What other factors should RSPA consider in determining the need for and consequences of the regulatory alternatives?

11. What other factors should RSPA consider in determining the potential benefits and the potential costs to society of the regulatory alternatives?

12. What other information would be of value to RSPA in conducting the analyses required by E.O. 12291?

13. To assist RSPA in fulfilling the requirement of 5 CFR Part 1320, which of the regulatory alternatives, necessary for the proper performance of the agency's function, would be the least burdensome?

14. What is the "practical utility", as that term is defined at 5 CFR Part 1320.7(q), of the "collection of information" that would result from the adoption of RQs under the regulatory alternatives?

Comments on Questions Posed in the ANPRM

Of the thirty-three comments received, only eight commenters addressed any or all of these questions. A brief synopsis of their responses is provided herein. A detailed discussion of the comments received to these questions is available for review in the regulatory evaluation and supporting documentation located in the public docket file of HM-145E.

RSPA received a few comments to the question concerning the impact the adoption of RQs would have on international commerce. These comments indicated that by increasing the number of CERCLA hazardous substances subject to the HMR, there may be an increase in the number of materials that would be regulated in international commerce. Commenters stated that new requirements for hazardous substances have the potential to be burdensome and confusing to shippers in other countries. No substantive evidence was provided to back up this claim. Since the adoption of the first hazardous substances into the HMR in Docket HM-145B on May 22, 1980, [45 FR 34560] and November 10, 1985, [45 FR 74640] RSPA has not been made aware of any major problems occurring relative to the import or export of hazardous substances. Secondly, DOT possesses very limited knowledge of the volume of hazardous commodities which are imported and exported annually. Without knowing the number of hazardous substances that will be incorporated into the HMR and the number of shipments of these materials that are being imported into or exported from the United States, RSPA has no way of knowing what effect the adoption of RQs under one of the proposed regulatory alternatives would have on international commerce. This question was posed by RSPA in the AMPRM because RSPA had no quantifiable data on these shipments. RSPA had hoped commenters would furnish this data. They did not.

Only a few comments were received concerning the effect the adoption of RQs would have on the liability and insurability of shippers and carriers of CERCLA hazardous substances. Most of the comments RSPA received on this question pointed out that should any of the regulatory alternatives be adopted, there would virtually be no change in the liability or insurability of shippers and carriers of these substances. One commenter, representing an association comprised of carriers, thought the full adoption of hazardous substances under the HMR would greatly improve the liability and insurance situation of carriers. This commenter contended that if carriers had better, more complete knowledge that a hazardous substance was being transported, they would exercise greater caution when transporting these shipments. As a result, insurance rates for transporting these substances might stabilize. However, another commenter contended that a shipper's and carrier's potential for liability might be increased substantially should the CERCLA hazardous substances be adopted, due to the increase in the number of regulated shipments. No supportive documentation was furnished by either commenter to substantiate their positions.

In response to the question regarding whether there are other CERCLA hazardous substances that are only hazardous in certain forms, RSPA only received one comment. The commenter expressed concern about lead oxide and lead silicate having an RQ of one pound under the EPA rule and stated that even though these substances are less toxic than other substances with higher RQs, EPA has failed to develop a specific RQ for them. This commenter urged RSPA to develop substantial supportive documentation on all substances which present an imminent hazard and threat to the environment before imposing any regulations on them.

RSPA is sympathetic to this commenter's concern, however, EPA is the only agency which has the authority under CERCLA to adjust hazardous substance RQs. RSPA's authority under the HMTA is to determine which materials pose an unreasonable risk to health and safety or property when transported in commerce and to regulate them at an appropriate level. The EPA develops a substantial supportive record for a named substance before an RQ level is established. In the final rule dated April 4, 1985, [50 FR 13456] EPA stated that they have deliberately decided not to establish RQs for the many broad, generic classes of organic and metallic compounds. Although not specifically listed by name, lead oxide and lead silicate would be included in one of these broad, generic classes. EPA has also determined that the notification requirements under CERCLA apply only to those specific compounds whose RQs are listed in the EPA Table, the List of Hazardous Substances and Reportable Quantities (40 CFR 302.4).

Comments made to the question concerning what other factors RSPA should consider in determining the need for and consequences of the regulations stressed two points. One, RSPA should consider the effect that each of the regulatory alternatives would have on small businesses. Secondly, RSPA should consider a carrier's liability and the potential environmental damage that could result if a hazardous substance is spilled and the appropriate response is not initiated because the substance was not properly reported.

RSPA is required to give full consideration to the impact any regulatory action it takes would have on small businesses. With regard to carrier's liability, CERCLA requires that all spills of a CERCLA hazardous substance which occur in a reportable quantity be reported to the National Response Center. The incorportation of CERCLA hazardous substances into the HMR will promote better identification of these materials, leading to greater compliance with the reporting requirements and lessening the potential for environmental damage.

Concerning the question about what new costs shippers and carriers would incur should CERCLA hazardous substances be adopted under one of the regulatory alternatives, most commenters stated that shipment costs would increase proportionally with the increase in the number of shipments. No quantitative data was provided to support this conclusion. RSPA acknowledges that costs may increase if the number of shipments subject to the HMR increases. Of course, any increase in costs is dependent on many factors ranging from the degree of hazard posed by the materials being shipped to the volume of materials and the number of shipments being made. With the exception of Alternative No. 7, selection of any of the alternatives may entail additional costs. This is expected. These costs result from compliance with the documentation, packaging, marking, labeling and placarding requirements of

the HMR. E.O. 12291 requires that no regulatory action shall be undertaken unless it can be demonstrated that the potential benefits to society which the proposed regulation provides outweigh its potential costs. (A detailed evaluation of the economic impact of this regulation can be found in Appendix B of the regulatory evaluation).

In response to the question concerning the anticipated frequency of shipments currently not subject to the HMR and the cost increase that would occur if these shipments become subject to the HMR, more than half of the commenters believed the number of regulated shipments would increase. Most of the commenters thought this increase would be substantial, however, no quantitative data was furnished. These comments support RSPA's contention in the ANPRM that if certain categories of CERCLA hazardous substances are brought under the umbrella of the HMR, there could be a significant increase in the number of shipments subject to the HMR. When a material becomes subject to the HMR, shippers incur costs by complying with documentation and package marking requirements. Carriers become subject to additional requirements such as loading requirements, driving and insurance rules and reporting requirements. These requirements, of course, would not be new ones for shippers and carriers of those substances who are already subject to the HMR.

II. Proposed Rule

The primary purpose of this notice of proposed rulemaking is to incorporate CERCLA hazardous substances into the HMR as proposed under Alternative No. 2. RSPA proposes three actions. First, RSPA proposes to add to the Table those CERCLA hazardous substances which have EPA established final RQs. RSPA will take no action at this time on unevaluated hazardous substances as these will be assessed by RSPA after EPA establishes their final RQ's. When final RQs are established for these substances, RSPA will consider adding them to the Table. The changes proposed in this NPRM to incorporate certain CERCLA hazardous substances into the HMR should enhance the carriers' awareness, through the shipping paper identification, that they are transporting hazardous substances.

The second action RSPA is proposing is to revise the definition of a hazardous substance in § 171.8 to include hazardous wastes which are not specifically listed by the EPA as a hazardous waste, but which exhibit an EPA characteristic of ignitiality, corrosivity or reactivity (ICR). RSPA believes that revision of the definition for a hazardous substance to include ICR materials is necessary because EPA has stated that when a reportable quantity of any ICR waste is released (spilled), the release is reportable under CERCLA.

The third action RSPA is proposing is to change the hazardous substance discharge notification requirements of 49 CFR 171.17. EPA pointed out in its comments to the ANPRM, HM–145E, that the language of this section applies only to discharges of a hazardous substance which occur in a reportable quantity into navigable waters or upon adjoining shorelines. EPA stated "while this language was written to conform to the requirements of the Clean Water Act, it is not consistent with the multi-media reporting requirements of CERCLA which apply to releases to air, land and water". RSPA agrees with EPA's statement and is proposing to change the provisions of § 171.17 to either make the discharge notification requirements applicable to all media or to remove the discharge notification requirements from the HMR. As an option, RSPA could include a reference to the notification requirements of CERCLA in the HMR. For purposes of this rule, the terms "release" and "environment" have the same meaning as specified by EPA in its definition of these terms in 40 CFR 302.3.

The RQs for certain hazardous substances which were previously incorporated into the Table (HM–145B; 45 FR 34560 and 45 FR 74640) have been adjusted by EPA. RSPA proposes to change the RQ for each of these hazardous substances to correspond to the adjusted final RQ set by EPA.

In its final rule, EPA adjusted the RQs of 340 hazardous substances, including 21 waste streams. However, EPA's rule included many hazardous substances from Section 311 of the CWA whose "adjusted" final RQ is the same as its statutory RQ. These substances were previously incorporated into the Table under HM–145B. Therefore, the number of hazardous substances addressed in this rule is less than 340. These hazardous substances would be listed in the Table by name followed by the RQ and identified in column 1 of the Table as a hazardous substance by the symbol "E". The proposed changes in the Table affect certain sections in Part 173.

Unlisted Hazardous Substances

A. ICRE Wastes

Under the Resource, Conservation and Recovery Act (RCRA), ICRE wastes are wastes which are not specifically listed by the EPA as hazardous wastes, but which possess characteristics of ignitability, corrosivity, reactivity or extraction procedure (EP) toxicity (ICRE). These characteristics are defined by EPA in 40 CFR 261.20–261.24. In the EPA final rule of April 4, 1985 [50 FR 13456], EPA states that releases of non-designated wastes which exhibit ICR characteristics are reportable under section 103(a) of CERCLA. The RQ for non-designated substances which are ICR wastes is 100 pounds. That rule states: "Substances exhibiting the characteristic of extraction procedure (EP) toxicity are not at issue here, because the chemicals at which the EP toxicity test is aimed are all specifically designated as hazardous under section 302.4 of today's regulation." The RQs for wastes exhibiting the characteristic of EP toxicity are listed in the table at 40 CFR 302.4 and are keyed to the contaminant (hazardous substance) on which the characteristic of EP toxicity is based. According to the EPA, when a reportable quantity of any of these unlisted ICRE wastes is released (spilled), the release is reportable under CERCLA.

Section 102 of CERCLA authorizes EPA to designate hazardous substances over and above those designated by Congress in the statute, and to establish reportable quantities for them. Using this authority, EPA plans to designate about 500 new hazardous substances in the next five years. In addition, EPA proposes to add generic groups of materials to the hazardous substance list. These generic groups include those undesignated substances which exhibit a characteristic of ignitability, corrosivity or reactivity (ICR). ICR materials are discussed in EPA's Final Rule (50 FR 13460 April 4, 1985) and are derived from EPA's RCRA regulations found in 40 CFR 261.21–261.23. The characteristics which determine whether a material is an ICR material are the same as or similar to RSPA's definitions for the hazard classes of Flammable liquid, Combustible liquid, Flammable gas, Oxidizer, Corrosive material, Exposive A, Explosive B, Flammable solid, ORM–E and RSPA's criteria for forbidden materials.

Based on EPA's interpretation that ICRE wastes are reportable under CERCLA, RSPA proposes to take the following actions to include these substances in the HMR. First, RSPA proposes to amend the hazardous substance definition in § 171.8 to include ICR wastes (materials exhibiting an EP toxic characteristic are not included here because the constituents making them toxic are individually listed). This

will insure that ICR wastes are included as hazardous substances in the HMR. Secondly, RSPA proposes to include instructions in the introductory language to the Table which explain the procedure to follow when selecting the proper shipping name for ICR wastes. This is necessary because ICR wastes may or may not meet the definition of a DOT hazard class other than ORM–E. For those wastes the RSPA is proposing to require that the proper shipping name include in parenthesis the EPA ICR characteristic exhibited by the waste so that the EPA ICR characteristic which makes the waste hazardous is identified. RSPA also proposes to amend the shipping paper requirements to require the applicable ICR characteristic to be included as part of the proper shipping name. Further, RSPA proposes to amend the marking requirements to require the applicable ICR characteristic to be displayed on packagings of 110 gallons or less.

B. ICRE substances

EPA also proposed in a NPRM issued on April 4, 1985 [50 FR 13514], a 100-pound RQ for releases of non-designated substances which exhibit the RCRA characteristics of ICR. Substances exhibiting the characteristic of EP toxicity are not at issue because the substances at which the EP toxicity test are aimed are all designated by EPA. Under the EPA proposal, any spill of an ICRE substance (whether it is a waste or not) is reportable under CERCLA if the material (1) exhibits an ICRE characteristic and (2) is spilled in a reportable quantity. This proposal has not been finalized by the EPA, and RSPA does not intend to take any action on these substances until the EPA proposal becomes final. If the EPA proposal becomes final for all ICRE substances, not just wastes, RSPA will propose to amend the HMR in the same manner as we are proposing for ICRE wastes. Both the definition and the introductory language to the Table for a hazardous substance would be amended to include ICRE substances. The RSPA seeks comments on suggested methods to follow when incorporating both ICRE wastes and ICRE substances into the HMR. Also the RSPA solicits comments on the problems shippers and carriers foresee should these materials be incorporated into the HMR.

When activities designating CERCLA hazardous substances are complete, there will be approximately 1400 specifically named substances (approximately 900 designated by the statute and 500 to be designated by EPA within the next five years). This estimate may be conservative because it does not include any non-designated substance which exhibits an ICR characteristic (materials exhibiting an EP toxic characteristic are not included here because the constituents making them toxic are individually listed). Therefore, it appears that within five years almost all of the hazardous materials regulated by DOT will also be hazardous substances, since the Table presently contains only about 2400 proper shipping names, including both the specific and generic (n.o.s.) entries. The significance associated with the use of a special notation (the "E" in column 1 and the "RQ" in column 2) in the Table to identify hazardous substances for reporting purposes may be lost if virtually all of the hazardous materials are subject to the notification requirements at various RQs. In addition, RSPA may not be able to identify and class many of these materials in the Table. ICR substances could fall within as many as eight different hazard classes other than ORM–E. A similar problem exists with the incorporation of RCRA waste streams which is proposed in this NPRM. If RSPA is unable to class a material, it may be inappropriate to list it in the Table. There is certainly the argument to be made that adding numerous substances in the ORM–E class to the listing of acutely hazardous materials in the hazardous materials Table reduces the level of safety by diluting the Table to include a large number of substances that do not pose special transportation hazards. This could reduce shippers' and carriers' attention to safety by imposing comparable restrictions on substances which differ significantly in hazards.

RSPA solicits comments on the desirability of using some other system of identifying hazardous substances other than the one which presently exists and is proposed in this notice (i.e., listing a material in the Table with special notation as noted above). Other options might include establishing a separate list of all hazardous substances with their RQs. Such a list would not contain either a column for the hazard class (which, in many cases RSPA is unable to assign) or specific packaging requirements. Another option might be to simply require that all spills of chemical materials be reported, in effect consolidating all of the existing and possible reporting requirements for spills into a single, simple rule for shippers and carriers.

RSPA solicits comments on the desirability of removing the requirement in the HMR to report spills of hazardous substances. This is presently contained in § 171.17. Section 103 of CERCLA contains explicit reporting requirements for discharges of hazardous substances. Also, both the U.S. Coast Guard and EPA have rules which require reporting of discharges of these same materials (See 33 CFR 153.201 and 40 CFR 117.21 and 302.6). Referencing the existence of these reporting requirements in the HMR might be better than having another reporting requirement. RSPA believes the penalties under EPA's CERCLA rules and Coast Guard's CWA rules for failure to report a hazardous substance discharge are adequate and there may be no need to require further reporting for hazardous substance discharges in the HMR. An example of how this could be done may be found in Note 2 at the end of § 171.3.

III. Review by Sections

Section 171.8. The definition of a hazardous substance would be revised to include wastes which exhibit a RCRA characteristic of ICR.

Section 171.17. Paragraph (a) would be revised to expand the "environment" (i.e., air, land and water) into which a discharge may occur and for which a discharge notification is required. Other options include removing this requirement from the HMR or referencing the CERCLA reporting requirements in the HMR.

Section 172.101. Paragraph (c)(14) would be added to cover specific waste streams that have been designated as hazardous substances by EPA and whose hazard class assignment may change from shipment to shipment because of variations in the composition of the waste stream. RSPA proposes to add 21 waste streams to the Table, all classed as ORM–E. These waste streams would not be listed by their EPA names. They would be added as follows: (1) Those waste streams whose hazard characteristics meet the definition of the ORM–E hazard class only would be assigned the proper shipping name "Hazardous waste, liquid *or* solid, n.o.s.", as appropriate. Included as part of the proper shipping name would be the EPA hazardous waste number (RCRA waste number) assigned to the waste stream (e.g., F003). Thus, a waste stream identified by EPA as "F003" containing the following spent non-halogenated solvents and the still bottoms from the recovery of these solvents: (a) Xylene, (b) Acetone, (c) Ethyl acetate, (d) Ethylbenzene, (e) Ethyl ether, (f) Methyl isobutyl ketone, (g) n-Butyl alcohol, (h) Cyclohexanone, (i) Methanol, when classed as ORM–E and shipped in liquid form in a reportable quantity, would be described as "RQ,

Hazardous waste, liquid, n.o.s. (F003) ORM–E, NA9189", (2) those waste streams having hazard characteristics that meet the definition of a hazard class other than ORM–E would be classed accordingly and assigned the proper shipping name (either a specific name or an n.o.s. entry) that most appropriately describes the waste stream. The EPA hazardous waste number assigned to the waste stream "F003" that also meets the definition of a flammable liquid would be classed as a flammable liquid. This waste stream when shipped in a reportable quantity would be described as "RQ, Waste flammable liquid, n.o.s. (F003), Flammable liquid, UN1993". If RSPA were to adopt the EPA descriptions, there would be several DOT proper shipping names which would contain more than ten words.

Paragraph (c)(15) would be added to cover hazardous substances which are waste materials that are not specifically listed under RCRA and exhibit an EPA characteristic of ignitibility, corrosivity or reactivity (ICR). Because of variations in the composition of the wastes being shipped, selection of the proper shipping name and assignment of a hazard class to these wastes may change from shipment to shipment depending on their hazards. For this reason, RSPA proposes to require that the proper shipping name include in parenthesis the EPA ICR characteristic which makes the waste hazardous under RCRA. Selection of a proper shipping name for these wastes, when shipped in a reportable quantity, would be as follows: (1) Those wastes whose hazard characteristics only satisfy the definition of the ORM–E hazard class would be assigned the proper shipping name "Hazardous waste, liquid *or* solid, n.o.s.", as appropriate, followed by the specific EPA ICR characteristic in parenthesis; (2) those wastes having hazard characteristics that meet the definition of a hazard class other than ORM–E and also have an EPA ICR characteristic would be assigned the proper shipping name (either a specific name or an n.o.s. entry) that most accurately describes the waste; for example, if a waste meets the definition of a flammable liquid and the waste material is not specifically listed in the Table by name, the proper shipping name would be "Waste flammable liquid, n.o.s. (EPA ignitibility)"; (3) those wastes which are specifically listed by name in the Table and exhibit an EPA ICR characteristic would be assigned the proper shipping name specifically listed for that waste. For example, the proper shipping name for Methyl acetate which is a waste would be "Waste methyl acetate (EPA ignitibility)".

Hazardous Materials Table. The Table would be amended to add 31 hazardous substances designated by the EPA under 40 CFR Part 302. These substances are not presently subject to the HMR unless they are also hazardous wastes shipped on a Uniform Hazardous Waste Manifest. The EPA has assigned an unqualified "final RQ" to these hazardous substances.

The Table would also be amended to identify hazardous materials which are presently regulated that have been designated by the EPA as hazardous substances. These materials make up two major categories. One category would include materials that are now listed by name in the Table and the other would include materials not now identified in the Table by name but which are now regulated under the n.o.s. listings in the Table. Of the 111 materials being added by name, 51 are presently regulated under a n.o.s. listing, such as methyl isobutyl ketone which is regulated as a flammable liquid under the proper shipping name of "Flammable liquid, n.o.s." or under an end use listing, such as (densensitized) nitroglycerin which is regulated as a class A explosive under the proper shipping name of "High explosive, liquid". The total number of materials that would be identified as hazardous substances under this proposal would be 189. These are listed and discussed in this preamble individually or in groups to identify the criteria used for designating each as a hazardous material.

The Table would be amended to change the RQ of several entries based on EPA's adjustment of the RQ of 45 hazardous substances that were designated previously under section 311 of the CWA. The RQ for 15 hazardous substances was raised and the RQ for 30 hazardous substances was lowered.

The Table would be amended to add the "E" designator and RQ to certain mixtures that contain one or more hazardous substances to identify the hazardous substances(s) present in the mixture. The "E" designator and RQ level would also be added to certain n.o.s. descriptions for materials that may contain a hazardous substance.

Finally, the Table would be amended to make corrections to certain listings to align them with the corresponding international description or to indicate that the description is not an exact match with a similar international description. These corrections would be made in conjunction with the adjustments being made to various materials in the Table that are affected by the EPA rule on hazardous substances.

Although there may appear to be a discrepancy between the number of newly identified materials in this proposal and the number of materials in the EPA list of hazardous substances, the materials in this proposal are those covered in the EPA list. The difference in the number of materials results from the necessity to identify in the Table the different hazard classes, forms, mixtures or solutions of a material for proper regulation.

Hazard Class Determinations. The additions to the Table to accommodate hazardous substances would consist of 31 materials classed as ORM–E, 51 materials that are now regulated under n.o.s. listings which would be identified by name, and 29 materials that would be classed as ORM–A. Provisions are also made in the Table to identify 51 materials that are currently being regulated by name in the HMR. EPA has designated these materials as hazardous substances.

Other Regulated Materials—ORM–A. Twenty-nine hazardous substances would be classed as ORM–A, based on the chemical, physical and other comparable properties of the materials. The properties of the materials are such that each material can cause extreme annoyance or discomfort to passengers and crew of a transport vehicle in the event of leakage during transportation. Three of these materials, each marked with an asterisk, would be classed as combustible liquids when packaged in containers having a capacity exceeding 110 gallons. The ORM–A materials are listed below:

Acrylamide
*Benzylidene chloride
Bis(2-chloroethoxy) methane
Bromoform
4-Bromophenyl phenyl ether
p-Chloroaniline
4-Chloro-m-cresol
Chlorodibromomethane
2-Chlorophenol
4-Chlorophenyl phenyl ether
Dibromomethane
*m-Dichlorobenzene
Dichlorobromomethane
2,4-Dichlorophenol
2,6-Dichlorophenol
Dimethoate
Dimethyl phthalate
4,6-Dinitro-o-cyclohexylphenol
1,1-Dimethyl-2-phenylethanamine
Hexachloropropene
*Isophorone
Malononitrile
Methapyrilene
1,4-Naphthoquinone
Strontium sulfide
1,2,4,5-Tetrachlorobenzene
2,3,4,6-Tetrachlorophenol

1,2,4-Trichlorobenzene
2,4-Xylenol

Note that dinitrocyclohexylphenol is presently listed in the Table, but only the 4,6-dinitro-o-cyclohexylphenol isomer has been designated by EPA as a hazardous substance. Also, xylenol was previously designated as a hazardous substance (RQ–1000/454) by EPA, however, EPA has designated 2,4-dimethylphenol as a hazardous substance with a "final RQ" of 100/45.4. Another name for 2,4-dimethylphenol is 2,4-xylenol, which is a xylenol.

Other Regulated Materials—ORM–E. Thirty-one materials would be classed as ORM–E. The materials include 10 specific substances and twenty-one waste streams. Their classification is based on the EPA designation of certain materials as hazardous substances with an unqualified "Final RQ" on April 5, 1985 [50 FR 13456], and the fact that according to our tentative evaluation they do not meet the defining criteria of any other hazard class. These ORM–E materials are listed below:

Butyl benzyl phthalate
2-Chloronaphthalene
Diethyl phthalate
Di-n-octyl phthalate
Maleic hydrazide
N-Nitrosodiphenylamine
Pronamide
Resperine
Silver
Trichlorofluoromethane
EPA RCRA waste (stream) numbers F003, F007, F008, F009, F010, F011, F012, K014, K023, K024, K036, K037, K044, K045, K047, K071, K083, K093, K094, K103, K106.

Each waste stream would be described as Hazardous waste, liquid *or* solid, n.o.s. followed by a specific RCRA waste number and the assigned RQ. Because of various components, fractions, concentrations and properties, the hazards associated with a particular waste stream may be greater than anticipated. Each waste stream should be examined carefully. Comments concerning the hazards of these waste streams are welcome. Recommendations for hazard class assignment with supporting data are encouraged.

The 51 materials now described by the various generic n.o.s. descriptions would be identified within the Flammable liquid, Combustible liquid, Poison A, Poison B and Corrosive material hazard classes as follows:

Flammable Liquids/Combustible Liquids. Nine hazardous substances would be identified as Flammable liquids and six as Combustible liquids. Closed cup flash points were obtained for these substances from the literature. Three of the combustible liquids, each marked with an asterisk, would be classed as ORM–A when packaged in containers of 110 gallons or less. These liquids and their respective closed cup flash point are listed below:

Material	Flash point (°F.) CC
Acetophenone	180
*Benzylidene chloride	198
2-Chloroethyl vinyl ether	61
Cyclohexanone	116
*m-Dichlorobenzene	146
1, 1-Dichloroethane	22
Ethyl methacrylate	60
*Isophorone	184
Isopropylbenzene	115
Methacrylonitrile	54
Methyl isobutyl ketone	56
2-Nitropropane	82
1,3-Pentadiene	−20
2-Picoline	79
Propionitrile	43

Poison B. Thirty-two hazardous substances would be identified as poison B materials. Data on oral toxicity using rats (orl-rat LD_{50}: mg/kg) and toxicity by skin absorption using rabbits (skn-rbt LD_{50}: mg/kg) was obtained from the National Institute for Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances* (RTECS) (1981–82 Edition) for 27 compounds. Soluble cyanide salts not identified by name would be covered by two existing but modified cyanide descriptions and a new cyanide description that specifically addresses inorganic cyanides, n.o.s. Toxicity data for specific salts of dinitro-o-cresol are listed in the RTECS. No data is available for the remaining three hazardous substances. However, based on chemical and physical properties and the toxicity of similar compounds, it is the RSPA's opinion that these hazardous substances meet the criteria for this hazard class. These Poison B materials are listed below:

Material	Toxicity (LD_{50}: mg/kg)	
	Oral-rat	Skin-rbt
1-Acetyl-2-thiourea	50.0	
Aldicarb	0.9	200
5(Aminomethyl)-3-isoxazolol	45.0	
4-Aminopyridine	20.0	
Ammonium vanadate	18.0	
Chloracetaldehyde	23.0	67
2-Chlorophenyl thiourea	4.6	
3-Chloropropionitrile	50.0	
Cyanides (soluble cyanide salts), not elsewhere specified		
O,O-Diethyl S-methyl dithiophosphate		
Diethyl-p-nitrophenyl phospate	1.8	
O,O-Diethyl O-pyrazinylphosphorothioate	3.5	
Diisopropyl fluorophosphate	6.0	
4,6-Dinitro-o-cresol	10.0	
4,6-Dinitro-o-cresol salt		
Dinoseb	25.0	80
2,4-Dithiobiuret	5.0	
Endosulfan sulfate		
Endothall	38.0	
Endrin aldehyde		
Famphur	35.0	
Fluoroacetamide	6.0	
Isodrin	7.0	
Methomyl	17.0	
Naphthylthiourea (alpha)	6.0	
Octamethylpyrophosphoramide	5.0	
Osmium tetroxide	14.0	
N-Phenylthiourea	3.0	
Potassium silver cyanide	21.0	
Thiofanox	8.5	39
Thiosemicarbazide	0.9	
Warfarin	3.0	

Corrosive material. Three hazardous substances would be identified as corrosive materials. This is based on the chemical and physical properties of the compounds and the fact that several similar type compounds are classed as corrosive materials. These corrosive materials are listed below:

Benzene sulfonyl chloride
1,4-Dichloro-2-butene
Phthalic anhydride

Poison A. One hazardous substance, carbonyl fluoride, would be classed as poison A. Carbonyl fluoride is a toxic, nonflammable, colorless, irritating gas with a pungent odor. Inhalation toxicity data listed in the RTECS are as follows: inhalation-rat LC_{50}: 360 ppm/1 hr. Using this data, the value in milligrams per liter is calculated to be LC_{50}: 0.97 mg/L.

Proposed reportable quantity changes for certain hazardous substances. Based on action taken by EPA, the RQ of the following entries would be changed (raised or lowered) as indicated:

Entry	Present	Change
Acetic acid solution	RQ–1000/454	RQ–5000/2270
Acetic acid, glacial	RQ–1000/454	RQ–5000/2270
Acetic anhydride	RQ–1000/454	RQ–5000/2270
Ammonium fluoride	RQ–5000/2270	RQ–100/45.4
Ammonium sulfide solution.	RQ–5000/2270	RQ–100/45.4
Amyl acetate	RQ–1000/454	RQ–5000/2270
Aniline	RQ–1000/454	RQ–5000/2270
Antimony potassium tartrate, solid.	RQ–1000/454	RQ–100/45.4
Antimony trioxide	RQ–5000/2270	RQ–1000/454
Benzonitrile	RQ–1000/454	RQ–5000/2270
n-Butyl phthalate	RQ–100/45.4	RQ–10/4.54
Calcium carbide	RQ–5000/2270	RQ–10/4.54
Calcium hypochlorite, hydrated.	RQ–100/45.4	RQ–10/4.54
Calcium hypochlorite, mixture.	RQ–100/45.4	RQ–10/4.54
Dichlobenil	RQ–1000/454	RQ–100/45.4
1,1-Dichloropropane	RQ–5000/2270	RQ–1000/454
1,3-Dichloropropane	RQ–5000/2270	RQ–1000/454
Dinitrobenzene	RQ–1000/454	RQ–100/45.4
Dinitrophenol solution	RQ–1000/454	RQ–10/4.54
Ethylenediamine	RQ–1000/454	RQ–5000/2270
Furfural	RQ–1000/454	RQ–5000/2270
Hydrofluoric acid solution.	RQ–5000/2270	RQ–100/45.4
Hydrogen fluoride	RQ–5000/2270	RQ–100/45.4
Kelthane	RQ–5000/2270	RQ–10/4.54
Malathion	RQ–10/4.54	RQ–100/45.4
Mercaptodimethur	RQ–100/45.4	RQ–10/4.54
Methylamine, anhydrous.	RQ 1000/454	RQ10/4–54
Methylamine, aqueous solution.	RQ–1000/454	RQ–100/45.4
Methyl methacrylate monomer, inhibited.	RQ–5000/2270	RQ–1000/454
Methyl methacrylate monomer, uninhibited.	RQ–5000/2270	RQ–1000/454
Mevinphos	RQ–1/0.454	RQ–10/4.54

Entry	Present	Change
Mevinphos mixture, dry	RQ-1/0.454	RQ-10/4.54
Mevinphos mixture, liquid	RQ-1/0.454	RQ-10/4.54
Nitrogen dioxide, liquefied	RQ 1000/454	RQ10/4-54
Nitrogen tetroxide, liquefied	RQ-1000/454	RQ-10/4.54
Nitrophenol	RQ-1000/454	RQ-100/45.4
Phosgene	RQ-5000/2270	RQ-10/4.54
Phosphorus oxychloride	RQ-5000/2270	RQ-1000/454
Phosphorus trichloride	RQ-5000/2270	RQ-1000/454
Propylene dichloride (*1,2-Dichloropropane*)	RQ-5000/2270	RQ-1000/454
Propylene oxide	RQ-5000/2270	RQ-100/45.4
Pyrethrins	RQ-1000/454	RQ-1/0.454
Quinoline	RQ-1000/454	RQ-5000/2270
Resorcinol	RQ-1000/454	RQ-5000/2270
Sodium	RQ-1000/454	RQ-10/4.54
Sodium, metal dispersion	RQ-1000/454	RQ-10/4.54
Sodium, metal liquid alloy	RQ-1000/454	RQ-10/4.54
Sodium fluoride, solid	RQ-5000/2270	RQ-1000/454
Sodium fluoride, solution	RQ-5000/2270	RQ-1000/454
2,4,5-Trichlorophenoxyacetic acid	RQ-100/45.4	RQ-1000/454
2,4,5-Trichlorophenoxyacetic acid amine	RQ-100/45.4	RQ-5000/2270
2,4,5-Trichlorophenoxyacetic acid ester *or* salt	RQ-100/45.4	RQ-1000/454
Vinyl acetate	RQ-1000/454	RQ-5000/2270
Zirconium potassium fluoride	RQ-5000/2270	RQ-1000/454

The above list of entries in the Table whose RQ would be changed is not all inclusive. For example, no attempt was made to list the potassium sodium alloys where these alloys are subject to the HMR as they apply to hazardous substances because sodium is a hazardous substance whose RQ was adjusted by EPA from RQ-1000/454 to RQ-10/4.54. Potassium is not a hazardous substance. No attempt was made to list mixtures, etc. However, the proposed changes for the entries not listed above should be obvious upon careful review of the proposed changes to the Table.

Some of the chemicals designated by EPA as hazardous substances are rather obscure. Very little information was available to help RSPA assess the hazards of these chemicals. With outside help, bits and pieces of information were obtained that allowed RSPA to assign a hazard class to all but one chemical . . . ethylenebis-(dithiocarbamic acid), CAS Registry No. 111-54-6, which has an EPA assigned RQ-5000/2270 and RCRA Waste Number U114. To the best of our knowledge, ethylenebis(dithiocarbamic acid) is a nonisolated intermediate produced *in situ* in the manufacture of certain pesticides (e.g., Maneb and Zineb). Comments concerning the hazards and hazard class assignment of ethylenebis(dithiocarbamic acid) are requested. Ethylenebis(dithiocarbamic acid) does not apper in the list of proposed changes to the Table. If there is no new information concerning this material provided in the comments to this rule, RSPA proposes to class this material as an ORM-E.

The hazard class assigned to zinc bromide would be changed from ORM-E to corrosive material. Information received by RSPA indicates that zinc bromide in both solid form and aqueous solution is corrosive to skin. The existing entry for zinc bromide would be revised to cover the material when shipped in solid form. A new entry would be added to cover zinc bromide when shipped as a solution (i.e., zinc bromide, solution).

Section 172.203. Paragraph (c)(3) would be added to require that the applicable EPA ICR characteristic be included on the shipping paper as part of the proper shipping name.

Section 172.324. Paragraph (c) would be added to require that the proper shipping name, including the applicable ICR characteristic, be shown on each packaging having a rated capacity of 110 gallons or less.

Section 173.202. In conjunction with a proposed change in the Table to align a description with the international proper shipping name, the word sequence in "Sodium potassium alloy (liquid)" would be changed to "Potassium sodium alloy (liquid)". Accordingly, the title of the section and paragraph (a) would be revised.

Section 173.206. In conjunction with two proposed changes in the Table to align the descriptions with international proper shipping names, "Sodium, metallic" would be changed to "Sodium" and the description "Sodium potassium alloy (solid)" would be changed to "Potassium sodium alloy (solid)". For sodium, the title of the section and paragraphs (a), (a)(3), (a)(10), (b) and (c) would be revised accordingly. For potassium sodium alloy (solid), the title of the section and paragraphs (a) and (a)(10) would be revised accordingly.

Section 173.326. In conjunction with a proposed change in the Table to delete the entry for "Nitrogen peroxide, liquid" because it is not an international proper shipping name and it is a duplication of the entry for "Nitrogen tetroxide, liquid", the description in paragraph (a)(10) would be changed from "Nitrogen peroxide (tetroxide)" to "Nitrogen tetroxide".

Section 173.336. For the considerations stated in § 173.326 and the proposed revision of the entry "Nitrogen tetroxide, liquid" to "Nitrogen tetroxide, liquefied" and the entry "Nitrogen dioxide, liquid" to "Nitrogen dioxide, liquefied" the descriptions in both the title of the section and paragraph (a) would be revised accordingly.

Section 173.347. In conjunction with the proposed change in the Table to align the description for "Aniline oil" with the international proper shipping name, the title of the section and paragraphs (a), (c)(1) and (d) would be changed to "Aniline".

Section 173.373. In conjunction with a proposed change in the Table to include the three isomers (ortho, meta and para) of nitroaniline in the description, the title of the section and paragraphs (a), (a)(4) and (a)(5) would be revised accordingly.

Section 172.655. In conjunction with a proposed change in the Table to align the description "Naphthalene *or* naphthalin" with the international proper shipping name, the title of the section and paragraphs (a), (b) and (c) would be changed to "Naphthalene, crude *or* refined."

IV. Administrative Notices

Executive Order 12291

The RSPA has determined that the effect of this proposed rule will not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule. This is not a significant rule under DOT regulatory procedures [44 FR 11034] and requires neither a Regulatory Impact Analysis, nor an environmental impact statement under the National Environmental Policy Act [49 U.S.C. 4321 et seq.]. A regulatory evaluation is available for review in the Docket.

Impact on Small Entities

Based on limited information concerning the size and nature of the entities likely to be affected, I certify this rule will not, as promulgated, have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Definitions.

49 CFR Part 172

Hazardous materials transportation.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, Parts 171, 172 and 173 of Title 49, Code of Federal Regulations would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for Part 171 would be revised to read as follows:

Authority: 49 U.S.C. 1802, 1803, 1804, 1808; 49 CFR Part 1.

2. In section 171.8 the definition for "Harzardous substance" would be revised as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

"Hazardous substance", for the purposes of this subchapter, means a material, and its mixtures or solutions, that is (1) identified by the letter "E" in Column 1 of the Table to § 172.101 when offered for transportation in one package, or in one transport vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels; or to a mixture or solution containing a material identified by the letter "E" in Column 1 of the Table to § 172.101 if it is in a concentration less than that shown in the following table based on the reportable quantity (RQ) specified for the materials in Column 2 of the Table to § 172.101:

RQ pounds	RQ kilograms	Concentration by weight	
		Percent	PPM
5,000	2,270	10	100,000
1,000	454	2	20,000
100	45.4	0.2	2,000
10	4.54	0.02	200
1	0.45	0.002	20

or (2) An EPA unlisted hazardous waste, when offered in one package, or in one transport vehicle if not packaged, in a quantity of 100 pounds or more (i.e., RQ–100/45.4), which exhibits an EPA characteristic of Ignitibility, Corrosivity, or Reactivity (ICR) (as defined at 40 CFR 261.21–261.23).

* * * * *

3. In § 171.17 the introductory text of paragraph (a) would be revised to read as follows:

§ 171.17 Hazardous substance discharge notification.

(a) When a hazardous substance is discharged into the environment in a reportable quantity from one package, or from a transport vehicle, aircraft, vessel or facility if not packaged, the person in charge of the transport vehicle, aircraft, vessel, or facility from which the hazardous substance is discharged shall, as soon as that person has knowledge of such discharge, notify directly, or indirectly through the carrier, the U.S. Coast Guard National Response Center at (toll free) 800–424–8802, or (toll call) (202) 426–2675, and furnish to the official to whom the discharge notification is made:

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

4. The authority citation for Part 172 would be revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1.

5. In § 172.101, the second sentence in the introductory text of paragraph (c) would be revised to reference paragraphs (c)(14) and (c)(15) of this section. Also, paragraphs (c)(14) and (c)(15) would be added and the Hazardous Materials Table would be amended by adding, revising and removing certain entries to read as follows:

§172.101 Purpose and use of hazardous materials table.

* * * * *

(c) * * * Modification of a proper shipping name may otherwise be required or authorized by this section (see paragraphs (b)(4), (c)(10), (c)(11), (c)(12), (c)(13), (c)(14) and (c)(15) of this section). * * *

* * * * *

(14) The proper shipping name for a waste stream classed as ORM–E is "Hazardous waste, liquid *or* solid, n.o.s." followed by the EPA hazardous (RCRA) waste number assigned to that waste stream. For example, the proper shipping name for the EPA waste stream described as "spent carbon from the treatment of wastewater containing explosives" with the assigned EPA (RCRA) hazardous waste number "K045" which is classed as ORM–E and shipped in solid form is "Hazardous waste, solid, n.o.s. (K045)". The identification number is "NA9189". The proper shipping name for a waste stream that meets the definition of a hazard class other than ORM–E must be derived from paragraph (c)(13) of this section and must include the EPA hazardous (RCRA) waste number assigned to that waste stream. For example, the proper shipping name for the EPA waste stream described as "the following spent non-halogenated solvents and the still bottoms from the recovery of these solvents: (a) Xylene, (b) acetone, (c) ethyl acetate, (d) ethylbenzene, (e) ethyl ether, (f) methyl isobutyl ketone, (g) n-butyl alcohol, (h) cyclohexane, (i) methanol" with the assigned EPA hazardous (RCRA) waste number "F003" that meets the definition of the flammable liquid hazard class is "Waste flammable liquid, n.o.s. (F003)" with identification number "UN1993".

(15) Selection of the proper shipping name for a waste which is an unlisted hazardous substance that exhibits an EPA characteristic of Ignitibility, Corrosivity or Reactivity (ICR) depends on the hazard class of the waste and whether the waste is shipped in quantities equal to or greater than the reportable quantity (100 pounds). When the waste satisfies a hazard class definition other than ORM–E, the proper shipping name used should be the generic entry for that class unless the waste is specifically identified by a proper shipping name in the Table. If the waste is specifically listed in the Table and it exhibits an EPA ICR characteristic, the proper shipping name specifically listed should be used, followed by the specific EPA ICR characteristic in parenthesis. For example, if the waste is Methyl acetate, the proper shipping name would be "Waste methyl acetate (EPA ignitibility)". If the waste is a hazardous substance, the letter "RQ" must be entered on the shipping paper either before or after the basic description required by § 172.202. In this case, the basic description would be "RQ Waste methyl acetate (EPA ignitibility), Flammable liquid, UN1231".

If the waste is not specifically named in the Table, the generic proper shipping name for the hazard class assigned to the waste should be used, followed by the specific ICR characteristic in parenthesis. For example, if the waste is a liquid and meets the definition of the corrosive material hazard class, the proper shipping name would be "Waste corrosive liquid, n.o.s. (EPA corrosivity)". If the waste is a hazardous substance, the letters "RQ" must be entered on the shipping paper either before or after the basic description required by §172.202. For example, in this case the basic description would be: "RQ Waste corrosive liquid, n.o.s. (EPA corrosivity), Corrosive material, UN1760".

If the waste only satisfies the ORM–E hazard class, and it exhibits an EPA ICR characteristic, the proper shipping name would be "Waste hazardous substance, liquid *or* solid, n.o.s." followed by the specific EPA characteristic in parenthesis, as appropriate. If the waste is a hazardous substance, the letters "RQ" must be entered on the shipping paper either before or after the basic description required by § 172.202. For example, for a liquid exhibiting the EPA ICR characteristic of corrosivity, the basic description would be "RQ Waste hazardous substance, liquid, n.o.s. (EPA corrosivity), ORM–E, NA9188".

§172.101 Hazardous Materials Table

(1) +/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging (a) Exceptions	(5) Packaging (b) Specific requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar	(6) Maximum net quantity in one package (b) Cargo only aircraft	(7) Water shipments (a) Cargo vessel	(7) Water shipments (b) Passenger vessel	(7) Water shipments (c) Other requirements
	* * * DELETIONS * * *										
	Ammonium picrate, dry. See High explosive										
	Ammonium picrate, wet, with 10% or more water, over 16 ounces in one outside packaging. See High explosive										
	Aniline oil drum, empty *See 173.347(d)*	Poison B							1,2	1	Do not accept unless returnable package notice is on drum and the instructions thereon have been carried out
+E	Aniline oil, liquid (*RQ-1000/454*)	Poison B	UN1547	Poison	None	173.347	Forbidden	55 gallons	1,2	1,2	Stow away from oxidizing materials and acids
	Butyl alcohol	Flammable liquid	NA1120	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
E	Dinitrobenzene, solid, *or* Dinitrobenzol, solid (*RQ-1000/454*)	Poison B	UN1597	Poison	173.364	173.371	50 pounds	200 pounds	1,2	1,2	
	Methanol. *See* Methyl alcohol										
	Methyl alcohol	Flammable liquid	UN1230	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
EAW	Naphthalene *or* Naphthalin (*RQ-5000/2270*)	ORM-A	UN1334	None	173.505	173.655	25 pounds	300 pounds	1,2	1,2	Segregation same as for flammable solids
	p-Nitroaniline. *See* Nitroaniline										
+	Nitroaniline	Poison B	UN1661	Poison	173.364	173.373	50 pounds	200 pounds	1,2	1,2	
E	Nitrogen peroxide, liquid (*RQ-1000/454*)	Poison A	NA1067	Poison gas and Oxidizer	None	173.336	Forbidden	Forbidden	1	5	Segregation same as for nonflammable gas. Stow away from organic materials
	Nitroglycerin, liquid, desensitized. See High explosive, liquid										
E	Sodium, metal *or* metallic (*RQ-1000/454*)	Flammable solid	UN1428	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
E	Sodium potassium alloy (liquid) (*RQ-1000/454*)	Flammable solid	UN1422	Flammable solid and Dangerous when wet	None	173.202	Forbidden	1 pound	1,2	5	Under deck stowage must be readily accessible. Segregation same as for flammable solid labeled Dangerous When Wet
E	Sodium potassium alloy (solid) (*RQ-1000/454*)	Flammable solid	UN1422	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Under deck stowage must be readily accessible. Segregation same as for flammable solids labeled Dangerous When Wet
E	2,4,5-T amine, ester, *or* salt. *See* 2,4,5-Trichlorophenoxyacetic acid, amine, ester, *or* salt										
E	2,4,5-Trichlorophenoxyacetic acid amine, ester, *or* salt (*RQ-100/45.4*)	ORM-E	NA2765	None	None	173.510	No limit	No limit	1,2	1,2	
E	Zinc chloride, solid (*RQ-5000/2270*)	ORM-E	UN2331	None	None	173.510	No limit	No limit	1,2	1,2	
	* * * REVISIONS * * *										
E	Acetic acid, glacial (*RQ-5000/2270*)	Corrosive material	UN2789	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	Stow separate from nitric acid or oxidizing materials. Segregation same as for flammable liquids
E	Acetic acid solution (*RQ-5000/2270*)	Corrosive material	UN2790	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	Stow separate from nitric acid or oxidizing materials
E	Acetic anhydride (*RQ-5000/2270*)	Corrosive material	UN1715	Corrosive	173.244	173.245	1 quart	1 gallon	1,2	1,2	
E	Acetone (*RQ-5000/2270*)	Flammable liquid	UN1090	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	
E	Acetonitrile (*RQ-5000/2270*)	Flammable liquid	NA1648	Flammable liquid	173.118	173.119	1 quart	10 gallons	1	4	Shade from radiant heat
E	Acrylic acid (*RQ-5000/2270*)	Corrosive material	UN2218	Corrosive	173.244	173.245	1 quart	5 pints	1	1	
E	Aluminum phosphide (*RQ-100/45.4*)	Flammable solid	UN1397	Flammable solid and Dangerous when wet	None	173.154	Forbidden	25 pounds	1,2	1,2	Stow away from acids and oxidizing materials
EA	Ammonium fluoride (*RQ-100/45.4*)	ORM-B	UN2505	None	173.505	173.800	25 pounds	100 pounds	1,2	1,2	
E	Ammonium picrate, wet (*with 10% or more water, not exceeding 16 ounces in one outside packaging*) (*RQ-10/4.54*)	Flammable solid	UN1310	Flammable solid	173.192		1 pound	1 pound	1	4	Stow away from heavy metals and their compounds
E	Ammonium sulfide solution (*RQ-100/45.4*)	Flammable liquid	UN2683	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
E	Amyl acetate (*RQ-5000/2270*)	Flammable liquid	UN1104	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
EA	Antimony potassium tartrate, solid (*RQ-100/45.4*)	ORM-A	UN1551	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Antimony trioxide (*RQ-100/45.4*)	ORM-E	NA9201	None	None	173.510	No limit	No limit	1,2	1,2	
E	*Benzenethiol. See* Phenyl mercaptan										
E	Benzonitrile (*RQ-5000/2270*)	Combustible liquid	UN2224	None	173.118a	None	No limit	No limit	1,2	1,2	
E	Bromoacetone *liquid* (*RQ-1000/454*)	Poison A	UN1569	Poison gas	None	173.329	Forbidden	Forbidden	1	5	Segregation same as for flammable liquids
E	Brucine, *solid (dimethoxy strychnine)* (*RQ-100/45.4*)	Poison B	UN1570	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
E	n-Butyl phthalate (*Di-n-butyl phthalate*) (*RQ-10/4.54*)	ORM-E	NA9095	None	None	173.510	No limit	No limit	1,2	1,2	
E	Calcium carbide (*RQ-10/4.54*)	Flammable solid	UN1402	Flammable solid and Dangerous when wet	None	173.178	Forbidden	25 pounds	1,2	1,2	Keep dry. Stow away from copper, its alloys, and salts
E	Calcium hypochlorite, hydrated (*minimum 5.5% but not more than 10% water, and containing more than 39% available chlorine*) (*RQ-10/4.54*)	Oxidizer	UN2880	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	
E	Calcium hypochlorite mixture, *dry (containing more than 39% available chlorine)* (*RQ-10/4.54*)	Oxidizer	UN1748	Oxidizer	173.153	173.217	50 pounds	100 pounds	1,2	1,2	Keep cool and dry
E	*Carbonyl chloride. See* Phosgene										
E	Copper cyanide (*RQ-10/4.54*)	Poison B	UN1587	Poison	173.370	173.370	25 pounds	100 pounds	1,2	1,2	Stow away from acids
E	Cumene hydroperoxide, *technically pure. See* Cumene hydroperoxide.										
E	Cumene hydroperoxide (*1-Methyl-1-phenylethyl-hydroperoxide*) (*RQ-10/4.54*)	Organic peroxide	UN2116	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
E	Cyanide *or* cyanide mixture, dry (*RQ-10/4.54*)	Poison B	NA1588	Poison	173.364	173.370	25 pounds	200 pounds	1,2	1,2	Keep dry. Stow away from acids
E	Cyanide solution (*RQ-10/4.54*)	Poison B	UN1935	Poison	173.345	173.352	1 quart	55 gallons	1,2	1,2	Stow away from acids
E	Cyanogen bromide (*RQ-1000/454*)	Poison B	UN1889	Poison	None	173.379	Forbidden	25 pounds	1	5	Shade from radiant heat. Segregation same as for corrosive materials
E	Cyanogen, liquefied (*RQ-100/45.4*)	Poison A	UN1026	Poison gas and Flammable gas	None	173.328	Forbidden	Forbidden	1	5	Segregation same as for flammable gases
EA	DDT *or* Dichlorodiphenyltrichloroethane (*1,1,1-Trichloro-2,2-bis(p-chlorophenyl)ethane*) (*RQ-1/0.454*)	ORM-A	NA2761	None	173.505	173.510	No limit	No limit	1,2	1,2	
EA	2,4-D ester *or* salt. *See* 2,4-Dichlorophenoxyacetic acid ester *or* salt										
E	Dichlobenil (*RQ-100/45.4*)	ORM-E	NA2769	None	None	173.510	No limit	No limit	1,2	1,2	
EA	p-Dichlorobenzene (*RQ-100/45.4*)	ORM-A	UN1592	None	173.505	173.510	No limit	No limit	1,2	1,2	
EA	o-Dichlorobenzene (*in containers of 110 gallons or less*) (*RQ-100/45.4*)	ORM-A	UN1591	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Dichlorodifluoromethane (*R-12*) (*RQ-5000/2270*)	Nonflammable gas	UN1028	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
E	Dichlorodifluoromethane (*R-12*) (*RQ-5000/2270*) and chlorodifluoromethane (*R-22*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.										
E	Dichlorodifluoromethane (*R-12*) (*RQ-5000/2270*) and dichlorotetrafluoroethane (*R-114*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.										
E	Dichlorodifluoromethane (*R-12*) (*RQ-5000/2270*) and trichlorofluoromethane (*R-11*) (*RQ-5000/2270*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.										
E	Dichlorodifluoromethane (*R-12*) (*RQ-5000/2270*) and trichlorotrifluoroethane (*R-113*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.										
E	Dichlorodifluoromethane (*R-12*) (*RQ-5000/2270*), trichlorofluoromethane (*R-11*) (*RQ-5000/2270*) and chlorodifluoromethane (*R-22*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.										
E	Dichlorodifluoromethane(*R-12*) (*RQ-5000/2270*) and difluoroethane mixture (*constant boiling mixture*) (*R-500*). *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.										
E	Dichloroisopropyl ether (*bis(2-chlorosopropyl)ether*) (*RQ-1000/454*)	Corrosive material	UN2490	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
EA	Dichloromethane (*methylene chloride*) (*RQ-1000/454*)	ORM-A	UN1593	None	173.505	173.605	10 gallons	55 gallons			
E	2,4-Dichlorophenoxyacetic acid ester *or* salt (*RQ-100/45.4*)	ORM-E	NA2765	None	None	173.510	No limit	No limit	1,2	1,2	
E	*1,2-Dichloropropane. See* Propylene dichloride										
E	Dinitrobenzene solution (*RQ-100/45.4*)	Poison B	UN1597	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
E	Dinitrophenol solution (*RQ-10/4.54*)	Poison B	UN1599	Poison	173.345	173.362	1 quart	65 pounds	1,2	1,2	Stow away from heavy metals and their compounds. If flash point is 141 deg F or less segregation same as for flammable liquids
E	*Diphosgene. See* Phosgene										
E	Dispersant gas, n.o.s. *See* Refrigerant gas, n.o.s.										
E	Endosulfan (*including alpha and beta isomers*)(*RQ-1/0.454*)	Poison B	NA2761	Poison	173.364	173.365	1 pound	10 pounds	1,2	1,2	If stowed under deck, must be stowed in a recoverable location

§172.101 Hazardous Materials Table (cont'd)

(1)	(2)	(3)	(3A)	(4)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
E	Endosulfan mixture, liquid (*including alpha and beta isomers*)(*RQ-1/0.454*)	Poison B	NA2761	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
E	Ethyl acetate (*RQ-5000/2270*)	Flammable liquid	UN1173	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Ethyl acrylate, inhibited (*RQ-5000/2270*)	Flammable liquid	UN1917	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Ethylenediamine (*RQ-5000/2270*)	Corrosive material	UN1604	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
E	Ethyleneimine, inhibited (*RQ-1/0.454*)	Flammable liquid	UN1185	Flammable liquid and Poison	None	173.139	Forbidden	5 pints	1,2	1	
E	Ethyl ether (*RQ-100/45.4*)	Flammable liquid	UN1155	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
E	Ethyl methyl ketone (*RQ-5000/2270*)	Flammable liquid	UN1193	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Fluorine *or* Fluorine, compressed (*RQ-10/4.54*)	Nonflammable gas	UN1045	Poison and Oxidizer	None	173.302	Forbidden	Forbidden	1	5	Stow in well ventilated space away from organic materials
E	Furan (*RQ-100/45.4*)	Flammable liquid	UN2389	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Furfural (*RQ-5000/2270*)	Combustible liquid	UN1199	None	173.118a	None	No limit	No limit	1,2	1	
E	Hexaethyl tetraphosphate (*RQ-100/45.4*) and compressed gas mixture	Poison A	UN1612	Poison gas	None	173.334	Forbidden	Forbidden	1	5	Shade from radiant heat
E	Hexaethyl tetraphosphate, liquid (*RQ-100/45.4*)	Poison B	UN1611	Poison	None	173.358	Forbidden	1 quart	1	4	
E	Hexaethyl tetraphosphate mixture, dry (*containing more than 2% hexaethyl tetraphosphate*) (*RQ-100/45.4*)	Poison B	NA2783	Poison	None	173.377	Forbidden	200 pounds	1,2	5	
E	Hexaethyl tetraphosphate mixture, dry (*containing not more than 2% hexaethyl tetraphosphate*) (*RQ-100/45.4*)	Poison B	NA2783	Poison	173.377	173.377	50 pounds	200 pounds	1,2	4	
E	Hexaethyl tetraphosphate mixture, liquid (*containing more than 25% hexaethyl tetraphosphate*) (*RQ-100/45.4*)	Poison B	NA2783	Poison	None	173.359	Forbidden	1 quart	1,2	5	
E	Hexaethyl tetraphosphate mixture, liquid (*containing not more than 25% hexaethyl tetraphophate*) (*RQ-100/45.4*)	Poison B	UN2783	Poison	173.359	173.359	1 quart	1 quart	1,2	4	
E	Hydrofluoric (*RQ-100/45.4*) and sulfuric (*RQ-1000/454*) acid mixture	Corrosive material	UN1786	Corrosive	None	173.290	Forbidden	1 gallon	1	5	
E	Hydrofluoric acid solution (*RQ-100/45.4*)	Corrosive material	UN1790	Corrosive	173.244	173.264	1 quart	1 gallon	1	4	
E	Hydrogen fluoride (*RQ-100/45.4*)	Corrosive material	NA1052	Corrosive	None	173.264	Forbidden	110 pounds	1	5	
E	Kelthane (*RQ-10/4.54*)	ORM-E	NA2761	None	None	173.510	No limit	No limit	1,2	1,2	
EA	Malathion (*RQ-100/45.4*)	ORM-A	NA2783	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Mercaptodimethur (*RQ-10/4.54*)	ORM-E	NA2757	None	None	173.510	No limit	No limit	1,2	1,2	
EA	Mercury, *metallic* (*RQ-1/0.454*)	ORM-B	NA2809	None	None	173.860	173.860	173.860	1,2	1	Stow away from living quarters and azides.
+E	Methylamine, anhydrous (*RQ-100/45.4*)	Flammable gas	UN1061	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1	4	
E	Methylamine, aqueous solution (*RQ-100/45.4*)	Flammable liquid	UN1235	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	4	Stow away from mercury and its compounds
+E	Methyl bromide (*RQ-1000/454*) and more than 2% chloropicrin mixture, liquid	Poison B	NA1581	Poison	None	173.353	Forbidden	Forbidden	1	5	Shade from radiant heat
+E	Methyl bromide (*RQ-1000/454*) and nonflammable, nonliquefied compressed gas mixture, liquid (*including up to 2% chloropicrin*)	Poison B	NA1955	Poison	None	173.353a	Forbidden	300 pounds	1	5	Stow away from living quarters
+E	Methyl bromide (*RQ-1000/454*) and ethyl bromide (*RQ-1000/454*) mixture, liquid	Poison B	UN1647	Poison	None	173.353	Forbidden	55 gallons	1	1	
+E	Methyl bromide, *liquid (including up to 2% chloropicrin*) (*RQ-1000/454*)	Poison B	UN1062	Poison	None	173.358	Forbidden	55 gallons	1	5	Stow away from living quarters. Segregation same as for nonflammable gas
EA	*Methyl chloroform. See* 1,1,1-Trichloroethane										
E	Methyl chloroformate (*methyl chlorocarbonate*) (*RQ-1000/454*)	Flammable liquid	UN1238	Flammable liquid and Poison	None	173.288	Forbidden	5 pints	1,2	1	
EA	*Methylene chloride. See* Dichloromethane										
E	Methyl ethyl ketone peroxide, *in solution with not more than 9% by weight active oxygen* (*RQ-10/4.54*). *See* Organic peroxide, liquid *or* solution, n.o.s.		UN2550								
E	Methyl ethyl ketone. *See* Ethyl methyl ketone										
E	Methylhydrazine (*RQ-10/4.54*)	Flammable liquid	UN1244	Flammable liquid and Poison	None	173.145	Forbidden	5 pints	1,2	1	Stow separate from oxidizing materials and corrosives
E	Mevinphos (*RQ-10/4.54*)	Poison B	NA2783	Poison	None	173.358	Forbidden	1 quart	1,2	5	
E	Mevinphos mixture, dry (*RQ-10/4.54*)	Poison B	NA2783	Poison	173.377	173.377	Forbidden	200 pounds	1,2	4	
E	Mevinphos mixture, liquid (*RQ-10/4.54*)	Poison B	NA2783	Poison	173.359	173.359	1/2 pint	1 quart	1,2	5	
E	Nicotine hydrochloride (*RQ-100/45.4*)	Poison B	UN1656	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1)	(2)	(3)	(3A)	(4)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
E	Nicotine, *liquid* (*RQ-100/45.4*)	Poison B	UN1654	Poison	None	173.346	Forbidden	55 gallons	1,2	1,2	
E	Nicotine salicylate (*RQ-100/45.4*)	Poison B	UN1657	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+E	Nicotine sulfate, solid (*RQ-100/45.4*)	Poison B	UN1658	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+E	Nicotine sulfate, solution (*RQ-100/45.4*)	Poison B	UN1658	Poison	173.345	173.346	1 quart	55 gallons	1,2	1,2	
E	Nicotine tartrate (*RQ-100/45.4*)	Poison B	UN1659	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Nitric oxide (*RQ-10/4.54*)	Poison A	UN1660	Poison gas	None	173.337	Forbidden	Forbidden	1	5	
E	Nitrogen dioxide, liquefied (*RQ-10/4.54*)	Poison A	UN1067	Poison gas and Oxidizer	None	173.336	Forbidden	Forbidden	1	5	Segregation same as for nonflammable gases. Stow away from organic materials
E	Nitrogen tetroxide, liquefied (*RQ-10/4.54*)	Poison A	NA1067	Poison gas and Oxidizer	None	173.336	Forbidden	Forbidden	1	5	Segregation same as for nonflammable gases. Stow away from organic materials
E	*Nitroglycerin, liquid, not desensitized. See 173.51*	Forbidden									
E	*Nitroglycerin, spirits of. See* Spirits of nitroglycerin										
E	Nitrophenol (*o-,m-,p-*) (*RQ-100/45.4*)	ORM-E	UN1663	None	None	173.510	No limit	No limit	1,2	1,2	
E	Paraldehyde (*RQ-1000/454*)	Flammable liquid	UN1264	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
+E	Perchloromethyl mercaptan (*RQ-100/45.4*)	Poison B	UN1670	Poison	173.345	173.360	Forbidden	10 pounds	1	5	
E	Phenyl mercaptan (*RQ-100/45.4*)	Poison B	UN2337	Poison	173.345	173.346	Forbidden	10 gallons	1,2	1	
E	Phosgene *(diphosgene)* (*RQ-10/4.54*)	Poison A	UN1076	Poison gas	None	173.333	Forbidden	Forbidden	1	5	
E	Phosphine (*RQ-100/45.4*)	Poison A	UN2199	Poison gas and Flammable gas	None	173.328	Forbidden	Forbidden	1	5	Segregation same as for flammable gases
E	Phosphorus oxychloride (*RQ-1000/454*)	Corrosive material	UN1810	Corrosive	None	173.271	Forbidden	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
E	Phosphorus trichloride (*RQ-1000/454*)	Corrosive material	UN1809	Corrosive	None	173.271	Forbidden	1 quart	1	1	Keep dry. Glass carboys not permitted on passenger vessels
E	*Picrate of ammonia. See* Ammonium picrate, dry *or* Ammonium picrate, wet										
E	Propargyl alcohol (*RQ-1000/454*)	Flammable liquid	NA1986	Flammable liquid and Poison	None	173.119	Forbidden	1 quart	1,2	5	
E	Propylamine (*RQ-5000/2270*)	Flammable liquid	UN1277	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	
E	Propylene dichloride (*RQ-1000/454*)	Flammable liquid	UN1279	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Propylene oxide (*RQ-100/45.4*)	Flammable liquid	UN1280	Flammable liquid	173.118	173.119	Forbidden	1 gallon	1,3	4	
E	Pyrethrins (*RQ-1/0.454*)	ORM-E	NA9184	None	None	173.510	No limit	No limit	1,2	1,2	
E	Quinoline (*RQ-5000/2270*)	ORM-E	UN2656	None	None	173.510	No limit	No limit	1,2	1,2	
E	Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s. (*these materials may contain various hazardous substances for which the appropriate RQ applies*)	Nonflammable gas	UN1078	Nonflammable gas	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
E	Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s. (*these materials may contain various hazardous substances for which the appropriate RQ applies*)	Flammable gas	NA1954	Flammable gas	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1,2	
E	Resorcinol (*RQ-5000/2270*)	ORM-E	UN2876	None	None	173.510	No limit	No limit	1,2	1,2	
+E	Silver cyanide (*RQ-1/0.454*)	Poison B	UN1684	Poison	173.370	173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
+E	Sodium azide (*RQ-1000/454*)	Poison B	UN1687	Poison	173.364	173.375	50 pounds	100 pounds	1,2	1,2	Stow away from heavy metals, especially lead and its compounds. Stow separate from acids
EA	Sodium fluoride, solid (*RQ-1000/454*)	ORM-B	UN1690	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Sodium fluoride, solution (*RQ-1000/454*)	Corrosive material	UN1690	Corrosive	173.244	173.245	1 quart	5 gallons	1,2	1,2	Stow away from acids
E	Sodium, metal dispersion, *in organic solvent* (*RQ-10/4.54*)	Flammable solid	UN1429	Flammable solid and Dangerous when wet	None	173.230	Forbidden	10 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
E	Sodium metal liquid alloy (*RQ-10/4.54*)	Flammable solid	NA1421	Flammable solid and Dangerous when wet	None	173.202	Forbidden	1 pound	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
E	Spirits of nitroglycerin, (*1 to 10%*) (*RQ-10/4.54*)	Flammable liquid	NA1204	Flammable liquid	None	173.133	Forbidden	6 quarts	1,2	5	Segregation same as for explosives
E	Spirits of nitroglycerin, not exceeding 1% nitroglycerin by weight (*RQ-10/4.54*)	Flammable liquid	NA1204	Flammable liquid	173.118	173.133	1 quart	6 quarts	1,2	1	
E	Tetraethyldithiopyrophosphate and compressed gas mixture (*RQ-100/45.4*)	Poison A	UN1703	Poison gas	None	173.334	Forbidden	Forbidden	1	5	Shade from radiant heat. Stow away from living quarters. Segregation same as for nonflammable gases
E	Tetraethyldithiopyrophosphate, liquid (*RQ-100/45.4*)	Poison B	UN1704	Poison	None	173.358	Forbidden	1 quart	1	5	
E	Tetraethyldithiopyrophosphate mixture, dry (*RQ-100/45.4*)	Poison B	UN1704	Poison	None	173.377	Forbidden	200 pounds	1	5	
E	Tetraethyldithiopyrophosphate mixture, liquid (*RQ-100/45.4*)	Poison B	UN1704	Poison	None	173.359	Forbidden	1 quart	1	5	
E	Tetrahydrofuran (*RQ-1000/454*)	Flammable liquid	UN2056	Flammable liquid	None	173.119	Forbidden	10 gallons	1,3	5	

§172.101 Hazardous Materials Table (cont'd)

(1)	(2)	(3)	(3A)	(4)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
E	Tetranitromethane (*RQ-10/4.54*)	Oxidizer	UN1510	Oxidizer	None	173.203	Forbidden	Forbidden	1	5	Shade from radiant heat. Stow away from foodstuffs
E	*Thiophenol. See* Phenyl mercaptan										
EA	Thiram (*RQ-10/4.54*)	ORM-A	NA2771	None	173.505	173.510	No limit	No limit	1,2	1,2	
EA	1,1,1-Trichloroethane (*RQ-1000/454*)	ORM-A	UN2831	None	173.505	173.605	10 gallons	55 gallons	1,2	1,2	
EA	2,4,5-Trichlorophenoxyacetic acid (*RQ-1000/454*)	ORM-A	NA2765	None	173.505	173.510	50 pounds	No limit	1,2	1,2	
E	Vinyl acetate (*RQ-5000/2270*)	Flammable liquid	UN1301	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
EA	Xylenol (*except 2,4-Xylenol*) (*RQ-1000/454*)	ORM-A	UN2261	None	173.505	173.510	100 pounds	No limit	1,2	1,2	
E	Zinc bromide (*RQ-5000/2270*)	Corrosive material	NA9156	Corrosive	173.364	173.365	25 pounds	100 pounds	1,2	1,2	Keep dry
E	Zirconium potassium fluoride (*RQ-1000/454*)	ORM-E	NA9162	None	None	173.510	No limit	No limit	1,2	1,2	
	ADDITIONS										
E	Acetophenone (*RQ-5000/2270*)	Combustible liquid	NA9207	None	173.118a	None	No limit	No limit	1,2	1,2	
E	1-Acetyl-2-thiourea (*RQ-1000/454*)	Poison B	NA9208	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
EAW	Acrylamide (*RQ-5000/2270*)	ORM-A	UN2074	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Aldicarb (*RQ-1/0.454*)	Poison B	NA2757	Poison	173.364	173.365	10 pounds	100 pounds	1,2	1,2	
E	5-(Aminomethyl)-3-isoxazolol (*muscimol*) (*RQ-1000/454*)	Poison B	NA9209	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	4-Aminopyridine (*RQ-1000/454*)	Poison B	NA9210	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Ammonium picrate, dry (*RQ-10/4.54*)	Class A Explosive		Explosive	173.65	173.65	Forbidden	Forbidden	6	5	
E	Ammonium picrate, wet (*with 10% or more water, over 16 ounces in one outside packaging*) (*RQ-10/4.54*)	Class A explosive		Explosive A	None	173.65	Forbidden	Forbidden	6	5	
E	Ammonium vanadate (*RQ-1000/454*)	Poison B	NA9211	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+E	Aniline (*RQ-5000/2270*)	Poison B	UN1547	Poison	None	173.347	Forbidden	55 gallons	1,2	1,2	Stow away from oxidizing materials and acids
	Aniline drum, empty. *See 173.347(d)*	Poison B							1,2	1	Do not accept unless removable package notice is on drum and the instructions thereon have been carried out
+E	*Aniline oil, liquid. See* Aniline										
E	*Benzal chloride. See* Benzylidene chloride										
E	*Benzenehexachloride, gamma isomer. See* Lindane										
E	Benzene sulfonyl chloride (*RQ-100/45.4*)	Corrosive material	UN2225	Corrosive	173.244	173.245	1 gallons	15 gallons	1,2	1,2	
EAW	Benzylidene chloride (*in containers of 110 gallons or less*) (*RQ-5000/2270*)	ORM-A	UN1886	None	173.505	173.510	1 gallon	15 gallons	1	5	
E	Benzylidene chloride (*in containers over 110 gallons*) (*RQ-5000/2270*)	Combustible liquid	UN1886	None	173.118a	None	1 gallon	15 gallons	1	5	
EA	Bis(2-chloroethoxy)methane (*RQ-1000/454*)	ORM-A	NA9213	None	173.505	173.510	15 gallons	55 gallons	1,2	1,2	
E	*Bis(2-chloroisopropyl)ether. See* Dichloroisopropyl ether										
EAW	Bromoform (*RQ-100/45.4*)	ORM-A	UN2515	None	173.505	173.510	15 gallons	55 gallons	1,3	1,3	
EA	4-Bromophenyl phenyl ether (*RQ-100/45.4*)	ORM-A	NA9215	None	173.505	173.510	No limit	No limit	1,2	1,2	Keep cool
E	Butanol (*primary*) (*RQ-5000/2270*)	Flammable liquid	UN1120	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
	Butanol (*secondary or tertiary*)	Flammable liquid	UN1120	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
	Butyl alcohol. See Butanol										
E	Butyl benzyl phthalate (*RQ-100/45.4*)	ORM-E	NA9216	None	None	173.510	No limit	No limit	1,2	1,2	
E	Carbonyl fluoride (*RQ-1000/454*)	Poison A	UN2417	Poison gas and Nonflammable gas	None	173.328	Forbidden	Forbidden	1	5	Stow away from living quarters
E	Chloroacetaldehyde (*RQ-1000/454*)	Poison B	UN2232	Poison	173.345	173.346	1 gallon	15 gallons	1	5	
EAW	p-Chloroaniline, solid (*RQ-1000/454*)	ORM-A	UN2018	None	173.505	173.510	No limit	No limit	1,2	1,2	
EA	Chlorodibromomethane (*RQ-100/45.4*)	ORM-A	NA9217	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	2-Chloroethyl vinyl ether (*RQ-1000/454*)	Flammable liquid	NA9218	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,3	5	Keep cool
EAW	4-Chloro-m-cresol (*RQ-5000/2270*)	ORM-A	NA2669	None	173.505	173.510	No limit	No limit	1,3	1,3	Stow away from living quarters
E	2-Chloronaphthalene (*RQ-5000/2270*)	ORM-E	NA9219	None	None	173.510	No limit	No limit	1,2	1,2	
EA	2-Chlorophenol (*RQ-100/45.4*)	ORM-A	UN2021	None	173.505	173.510	No limit	No limit	1,2	1,2	
EA	4-Chlorophenyl phenyl ether (*RQ-5000/2270*)	ORM-A	NA9220	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	2-Chlorophenyl thiourea (*RQ-100/45.4*)	Poison B	NA9251	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	3-Chloropropionitrile (*RQ-1000/454*)	Poison B	NA9221	Poison	173.345	173.346	1 gallon	15 gallons	1,2	1,2	
E	*Cumene. See* Isopropylbenzene										
E	Cyanide, inorganic, n.o.s. (*RQ-10/4.54 for soluble salts not specified elsewhere*)	Poison B	UN1588	Poison	173.364	173.370	25 pounds	200 pounds	1,2	1,2	Keep dry. Stow away from acids

§172.101 Hazardous Materials Table (cont'd)

(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
E	Cyclohexanone (*RQ-5000/2270*)	Combustible liquid	UN1915	None	173.118a	None	No limit	No limit	1,2	1,2	
EA	Dibromomethane (*RQ-1000/454*)	ORM-A	UN2664	None	173.505	173.510	No limit	No limit	1,2	1,2	
EA	m-Dichlorobenzene (*in containers of 110 gallons or less*) (*RQ-100/45.4*)	ORM-A	NA9255	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	o-Dichlorobenzene (*in containers over 110 gallons*) (*RQ-100/45.4*)	Combustible liquid	UN1591	None	173.118a	None	No limit	No limit	1,2	1,2	
E	m-Dichlorobenzene (*in containers over 110 gallons*) (*RQ-100/45.4*)	Combustible liquid	NA9255	None	173.118a	None	No limit	No limit	1,2	1,2	
EA	Dichlorobromomethane (*RQ-5000/2270*)	ORM-A	NA9222	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	1,4-Dichloro-2-butene (*RQ-1/0.454*)	Corrosive material	NA9257	Corrosive	173.244	173.245	1 quart	10 gallons	1	4	
E	1,1-Dichloroethane (*RQ-1000/454*)	Flammable liquid	UN2362	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
EA	*1,2-Dichloroethane. See* Ethylene dichloride										
E	1,2-Dichloroethylene (*trans isomer*) (*RQ-1000/454*)	Flammable liquid	UN1150	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
EA	2,4-Dichlorophenol (*RQ-100/45.4*) *or* 2,6-Dichlorophenol (*RQ-100/45.4*)	ORM-A	NA2020	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	1,1-Dichloropropane (*RQ-1000/454*)	Flammable liquid	NA9223	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	1,3-Dichloropropane (*RQ-1000/454*)	Flammable liquid	NA9224	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Diethyl-p-nitrophenyl phosphate (*Paraoxon*) (*RQ-100/45.4*)	Poison B	NA2783	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
E	O,O-Diethyl O-pyrazinylphosphorothioate (*Thionazin*) (*RQ-100/45.4*)	Poison B	NA2783	Poison	None	173.358	Forbidden	1 quart	1,3	1,3	
E	Diethyl phthalate (*RQ-1000/454*)	ORM-E	NA9226	None	None	173.510	No limit	No limit	1,2	1,2	
E	O,O-Diethyl S-methyl dithiophosphate (*RQ-5000/2270*)	Poison B	NA2783	Poison	173.377	173.377	Forbidden	200 pounds	1,2	4	
E	Diisopropyl fluorophosphate (*RQ-100/45.4*)	Poison B	NA9227	Poison	None	173.358	Forbidden	Forbidden	1,3	1,3	
EA	Dimethoate (*RQ-10/4.54*)	ORM-A	NA2783	None	173.505	173.510	No limit	No limit	1,2	1,2	
EA	*Dimethylphenol. See* Xylenol										
EA	*2,4-Dimethylphenol. See* 2,4-Xylenol										
EA	1,1-Dimethyl-2-phenylethanamine (*RQ-5000/2270*)	ORM-A	NA9232	None	173.505	173.510	None	None	1,2	1,2	
EA	Dimethyl phthalate (*RQ-5000/2270*)	ORM-A	NA9228	None	173.505	173.510	55 gallons	55 gallons	1,2	1,2	
E	Dinitrobenzene (*RQ-100/45.4*)	Poison B	UN1597	Poison	173.364	173.371	50 pounds	200 pounds	1,2	1,2	
E	4,6-Dinitro-o-cresol (*RQ-10/4.54*)	Poison B	UN1598	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	4,6-Dinitro-o-cresol salt (*RQ-10/4.54*)	Poison B	NA1598	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
EA	4,6-Dinitro-o-cyclohexylphenol (*RQ-100/45.4*)	ORM-A	NA9026	None	173.505	173.510	None	None	1,2	1,2	
E	Dinoseb (*RQ-1000/454*)	Poison B	NA2779	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Di-n-octyl phthalate (*RQ-5000/2270*)	ORM-E	NA9229	None	None	173.510	No limit	No limit	1,2	1,2	
E	2,4-Dithiobiuret (*RQ-100/45.4*)	Poison B	NA9230	Poison	173.364	173.365	10 pounds	100 pounds	1,2	1	
E	Endosulfan sulfate (*RQ-1/0.454*)	Poison B	NA2761	Poison	173.364	173.365	1 pound	10 pounds	1,2	1	
E	Endothall (*RQ-1000/454*)	Poison B	NA9231	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Endrin aldehyde (*RQ-1/0.454*)	Poison B	NA2761	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	*Ethyl cyanide. See* Propionitrile										
E	Ethyl methacrylate (*RQ-1000/454*)	Flammable liquid	UN2277	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
E	Famphur (*RQ-1000/454*)	Poison B	UN2783	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Fluoroacetamide (*RQ-100/45.4*)	Poison B	NA9233	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (F003) (*RQ-100/45.4*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (F007) (*RQ-10/4.54*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (F008) (*RQ-10/4.54*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (F009) (*RQ-10/4.54*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (F010) (*RQ-10/4.54*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (F011) (*RQ-10/4.54*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (F012) (*RQ-10/4.54*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K014) (*RQ-5000/2270*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K023) (*RQ-5000/2270*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K024) (*RQ-5000/2270*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K036) (*RQ-1/0.454*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K037) (*RQ-1/0.454*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
E	Hazardous waste, liquid *or* solid, n.o.s. (K044) (*RQ-10/4.54*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K045) (*RQ-10/4.54*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K047) (*RQ-10/4.54*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K071) (*RQ-1/0.454*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K083) (*RQ-100/45.4*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K093) (*RQ-5000/2270*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K094) (*RQ-5000/2270*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K103) (*RQ-100/45.4*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
E	Hazardous waste, liquid *or* solid, n.o.s. (K106) (*RQ-1/0.454*)	ORM-E	NA9189	None	None	173.1300	Forbidden	550 pounds	1,2	1,2	
EA	Hexachloropropene (*RQ-1000/454*)	ORM-A	NA9225	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Isobutanol (*RQ-5000/2270*)	Flammable liquid	UN1212	Flammable liquid	173.118	173.125	1 quart	10 gallons	1,2	1	
E	Isobutyl alcohol. *See* Isobutanol										
E	Isodrin (*Hexachlorohexahydro-endo,endo-dimethanonaphthalene*) (*RQ-1/0.454*)	Poison B	UN2761	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
EA	Isophorone (*in containers of 110 gallons or less*) (*RQ-5000/2270*)	ORM-A	NA9235	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Isophorone (*in containers over 110 gallons*) (*RQ-5000/2270*)	Combustible liquid	NA9235	None	173.118a	None	No limit	No limit	1,2	1,2	
E	Isopropylbenzene (*Cumene*) (*RQ-5000/2270*)	Combustible liquid	UN1918	None	173.118a	None	No limit	No limit	1,2	1,2	
E	Maleic hydrazide (*RQ-5000/2270*)	ORM-E	NA9236	None	None	173.510	No limit	No limit	1,2	1,2	
EAW	Malononitrile (*RQ-1000/454*)	ORM-A	UN2647	None	173.505	173.510	50 pounds	200 pounds	1,3	1,3	Keep cool. Stow away from living quarters
E	Methacrylonitrile (*RQ-1000/454*)	Flammable liquid	NA9237	Flammable liquid and Poison	None	173.119	1 quart	10 gallons	1,2	1	
E	Methanol (*RQ-5000/2270*)	Flammable liquid	UN1230	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
EA	Methapyrilene (*RQ-5000/2270*)	ORM-A	NA9238	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Methomyl (*RQ-100/45.4*)	Poison B	NA2757	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Methyl alcohol. *See* Methanol										
E	Methyl isobutyl ketone (*RQ-5000/2270*)	Flammable liquid	UN1245	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1	
EAW	Naphthalene, crude *or* refined (*RQ-100/45.4*)	ORM-A	UN1334	None	173.505	173.655	25 pounds	300 pounds	1,2	1,2	Stow same as for flammable solids
EAW	1,4-Naphthoquinone (*RQ-5000/2270*)	ORM-A	NA9239	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Naphthylthiourea (*alpha*) (*RQ-100/45.4*)	Poison B	UN1651	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
+E	p-Nitroaniline (*RQ-5000/2270*)	Poison B	UN1661	Poison	173.364	173.373	50 pounds	200 pounds	1,2	1,2	
+	Nitroaniline (*o-,m-*)	Poison B	UN1661	Poison	173.364	173.373	50 pounds	200 pounds	1,2	1,2	
E	*Nitrogen peroxide.* *See* Nitrogen dioxide, liquefied *or* Nitrogen tetroxide, liquefied										
E	Nitroglycerin, liquid, desensitized (*RQ-10/4.54*)	Class A explosive		Explosive A	None	173.62	Forbidden	Forbidden	6	5	
E	N-Nitrosodiphenylamine (*RQ-100/45.4*)	ORM-E	NA9240	None	None	173.510	No limit	No limit	1,2	1,2	
E	Octamethylpyrophosphoramide (*RQ-100/45.4*)	Poison B	NA9241	Poison	173.345	173.346	1 quart	10 gallons	1,2	1,2	
E	Osmium tetroxide (*RQ-1000/454*)	Poison B	UN2474	Poison	173.364	173.365	10 pounds	100 pounds	1,2	1	Stow away from living quarters
E	1,3-Pentadiene (*Piperylene*) (*RQ-100/45.4*)	Flammable liquid	NA9242	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	3	
E	N-Phenylthiourea (*RQ-100/45.4*)	Poison B	NA9243	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Phthalic anhydride (*RQ-5000/2270*)	Corrosive material	UN2214	Corrosive	173.244	173.245b	50 pounds	200 pounds	1,2	1,2	Stow away from foodstuffs
E	2-Picoline (*RQ-5000/2270*)	Flammable liquid	UN2773	Flammable liquid	173.118	173.119	1 quart	10 gallons	1,2	1,2	
E	Potassium silver cyanide (*RQ-1/0.454*)	Poison B	NA1588	Poison	173.370	173.370	25 pounds	200 pounds	1,2	1,2	Stow away from acids
E	Potassium sodium alloy (liquid) (*RQ-10/4.54 for sodium*)	Flammable solid	UN1422	Flammable solid and Dangerous when wet	None	173.202	Forbidden	1 pound	1,2	5	Underdeck stowage must be readily accessible. Segregation same as for flammable solids labeled Dangerous When Wet
E	Potassium sodium alloy (solid) (*RQ-10/4.54 for sodium*)	Flammable solid	UN1422	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Underdeck stowage must be readily accessible. Segregation same as for flammable solids labeled Dangerous When Wet
E	Pronamide (*RQ-5000/2270*)	ORM-E	NA9244	None	None	173.510	No limit	No limit	1,2	1,2	
E	Propionitrile (*RQ-10/4.54*)	Flammable liquid	UN2404	Flammable liquid and Poison	None	173.119	Forbidden	10 gallons	1,3	5	Keep cool
E	Resperine (*RQ-5000/2270*)	ORM-E	NA9256	None	None	173.510	No limit	No limit	1,2	1,2	
E	Silver (*RQ-1000/454 for particle size finer than 140 mesh*)	ORM-E	NA9245	None	None	173.510	No limit	No limit	1,2	1,2	

§172.101 Hazardous Materials Table (cont'd)

(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+/ E/ A/ W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
E	Sodium (*RQ-10/4.54*)	Flammable solid	UN1428	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Segregation same as for flammable solids labeled Dangerous When Wet
E	*Sodium potassium alloy (liquid). See* Potassium sodium alloy (liquid)										
E	*Sodium potassium alloy (solid). See* Potassium sodium alloy (solid)										
EA	Strontium sulfide (*RQ-100/45.4*)	ORM-A	NA9246	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	2,4,5-T amine. *See* 2,4,5-Trichlorophenoxyacetic acid amine										
E	2,4,5-T ester *or* salt. *See* 2,4,5-Trichlorophenoxyacetic acid ester *or* salt										
EA	1,2,4,5-Tetrachlorobenzene (*RQ-5000/2270*)	ORM-A	NA9247	None	173.505	173.510	No limit	No limit	1,2	1,2	
EAW	2,3,4,6-Tetrachlorophenol (*RQ-10/4.54*)	ORM-A	NA9248	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Thiofanox (*RQ-100/45.4*)	Poison B	NA9249	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Thiosemicarbazide (*RQ-100/45.4*)	Poison B	NA9250	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
EA	1,2,4-Trichlorobenzene (*RQ-100/45.4*)	ORM-A	NA2321	None	173.505	173.510	No limit	No limit	1,2	1,2	
E	Trichlorofluoromethane (*RQ-5000/2270*)	ORM-E	NA9252	None	None	173.510	No limit	No limit	1,2	1,2	
E	*Trichloromethanesulfenyl chloride. See* Perchloromethyl mercaptan										
E	2,4,5-Trichlorophenoxyacetic acid amine (*RQ-5000/2270*)	ORM-E	NA2765	None	None	173.510	No limit	No limit	1,2	1,2	
E	2,4,5-Trichlorophenoxyacetic acid ester *or* salt (*RQ-1000/454*)	ORM-E	NA2765	None	None	173.510	No limit	No limit	1,2	1,2	
E	Warfarin (*RQ-100/45.4*)	Poison B	NA9253	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
EA	2,4-Xylenol (*2,4-dimethylphenol*) (*RQ-100/45.4*)	ORM-A	UN2261	None	173.505	173.510	100 pounds	No limit	1,2	1,2	
E	Zinc bromide, solution (*RQ-5000/2270*)	Corrosive material	NA9254	Corrosive	173.244	173.245	1 quart	1 quart	1,2	1,2	
E	Zinc chloride, anhydrous (*RQ-5000/2270*)	Corrosive material	UN2331	Corrosive	173.244	173.245b	50 pounds	200 pounds	1,2	1,2	Keep dry

6. In 172.203, paragraph (c)(3) would be added to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(c) * * *

(3) For those hazardous substances which are wastes that exhibit an EPA characteristic of ignitibility, corrosivity or reactivity (ICR), the ICR characteristic must be shown in parenthesis as part of the proper shipping name, as required by § 172.101(c)(15).

* * * * *

7. In 172.324, paragraph (c) would be added to read as follows:

§ 172.324 Hazardous substances.

* * * * *

(c) For those hazardous substances which are wastes that exhibit an EPA characteristic of ignitibility, corrosivity or reactivity (ICR), the applicable ICR characteristic must be shown in parenthesis as part of the proper shipping name, as required by § 172.101(c)(15).

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

8. The authority citation for Part 173 would be revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR Part 1.

9. In the table of contents to Part 173, the titles of §§ 173.202, 173.336, 173.347, 173.373 and 173.655 would be revised, and the title of § 173.206 would be amended by changing the words "Sodium or potassium, metallic" to "Sodium; potassium, metallic", and "sodium potassium alloys" to "potassium alloys" to read as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGES

Sec.

* * * * *

10. In § 173.202, the title of the section and paragraph (a) introductory text would be amended by replacing the words "sodium potassium liquid alloy" with the words "potassium sodium liquid alloy".

11. The title of § 173.206 would be amended by changing the words "Sodium or potassium, metallic" to "Sodium; potassium, metallic", and "sodium potassium alloys" to "potassium sodium alloys"; paragraph (a) introductory text would be amended by changing the words "Metallic sodium or potassium" to "Sodium, metallic potassium", and "sodium potassium alloys" to "potassium sodium alloys"; paragraph (a)(3) would be amended by revising the last sentence; paragraph (a)(10) would be amended by revising the second sentence; paragraph (b) introductory text would be amended by changing the words "Sodium or potassium, metallic" to "Sodium, metallic potassium", and paragraph (c) introductory text would be revised to read as follows:

§ 173.206 Sodium; potassium, metallic; sodium amide; potassium sodium alloys; * * *

(a) Sodium, metallic potassium, sodium amide, potassium sodium alloys, * * *

* * * * *

(3) * * * Authorized only for lithium metal and sodium which must be fused solid in the container.

* * * * *

(10) * * * Authorized only for sodium, metallic lithium, metallic potassium, and potassium sodium alloy. * * *

* * * * *

(b) Sodium, metallic potassium, * * *

* * * * *

(c) Sodium may also be shipped when packaged in specification containers as follows:

* * * * *

12. In § 173.326, paragraph (a)(10) would be amended to replace the words "Nitrogen peroxide (tetroxide)" with the words "Nitrogen tetroxide."

13. In § 173.336, the title of the section and the introductory text of paragraph (a) would be amended to delete the words "nitrogen peroxide, liquid" and change the word "liquid" used elsewhere to the word "liquefied" to read as follows:

§ 173.336 Nitrogen dioxide, liquefied and nitrogen tetroxide, liquefied.

(a) Nitrogen dioxide, liquefied and nitrogen tetroxide, liquefied must be packed in specification containers as follows:

* * * * *

14. In § 173.347, the title of the section, the introductory text of paragraph (a), paragraph (c)(1) and the last sentence of paragraph (d) would be amended to delete the word "oil" used in conjunction with the word "aniline" to read as follows:

§ 173.347 Aniline.

(a) Aniline must be packed in specification containers as follows:

* * * * *

(c) * * *

(1) The exterior of filled drums must be carefully examined for evidence of aniline. * * *

(d) * * * ANILINE STAINS ON THE OUTSIDE OF DRUMS SHOULD BE WASHED OFF WITH WATER OR, PREFERABLY, WEAK ACETIC ACID", shellacked to head of drum near the consignee's name and address.

15. Section 173.373 would be amended to add the word "meta-nitroaniline" to the title of the section and paragraph (a) introductory text, and to replace the word "paranitroaniline" in the title of the section and paragraph (a) introductory text, (a)(4) and (a)(5) with the word "para-nitroaniline" to read as follows:

§ 173.373 Ortho-nitroaniline, meta-nitroaniline and para-nitroaniline

(a) Ortho-nitroaniline, meta-nitroaniline and para-nitroaniline must be packed in specification containers as follows:

* * * * *

(4) In addition to specification containers prescribed in this section, para-nitroaniline may be shipped by highway in bulk in strong, water-tight, metal bodied, covered hopper motor vehicles.

(5) * * * Authorized for para-nitroaniline only. * * *

* * * * *

16. Section 173.655 would be amended to replace the words "naphthalene or naphthalin" in the title of the section and paragraphs (a), (b) and (c) introductory texts with the words "Naphthalene, crude or refined".

Issued in Washington, DC on June 6, 1986, under the authority delegated in 49 CFR Part 1, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation, Research and Special Programs Administration.

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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1985. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.