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Federal Register

Thursday
May 19, 1988

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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 3 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: May 26; at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC
RESERVATIONS: Laurice Clark, 202–523–3517

KANSAS CITY, MO

WHEN: June 10; at 9:00 a.m.
WHERE: Room 147–148, Federal Building, 601 East 12th Street, Kansas City, MO
RESERVATIONS: Call the St. Louis Federal Information Center:
Missouri: 1–800–392–7711
Kansas: 1–800–432–2934

NEW YORK, NY

WHEN: June 13; at 1:00 p.m.
WHERE: Room 305C, 26 Federal Plaza, New York, NY
RESERVATIONS: Call Arlene Shapiro or Stephen Colon at the New York Federal Information Center, 212–264–4810.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket 88-077]

Oriental Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are removing the Oriental fruit fly regulations that designated a portion of Orange County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. The regulations were established to prevent the artificial spread of the Oriental fruit fly into noninfested areas of the United States. We have determined that the Oriental fruit fly has been eradicated from Orange County, California, and the regulations are no longer necessary. This rule relieves restrictions on the interstate movement of regulated articles from the quarantined area in Orange County, California.

DATES: Interim rule effective May 16, 1988. Consideration will be given only to comments postmarked or received on or before July 18, 1988.

ADDRESS: Send an original and three copies of written comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC, 20090-6464. Please state that your comments refer to Docket Number 88-077. Comments received may be inspected at Room 1141 of the South Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Eddie Elder, Chief Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** on July 22, 1987 (52 FR 27529-27536, Docket Number 87-095), but effective on signature, July 17, 1987, we established the Oriental fruit fly regulations and quarantined portions of Los Angeles and Orange Counties in California. In an interim rule published in the **Federal Register** on October 26, 1987 (52 FR 39899-39900, Docket Number 87-138), but effective on signature, October 20, 1987, we added an additional portion of Orange County in California to the list of areas designated as quarantined areas. In an interim rule published in the **Federal Register** on December 1, 1987 (52 FR 45597-45598, Docket Number 87-161), but effective on signature, November 24, 1987, we removed the quarantine from portions of Los Angeles and Orange Counties that we had established in July 1987.

We have since determined that the Oriental fruit fly has been eradicated from the remaining quarantined area of Orange County.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that a situation exists that warrants publication of this rule without prior opportunity for public comment. An area in Orange County was quarantined due to the possibility that the Oriental fruit fly could be spread artificially from this area to noninfested areas of the United States. The regulations imposed restrictions on the interstate movement of regulated articles from quarantined areas. The regulations also designated soil, and a large number of fruits, nuts, vegetables, and berries, as regulated articles. Since the quarantined area is no longer infested, and because keeping the area quarantined imposes an unnecessary regulatory burden on the public, we are taking immediate action to remove the Oriental fruit fly regulations.

Since prior notice and other public procedures with respect to this rule are impracticable and contrary to the public interest under these circumstances, and because this rule relieves a regulatory restriction, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. As soon as possible after the comment period closes, we will publish another document in the **Federal Register** discussing the comments we received and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individuals, industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the part of Orange County that is quarantined, there are approximately 80 small entities that may be affected. These include approximately 60 nurseries, 10 roadside stands and flea markets, 6 fruit and vegetable growers, 2 packing houses, 1 processor, and 1 farmers market. The vegetable growers have a total of 23 acres in production, including 3 acres of avocados, 10 acres of tomatoes, and 10 acres of peppers and cucumbers. The effect of this rule on these entities should be insignificant, since most of their sales are local intrastate and are not affected by the regulatory provisions we are removing. Those sales that are affected are mainly of articles that can be moved interstate after compliance with treatment or inspection provisions of the regulations. Compliance with these provisions does not add significant costs to the interstate movement of most of these affected articles.

Based on these circumstances, the Administrator of the Animal and Plant Health Inspection Service has

determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Oriental fruit fly, Incorporation by reference.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR Part 301 is amended as follows:

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§§ 301.93 through 301.93–10 [Removed and Reserved]

2. "Subpart-Oriental Fruit Fly" (7 CFR 301.93 through 301.93–10) is removed and reserved.

Done at Washington, DC, this 16th day of May, 1988.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–11281 Filed 5–18–88; 8:45 am]

BILLING CODE 3410–34–M

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7 CFR Part 301

[Docket No. 88–064]

Melon Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are removing the melon fly regulations that designated a portion of Los Angeles County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. The regulations were established to prevent the artificial spread of the melon fly into noninfested areas of the United States. We have determined that the melon fly has been eradicated from Los Angeles County, California, and the regulations are no longer necessary. This rule relieves restrictions on the interstate movement of regulated articles from the quarantined area in Los Angeles County, California.

DATES: Interim rule effective May 16, 1988. Consideration will be given only to comments postmarked or received on or before July 18, 1988.

ADDRESS: Send an original and three copies of written comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC, 20090–6464. Please state that your comments refer to Docket Number 88–064. Comments received may be inspected at Room 1141 of the South Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Eddie Elder, Chief Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** on February 10, 1988 (53 FR 3850–3856, Docket Number 87–173), and effective February 5, 1988, we established the melon fly regulations (7 CFR 301.97 *et seq.*, referred to below as the regulations) and quarantined portions of Los Angeles County in California.

The regulations imposed restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the melon fly to noninfested areas of the United States. The regulations also designated soil, and a large number of fruits, nuts, vegetables, and berries, as regulated articles.

Based on trapping surveys conducted by inspectors of the United States Department of Agriculture and state agencies of California, we have determined that the melon fly has been eradicated from the infested areas of Los Angeles County, and that our regulations are no longer necessary.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that a situation exists that warrants publication of this rule without prior opportunity for public comment. An area in Los Angeles County was quarantined due to the possibility that the melon fly could be spread artificially from this area to noninfested areas of the United States. Since this no longer is possible, and because the quarantined status of a portion of Los Angeles County imposes an unnecessary regulatory burden on the public, we are taking immediate action to remove the melon fly regulations.

Since prior notice and other public procedures with respect to this rule are impracticable and contrary to the public interest under these circumstances, and because this rule relieves a regulatory restriction, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. As soon as possible after the comment period closes, we will publish another document in the **Federal Register** discussing the comments we received and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause 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.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the part of Los Angeles County that was quarantined, there were fewer than 250 small entities affected, including 53 nurseries, 150 mobile fruit vendors, 30 fruit stands, 5 fruit wholesalers, and 8 companies catering to airlines. Most of the sales by the fruit vendors and the fruit stand operators are local intrastate, and were not affected by the quarantine. Effects on the nurseries were minimized by the availability of soil treatment under the regulations. Effects on the fruit wholesalers were minimized by the availability of treatments for many of the regulated articles. Effects on the caterers were negligible, because

virtually all of their food products intended for interstate movement originate outside the quarantined area and, properly handled, can be moved onto aircraft without a certificate or limited permit.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Melon fly, Incorporation by reference.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR Part 301 is amended as follows:

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§§ 301.97 through 301.97–10 [Removed and Reserved]

2. "Subpart-Melon Fly" (7 CFR 301.97 through 301.97–10) is removed and reserved.

Done in Washington, DC, this 16th day of May, 1988.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–11280 Filed 5–18–88; 8:45 am]

BILLING CODE 3410–34–M

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7 CFR Part 301

[Docket No. 88–025]

Peach Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are removing the peach fruit fly regulations that designated a portion of Los Angeles County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. The regulations were established to prevent the artificial spread of peach fruit fly to noninfested areas of the United States. We have determined that the peach fruit fly has been eradicated from Los Angeles County, California, and the regulations are no longer necessary. This rule relieves restrictions on the interstate movement of regulated articles from the quarantined area in Los Angeles County, California.

DATES: Interim rule effective May 16, 1988. Consideration will be given only to comments postmarked or received on or before July 18, 1988.

ADDRESSES: Send an original and three copies of written comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC 20090–6464. Please state that your comments refer to Docket Number 88–025. Comments may be inspected at Room 1141 of the South Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Eddie Elder, Chief Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** December 14, 1987 (52 FR 47367–47372, Docket Number 87–143), and effective December 8, 1987, we amended the "Domestic Quarantine Notices" in 7 CFR Part 301 by adding "Peach Fruit Fly" regulations (referred to below as the regulations).

These regulations quarantined part of Los Angeles County, California, because of the peach fruit fly, and restricted the interstate movement of regulated articles from the quarantined area in order to prevent the spread of the peach fruit fly to noninfested areas of the United States. The regulations also designated soil, and a large number of fruits, nuts, vegetables, and berries, as regulated articles.

Based on trapping surveys conducted by inspectors of the United States Department of Agriculture and state agencies of California, we have determined that the peach fruit fly has been eradicated from the infested areas of Los Angeles County. The last finding of peach fruit fly was made on September 30, 1987. Since then, no evidence of infestations has been found. We have determined that infestations no longer exist in Los Angeles County.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that a situation exists that warrants publication of this interim rule without prior opportunity for public comment. The area in Los Angeles County was quarantined due to the possibility that peach fruit fly could be spread artifically from this area to noninfested areas of the United States. Since this situation no longer exists, and because the quarantined status of this portion of Los Angeles County imposes an unnecessary regulatory burden on the public, we are taking immediate action to remove the peach fruit fly regulations.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these circumstances, and because this rule relieves a regulatory restriction, there is good cause under 5 U.S.C. 533 to make this interim rule effective upon signature. We will consider comments that are postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. As soon as possible after the comment period closes, we will publish another document in the **Federal Register** discussing the comments we received and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause 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.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the quarantined area, there are fewer than 115 small entities that may be affected, including 45 nurseries, 50 mobile fruit vendors, eight fruit stands, and eight companies catering to airlines. The effect of this rule on these entities should be insignificant. Most of the sales by the entities, except for the nurseries and caterers, are local, intrastate and were not affected by the regulatory provisions we are removing. Effects on the nurseries were minimized by the availability of soil treatment under the regulations. Effects on the caterers were negligible, because virtually all of their food products intended for interstate movement originated outside the quarantined area and, properly handled, were permitted to be moved onto aircraft without a certificate or limited permit.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, peach fruit fly.

Accordingly, 7 CFR Part 301 is amended to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§§ 301.96 through 301.96–10 [Removed]

2. "Subpart—Peach Fruit Fly" (7 CFR 301.96 through 301.96–10) is removed.

Done in Washington DC, this 16th day of May, 1988.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–11282 Filed 5–18–88; 8:45 am]

BILLING CODE 3410–34–M

Cooperative State Research Service

7 CFR Part 3403

Availability of Information

AGENCY: Cooperative State Research Service, USDA.

ACTION: Final rule.

SUMMARY: This document promulgates regulations of the Cooperative State Research Service (CSRS), regarding the availability of information to the public in accordance with the Freedom of Information Act (FOIA). It supplements the Department's regulations at Part 1, Subpart A of this title.

EFFECTIVE DATE: May 19, 1988.

FOR FURTHER INFORMATION CONTACT: Stasia A.M. Hutchison, National FOIA Coordinator, Agricultural Research Service, Room 331B, Building 005, Beltsville Agricultural Research Center, Beltsville, Maryland 20705; (301) 344–3928.

SUPPLEMENTARY INFORMATION: 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 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 rule will not cause a significant economic impact or other substantial effect on small entities. Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., do not apply. This document is being published in accordance with Part 1, Subpart A of this title.

This rule supersedes the notice published on April 5, 1984, 49 FR 13669.

List of Subjects in 7 CFR Part 3403

Freedom of information.

Accordingly, 7 CFR Part 3403 is added to read as follows:

PART 3402—PUBLIC INFORMATION

Sec.

Authority: 5 U.S.C. 301, 552; 7 CFR Part 1, Subpart A and Appendix A thereto.

§ 3403.1 General statement.

This part is issued in accordance with the regulations of the Secretary of Agriculture in Part 1, Subpart A of this title and Appendix A thereto, implementing the Freedom of Information Act (FOIA) (5 U.S.C. 552). The Secretary's regulations, as implemented by the regulations in this part, govern the availability of records of the Cooperative State Research Service (CSRS) to the public.

§ 3402.2 Public inspection and copying.

5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying. The CSRS does not maintain material within the scope of this requirement.

§ 3403.3 Index.

The CSRS does not maintain material within the scope of this requirement.

§ 3403.4 Requests for records.

Requests for records of the CSRS under 5 U.S.C. 552(a)(3) shall be made in accordance with § 1.6 of this title and submitted to the national FOIA coordinator at the following address: ARS Information Staff, Room 331B, Building 005, BARC-West, Beltsville, Maryland 20705; (301) 344–3928. The national FOIA coordinator is delegated authority to make determinations regarding such requests in accordance with § 1.3(a)(3) of this title.

§ 3403.5 Appeals.

Any person whose request is denied shall have the right to appeal such denial. Appeals shall be made in accordance with § 1.6(e) of this title and should be addressed as follows: Administrator, Cooperative State Research Service, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, DC, this 5th day of May, 1988.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 88–11161 Filed 5–18–88; 8:45 am]

BILLING CODE 3410–22–M

National Agricultural Library

7 CFR Part 4100

Availability of Information

AGENCY: National Agricultural Library, USDA.

ACTION: Final rule.

SUMMARY: This document promulgates regulations of the National Agricultural Library (NAL), regarding the availability of information to the public in accordance with the Freedom of Information Act (FOIA). It supplements the Department's regulations at Part 1, Subpart A of this title.

EFFECTIVE DATE: May 19, 1988.

FOR FURTHER INFORMATION CONTACT: Stasia A.M. Hutchison, National FOIA Coordinator, Agricultural Research Service, Room 331B, Building 005, Beltsville Agricultural Research Center, Beltsville, Maryland 20705; (301) 344–3928.

SUPPLEMENTARY INFORMATION: 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 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 rule will not cause a significant economic impact or other substantial effect on small entities. Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., do not apply. This document is being published in accordance with Part 1, Subpart A of this title.

This rule supersedes the notice published on April 5, 1984, 49 FR 13669.

List of Subjects in 7 CFR Part 4100

Freedom of information.

Accordingly, 7 CFR is amended by adding Chapter XLI consisting of Part 4100 to read as follows:

CHAPTER XLI—NATIONAL AGRICULTURAL LIBRARY, DEPARTMENT OF AGRICULTURE

PART 4100—PUBLIC INFORMATION

Sec.

Authority: 5 U.S.C. 301, 552; 7 CFR Part 1, Subpart A and Appendix A thereto.

§ 4100.1 General statement.

This part is issued in accordance with the regulations of the Secretary of Agriculture in Part 1, Subpart A of this title and Appendix A thereto, implementing the Freedom of Information Act (FOIA) (5 U.S.C. 552). The Secretary's regulations, as implemented by the regulations in this Part, govern the availability of records of the National Agricultural Library (NAL) to the public.

§ 4100.2 Public inspection and copying.

5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying. Members of the public may request access to such materials maintained by the NAL at the following office: ARS Information Staff, Room 331B, Building 005, BARC–West, Beltsville, Maryland 20705; (301) 344–3928. Office hours are 8:00 a.m. to 4:30 p.m.

§ 4100.3 Index.

In compliance with 5 U.S.C. 552(a)(2), contact the location cited in § 4100.2 for any available NAL index.

§ 4100.4 Requests for records.

Requests for records of the NAL under 5 U.S.C. 552(a)(3) shall be made in accordance with section 1.6 of this title and submitted to the national FOIA coordinator at the following address: ARS Information Staff, Room 331B, Building 005, BARC–West, Beltsville, Maryland 20705; (301) 344–3928. The national FOIA coordinator is delegated authority to make determinations regarding such requests in accordance with § 1.3(a)(3) of this title.

§ 4100.5 Appeals.

Any person whose request is denied shall have the right to appeal such denial. Appeals shall be made in accordance with § 1.6(e) of this title and should be addressed as follows: Director, National Agricultural Library, U.S. Department of Agriculture, Beltsville, Maryland 20705.

Done at Beltsville, Maryland, this 11th day of May, 1988.

Joseph H. Howard,

Director, National Agricultural Library.

[FR Doc. 88–11162 Filed 5–18–88; 8:45 am]

BILLING CODE 3410–98–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 110, and 171

Addresses for Personal Delivery of Communications

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to indicate an additional address for the personal delivery of communications. The addition of the new address is necessitated by the relocation of the NRC's Commission-level offices to the agency's new headquarters office building in Rockville, Maryland. These amendments are being made to inform NRC licensees and members of the public of this new address.

EFFECTIVE DATE: May 19, 1988.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Director, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–492–7211.

SUPPLEMENTARY INFORMATION: On April 20, 1988 (53 FR 13036), the NRC published in the **Federal Register** a general notice announcing that as of April 11, 1988, the following components of the NRC had been relocated at the agency's new office building located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland: The five NRC Commissioners, the Office of the Secretary of the Commission, Congressional Affairs staff (of the Office of Governmental and Public Affairs), and the staff of the Office of the General Counsel who were formerly located at 1717 H Street NW., Washington, DC. These amendments indicate this relocation by adding the Rockville address to the list of addresses where personal delivery of communications may be made. The NRC is also removing the name of a former headquarters office building which has been vacated by the agency.

Because these amendments deal with the agency organization and procedures, the notice and comment provisions of the Administrative Procedure Act do not apply under 5 U.S.C. 553(b)(A). These amendments are effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date, because these amendments are of a minor and administrative nature.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

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

List of Subjects

10 CFR Part 1

Organization and functions (Government Agencies).

10 CFR Part 110

Administrative practice and procedure, Classified information, Export, Import, Incorporation by reference, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 171

Annual charges, Nuclear power plants and reactors, Penalty.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 1, 110, and 171.

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

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

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. In § 1.5, remove paragraph (a)(10), redesignate paragraph (a)(11) as paragraph (a)(10), and revise the introductory text of paragraph (a) to read as follows:

§ 1.5 Location of principal offices and Regional Offices.

(a) The principal NRC offices are located in the Washington, DC, area. Facilities for the service of process and papers are maintained within the District of Columbia at 1717 H Street NW., and in the State of Maryland at 11555 Rockville Pike, Rockville, Maryland. The mailing address for all NRC Headquarters offices is Washington, DC, 20555. The locations of NRC offices in the Washington, DC, area are as follows:

* * * * *

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

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

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

4. In § 110.30, paragraph (a) is revised to read as follows:

§ 110.30 Filing license applications.

(a) A person shall file a license application with the Assistant Director for International Security, Office of Governmental and Public Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or deliver the application in person to the Commission's Offices at 11555 Rockville Pike, Rockville, Maryland, or at 1717 H Street NW., Washington, DC.

* * * * *

PART 171—ANNUAL FEE FOR POWER REACTOR OPERATING LICENSES

5. The authority citation for Part 171 continues to read as follows:

Authority: Sec. 7601, Pub. L. 99-272, 100 Stat. 146; sec. 301, Pub. L. 92-314, 86 Stat. 222 (42 U.S.C. 2201(w)); sec. 201, 82 Stat. 1242, as amended (42 U.S.C. 5841).

6. Section 171.9 is revised to read as follows:

§ 171.9 Communications.

All communications regarding the regulations in this part should be addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Communications may be delivered in person to the Commission's Offices at 11555 Rockville Pike, Rockville, Maryland, or at 1717 H Street NW., Washington, DC.

Dated at Rockville, Maryland, this 9th day of May 1988.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 88-11213 Filed 5-18-88; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 326

Minimum Security Devices and Procedures and Bank Secrecy Act Compliance

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: The FDIC is making technical and procedural amendments, primarily to clarify that Part 326 of its regulations applies to FDIC-insured state-licensed branches of foreign banks ("insured State branches"). In addition, a recordkeeping requirement is being eliminated.

DATE: This final rule is effective on May 19, 1988.

FOR FURTHER INFORMATION CONTACT: R. Eugene Seitz, Review Examiner, Division of Bank Supervision, (202) 898-6793, or Katharine H. Haygood, Senior Attorney, Legal Division, (202) 898-3732, FDIC, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Section 1359 of the Anti-Drug Abuse Act of 1986 ("Act") amended section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818, and required the appropriate federal banking agencies to prescribe regulations requiring "insured banks" to establish and maintain procedures reasonably designed to assure and monitor compliance with the Bank Secrecy Act. The mandated regulations became effective on January 27, 1987 (52 FR 2858); the FDIC's regulations are to be found at Subpart B of 12 CFR Part 326.

The term "insured bank" covers insured branches of foreign banks. *See* 12 U.S.C. 1813(h). Notice of this coverage was made in a publication distributed to affected branches shortly after the effective date of the regulations. *See* FDIC Bank Letter 4-87 (February 26, 1987). Inadvertently, however, the term "insured state nonmember bank" was used in the regulation thereby limiting the indicated coverage of Subpart B. The correct terminology, "insured nonmember bank," which includes insured State branches, is being substituted in Subpart B.

In addition, in line with FDIC's policy to amend regulations pre-existing the International Banking Act when other changes are made to those regulations, changes are being made to Subpart A, as well as to the title, of Part 326 to clarify that it also covers insured State branches. The requirements of Subpart A, *i.e.*, Bank Protection Act requirements, are and have been applied to insured State branches as a matter of practice whenever those branches apply for deposit insurance. As a consequence, such branches have not been permitted to operate as insured branches unless they have complied with the provisions of Subpart A.

Other minor changes are being made. A change is being made at section 326.1(d) to indicate that the Northern Marianas have the same status as Guam in regard to federal banking law. *See* Pub. L. No. 94-241, Section 502, 90 Stat. 263, 268 (1976). Paragraph (b) of § 326.5 is being removed to eliminate the record identifying the law enforcement official consulted on security matters; the consultation continues to be statutorily

mandated, however. The authority citation has been amended; notably, references to 12 U.S.C. 1813, 1815, 1817 and 1818 have been added.

Since the changes are technical or procedural, the rule is being adopted as a final rule.

Regulatory Flexibility Analysis

Because no notice of proposed rulemaking is required under section 553 of the Administrative Procedure Act or any other law, the Regulatory Flexibility Act (5 U.S.C. 601–602) does not apply; similarly, a small bank impact statement is not required.

List of Subjects in 12 CFR Part 326

Banks, banking, Currency, Foreign currency, Reporting and recordkeeping requirements, Security measures.

Authority and Issuance

For the reasons set forth in the preamble, 12 CFR Part 326 is amended to read as follows:

1. The authority citation for 12 CFR Part 326 is revised to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817, 1818, 1819 [Tenth], 1881–1883; 31 U.S.C. 5311–5324.

2. The title of Part 326 is revised to read as follows:

PART 326—MINIMUM SECURITY DEVICES AND PROCEDURES AND BANK SECRECY ACT [1] COMPLIANCE

§ 326.0 [Amended]

3. Section 326.0 is amended by substituting the term "subpart" for the term "part" in the introductory paragraph and by substituting the term "insured nonmember bank" for the term "insured State nonmember bank" in paragraph (a).

4. Section 326.1 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 326.1 Definitions.

For the purposes of this subpart—

(a) The term "insured nonmember bank" means any bank, including a foreign bank having an insured branch the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act, which is not a member of the Federal Reserve System. The term does not include any institution chartered or licensed by the Comptroller of the Currency, any District bank, or any Federal savings bank.

(c) The term "banking office" includes any branch of an insured nonmember bank, and, in the case of an issued state nonmember bank, it includes the main office of that bank.

(d) The term "branch" for a bank chartered under the laws of any state of the United States includes any branch bank, branch office, branch agency, additional office, or any branch place of business located in any state of the United States, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands at which deposits are received or checks paid or money lent. In the case of a foreign bank, as defined in 12 CFR 346.1(a), the term "branch" has the meaning given in 12 CFR 346.1(d).

* * * * *

5. Section 326.2 is revised to read as follows:

§ 326.2 Designation of security officer.

Within 30 days after the issuance of federal deposit insurance, the board of directors of each insured nonmember bank [2] shall designate an officer or other employee of the bank who shall be charged, subject to supervision by the designating party or parties, with responsibility for the installation, maintenance, and operation of security devices and for the development and administration of a security program which equal or exceed the standards prescribed by this subpart.

6. Section 326.4(a) is amended by revising the first sentence to read as follows:

§ 326.4 Security procedures.

(a) *Development and administration.* Within 30 days after the issuance of federal deposit insurance, each insured nonmember bank shall develop and provide for the administration of a security program to protect each of its banking offices from robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such acts. * * *

7. Section 326.5 is amended by revising the first and second sentences of paragraph (a), by removing and reserving paragraph (b), by revising the first sentence of paragraph (c), and by adding at the end of the section the Office of Management and Budget control number to read as follows:

§ 326.5 Reports and records.

(a) *Compliance reports.* As of the last business day in June of each year, each insured nonmember bank shall complete a compliance report certifying to its compliance with the security requirements of this subpart. This report shall be signed by the president or cashier or managing officer of the bank or the managing official of an insured branch of a foreign bank and shall be retained in the bank files for a period of three years for review by Federal Deposit Insurance Corporation examiners.

(b) [Reserved]

(c) *Records of external crime.* After a robbery, burglary, or nonemployee larceny is committed or attempted at a banking office of an insured nonmember bank, the bank shall keep a record of the incident at its main office, or in the case of an insured State branch of a foreign bank, at the banking office involved.

* * * * *

(Approved by the Office of Management and Budget under control number 3064–0095)

§ 326.6 [Amended]

8. The first sentence of § 326.6 is amended by substituting "insured nonmember bank" for "insured State nonmember bank"; the second sentence of § 326.6 is amended by substituting "subpart" for "part."

§§ 326.3, 326.5, and 326.7 [Amended]

9. Sections 326.3(a) and (c), 326.5(d), and 326.7 are amended by substituting "insured nonmember bank" for "insured State nonmember bank" each time the latter term is used.

§ 326.8 [Amended]

10. Section 326.8(a) is amended by substituting "insured nonmember bank as defined in 12 CFR 326.1(a)" for "insured state nonmember bank" and by adding footnote [3] after the substituted term.

By order of the Board of Directors.

Dated at Washington, DC this 11th day of May, 1988.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 88–11192 Filed 5–18–88; 8:45 am]

BILLING CODE 16714-01-M

[1] In its original form, subchapter II of chapter 53 of Title 31, United States Code was part of Pub. L. 91–508 which requires recordkeeping for and reporting of currency transactions by banks and others and is commonly known as the "Bank Secrecy Act."

[2] The term "board of directors" includes the managing official of an insured branch of a foreign bank for purposes of 12 CFR 326.0–327.7.

[3] In regard to foreign banks, the programs and procedures required by Section 326.8 need be instituted only at an "insured branch" as defined in 12 CFR 346.1(g) which is a "State branch" as defined in 12 CFR 346.1(f).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-163-AD; Amdt. 39-5891]

Airworthiness Directives; British Aerospace Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to British Aerospace Model BAC 1-11 200 and 400 series airplanes, which requires inspection for cracks and repair or replacement, if necessary, of the aft attendant's seat support structure. This amendment is prompted by reports of cracks in the mounting brackets of the aft attendant's seat support structure below the cabin floor. This condition, if not corrected, could result in failure of the support bracket and jamming of engine controls.

DATES: Effective June 27, 1988.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Cerification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Armella Donnelly, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires inspection for cracks and repair or replacement, if necessary, of the aft attendant's seat structure on British Aerospace Model BAC 1-11 series airplanes, was published in the **Federal Register** on January 19, 1988 (53 FR 1372).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given the single comment received.

The commenter had no objection to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 70 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $2,800.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.)*, which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT 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 rule will not have a significant economic impact, positive or negative, on a substantial number of small entities becuase of the minimal cost of compliance per airplane ($40). A final evaluation has been prepared for this regulation and has been placed in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to all Model BAC 1-11 200 and 400 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent jamming of engine controls due to a failed mounting bracket of the aft attendant's seat, accomplish the following:

A. Prior to the accumulation of 12,000 landings, or within the next 350 landings after the effective date of this AD, whichever occurs later, inspect the mounting brackets of the aft attendant's seat for cracks in accordance with British Aerospace Alert Service Bulletin 53-A-PM5931, Issue No. 1, dated November 19, 1986.

1. If cracks are detected less than 1 inch in length, repair prior to further flight and continue to inspect at intervals of 350 landings, in accordance with the service bulletin.

2. If cracks exceed 1 inch in length, replace brackets prior to further flight, in accordance with the service bulletin.

3. If no cracks are found, repeat the inspections in accordance with the service bulleting at intervals not to exceed 3,600 landings.

B. Incorporation of Modification PM5931 constitutes terminating action for the requirements of this AD.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective June 27, 1988.

Issued in Seattle, Washington, on May 10, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88-11202 Filed 5-18-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ASW-45]

Revision of Transition Area; Leeville, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will revise the transition area located at Leeville, LA. The abandonment and closure of the Caillou Island Seaplane Base and the subsequent cancellation of the standard instrument approach procedure (SIAP) that was serving the seaplane base have made this revision necessary. The intended effect of this revision is to return that controlled airspace no longer required due to the abandonment and closure of the seaplane base and the cancellation of the associated SIAP.

EFFECTIVE DATE: 0901 U.t.c., July 28, 1988.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone (817) 624–5561.

SUPPLEMENTARY INFORMATION:

History

On February 12, 1988, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Leeville, LA (53 FR 6831).

Interested persons 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 that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D, dated January 1, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will revise the transition area located at Leeville, LA. The abandonment and closure of the Caillou Island Seaplane Base and the subsequent cancellation of the associated SIAP have necessitated this revision. The intended effect of this revision is to return that controlled airspace no longer required due to the abandonment and closure of the seaplane base and the cancellation of the associated SIAP.

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:

Leeville, LA [Revised]

That airspace extending upward from 700 feet above the surface within 3.5 miles each side of the Leeville VORTAC (latitude 29°10'30" N., longitude 90°06'14" W.), 275° radial extending from the VORTAC to 14 miles west of the VORTAC.

Issued in Fort Worth, TX, on May 4, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88–11198 Filed 5–18–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–ASW–38]

Revision of Transition Area; Jacksonville, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will revise the transition area located at Jacksonville, TX. A review of the existing transition area revealed that the northwest arrival extension designed for the standard instrument approach procedure (SIAP) now serving the Cherokee County Airport, Jacksonville, TX, is not properly aligned. The intended effect of this revision is to realign the northwest arrival extension of the existing transition area. The airport status of instrument flight rules (IFR) will remain unchanged.

EFFECTIVE DATE: 0901 U.t.c., July 28, 1988.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone (817) 624–5561.

SUPPLEMENTARY INFORMATION:

History

On February 12, 1988, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Jacksonville, TX (53 FR 6832).

Interested persons 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 that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D, dated January 1, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will revise the transition area located at Jacksonville, TX. A review of the existing transition area revealed that the current northwest arrival extension is not properly aligned for the SIAP now serving the Cherokee County Airport, Jacksonville, TX, thus necessitating this revision. The intended effect of this revision is to realign the northwest arrival extension of the existing transition area. There will be no reduction of controlled airspace for aircraft executing the SIAP to the airport. The status of the airport will remain IFR.

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:

Jacksonville, TX [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Cherokee County Airport (latitude 31°52'09" N., longitude 95°13'02" W.), and within 4 miles each side of the 307° bearing of the Cherokee County NDB (latitude 31°52'12" N., longitude 95°23'55" W.), extending from the 6.5-mile radius area to 11 miles northwest of the Cherokee County Airport.

Issued in Fort Worth, TX, on May 4, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88–11199 Filed 5–18–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–ASW–53]

Removal of Transition Area; Kirbyville, TX, and Revision of Transition Area; Jasper, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will remove the transition area located at Kirbyville, TX, and will revise the transition area located at Jasper, TX. This multiple action is necessary due to the removal of the Boggy Creek and Pine Nondirectional Radio Beacons (NDB) and the subsequent cancellation of the associated standard instrument approach procedures (SIAP) to the Kirbyville and Jasper County Airports utilizing these two NDB's. The intended effect of the action is to release that controlled airspace no longer required due to the cancellation of the SIAP's. Coincident with this action, the status of the Kirbyville Airport will change from instrument flight rules (IFR) to visual flight rules (VFR).

EFFECTIVE DATE: 0901 U.t.c., July 28, 1988.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone (817) 624–5561.

SUPPLEMENTARY INFORMATION:

History

On February 24, 1988, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by removing the transition area located at Kirbyville, TX, and revising the transition area located at Jasper, TX (53 FR 7376).

Interested persons 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 that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D, dated January 1, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will remove the transition area located at Kirbyville, TX, and will revise the transition area located at Jasper, TX. The removal of the Boggy Creek and Pine NDB's and the subsequent cancellation of the SIAP's serving both the Kirbyville and Jasper County Airports utilizing these NDB's have necessitated this multiple action. The intended effect of this multiple action is to return that controlled airspace no longer required due to the cancellation of the SIAP's and provide adequate controlled airspace for aircraft executing the NDB RWY 18 SIAP to the Jasper County Airport. Coincident with this action, the status of the Kirbyville Airport will change from IFR to VFR.

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:

Kirbyville, TX [Removed]

3. Section 71.181 is amended as follows:

Jasper, TX [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Jasper County Airport (latitude 30°53'32" N., longitude 94°02'03" W.), within 3.5 miles each side of the 360° bearing from the Jasper NDB (latitude 30°57'16" N., longitude 94°02'00" W.), extending from the 5-mile radius area to 11.5 miles north of the Jasper NDB.

Issued in Fort Worth, TX, on May 4, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88–11196 Filed 5–18–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–ASW–54]

Revision of Transition Area: Albuquerque, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will revise

the transition area located at Albuquerque, NM. The closure of the Alameda Airport, resulting in the cancellation of the VORTAC–A standard instrument approach procedure (SIAP) to the Alameda Airport, and the development of a new ILS RWY 22 SIAP to the Double Eagle Airport have made this revision necessary. The intended effect of this revision is to return that controlled airspace no longer required due to the cancellation of the SIAP serving the Alameda Airport and provide adequate controlled airspace for aircraft executing the new SIAP serving the Double Eagle Airport. Coincident with this action, the status of the Alameda Airport will change for instrument flight rules (IFR) to visual flight rules (VFR), and the status of the Double Eagle Airport will change from VFR to IFR.

EFFECTIVE DATE: 0901 UTC, July 28, 1988.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone (817) 624–5561.

SUPPLEMENTARY INFORMATION:

History

On February 24, 1988, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Albuquerque, NM (53 FR 7375).

Interested persons 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 that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D, dated January 1, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will revise the transition area located at Albuquerque, NM. The closure of the Alameda Airport, resulting in the cancellation of the VORTAC–A SIAP to the airport, and the opening of the Double Eagle Airport with the development of a new ILS RWY 22 SIAP to this airport have necessitated this revision. The intended effect of this revision is to return that controlled airspace no longer required due to the cancellation of the VORTAC–A SIAP to the Alameda Airport and provide adequate controlled airspace for aircraft executing the new ILS RWY 22 SIAP serving the Double Eagle Airport. Coincident with this action is the changing of the status of the Alameda Airport from IFR to VFR and the Double Eagle Airport from VFR to IFR.

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:

Albuquerque, NM [Revised]

That airspace extending upward from 700 feet above the surface within a 14-mile radius of the Albuquerque International Airport (latitude 35°02'30" N., longitude 106°36'23" W.) and within an 11.5-mile radius of the Double Eagle Airport (latitude 35°08'42" N., longitude 106°47'41" W.).

Issued in Fort Worth, TX, on May 4, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88–11200 Filed 5–18–88; 8:45 am]

BILLING CODE 4910–13–M

Office of the Secretary

14 CFR Parts 215, 298, and 389

[OST Docket No. 44684; Amendment No. 215–7; 298–32; 389–36]

Use and Change of Names of Air Carriers, Foreign Air Carriers, and Commuter Air Carriers

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department of Transportation is making final its proposal in Notice 87–3 to reissue its rules for the use and change of names by airlines. The final rule replaces detailed requirements with a simple name registration provision. Airlines are required under this rule to notify other airlines with similar names. The rule encourages carriers to resolve potential problems in the use of names among themselves without unnecessary government intervention and it decreases the filing fee for changes of name. The rule will now apply to commuter air carriers. The Department retains its authority to take enforcement action, when necessary, against unfair and deceptive practices in the use of names.

EFFECTIVE DATE: June 20, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia Szrom, Chief, Air Carrier Fitness Division (202–366–9721) or Joseph Brooks (202–366–9349).

SUPPLEMENTARY INFORMATION: On February 25, 1987, the Department issued a Notice of Proposed Rulemaking (NPRM), 52 FR 5547, in which we proposed amending Part 215 of our regulations (14 CFR Part 215) by deleting those portions that set detailed rules and standards for applications by carriers to change or use names different from those on their operating authorizations. The NPRM proposed replacing the detailed rules with a less complex and burdensome name registration system.

After reviewing the comments received in response to our NPRM, we have decided to make final our proposal to amend Part 215, with one clarification. This approach will simplify and focus the Department's role in determining whether the prospective use of a particular name may cause significant potential for or actual public confusion. The present rule gives no encouragement to air carriers to resolve potential problems among themselves without government regulatory intervention and to use the mechanisms already available to them to register

names and trademarks. We also believe that portions of the rule are duplicative and unnecessary and do not properly reflect the spirit of deregulation. The Department, of course, retains its ability to take enforcement action where there is significant potential for or actual consumer harm in the use of an air carrier name.

The Department received four comments to the NPRM. Three of the commenters were air carriers and one was an association of commuter air carriers. Orion Air and Tower Air, filing nearly identical comments, believed that the proposed rule would not lessen the regulatory burden on either the applicant or the Department because of a potential increase in enforcement complaints, and that the planned use by a new applicant of a name similar to an existing carrier should be a matter of grave concern in the Department's fitness determination. Gulf Air, Inc., the other air carrier commenter, urged the Department to reconsider the proposal to alter the current air carrier name change regulations because many air carriers had relied on the present system, and did not register their names and trademarks with the Patent and Trademark Office. If the Department adopted its proposed rule, Gulf Air believes that there would be a "mass scramble" to protect names and to use other names, causing public and FAA confusion. The Regional Airline Association (RAA), an association of commuter air carriers, requested that the Department exclude commuter air carriers from the amendments to the rule because it believes that the new rule will increase the paperwork for commuter air carriers.

Contrary to the views of Orion Air and Tower Air, the Department is convinced that the proposed amendments to Part 215 will lessen the regulatory burden on both the industry and the Department. Part 215 was adopted in 1963, during a period of strict economic regulation of the aviation industry. Economic regulation of the industry has now been substantially reduced, and air carriers have operated in a deregulated, pro-competitive environment for almost 10 years. The propose amendments to Part 215 reflect the changes that have occurred in the aviation industry concerning this issue since deregulation. Part 215 has functioned, in fact, as an adjunct to the licensing function, not as a surrogate for enforcement action, as Orion and Tower believe. There have been few enforcement cases involving the use of similar names. In fact, over the last four years, some carriers have gone to court to stop such practices. Others, however, have tried to convert licensing proceedings into enforcement cases or to use those proceedings in lieu of lawsuits in the civil courts. Our revised rule will stop this use of an inapporpriate forum. With respect to Orion's and Tower's concerns about carrier fitness, we will continue to review an applicant's compliance disposition in establishing whether a carrier is fit to operate. That review, however, will not be a substitute for either enforcement action or court proceedings where such action would clearly be more appropriate.

On the other hand, the Department agrees with Gulf Air, Inc.'s comment that air carriers have built up substantial goodwill in their names and that this goodwill is a valuable business asset. However, the Department does not support the position that it is our responsibility to protect the business assets of the carriers we regulate. We believe that Gulf Air's comment is strong support for our decision to amend Part 215 as we have proposed. Air carriers should register their trade names and trademarks under the Lanham Act (14 U.S.C. 1050–1127) for protection of that asset. The Patent and Trademark Office of the Department of Commerce, administers the Lanham Act, which protects and ensures the proper use of registered trade names and trademarks. If carriers register their names under the Lanham Act, we believe that they will have much greater protection for the goodwill encompassed in their names. Some carriers have done so and have been aggressive in protecting their names and trademarks in court.

We disagree with Gulf, also, about the potential for confusion after this rule is adopted while air carriers move to register their names. If actual consumer harm occurs or appears significantly likely, we retain our authority to institute enforcement action.

The RAA asked the Department to exclude commuter air carriers from the proposed amendments to Part 215. Although Part 215 does not now apply to commuter carriers, the same name similarity issues arise with these carriers as with carries operating large aircraft. Under the final rule, the Department will treat commuter air carriers the same as other air carriers in this area. We believe that equality of treatment in this matter is necessary. The only additional burden that the rule imposes on commuters is that they will have to notify any other air carrier of the intention to use a name similar to that carrier's. In the long run, commuters should be benefitted by this provision, which should assist in resolving any disputes before a commuter makes any large investment in marketing a new name. The commuter industry is a growing and important segment of our air transportation system. With respect to its business assets and potential consumer harm from its actions, it should be treated as such.

Finally, in the NPRM we stated that air carriers could use the courts to protect their names and trademarks. We also stated that enforcement actions could still be brought by the Department under section 411 of the Federal Aviation Act to protect the public from unfair or deceptive practices or unfair methods of competition in air transportation that involved similar carrier names. Most of the commenters expressed some doubt about the likelihood of the Department bringing a section 411 action against an air carrier in such circumstances. In that regard, Gulf Air requested that, at the very least, the Department should forbid registrations of names identical to those already covered under existing certificates.

The Department will not go so far as to forbid registrations of names identical to those already issued. In fact, this is routinely done for code-sharing carriers. However, we will state that, in other cases, a carrier who uses a name that is identical to one already known to be in use, as opposed to nearly identical or similar, will be subjecting itself to a possible section 411 action for unfair or deceptive practices, as well, as of course, to potential private law suits.

The Department is making one clarification to the proposed rule. In § 215.3, we have added a sentence to clarify the unchanging requirement that a carrier must not operate using a name that has not been acknowledged by the Department as a registered name on the carrier's operating authority.

For the reasons stated in the NPRM and above, we are thus adopting our proposed rule as final.

Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act of 1980

This action has been reviewed under Executive Order 12291, and it has been determined that this rule is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State or local governments, agencies, or geographic regions.

Furthermore, this rule will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

Also, the rule is not significant under the Department's Regulatory Policies and Procedures, dated February 26, 1979. It involves the elimination of unnecessary procedural requirements and government intervention. The economic impact of this rule has been found to be so minimal that further evaluation is unnecessary. The rule reduces administrative burden on the applicants, carriers, and the Federal government.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule has no federalism implication that warrants the preparation of a Federalism Assessment.

I certify that this rule will not have a significant economic impact on a substantial number of small entities. It will have no impact on the environment. The reporting and paperwork requirements of this rule subject to the Paperwork Reduction Act have been approved by the Office of Management and Budget under control number 3024–006.

List of Subjects

14 CFR Part 215

Air Carriers, Foreign air carriers, Trade names.

14 CFR Part 298

Air taxis, Alaska, Antitrust, Consumer protection, Insurance, Reporting and recordkeeping requirements.

14 CFR Part 389

Archives and records.

Accordingly, the Department amends 14 CFR Parts 215, 298 and 389 as follows:

1. Part 215 is revised to read as follows:

PART 215—USE AND CHANGE OF NAMES OF AIR CARRIERS, FOREIGN AIR CARRIERS AND COMMUTER AIR CARRIERS

Sec.

Authority: 49 U.S.C. 1301, 1324, 1371, 1372, 1381, 1386, 1387.

§ 215.1 Applicability.

This part applies to all certified air carriers, commuter air carriers, and foreign direct air carriers and to initial or amended applications for authority, applications for certificate or permit transfers or reissuances, and registration of business names.

§ 215.2 Purpose.

This part sets rules under which direct air carriers may use the names in their operating authorizations and change those names. It further provides for notification to air carriers that may be affected by the use by other air carriers of the same or similar names. Its purpose is to place the responsibility for resolving private disputes about the use of similar names with the air carriers involved, through recourse to the trade names statutes and the courts. These rules do not preclude Department intervention or enforcement action should there be evidence of a significant potential for, or of actual, public confusion.

§ 215.3 Use of name.

In holding out to the public and in performing air transportation services, a direct air carrier or foreign direct air carrier subject to this part shall use only the name in which its operating authorization is issued or trade name is registered, and shall not operate or hold out to the public in a name not acknowledged by the Department to be so registered. Except as provided in §§ 221.21(j) and 221.35(d) of this chapter, minor variations in the use of this name, including abbreviations, contractions, initial letters, or other variations of the name that are identifiable with the authorized name, are permitted. Slogans and service marks shall not be considered names for the purpose of this part, and their use is not restricted.

§ 215.4 Change of name or use of trade name.

(a) *Registrations.* Any air carrier subject to this part that desires to change the name in which its operating authorization has been issued, or to use a trade name, or to obtain initial operating authority must register the name with the Department. The Department will construe any application for initial, reissued, or transferred authority, a well as any commuter air carrier registration or amendment filed under Part 298, as containing a "registration" of the intended name. A separate name registration document need not be filed. A carrier registering use of a trade name, without seeking reissuance of its underlying certificate or foreign air carrier permit or exemption authority, must file a statement that complies with §§ 302.3 and 302.4 of this chapter registering its intended name with the Air Carrier Fitness Division if it is a U.S. certificated or commuter carrier, or within the Licensing Division if it is a foreign air carrier.

(b) *Montreal Agreement.* Each registration under this section shall be accompanied by three copies of a counterpart to the Montreal Agreement (Agreement 18900) (OST Form 4523) signed by the carrier using the proposed name. Upon arrival of the application, the Department will place a copy of the signed OST form 4523 in Docket 17325.

(Reporting and recordkeeping requirements in paragraph (b) were approved by the Office of Management and Budget under control number 3024–0064.)

§ 215.5 Procedure in case of similarity of names.

The Department will compare the proposed name in any registration filed under this part or in an application for new, reissued, or transferred authority with a list of names used by existing certificated, commuter and foreign direct air carriers. The Department will notify the applicant of any other certificated, foreign or commuter carriers that may have an identical or similar name. The registrant must then notify those carriers of its registration. The notification will identify the applicant and state its proposed name or the name requested, area of operation or proposed area of operation, type of business, and other pertinent matters. The registrant must then file a certificate of service of the notification with the Department.

§ 215.6 Acknowledgment of registration.

After completion of the filing and notification requirements of this part, the Department may acknowledge the registration by notice in the action granting the application for initial operating authority, transfer, or reissuance or in approving the commuter registration, or by separate notice in the case of use of a trade name. Non-action under this provision shall not be construed as an adjudication of any rights or liabilities.

PART 298—EXEMPTIONS FOR AIR TAXI OPERATIONS

2. The authority citation for Part 298 continues to read as follows:

Authority: Secs. 101(3), 204, 401, 404, 407, 416, 418, 419, Pub. L. 85–726, as amended, 72 Stat. 737, 743, 754, 760, 766, 771, 91 Stat. 1284, 92 Stat. 1732; 49 U.S.C. 1301, 1324, 1371, 1374, 1377, 1386, 1388, 1389.

3. Section 298.36 is amended by revising paragraph (a) as follows:

§ 298.36 Limitation on use of business name.

(a) An Air taxi operator in holding out to the public and in performing its services in air transportation shall do so only in the name or names in which its air carrier operating certificate is issued pursuant to section 604 of the Act by the Federal Aviation Administration, and in which it is registered with the Department under this part.

* * * * *

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

4. The authority citation for Part 389 continues to read as follows:

Authority: Secs. 204, 1802, Pub. L. 85-726, as amended, 72 Stat 743, 797; 49 U.S.C. 1324, 1502, Act of August 31, 1951, ch. 378, 85 Stat. 268; 31 U.S.C. 483a.

5. Section 389.25 is amended by revising the following fees:

§ 389.25 Schedule of processing fees.

Code	Document	
	Interstate and Overseas Air Transportation	
*	* * * *	
8	Change of Name (registration of trade name or reissuance of certificate)	56
*	* * * *	
	Foreign Air Transportation (U.S. and ____ Air Carriers)	
*	* * * *	
19	Change of Name (registration of trade name or reissuance of certificate)	56
*	* * * *	

Issued this 16th day of May 1988, at Washington, DC.

Jim Burnley,

Secretary of Transportation.

[FR Doc. 88-11212 Filed 5-18-88; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Territorial and International Affairs

15 CFR Part 303

[Docket No. 80103-8095]

Limit on Duty-Free Insular Watches in Calendar Year 1988

AGENCIES: Import Administration, International Trade Administration, Commerce; Office of Territorial and International Affairs, Interior.

ACTION: Final rule.

SUMMARY: Pursuant to Pub. L. 97-446, the Departments of the Interior and Commerce (the Departments) share responsibility for establishing a limit on the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Departments to establish the shares of this limited quantity which may be entered from the three insular possessions of the U.S. and the Northern Mariana Islands (NMI). This action establishes the total quantity of duty-free insular watches and watch movements for 1988 at 6,700,000 units and divides this amount among the three insular possessions of the United States and the NMI. We have done this by amending 15 CFR 303.14(e), which now permits a total of 6,000,000 units distributed among the three insular possessions and the NMI.

EFFECTIVE DATE: May 19, 1988.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 377-1660.

SUPPLEMENTARY INFORMATION: We published these revisions in proposed form on April 25, 1988 (53 FR 13414) and invited comments. We received one late comment concurring with the proposed changes.

Accordingly, the Departments are establishing for calendar year 1988 a total quantity and respective territorial shares as shown in the following table:

Virgin Islands	4,700,000
Guam	1,000,000
American Samoa	500,000
Northern Mariana Islands	500,000
Total	6,700,000

We find that it is in the public interest to make this rule effective immediately for the following reasons: (1) The existing amount of the duty-exemption for the Virgin Islands is 4,000,000 units. (2) The total allocations to be made to existing firms under this rule exceed 4,000,000 units. Thus, this rule relieves a restriction and is exempt from the delayed effectiveness requirement of the Administrative Procedure Act, 5 U.S.C. 553(d)(1).

Classification

Executive Order 12291

In accordance with Executive Order 12291 (46 FR 13193, February 19, 1981), the Departments of Commerce and the Interior have determined that this rule does not constitute a "major rule" as defined by section 1(b) of the Order. It is not likely to result in:

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

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

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

Therefore, preparation of a Regulatory Impact Analysis is not required.

This regulation was submitted to the Office of Management and Budget for review, as required by Executive Order 12291.

This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities. Fewer than ten entities are directly affected by this action. The commercial benefits of the program governed by these regulations, for entities both directly and indirectly affected, are less than $10 million per year.

Paperwork Reduction Act. This rule does not contain information collection requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 15 CFR Part 303

Imports, Customs duties and inspection, Watches and jewelry, Marketing quotas, Administrative practice and procedure, Reporting and recordkeeping requirements, American Samoa, Guam, Virgin Islands, Northern Mariana Islands.

For reasons set forth above, we amend 15 CFR Part 303 as follows:

PART 303—[AMENDED]

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

Authority: Pub. L. 97–446, 96 Stat. 2329, 2331 (19 U.S.C. 1202 note); Pub. L. 94–241, 90 Stat. 263 (48 U.S.C. 1681, note).

2. Section 303.14 is amended by revising paragraph (e) to read as follows:

§ 303.14 Allocation factors and miscellaneous provisions.

* * * * *

(e) Territorial shares. The shares of the total duty exemption are 4,700,000 for the Virgin Islands, 1,000,000 for Guam, 500,000 for American Samoa, and 500,000 for the Northern Mariana Islands.

Joseph A. Spetrini,

Deputy to the Deputy Assistant Secretary for Import Administration.

Mark Hayward,

Deputy Assistant Secretary for Territorial and International Affairs.

[FR Doc. 88–11276 Filed 5–18–88; 8:45 am]

BILLING CODE 3510–DS–M; 4310–93–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 86F–0419]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of an ultrafiltration membrane consisting of a sintered carbon support that is coated with zirconium oxide containing up to 12 percent yttrium oxide. This action responds to a petition filed by Societe De Fabrication D'Elements Catalytiques.

DATES: Effective May 19, 1988; objections by June 20, 1988.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 21, 1986 (51 FR 42140), FDA announced that a petition (FAP 6B3950) had been filed by Societe De Fabrication D'Elements Catalytiques, Boite Postale No. 201, 84500, Bollene, France, proposing that the food additive regulations be amended to provide for the safe use of zirconium oxide with yttrium oxide supported by amorphous carbon as an ultrafiltration membrane for use in food processing.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that § 177.2910 (21 CFR 177.2910) should be amended as set forth below. The agency is making certain editorial changes in the regulation to reflect the listing of this type of ultrafiltration membrane.

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

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before June 20, 1988, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore under the Federal Food, Drug and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 177.2910 is amended by revising the text of the introductory paragraph, by redesignating paragraph (a) as (a)(1) and revising it, and by adding new paragraph (a)(2) to read as follows:

§ 177.2910 Ultra-filtration membranes.

Ultra-filtration membranes identified in paragraphs (a)(1) and (a)(2) of this section may be safely used in the processing of food, under the following prescribed conditions:

(a)(1) Ultra-filtration membranes that consist of paper impregnated with cured phenol-formaldehyde resin, which is used as a support and is coated with a vinyl chloride-acrylonitrile copolymer.

(2) Ultra-filtration membranes that consist of a sintered carbon support that is coated with zirconium oxide (CAS Reg. No. 1314–23–4) containing up to 12 percent yttrium oxide (CAS Reg. No. 1314–36–9).

* * * * *

Dated: May 6, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88–11190 Filed 5–18–88; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8203]

Income Tax; Taxable Years Beginning After December 31, 1953; Registration Requirements With Respect to Certain Debt Obligations; Sanctions on Issuers of Registration-Required Obligations Not In Registered Form

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to registration requirements with respect to certain debt obligations and sanctions on issuers of registration required obligations not in registered form. These regulations affect issuers of obligations held by foreign persons and issuers of certain other obligations. These final regulations provide the public with guidance necessary to comply with the Tax Equity and Fiscal Responsibility Act of 1982.

DATE: The regulations under § 1.163–5(c)(2)(i) generally apply to obligations issued after December 31, 1982. The regulations under § 1.163–5(c)(2)(i)(B) (foreign targeting rules) generally apply to obligations issued after June 20, 1988. The change in § 1.163.5(c)(3) to the effective date of § 1.163–5T(c)(3) applies with respect to an obligation issued after December 31, 1982 and on or before January 20, 1987.

FOR FURTHER INFORMATION CONTACT: Carl M. Cooper of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (attention: CC:LR:T) or telephone 202–566–3388 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Section 1.163–5 was issued as T.D. 8110 and was published in the **Federal Register** at 51 FR 45453 on December 19, 1986. Section 1.163–5(c)(2)(i) provides, among other things, that an exchange of one obligation for another is considered an original issuance if and only if the exchange constitutes a disposition of property for purposes of section 1001 of the Code. Generally, the assumption of an outstanding obligation by a new obligor constitutes a disposition of property for purposes of section 1001 of the Code, because a change in obligor is a change in a material term of the obligation. Thus, the assumption of an obligation would be considered an original issuance under § 1.163.5(c)(2)(i) of the regulations. It has been suggested that compliance with the requirements of § 1.163–5(c)(2)(i) imposes a difficult burden upon the assumption of an obligation which was previously in compliance with those requirements if the assumption involves a change in obligor alone with no other changes in the terms of the obligation.

In the preamble to the final regulations under § 1.163–5(c), the Treasury Department stated that it does not have the authority to permit the offer, sale, or delivery of bearer obligations inside the United States in connection with their original issuance. Accordingly, the regulations should have required that a bearer obligation be delivered outside the United States in order for the issuer of the obligation to meet the test of arrangements reasonably designed to ensure sale only to persons who are not United States persons. The requirement of delivery outside the United States was not, however, included in the text of § 1.163–5(c)(2)(i)(B).

Section 1.163–5(c)(3) requires a certification under § 5f.163–1(c)(2)(i)(B)(4) if the taxpayer chooses to apply the rules of § 1.163–5(c) with respect to an obligation issued after January 31, 1982 and on or before January 20, 1987. The reference to § 5f.163–1(c)(2)(i)(B)(4) is incorrect. The correct citation is § 1.163–5T(c)(2)(i)(B)(4).

Explanation of Provisions

Section 1.163–5(c)(2)(i) of these regulations provides an exception from the general rule that an exchange of one obligation for another is considered an original issuance if and only if the exchange constitutes a disposition of property for purposes of section 1001 of the Code. Under this exception, a change in obligor alone, provided that there are no changes in the terms of the obligation, will not be considered a new issuance. Accordingly, in such a case an obligation which previously met the requirements of § 1.163–5(c)(2)(i) before such a change in obligor, would not have to requalify under § 1.163–5(c)(2)(i) after such a change in obligor.

Section 1.163–5(c)(2)(i)(B) provides that a bearer obligation can be delivered only outside the United States under the second test of arrangements reasonably designed to ensure sale (or resale in connection with the original issue) only to a person who is not a United States person. The second test of arrangements reasonably designed applied to an obligation that is registered under the Securities Act of 1933, that is exempt from registration under section 3 or 4 of such Act, or that is not a security.

Section 1.163–5(c)(3) of these regulations requires a certification under § 1.163–5T(c)(2)(i)(B)(4) rather than § 5f.163–5(c)(2)(i)(B)(4), an incorrect citation.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. The Internal Revenue Service has concluded that these regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations are not regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these final regulations is Carl M. Cooper of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department paticipated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.61–1 through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Adoption of Amendments to the Regulations

The following amendments to 26 CFR Part 1 are hereby adopted:

PART 1—[AMENDED]

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

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

§ 1.163–5 [Amended]

Par. 2. Section 1.163–5(c)(2)(i) introductory text is amended by adding a new sentence immediately following the second sentence thereof, to read as follows:

* * * However, an exchange of one obligation for another will not be considered a new issuance if the obligation received is identical in all respects to the obligation surrendered in exchange therefor, except that the obligor of the obligation received need not be the same obligor as the obligor of the obligation surrendered. * * *

Par. 3. Section 1.163–5(c)(2)(i)(B)(*4*) is amended by revising the first sentence thereof to read as follows:

* * * In connection with the original issuance of the obligation in bearer form it is delivered in definitive form (or issued, if the obligation is not in definitive form) to the person entitled to physical delivery thereof only outside the United States and its possessions and only upon presentation of a certificate signed by such person to the issuer, underwriter, or member of the selling group, which certificate states that the obligation is not being acquired by or on behalf of a United States person, or for offer to resell or for resale to a United States person or any person inside the United States, or, if a beneficial interest in the obligation is being acquired by a United States person, that such person is a financial institution as defined in § 1.165.12(c)(1)(v) or is acquiring through a financial institution and that the obligation is held by a financial institution that has agreed to comply with the requirements of section 165(j)(3) (A), (B), or (C) and the regulations thereunder and that is not purchasing for offer to resell or for resale inside the United States. * * *

Par. 4. Section 1.163–5(c)(3) is amended by deleting "5f.163–1(c)(2)(i)(B)(4)" and inserting in lieu thereof "1.163–5T(c)(2)(B)(*4*)".

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: April 22, 1988.

O. Donaldson Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 88–11257 Filed 5–18–88; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 1 and 35a

[T.D. 8202]

Income Taxes; Temporary Employment Tax Regulations Under the Interest and Dividend Tax Compliance Act of 1983; Registration Requirements With Respect to Certain Debt Obligations; Sanctions on Issuers of Registration-Required Obligations Not in Registered Form

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations and amended temporary regulations.

SUMMARY: This document contains temporary regulations and amendments to temporary regulations relating to registration requirements with respect to certain debt obligations, and sanctions on issuers of registration-required obligations not in registered form. These regulations affect issuers of obligations held by foreign persons and issuers of certain other obligations. These temporary regulations provide the public with guidance necessary to comply with the Tax Equity and Fiscal Responsibility Act of 1982 and the Tax Reform Act of 1984. The text of these regulations also serves as the text for a notice of proposed rulemaking published in this issue of the **Federal Register**.

DATE: The temporary regulations under § 1.163–5T(d) (pass-through certificates) generally apply to obligations issued after December 31, 1982. The temporary regulations under § 35a.9999–5(f) are deleted effective January 21, 1987.

FOR FURTHER INFORMATION CONTACT: Carl M. Cooper of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) or telephone 202–566–3388 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Section 1.163–5T(d) provides temporary regulations addressing the application of the term "registration-required obligations" to to pass-through certificates, such as mortgage pass-through certificates, and the application of the sanctions on issuers of "registration-required obligations" not in registered form to the issuers of such certificates. These temporary regulations were originally published in the **Federal Register** as T.D. 8046 at 50 FR 33522 on August 20, 1985 and were the subject of a notice of proposed rulemaking published in the **Federal Register** at 50 FR 33552. Section 1.163–5T in its entirety was removed by T.D. 8110, which was published in the **Federal Register** at 51 FR 45453 on December 19, 1986. However, it was not intended that § 1.163–5T(d) should be removed.

Paragraph (f) of § 35a.9999–5 consisting of Q&A 23 through 27 provides rules concerning the exclusion from portfolio interest of interest received by related parties. These temporary regulations were published in the **Federal Register** as T.D. 8111 on December 19, 1986 at 51 FR 45484. In Notice 87–24, 1987–9 I.R.B. 9, the Internal Revenue Service stated that pragraph (f) of § 35a.9999–5 of the temporary income tax regulations would be suspended retroactive to January 21, 1987, the date that the paragraph became effective.

Explanation of Provisions

Section 1.163–5T(d) of these temporary regulations republishes the text of former § 1.163–5T(d) (1) through (6) unchanged from the text as it was originally published (except for cross-references) in the **Federal Register** at 50 FR 33522 on August 20, 1985. These temporary regulations provide that a pass-through or participation certificate evidencing an interest in a pool of mortgage loans which under Subpart E of Subchapter J of the Code is treated as a trust of which the grantor is the owner (or similar evidence of interest in a similar pooled fund or pool trust treated as a grantor trust) ("passs-through certificate") is considered to be a "registration-required obligation" if the pass-through certificate is described in section 163 (f)(2)(A), without regard to whether any obligation held by the fund or trust to which it relates is described in section 163(f)(2)(A). Also, a pass-through certificate is considered to satisfy the requirements of section 163(f)(2)(B) if it satisfies the requirements of section 163(f)(2)(B) without regard to the status of the underlying obligations. Mortgage pass-through certificates are therefore obligations to which section 163(f)(2) (A) or (B) may apply.

These temporary regulations do not affect the determination of whether bearer obligations that are issued or guaranteed by the United States Government or backed by United States Government securities comply with the requirements of section 163(f)(2)(B) and the regulations thereunder.

Section 35a.9999–5(f) applied generally to interest paid on obligations issued after January 20, 1987. Section 35a.9999–5(f) is deleted from the temporary regulations effective January 21, 1987 and, accordingly, section 35a.9999–5(f) does not apply to interest paid on obligations issued after January 20, 1987.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive order 12291 and that a regulatory impact analysis therefore is not required. The Internal Revenue Service has concluded that the regulations adopted hereby are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations are not regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these temporary regulations is Carl M. Cooper of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.61–1 through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR 35a

Income taxes.

Adoption of Amendments to the Regulations

The following amendments to 26 CFR Part 1 are hereby adopted:

PART 1—[AMENDED]

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

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

Par. 2. Section 1.163–5T is added after § 1.163–5.

The added section reads as follows:

§ 1.163–5T Denial of interest deduction on certain obligations issued after December 31, 1982, unless issued in registered form (temporary).

(a)–(c) [Reserved]

(d) *Pass-through certificates.* (1) A pass-through or participation certificate evidencing an interest in a pool of mortgage loans which under Subpart E of Subchapter J of the Code is treated as a trust of which the grantor is the owner (or similar evidence of interest in a similar pooled fund or pooled trust treated as a grantor trust) ("pass-through certificate") is considered to be a "registration-required obligation" under section 163(f)(2)(A) and § 1.163–5(c) if the pass-through certificate is described in section 163(f)(2)(A) and § 1.163–5(c) without regard to whether any obligation held by the fund or trust to which the pass-through certificate relates is described in section 163(f)(2)(A) and § 1.163–5(c). A pass-through certificate is considered to be described in section 163(f)(2)(B) and § 1.163–5(c) if the pass-through certificate is described in section 163(f)(2)(B) and § 1.163–5(c) without regard to whether any obligation held by the fund or trust to which the pass-through certificate relates is described in section 163(f)(2)(B) and § 1.163–5(c).

(2) An obligation held by a fund or trust in which ownership interests are represented by pass-through certificates is considered to be in registered form under section 149(a) and the regulations thereunder or to be described in section 163(f)(2) (A) or (B), if the obligation held by the fund or trust is in registered form under section 149(a) and the regulations thereunder or is described in section 163(f)(2) (A) or (B), respectively, without regard to whether the pass-through certificates are so considered.

(3) For purposes of section 4701, a pass-through certificate is considered to be issued solely by the recipient of the proceeds from the issuance of the pass-through certificate (hereinafter the "sponsor"). The sponsor is therefore liable for any excise tax under section 4701 that may be imposed with reference to the principal amount of the pass-through certificate.

(4) In order to implement the purpose of section 163, § 1.163–5(c) and this section, the Commissioner may characterize a certificate or other evidence of interest in a fund or trust which under Subpart E of Subchapter J of the Code is treated as a trust of which the grantor is the owner and any obligation held by such fund or trust in accordance with the substance of the arrangement they represent and may impose the penalties provided under sections 163(f)(1) and 4701 in the appropriate amounts and on the appropriate persons. This provision may be applied, for example, where a corporation issues obligations purportedly in registered form, contributes them to a grantor trust as its only assets, and arranges for the sale to investors of bearer certificates of interest in the trust which do not meet the requirements of section 163(f)(2)(B). If this provision is applied, the obligations held by the fund or trust will not be considered to be issued in registered form or to meet the requirements of section 163(f)(2)(B). The corporation will not be allowed a deduction for the payment of interest on the obligations held by the trust, and the excise tax under section 4701, calculated with reference to the principal amount of the obligations held by the trust will be imposed on the corporation may be collected from the corporation and its agents. This paragraph (d)(4) will not be applied so as to alter the tax consequences of transactions as to which rulings have been issued by the Internal Revenue Service prior to September 19, 1985.

(5) The rules set forth in this paragraph (d) apply solely for purposes of sections 4701, 163(f)(2)(A), 163(f)(2)(B), § 1.163–5(c), and any other section that refers to this section for the definition of the term "registration-required obligation" (such as the regulations under sections 871(h) and 881(c)). The treatment of obligations described in this paragraph (d) for purposes of section 163(f)(2) (A) and (B) does not affect the determination of whether bearer obligations that are issued or guaranteed by the United States Government, a United States Government-owned agency, a United States Government sponsored enterprise (within the meaning of § 1.163–5(c)(1)) or that are backed (as described in the Treasury Department News Release R–2835 of September 10, 1984 and Treasury Department News Release R–2847 of September 14, 1984) by obligations issued by the United States Government, a United States Government-owned agency, or a United States Government sponsored enterprise comply with the requirements of section 163(f)(2)(B) and the regulations thereunder.

(6) The provisions of this paragraph (d) (1) through (5) may be illustrated by the following example:

Commercial Bank K forms a pool of 1000 residential mortgage loans, each made to a different individual homeowner, by assigning them to Commercial Bank L, an unrelated entity serving as trustee of the pool. Commercial Bank L immediately sells in a public offering certificates of interest in the trust of a maturity of 10 years in registered form. Commercial Bank L transfers the cash proceeds of the offering to Commercial Bank K. The certificates of interest in the trust are of a type offered to the public and are not described in section 163(f)(2)(B). Pursuant to paragraph (d)(1), the certificates of interest in the pool are registration-required obligations without regard to the fact that the obligations held by the trust are not registration-required obligations.

PART 35a—[AMENDED]

Par. 3. The authority for part 35a continues to read as follows:

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

§ 35a.9999–5 [Amended]

Par. 4. In 35a.9999–5, paragraph (f) is removed.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: April 22, 1988.

O. Donaldson Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 88–11259 Filed 5–18–88; 8:45 am]

BILLING CODE 4830–01–M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2201

Regulations Implementing the Freedom of Information Act

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Review Commission revises its Freedom of Information Act (FOIA) regulations to implement the provisions of the Freedom of Information Reform Act of 1986 regarding fees and fee waivers. Some changes also have been made in the Commission's procedures for responding to requests for information or access to records.

EFFECTIVE DATE: May 19, 1988.

ADDRESSES: Copies of this notice or other information may be obtained from: Linda A. Whitsett, Public Information Specialist, Occupational Safety and Health Review Commission, Room 414, 1825 K Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Linda A. Whitsett at (202) 634–7943.

SUPPLEMENTARY INFORMATION: On June 18,1987, the Commission proposed to amend its regulations implementing the Freedom of Information Act, 5 U.S.C. 552 (FOIA), as amended by the Freedom of Information Reform Act of 1986, Pub. L. 99–570, sections 1801–1804 (Reform Act). 52 FR 23185 (June 18, 1987). The Commission invited comments from the public. The Society of Professional Journalists, Sigma Delta Chi, submitted comments concerning fee charges and fee waivers under the proposed regulations. The Commission has changed some of the proposed rules in response to the comments and adopts the changed rules as final.

Analysis of Comments and of Changes

Section 2201.8(a)(2)

This proposed regulation was intended to implement the new version of 5 U.S.C. 552(a)(4)(ii)(II). That provision requires agencies to charge representatives of the news media only the cost of duplicating a requesting document, and to not charge for searching for or reviewing a document. The Society of Professional Journalists commented that "[t]he definition for a representative of the news media incorporated into this rule is vague and can be manipulated to deny [Freedom of Information Act] requests * * *." The Society's comment evidently is directed at the phrase "that supports the news dissemination function of the requester" that appears in the proposed section.

The proposed section was not intended to define the term "representative of the news media." Instead, its purpose was to make clear that a request by a representative of the news media must, to qualify for lower fees, be made for the purpose of news dissemination, rather than some commercial purpose. This qualification, which is implicit in the statute, reflects section 8(c) of the guidelines adopted by the Office of Management and Budget 52 FR 10012, 10019 (March 27, 1987). The Commission is required by the Freedom of Information Act to follow the OMB's guidance. See 5 U.S.C. 552(a)(4)(i) (second sentence). The Commission therefore adopts the proposed provision as final.

Section 2201.8(a)(3)

This proposed regulation stated that the Commission would "presume that a request is for a commercial use unless the request indicates otherwise or the requester later shows otherwise." The provision also provided that "inferences" as to the purpose of a request could be drawn from the identity of the requester, as indicated by the letterhead or the text of the request. The Society urged that the provision be deleted. It objected that there is no basis in the legislative history of the Reform Act for a presumption that a request is commercial.

Unlike other fee categories created by the Reform Act, inclusion in the "commercial use" category is determined not by the identity of the requester, but by the use to which the requester will put the information obtained. Because the identity of the requester is not dispositive for purposes of inclusion in this category, the Commission was concerned that it might not always be possible to determine from the request itself whether or not the requested information was for a "commercial use." The purpose of the proposed regulation thus was to indicate how, through the use of presumptions, the Commission would classify requests, in the event that it lacked complete information as to how a request would be used.

Upon further consideration, the Commission has decided not to include any presumptions in its final version of § 2201.8(a)(3). The Commission has had few FOIA requests. In the requests it has received, determination of whether the request is for a commercial use has not proven to be difficult. Further, the Commission has determined that, if it is not clear from the request whether the commercial use category is applicable, it is preferable for the Public Information Specialist to seek further information from the requester, rather than to apply presumptions concerning the likely use of the information. The proposed § 2201.8(a)(3) therefore has been modified so that the Public Information Specialist, if necessary, may seek additional clarification from the requester as to whether or not the "commercial use" category is applicable.

Section 2201.8(c)

This section concerns the aggregation of requests for fee assessment purposes when a requester, or a group of requesters acting in concert, breaks a request into a series of requests in an attempt to evade fees. The Society noted that the Commission's proposed rule does not include some of the language in the OMB guidelines relating to the aggregation of requests. The Society urged the Commission to incorporate in its final rule the wording of the OMB guidelines.

The Commission finds it unnecessary to adopt the OMB guidelines on aggregating requests in their entirety. Nevertheless, this section has been revised to improve its clarity and to avoid any possible implication that it is inconsistent with the OMB guidelines.

Section 2201.9

This section concerns the factors the Commission will consider in determining whether to waive FOIA fees. Under the fee waiver provision at 5 U.S.C. 552(a)(4)(A)(iii), agencies are required to furnish documents at no charge or at a reduced charge if "disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations of the government" and "disclosure is not primarily in the commercial interest of the requester." In the proposed rule, the Commission relied in part upon the factors recommended by the Department of Justice in an interpretive memorandum dated April 2, 1987. The Society vigorously opposes the use of these factors, arguing that they are "too restrictive." The Society believes that the Justice Department policy guidelines disregard the legislative history of the Reform Act and improperly require that agency officials judge the newsworthiness of the requested material.

The legislative history of the Reform Act contains apparently divergent statements concerning the waiver of fees. Senator Leahy declared that the fee waiver provision did not require the

requester to intend "to disseminate the requested information widely to the public" and that fees could be waived "even if the issue is not of interest to the public-at-large." 132 Cong. Rec. S14928 (daily ed. Sept. 30, 1986). However, Senator Hatch observed that agencies should interpret the word "public" so as to require "a breadth of benefit beyond any particularly narrow interests that might be presented." 132 Cong. Rec. S16505 (daily ed. Oct. 15, 1986). Despite these divergent views, it is clear that Congress, in enacting the legislation, contemplated that fee waivers be based upon something greater than a personal interest in the subject matter of the request. Further, it is clear that the Reform Act's amendment of the statutory language from a focus on the "general public" to simply "public understanding" indicates that the new standard for fee waivers lessens the emphasis upon the impact on the public-at-large.

The Commission, in publishing its final rule concerning fee waivers, has not attempted to establish the outer limits as to when a request will contribute to "public understanding" and therefore qualify for a fee waiver. As noted above, the Commission has received very few FOIA requests. Further, the Commission does not anticipate that, for the requests it will receive, it will be difficult for it to determine whether they will be entitled to a fee waiver. Finally, the Commission expects to receive future guidance concerning the appropriateness of fee waivers through the resolution of fee waiver issues in the Federal Courts and through its own experience and that of other agencies.

The Commission, however, has made some changes in this section in response to the Society's comments. The Commission has deleted the proposal's reference to a "large segment" of the public in recognition that Congress, in amending the fee waiver provision, was lessening the emphasis placed upon the request's impact upon the public-at-large. Some other changes have been made to improve the clarity of the section.

While in its final rule the Commission has not used the same language as the Department of Justice memorandum, the Commission nevertheless believes that in general the memorandum provides a useful outline of the statute's mandate. Thus, even though the Commission is not required by FOIA to follow the recommendations of the Department of Justice, the Commission will look to its recommendations for guidance.

List of Subjects in 29 CFR Part 2201

Freedom of information, Records.

For the reasons set forth in the Preamble, 29 CFR Part 2201 is revised to read as follows:

PART 2201—REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

Sec.

Authority: 29 U.S.C. 661(g); 5 U.S.C. 552.

§ 2201.1 Purpose of scope.

This part prescribes procedures to obtain information and records of the Occupational Safety and Health Review Commission under the Freedom of Information Act, 5 U.S.C. 552. It applies only to records or information of the Commission or in the Commission's custody. This part does not affect discovery in adversary proceedings before the Commission. Discovery is governed by the Commission's Rules of Procedure in 29 CFR Subpart 2200, Subpart D.

§ 2201.2 Description of agency.

The Occupational Safety and Health Review Commission (OSHRC or Commission) adjudicates contested enforcement actions under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651–678. The Commission decides cases after the parties are given an opportunity for a hearing. All hearings are open to the public and are conducted at a place convenient to the parties by an Administrative Law Judge. Any Commissioner may direct that a decision of a Judge be reviewed by the full Commission.

§ 2201.3 Delegation of authority.

The Public Information Specialist is delegated the authority to act upon all requests for records. In the absence of the Public Information Specialist, the Chairman or the Executive Director may designate another Commission officer or employee, such as the General Counsel or the Executive Secretary, to respond to requests. Copies of individual Commission decisions may be obtained directly from the Commission's regional offices as well as from the Public Information Specialist. See § 2201.5(a). All other information requests shall be directed to the Public Information Specialist. See § 2201.6(b).

§ 2201.4 General policy.

(a) *Non-exempt records available to public.* Except for records and information exempted from disclosure by 5 U.S.C. 553(b) or published in the Federal Register under 5 U.S.C. 552(a)(1), all records of the Commission or in its custody are available to any person who requests them in accordance with § 2201.6.

(b) *Examination of records in cases appealed to courts.* A final order of the Commission may be appealed to a United States Court of Appeals. When this occurs, the Commission may send part or all of the official case file to the court and may retain other parts of the file. Thus, a document in a case may not be available from the Commission but only from the court of appeals. In such a case, the Public Information Specialist may inform the requester that the request for a particular document should be directed to the court.

(c) *Time for examination and copying.* Records may be examined and copied, under conditions prescribed by the Public Information Specialist, between the hours of 10 a.m. and 3 p.m. on any business day so long as the examination or copying does not interfere with the hearing or disposition of a pending case.

§ 2201.5 Copies of Commission decisions.

(a) *Single decisions.* One copy of a Commission decision or decision by an Administrative Law Judge may be obtained free of copying fees by calling, writing or visiting any Commission regional office or the Public Information Specialist at the Commission's national office. A search fee may be charged, however, if the decision is not identified by name and date, or by docket number, or if it is not otherwise easily identifiable. See § 2201.8(b)(2)(i). Copying fees will be charged if more than one decision is requested and the copying cost exceeds $10. See § 2201.8 (a)(1) and (b)(1). The addresses and telephone numbers of the offices at which decisions are available are:

National Office

OSHRC, Public Information Specialist, 1825 K Street, NW., Room 414, Washington, DC 20006–1246. Telephone 202–634–7943.

Regional Offices

Atlanta, Georgia: 1365 Peachtree Street, N.E., Room 240, Atlanta, Georgia 30309–3119. Telephone 404–347–4197.

Boston, Massachusetts: John W. McCormack Post Office and Courthouse, Room 420, Boston, Massachusetts 02109–4501. Telephone 617–223–9746.

Dallas, Texas: Federal Building, Room 7B11, 1100 Commerce Street, Dallas, Texas 75242-0791. Telephone 214-767-5271.

Denver, Colorado: 1050 Seventeenth Street, Suite 1718, Denver, Colorado 80265-1701, 303-844-2281.

(b)(1) *OSAHRC Reports.* All final Commission decisions (including decisions of the Commission and its Administrative Law Judges) of general applicability, and concurring and dissenting opinions, are published in a series of microfiche entitled OSAHRC Reports. OSAHRC Reports may be purchased from the Superintendent Of Documents, U.S. Government Printing Office, Washington, DC 20402. Persons wishing to obtain copies of numerous decisions and avoid large copying charges may purchase OSAHRC Reports or subscribe to a private reporting service.

(2) *Citation form.* Decisions in the microfiche series of OSAHRC Reports are officially cited as follows: The name of the cited employer; the last two digits of the year of the decision; OSAHRC (signifying the name of the official reporter, OSAHRC Reports); the serial number of the fiche on which the decision is printed, followed by a slash mark and the coordinates on the fiche for the first page of the decision. For example, *J.W. Black Lumber Co.*, 75 OSAHRC 1/B9.

(3) *Indices.* The Commission indexes decisions in OSAHRC Reports by docket number and alphabetically by name. These indices may be purchased by contacting the Public Information Specialist.

§ 2201.6 Procedure for requesting records.

(a) *Obtaining procedural rules, press releases, hearing dates, etc.* Press releases, rules of procedure, published material other than decisions and their indices, information concerning the date, time and place of hearings, and other information of a general nature concerning operations of the Commission may be obtained free of charge by calling, writing or visiting the Public Information Specialist. See the address and telephone number in § 2201.5(a).

(b) *Other information.* Persons wishing to obtain copies of documents (including the hearing transcript) filed in a case before the Commission or one of its Judges, or any other information or record of the Commission or in its custody (except for one copy of a decision by the Commission or a Judge, and information that is freely available under paragraph (a) of this section), shall submit a request in writing to the Public Information Specialist at the address in § 2201.5(a). The request shall be clearly identified as a request for information under the Freedom of Information Act. The envelope or cover enclosing or covering the request shall have the phrase "INFORMATION REQUEST" in capital letters on it.

(c) *Date of receipt.* A request that complies with the preceding paragraph is deemed received when received by the Commission. A request that does not comply with the preceding paragraph is deemed received when it is actually received by the Public Information Specialist. If the Public Information Specialist has required advance payment or satisfactory assurance of full payment under § 2201.8(f), the request will not be deemed received until the Public Information Specialist has received the payment or assurance.

(d) *Specificity required.* Requesters shall describe the records sought with reasonable specificity.

§ 2201.7 Responses to requests.

(a) *Response within ten working days.* Except in the unusual circumstances stated in 5 U.S.C. 552(a)(6)(B) (concerning search and collection of records in separate offices, voluminous records, and consultation with another agency or another Commission office), the Public Information Specialist shall respond to a request for records or information submitted in accordance with § 2200.6 within ten working days after receipt of the request.

(b) *Content of denial.* When the Public Information Specialist denies a request, the notice of the denial shall state the reason for it and that the denial may be appealed as specified below. A refusal by the Public Information Specialist to process the request because the requester has not made an advance payment or given a satisfactory assurance of full payment required under § 2201.8(f) may be treated as a denial of the request and appealed under paragraph (c) of this section.

(c) *Appeal of denial.* A denial of a request may be appealed in writing to the Chairman of the Commission within 30 working days after the requester receives notice of the denial. The Chairman shall act on the appeal under 5 U.S.C. 552(a)(6)(ii) within 20 working days after the receipt of the appeal. If the Chairman wholly or partially upholds the denial of the request, he shall notify the requesting person that he may obtain judicial review of the Chairman's action under 5 U.S.C. 552(a)(4) (B)-(G).

§ 2201.8 Fees for copying, searching, and review.

(a) *Discretion in charging fees*—(1) *Fees required unless waived.* The Public Information Specialist shall charge the fees in paragraph (b) of this section unless the fees for a request are less than $10, in which case no fees shall be charged. The Public Information Specialist shall, however, waive the fees in the circumstances stated in § 2201.9.

(2) *News media requests deemed not commercial.* Requests made for a commercial use are generally subject to higher fees than requests from a representative of the news media. For the purpose of this section, a request from a representative of the news media that supports the news dissemination function of the requester will not be considered to be for a commercial use.

(3) *Determination of Commercial Use Request.* A commercial use request refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is made. Where the Public Information Specialist has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Public Information Specialist may seek clarification from the requester before assigning the request to a specific category for fee assessment purposes.

(b) *Types of fees*—(1) *Copying fee.* The fee per copy of each page up to 8½" × 14" shall be $.25 per copy per page. Copying fees shall not be charged for the first 100 pages of copies unless the copies are requested for a commercial use. One copy of a Commission or judge's decision will be provided free of charge. See § 2201.5(a).

(2) *Search fee.* The fee for searching for information and records shall be $10 per hour of clerical time and $20 per hour of professional time. Fees for searches of computerized records shall be the actual cost to the Commission but shall not exceed $300 per hour. This fee includes machine time and that of the operator and clerical personnel. The fee for computer printouts shall be $.40 per page. Commercial requesters shall be charged for all search time. Time spent on unsuccessful searches shall be fully charged. However, search fees shall be limited or not charged as follows:

(i) *Easily identifiable decisions.* Search fees shall not be charged for searching for decisions that the requester identifies by name and date, or by docket number, or that are otherwise easily identifiable.

(ii) *Educational, scientific or news media requests.* No fee shall be charged if the request is not for a commercial use and is by an educational or scientific institution, whose purpose is scholarly or scientific research, or by a representative of the news media.

(iii) *Other non-commercial requests.* No fee shall be charged for the first two hours of searching if the request is not for a commercial use and is not by an educational or scientific institution, or a representative of the news media.

(iv) *Requests for records about self.* No fee shall be charged to search for records filed in the Commission's systems of records if the requester is the subject of the requested records. See the Privacy Act of 1974, 5 U.S.C. 552a(f)(5) (fees to be charged only for copying).

(3) *Review fee.* A review fee shall be charged only for commercial requests. The review fee shall be charged for the initial examination of documents located in response to a request to determine if it may be withheld from disclosure, and for the excision of withholdable portions, but shall not be charged for review by the Chairman under § 2201.7(c). The review fee is $20 per hour.

(c) *Aggregation of requests.* When the Public Information Specialist reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request into a series of requests for the purpose of evading the assessment of fees, the Public Information Specialist may aggregate any such requests and charge accordingly.

(d) *Certification or authentication.* The fee for certification or authentication shall be $3 per document.

(e) *Fees likely to exceed $25.* If copying or search charges are likely to exceed $25, the Public Information Specialist shall notify the requester of the estimated amount of the charges, unless the requester has indicated in advance a willingness to pay fees as high as those anticipated. The notification shall offer the requester an opportunity to confer with the Public Information Specialist to reformulate the request to meet the requester's needs at a lower cost.

(f) *Advance Payments.* Advance payment of fees will generally not be required. If, however, charges are likely to exceed $250, the Public Information Specialist shall notify the requester of the likely cost and: if the requester has a history of prompt payment of FOIA charges, obtain satisfactory assurance of full payment; or if the requester has no history of payment, require an advance payment of an amount up to the full estimated charge. If the requester has previously failed to pay a fee within 30 days of the date of billing, the Public Information Specialist may request the requester to pay the full amount owed plus any interest owed as provided in paragraph (g) of this section or demonstrate that he has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated charges before the Public Information Specialist begins to process the new request or a pending request from that requester.

(g) *Interest on unpaid bills.* The Public Information Specialist shall begin assessing interest charges on unpaid bills starting on the thirty-first day after the date the bill was sent. The accrual of interest will be stayed when the Public Information Specialist receives a check in payment. Interest will be at the rate described in 31 U.S.C. 3717 and will accrue from the date of billing.

(h) *Debt collection procedures.* If bills are unpaid 60 days after the mailing of a written notice to the requester, the Public Information Specialist may resort to the debt collection procedures set out in the Debt Collection Act of 1982, Pub. L. 97–365, including disclosure to consumer credit reporting agencies (see 26 U.S.C. 6103) and use of collection agencies to encourage payment. See 31 U.S.C. 3718 and 3302.

§ 2201.9 Waiver of fees.

(a) *General.* The Public Information Specialist shall waive part or all of the fees assessed under § 2201.8(b) if two conditions are satisfied: Disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government; and disclosure is not primarily in the commercial interest of the requester. The Public Information Specialist shall afford the requester the opportunity to show that he comes within these two conditions. The following factors may be considered in determining whether the two conditions are satisfied:

(1) Whether the subject of the requested records concerns the operations or activities of the government;

(2) Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities;

(3) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so, whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(b) *Partial waiver of fees.* If the two conditions stated in paragraph (a) of this section are met, the Public Information Specialist will ordinarily waive all fees. In exceptional cases, however, only a partial waiver may be granted if the request for records would impose an exceptional burden or require an exceptional expenditure of Commission resources, and the request for a waiver minimally satisfies the "public interest" requirement in paragraph (a) of this section.

§ 2201.10 Maintenance of statistics.

(a) The Public Information Specialist shall maintain records of:

(1) The total amount of fees collected by this agency under this part;

(2) The number of denials of requests for records or information made under this part and the reason for each;

(3) The number of appeals from such denials, together with the results of such appeals, and the reasons for the action upon each appeal that results in a denial of information or documents;

(4) The name and title or position of each person responsible for each denial of records requested and the number of instances of participation for each;

(5) The results of each proceeding conducted under 5 U.S.C. 552(a)(4)(F), including a report of the disciplinary action against the official or employee primarily responsible for improperly withholding records, or an explanation of why disciplinary action was not taken;

(6) A copy of every rule made by this agency affecting or implementing 5 U.S.C 552;

(7) A copy of the fee schedule for copies of records and documents requested under this part; and

(8) All other information that indicates efforts to administer fully the letter and spirit of the Freedom of Information Act and the above rules.

(b) The Public Information Specialist shall annually, within 60 days following the close of each calendar year, prepare a report covering each of the categories of records to be maintained in accordance with the foregoing and submit the same to the Speaker of the House of Representatives and the President of the Senate for referral to the appropriate committees of the Congress.

E. Ross Buckley,

Chairman.

Date: May 16, 1988.

[FR Doc. 88–11203 Filed 5–18–88; 8:45 am]

BILLING CODE 7600–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-88-26]

Special Local Regulations for Blue Angels Demonstration

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Blue Angels demonstration to be held on May 23, 1988, over the waters of the Severn River from shore to shore bounded to southeast by a line drawn between Carr and Horn Points and to the northwest by the Route 450 Bridge, Annapolis, Maryland. The special local regulations will also apply during the Blue Angels practice sessions held on the previous day. The special local regulations govern vessel activities during the Blue Angels demonstration and practice session. The special local regulations are considered necessary due to the potential dangers to the waterway users under the Blue Angels flight paths, the confined nature of the waterway, and the expected spectator craft congestion during the demonstration.

EFFECTIVE DATES: These regulations are effective as follows: 11:30 a.m. to 2:30 p.m., May 22, 1988; 12:30 Noon to 4:30 p.m., May 23, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 (804) 398-6204.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations. Adherence to normal rulemaking procedures would not have been possible. The sponsor's application to hold the event was not received in sufficient time to publish a notice of proposed rulemaking, receive comments, and then publish a final rule.

Drafting Information

The drafters of there regulations are Mr. Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and Commander Robert J. Reining, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The U.S. Naval Academy is sponsoring this event, which will consist of six high performance jet aircraft flying at low altitudes in various formations over the Severn River. Federal Aviation Administration regulations require as a prerequisite to issuing permits for such demonstration that the waterway over which the aircraft will fly be closed to vessel traffic for the term of the demonstration. For this reason, the Commander, Fifth Coast Guard District, is issuing these regulations to close the Severn River to all vessel traffic during the airshow and airshow practice session. Closure of the waterway for any extended period is not anticipated, and thus commercial traffic should not be severely disrupted at any given time.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Final Regulations

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

PART 100—[AMENDED]

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

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

2. A temporary § 100.35-0526 is added to read as follows:

§ 100.35-0526 Severn River, MD.

(a) *Definitions*—(1) *Regulated Area.* The waters of the Severn River enclosed by a line drawn between Carr Point at latitude 38°58'53" North, longitude 76, longitude 76°27"48" West and Horn Point at latitude 38°58'20" North, longitude 76°28'27" West, and a line drawn along the Southeastern edge of the Route 450 Bridge.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant or petty officer who has been designated by the Commander, Group Baltimore.

(b) *Special Local Regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel, may enter or remain in the regulated area.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(A) Stop his vessel immediately upon being directed to do so by any Coast Guard commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign, and

(B) Proceed as directed by any Coast Guard commissioned, warrant or petty officer.

EFFECTIVE DATE: These regulations are effective as follows: 11:30 a.m. to 2:30 p.m., May 22, 1988; 12:30 Noon to 4:30 p.m., May 23, 1988.

Dated: May 9, 1988.

W.J. Ecker,

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

[FR Doc. 88-11250 Filed 5-18-88; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 3

Amendment of Forfeiture Regulations

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: The Veterans Administration (VA) is amending its adjudication regulations concerning forfeiture. The effect of these amendments will be to change the criteria for entitlement to an apportionment or death benefits by dependents and survivors of certain veterans who forfeited all rights to benefits because of fraud or treason, and to clarify that the $10 fee limitation applies to representation in forfeiture cases. The changes are based on opinions of the VA General Counsel.

EFFECTIVE DATE: June 20, 1988.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Chief, Regulations Staff, Compensation and Pension Service (211B), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: On pages 41644-46 of the **Federal Register** of November 18, 1986, the VA published proposed changes to the forfeiture regulations together with a proposed definition of fraud. Interested persons were given until December 17, 1986, to submit comments on the proposed amendments. As no comments were received on the proposed changes to the forfeiture regulations, the amendments are adopted as proposed, except as noted below.

Based on a review of comments received on the proposed definition of fraud, we will be separately publishing that again as a proposed rule. Because we are not publishing a final rule on the definition of fraud, we are rescinding the proposed removal of paragraph (a) of $3.901 and the proposed redesignation of the remaining paragraphs of that section.

The Administrator hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities

as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Administrator has determined that these regulatory amendments are nonmajor for the following reasons:

1. They will not have an annual effect on the economy of $100 million or more.

2. They will not cause a major increase in costs or prices.

3. They will not have 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.

(Catalog of Federal Domestic Assistance program numbers are 64.100 through 64.110.)

List of Subjects in 38 CFR Part 3

Administrative practices and procedure, Claims Handicapped, Health care, Pensions, Veterans.

Approved: April 25, 1988.

Thomas K. Turnage,

Administrator.

PART 3—[AMENDED]

38 CFR, Part 3, *Adjudication*, is amended to read:

§ 3.900 [Amended]

1. In § 3.900(d) remove the word "his" and add, in its place, the words "his or her."

2. In § 3.901, the introductory text of paragraph (c) and the last sentence of paragraph (d) are revised to read as follows:

§ 3.901 Fraud.

* * * * *

(c) *Forfeiture before September 2, 1959.* Where forfeiture for fraud was declared before September 2, 1959, in the case of a veteran entitled to disability compensation, the compensation payable except for the forfeiture may be paid to the veteran's spouse, children and parents provided the decision to apportion was authorized prior to September 2, 1959. The total amount payable will be the lesser of these amounts:

(Authority: 38 U.S.C. 3503(e))

* * * * *

(d) * * *

Where the veteran's rights have been forfeited, no part of his or her benefit may be paid to his or her dependents.

(Authority: 38 U.S.C. 3503 (a), (d), (e))

* * * * *

3. In § 3.902(b) remove the word "he" and add, in its place, the words "he or she."

4. In § 3.902 the introductory text of paragraphs (c), (c)(1) and (c)(2), and paragraph (e) are revised to read as follows:

§ 3.902 Treasonable acts.

* * * * *

(c) *Forfeiture before September 2, 1959.* Where forfeiture for treasonable acts was declared before September 2, 1959, the Administrator may pay any part of benefits so forfeited to the dependents of the person provided the decision to apportion was authorized prior to September 2, 1959, except that the amount may not be in excess of that which the dependent would be entitled to as a death benefit.

(Authority: 38 U.S.C. 3504(c))

(1) *Compensation.* Whenever a veteran entitled to disability compensation has forfeited his or her right, any part of the compensation payable except for the forfeiture may be paid to the veteran's spouse, children and parents. The total amount payable will be the lesser of these amounts:

* * * * *

(2) *Pension.* Whenever a veteran entitled to pension has forfeited his or her right, any part of the pension payable except for the forfeiture provision may be paid to the veteran's spouse and children. The total amount payable will be the lesser of these amounts:

* * * * *

(e) *Children.* A treasonable act committed by a child or children, regardless of age, who are in the surviving spouse's custody and included in an award to such person will not affect the award to the surviving spouse.

§ 3.903 [Amended]

5. In § 3.903(a)(4) remove the citation at the end which reads "(Pub. L. 92–128; 85 Stat. 347)".

6. In § 34.904, paragraph (a) and the first sentence in paragraph (b) are revised to read as follows:

§ 3.904 Effect of forfeiture after veteran's death.

(a) *Fraud.* Whenever a veteran has forfeited his or her right by reason of fraud, his or her surviving dependents upon proper application may be paid pension, compensation, or dependency and indemnity compensation, if otherwise eligible. No benefits are payable to any person who participated in the fraud causing the forfeiture.

(Authority: 38 U.S.C. 3503(c))

(b) *Treasonable acts.* Death benefits may be paid as provided in paragraph (a) of this section where forfeiture by reason of a treasonable act was declared before September 2, 1959, and such benefits were authorized prior to that date. * * *

* * * * *

7. In § 3.905 paragraphs (a) and (b), remove the words "Chief Attorney" wherever they appear and add, in their place, the words "District Counsel."

8. In § 3.905, paragraph (b)(5) is revised to read as follows:

§ 3.905 Declaration of forfeiture or remission of forfeiture.

* * * * *

(b) * * *

(5) The right to a hearing within 60 days, with representation by counsel of the person's own choosing, that fees for the representation are limited in accordance with 38 U.S.C. 3404(c) and that no expenses incurred by a claimant, counsel or witness will be paid by the VA.

* * * * *

[FR Doc. 88–11018 Filed 5–18–88; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL–3375–4]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Group III CTG Regulations and Miscellaneous Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Connecticut. These revisions require reasonably available control technology (RACT) to reduce volatile organic compound (VOC) emissions from synthetic organic chemical and polymer manufacturing equipment and from polystyrene manufacturing equipment. The revisions also include amendments clarifying VOC compliance methods for surface coating operations. The intended effect of this action is to approve regulations adopted by the State fulfill commitments

made in its fully approved ozone attainment plan in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on June 20, 1988.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Management Division, JFK Federal Building, Room 2311, Boston, MA 02203; and the Air Compliance Unit, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 565–3252; FTS 835–3252 or Lynne A. Hamjain, (617) 565–3246; FTS 835–3246.

SUPPLEMENTARY INFORMATION: On November 19, 1986 (51 FR 41810), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut. The NPR proposed to approve two new regulations developed and proposed by the State based on EPA's Group III Control Techniques Guideline (CTG) documents. The NPR also proposed to approved amendments to the existing SIP regulation regarding VOC compliance methods for surface coating operations.

The NPR indicated that certain changes to the proposed regulation were necessary for final EPA approval. As outlined below, Connecticut's formally submitted SIP revisions reflect that all of these changes were made to the regulations prior to their final adoption. The State has also made revisions pursuant to public comments received from an affected source during the State's public comment period. The rationale for approving these revisions is presented below.

1. *"Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical & Polymer Manufacturing Equipment," Subsection 22a–174–20(x).* The regulation requires a VOC leak detection and repair program to be instituted at subject facilities. In the NPR, EPA required Connecticut to include the definition of "In VOC Service," in the regulation to make it consistent with the applicable CTG document, *Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical & Polymer Manufacturing Equipment* (EPA–450/3–83–006). The State defined this term in the finally adopted regulation, and, therefore, the regulation is now fully approvable.

The State also made changes to the proposed version of this regulation pursuant to a public comment received from an affected facility. These changes add monitoring exemptions to the final version of the regulation. The final regulation does not require quarterly monitoring of safety relief valves that are isolated by a frangible disk or rupture disk; it does, however, require that these configurations be monitored annually in case the disk is improperly situated or has corroded. Additionally, the final regulation exempts canned pumps that have demonstrated compliance with 40 CFR 60.482–2 (e)(2) and (e)(3) from quarterly monitoring and visual weekly inspections. These exemptions are consistent with the New Source Performance Standard (NSPS) for this industry titled, "Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry." (40 CFR Part 60, Subpart VV.)

Final Action: EPA is approving the addition of subsection 22a–174–20(x), "Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical & Polymer Manufacturing Equipment," as a revision to the Connecicut SIP because it is consistent with the CTG document for this source category.

2. *"Manufacture of Polystyrene Resins," Subsection 22a–174–20(y).* This regulation requires all continuous polystyrene resin manufacturing facilities to comply with an emission limit of 0.12 kg of VOC/1,000 kg of product in total from the styrene condenser vent and the styrene recovery unit condenser vent. EPA finds this regulation consistent with the CTG document *Control of Volatile Organic Compounds Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins* (EPA–450/3–83–008). This regulation does not address polypropylene and high-density polyethylene manufacturers. On May 29, 1987, the Connecticut DEP submitted a letter, pursuant to an EPA request, certifying that there are no sources of these types in the State. Therefore, it is not necessary for Connecticut to adopt a regulation covering these types of facilities. If such a facility did locate in the State of Connecticut at some point in the future, it would be covered at a minimum under the NSPS entitled, "Standards of Performance for New Stationary Sources; Polypropylene, Polyethylene, Polystyrene, and Poly(ethylene terephthalate) Manufacturing Industry." (40 CFR Part 60, Subpart DDD.) This NSPS was proposed for approval by EPA on September 30, 1987 (52 FR 36678).

The DEP made one change to the proposed version of this regulation pursuant to public comments received during its public comment period. Under subdivision 22a–174–20(y)(6), "Test Methods," the State has added an emission rate equation to the finally-adopted regulation for use with EPA Reference Method 18. In the proposed version of the regulation, the emission rate equation could only be used with EPA Reference Method 25. The additional use of the emission rate equation in the final version of the regulation is approvable because the EPA-recommended test methods for this CTG category are Methods 18, 25, or 25A.

Final Action: EPA is approving the addition of subsection 22a–174–20(y), "Manufacture of Polystyrene Resins" as a revision to the Connecticut SIP because it is consistent with the CTG document for this source category.

3. *"VOC Compliance Methods," Subsection 22a–174–20(bb).* This regulation is being amended to clarify that VOC surface coating sources are required to use a capture system with a 90% collection efficiency when utilizing add-on control equipment to achieve compliance. Pursuant to a request by EPA, the State has also clarified the applicability of this regulation. In Connecticut's proposed version of the amendments, subsection 22a–174–20(bb) was inadvertently listed as applicable to the following subsections: subsection 22a–174–20(t), "Manufacture of Synthesized Pharmaceutical Products," subsection 22a–174–20(u), "Manufacture of Pneumatic Rubber Tires," and subsection 22a–174–20(v), "Graphic Arts Rotogravers and Flexography." These regulations already contain capture and control efficiency requirements within them. The State has removed these subsections from the applicability paragraph of subsection 22a–174–20(bb) in the final by adopted version of the amendments to this regulation.

Final Action: EPA is approving revisions to subsection 22a–174–20(bb), "VOC Compliance Methods," of the Connecticut SIP.

Additionally, the Connecticut DEP submitted a letter to EPA on July 3, 1986 clarifying the testing requirements in section 22a–174–5 "Methods for Sampling Emission Testing, and Reporting." of its regulations. In this letter, the DEP commits to requiring only EPA-approved test methods when requiring emission testing of sources of VOC emissions. This letter has been provided to EPA to clarify the DEP's implementation of section 22a–174–5.

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 July 18, 1988. This action may not be challenged later in the proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Date: May 1, 1988.

Lee M. Thomas,

Administrator.

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

PART 52—[AMENDED]

Subpart H—Connecticut

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.370 is amended by adding paragraph (c)(38) as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(38) Revisions to the State Implementation Plan were submitted by the Connecticut Department of Environmental Protection (DEP) on April 14, 1987.

(i) *Incorporation by reference.* (A) Letter dated April 14, 1987 from the Connecticut Department of Environmental Protection submitting revisions to the State Implementation Plan for EPA approval.

(B) Letter dated April 1, 1987 from the Secretary of State of Connecticut to EPA.

(C) Section 22a–174–20(x) of Connecticut's Regulations for the Abatement of Air Pollution titled, "Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical & Polymer Manufacturing Equipment," effective April 1, 1987.

(D) Section 22a–174–20(y) of Connecticut's Regulations for the Abatement of Air Pollution titled, "Manufacture of Polystyrene Resins," effective April 1, 1987.

(E) Amendments to subsection 22a–174–20(bb) of Connecticut's Regulations for the Abatement of Air Pollution titled, "Compliance Methods," effective April 1, 1987.

(ii) *Additional materials.* (A) Letter from the Connecticut DEP dated July 3, 1986 committing the Connecticut DEP to use only EPA approved test methods when requiring the testing of sources emitting volatile organic compound emissions.

(B) Letter from the Connecticut DEP dated May 29, 1987 certifying that there are no polypropylene or high-density polyethylene manufacturers in the State of Connecticut.

3. Section 52.375 is amended by adding paragraph (d) as follows:

§ 52.375 Certification of no sources.

* * * * *

(d) Manufacturers of High-density Polyethylene and Polypropylene Resins.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 421

[BPO–057–F]

Medicare Program; Assignment and Reassignment of Provider-Based Home Health Agencies and Hospices To Designated Regional Intermediaries

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

ACTION: Final rule.

SUMMARY: We are modifying Medicare regulations to assign provider-based home health agencies, provider-based hospices and all new freestanding hospices to regional intermediaries designated by HCFA.

EFFECTIVE DATE: These regulations are effective June 20, 1988.

FOR FURTHER INFORMATION CONTACT: Norman Fairhurst: Regarding transition issues, (301) 594–9498; Toba M. Winston: Regarding intermediary designation (301) 597–0471.

SUPPLEMENTARY INFORMATION:

I. Background

A. General

In the Medicare program, in general, intermediaries under contract with HCFA are responsible for making payment to providers of services for the covered services they furnish to Medicare beneficiaries.

Section 1816 of the Social Security Act permits any group or association of providers to nominate an intermediary to determine the proper amount of reimbursement and to make that reimbursement. As amended in 1977, this section authorized the Secretary to assign and reassign providers that had nominated intermediaries to other intermediaries, and to designate regional or national intermediaries for a class or classes of providers, if he determines that to do so would result in the more effective and efficient administration of the program (section 1816(e) of the Act).

B. Home Health Agencies

1. Background

Section 1816(e)(4) of the Act requires the Secretary to assign home health agencies to designated regional intermediaries, except that he may assign a home health agency (HHA) that is a subdivision of a hospital (and that agency and hospital are affiliated or under common control) only if, after applying criteria relating to administrative efficiency and effectiveness as he has promulgated, he determines that to do so would result in more effective and efficient administration of the Medicare program.

To implement the provisions of section 1816(e)(4) of the Act, we amended our regulations (42 CFR 421.117) to require that all freestanding HHAs served by a nominated intermediary be served instead by a regional intermediary designated by HCFA (47 FR 38535, September 1, 1982). At that time, in the preamble to those amendments, we defined "regional" as meaning "State" and we designated one intermediary to serve freestanding HHAs in each State. We also amended our regulations (42 CFR 421.103) concerning providers' options to elect to receive payments directly from HCFA rather than through an intermediary (49 FR 3638, January 30, 1984). These regulations clarified our authority to contract out the workload of HHAs that dealt directly with us instead of through intermediaries. Effective February 29, 1984, we required the direct dealing freestanding HHAs to receive payments from the designated regional intermediaries. In addition, we made available to HHAs the option of requesting an alternative designated intermediary if the HHA could demonstrate that such an arrangement would be consistent with the effective and efficient administration of the Medicare program. (42 CFR 421.117 (e), (f) and (g), 47 FR 3660, January 30, 1984).

As a result of these revisions, all freestanding HHAs were assigned to designated regional intermediaries. Provider-based HHAs were not affected by these revisions and continued to be served by the intermediaries serving the parent providers.

In 1984, Congress amended section 1816(e)(4) of the Act (section 2326 of Pub. L. 98-369) to require that, by not later than July 1, 1987, HCFA reduce the number of designated regional home health intermediaries to not more than ten. Accordingly, on February 13, 1986, we published a final notice designating ten regional intermediaries to serve freestanding home health agencies (51 FR 5403).

(See below for a listing of the designated intermediaries and their service areas.)

2. Proposed Rule Related to HHAs

On January 22, 1987, we published a proposed rule announcing our intent to assign provider-based HHAs to the same intermediaries designated for freestanding HHAs (52 FR 2424).

With respect to a hospital-based HHAs, section 1816(e)(4) of the Act states that the Secretary shall assign hospital-based HHAs to designated intermediaries only if, after applying criteria relating to administrative efficiency and effectiveness as the Secretary may promulgate, it is determined that such assignment would result in the more effective and efficient administration of the Medicare program. We proposed to modify 42 CFR 421.117 to establish criteria that are applicable to this issue and determined, based on the application of the criteria listed and discussed below, that the assignment of hospital-based HHAs to designated regional intermediaries could be expected to result in more effective and efficient administration of the program. Additionally, although not required to do so, we also determined based on the application of these criteria, that the assignment of HHAs that are based in a Medicare provider other than a hospital (e.g., based in a Medicare skilled nursing facility) could also be expected to result in more effective and efficient administration of the program.

The six specific criteria we used to determine whether to assign provider-based HHAs to the ten regional intermediaries are as follows:

a. Uniform interpretation of Medicare rules—Assignment of provider-based HHAs to designated regional intermediaries must facilitate uniformity in interpreting Medicare rules.

b. Expertise in bill processing—Assignment of provider-based HHAs to designated regional intermediaries must ensure that HHA bills are processed by an intermediary with expertise in processing and adjudicating home health bills.

c. Control of administrative costs—Assignment of provider-based HHAs to designated intermediaries must have the potential to reduce administrative costs.

d. Ease of communication with HHAs—Assignment of provider-based HHAs to designated regional intermediaries must facilitate communication of program policy and issues.

e. Ease of data collection—Assignment of provider-based HHAs to designated regional intermediaries must facilitate data collection.

f. Ease of HCFA monitoring of intermediary performance—Assignment of provider-based HHAs to designated regional intermediaries must facilitate HCFA's monitoring of intermediary performance.

We also proposed that the Secretary could use other criteria he believes to be pertinent.

All of the criteria except item b above are met simply by virtue of transferring all HHA providers to the ten intermediaries. For example, it is more efficient and less costly to send out ten sets of instructions rather than more, to collect data from ten intermediaries. than to collect it from more, or to make data processing systems changes at ten intermediaries rather than more.

While it is not as evident that criterion b has been met, we were confident that it would be. We proposed to transfer HHAs to intermediaries whose long-term overall performance indicates they are effective and efficient and we believed that once the HHAs were transferred to the designated intermediaries, performance data would substantiate the accuracy of our projection.

We proposed that the intermediaries designated to serve the provider-based HHAs be the same intermediaries currently designated to serve the freestanding HHAs.

These intermediaries and the areas they serve are:

a. Associted Hospital Service of Maine—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

b.[1] The Prudential Insurance Company of America—New Jersey, New York, Pureto Rico and the Virgin Islands.

c. Blue Cross of Greater Philadelphia—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia.

d. Blue Cross and Blue Shield of South Carolina—Kentucky, North Carolina, South Carolina and Tennessee.

e. Aetna Life and Casualty—Alabama, Florida, Georgia and Mississippi.

f. Blue Cross and Blue Shield United of Wisconsin—Wisconsin, Michigan and Minnesota.

g. Health Care Service Corporation (Chicago, Illinois)—Illinois, Indiana and Ohio.

h. New Mexico Blue Cross and Blue Shield, Inc.—Arkansas, Louisiana, New Mexico, Oklahoma and Texas.

i. Blue Cross of Iowa, Inc.—Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.

j. Blue Cross of California—Alaska, Arizona, California, Hawaii, Idaho, Oregon, Nevada and Washington.

We also proposed granting provider-based HHAs the same opportunity afforded freestanding HHAs to request to be served by an alternative designated regional intermediary. These requests were not to be granted automatically; rather an HHA would be required to demonstrate that the change to the alternative designated regional intermediary would be consistent with the effective and efficient administration of the Medicare program. The requests would have to be filed in accordance with the timetable established at 42 CFR 421.106(a) and would be evaluated in accordance with criteria contained at 42 CFR 421.106(b). The intermediaries we proposed designating as alternative designated intermediaries for provider-based HHAs and the areas in which they would be available are:

The Purdential Insurance Company of America—Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia;

Blue Cross of Iowa, Inc.—Alaska, Arizona, Arkansas, California, Hawaii, Idaho, Illinois, Indiana, Louisiana, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Puerto Rico, Texas, Virgin Islands, Washington and Wisconsin; and

[1] Note.—The Prudential Insurance Company of America notified the Health Care Financing Administration on April 20, 1988 that it intends to terminate its Medicare contracts effective December 31, 1988. Those home health agencies and hospices that were to be or are currently served by Prudential will be notified of their servicing intermediary as soon as a replacement for Prudential is selected.

Blue Cross of California—Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

In proposing to assign provider-based HHAs to the designated intermediaries, we proposed that where the HHA and parent provider would be served by different intermediaries that audit and cost report settlement for both remain the responsibility of the intermediary serving the parent provider. Bill processing, making coverage determinations and making payments to the HHA would be done by the designated regional intermediary.

C. Hospices

1. Background

Section 1816(e)(5) of the Act requires the Secretary to designate the intermediary that will serve each hospice, except that with respect to a hospice that is a subdivision of another Medicare provider (and the hospice and parent provider are under common control) due regard be given to the intermediary serving the parent provider.

To implement the provisions of section 1816(e)(5), we amended our regulations at 42 CFR 421.117 to require that (1) freestanding hospices receive payment through an intermediary designated by HCFA; (2) hospices that are subdivisions of another Medicare provider that elected to receive payments through an intermediary receive payment through the same intermediary that serves the parent provider; and (3) hospices that are subdivisions of another Medicare provider that elected to deal directly with HCFA receive payment through an intermediary designated by HCFA. (48 FR 56036, December 16, 1983).

Currently two intermediaries are designated to serve freestanding hospices and provider-based hospices in category (3) above. The Prudential Insurance Company of America serves hospices located in States east of the Mississippi River and Blue Cross of California serves hospices located in States west of the Mississippi River. The entire States of Minnesota and Louisiana are served by Blue Cross of California.

2. Proposed Rule Related to Hospices

In the proposed rule published on January 22, 1987, we announced our intent to amend current regulations at 42 CFR 421.117(c) to assign provider-based hospices and all newly participating freestanding hospices to the designated regional intermediaries serving HHAs. Thus, we planned to expand from two to ten the number of intermediaries designated to serve freestanding hospices. We pointed out that while we had previously designated two intermediaries to serve freestanding hospices, this had not resulted in a concentration of the workload because there are many intermediaries processing small provider-based hospice workloads. We also pointed out that existing regulations require that provider-based hospices be served by the same intermediary serving the parent provider. Since the majority of hospices are based in HHAs, an indirect result of the assignment of freestanding HHAs to the ten designated intermediaries was a concentration of the hospice workload in these ten intermediaries. We believe it makes sense to make this concentration complete. Therefore, we proposed that the intermediaries designated to serve hospices be those same intermediaries designated to serve HHAs. In the case of provider-based hospices, we proposed that the settlement of the Medicare cost report, including the supplemental hospice worksheets, continue to be the responsibility of the intermediary serving the parent provider.

We proposed assigning newly-participating freestanding hospices to the intermediary designated for its location.

In the interest of minimizing disruptions, we proposed an exception to the general rule in order to allow those freestanding hospices currently served by Prudential or Blue Cross of California to continue to be served by those intermediaries, if the hospice so desired.

We also proposed granting a hospice the opportunity to request to be served by an alternative designated regional intermediary if it demonstrated that the change to the alternative designated regional intermediary would be consistent with the effective and efficient administration of the Medicare program. Such requests would have to be filed in accordance with the timetable established at 42 CFR 421.106(a) and would be evaluated in accordance with criteria contained at 42 CFR 421.106(b). We proposed that the alternative designated regional intermediaries and the areas in which they would be available be the same as those listed above for HHAs.

We made the above proposal in the interest of achieving greater effectiveness and efficiency in administering the Medicare hospice benefit. We proposed that the criteria relating to effective and efficient administration listed above in connection with HHAs also apply to the designation of intermediaries for hospices. Additionally, reassignment of the provider-based hospices would not have a negative impact on the intermediaries currently serving them. Very few hospice providers would be eliminated from an intermediary's current list of providers. In the majority of cases, only one hospice would be eliminated from the list. A loss of so few providers would not have a detrimental effect on the involved intermediaries.

D. Technical revisions.

We proposed making the following technical changes:

- Amending the definition of "Intermediary" at 42 CFR 421.3, by changing the term "freestanding HHAs" to "HHAs" to clarify that we have designated intermediaries for all HHAs.
- Deleting the clause "Except for certain hospice physician services, which are generally reimbursed by carriers" from 42 CFR 405.117(c) (redesignated as 42 CFR 405.117(d). Carriers have never reimbursed hospice physician services, so this clause is inaccurate.
- Deleting 42 CFR 421.117(g) (redesignated as 42 CFR 421.117(h)), which gave freestanding providers dealing directly with HCFA 30 days from January 30, 1984 to request transfer to the alternative designated regional intermediary without having to prove the transfer would result in more effective and efficient administration. Provisions of that paragraph are now obsolete.
- Amending 42 CFR 421.128(f) by deleting the word "freestanding" to show that, under section 1816(e)(4) of the Act, an intermediary that loses either freestanding or provider-based HHAs or hospices as a result of the reassignment or by the designation of regional intermediaries does not have the right to appeal any adverse effect.

II. Analysis and Response to Comments

We received 92 comments: 76 from providers, 7 from provider associations, 6 from Medicare intermediaries, and 1 each from a member of Congress, a State health department, and a county health department. Sixteen of the commenters wrote in support of our proposal; the others objected to the proposal or had concerns with some aspects of the proposal. We discuss the comments and our responses to them below.

Comment: Several commenters, while not disagreeing with the criteria relating to administrative efficiency and effectiveness that we proposed, disagreed that they would be met. Specific comments were (1) it has not

yet been demonstrated that the selected intermediaries have expertise in home health bill processing; (2) until HCFA provides clear guidance of such terms as "skilled nursing," "intermittent care," and "homebound," we will not have consistency in coverage determinations; and (3) savings from economies of scale will be minimal.

Respone: Based on our experience with freestanding HHAs, we continue to believe that uniform interpretation of Medicare rules, better control of administrative costs, ease of communication with HHAs, data collection and HCFA monitoring of intermediary's performance will be enhanced by virtue of reducing the number of intermediaries processing provider-based home health bills from 53 to 10. For example, it is more efficient and less costly to work with or issue instructions (or both) to 10 intermediaries than 53. We are better able to monitor performance and collect data from 10 rather than 53 intermediaries to assure there is more uniform interpretation of Medicare rules. We have been monitoring HHA performance data on a monthly basis and where there are issues to be resolved, we are working with the regional office and intermediary staff to resolve these issues.

Regarding criterion b, expertise in bill processing, the designated intermediaries long-term overall performance indicates they have the expertise to adjudicate and process home health bills. Additionally, they have demonstrated the ability to assume a significant increase in workload and continue to process bills accurately and timely. The transfer of freestanding home health agencies to the designated intermediaries was completed September 1, 1987. Approximately 3,000 home health agencies were reassigned. Although a few intermediaries encountered isolated transition problems, the problems were few relative to the magnitude of the task and they have been resolved.

Regarding consistency of coverage determinations, having 10 intermediaries making such decisions is an improvement over having 53 intermediaries making coverage determinations. Furthermore, we have been working with the ten regional intermediaries to identify areas where inconsistent determinations have been made, to arrive at proper determinations, and to see that in the future the guidelines will be applied uniformly.

We agree that savings from economies of scale may be minimal. While we do expect some savings to accrue from economies of scale in HHA bill processing, we see a large part of the reduced administrative costs coming from having to modify fewer bill processing systems when changes in the home health program require modifications to software programs.

Comment: Several commenters stated that distance from the regional intermediary will create problems. For example, there will be some delays in handling inquiries and there will be additional provider administrative costs, such as long distance telephone calls.

Response: We do not agree that increased distance by itself will create problems. A number of HHA providers at their request are currently assigned to the alternative designated regional intermediary. In many of these cases, the provider is located over 800 miles from the intermediary. This has not created problems. Additionally, for years, many providers, located throughout the United States, elected to be served by HCFA's Office of Direct Reimbursement (ODR). They also did not find distance from ODR to be a problem. While face-to-face provider/intermediary contacts may be less frequent, experience has shown that most issues can be resolved timely and satisfactorily either by telephone or written correspondence.

If the transfer should result in increased provider costs, these costs will be reimbursed according to established Medicare reimbursement principles to the extent they are reasonable, allowable, and verified by the intermediary. If the HHA's costs exceed the limits as the result of the required transfer to a designated regional intermediary, and exception to the limits may be granted to the extent that the costs are reasonable, attributable to the circumstances specified, separately identified by the provider and verified by the intermediary. In the case of hospices, there is no legislative or regulatory basis for exceptions to the rates.

Comment: A couple of commenters stated that transition of provider-based home health agencies to designated intermediaries may mean an initial loss of electronic media claims processing.

Response: The providers will not have to forego the benefits of automation. The designated intermediaries have the capacity to receive HHA bills via various electonic media (tape cassette, disk, dial-up, etc.). Some providers may have to make minor system changes to meet the intermediaries' format and submittal requirements. The designated intermediaries will hold provider training sessions to familiarize the home health agencies and hospices with their billing requirements.

Comment: Several commenters stated that the ten designated intermediaries have not been in place long enough and requested that we delay the move until we have assessed the effect of the transition of the freestanding home health agencies.

Response: The ten designated intermediaries have a long history of processing home health bills (from the beginning of the Medicare program) and they have further demonstrated their ability in satisfactorily assuming the additional freestanding HHA workload. As we stated previously, over 3000 freestanding home health agencies have transferred to the designated intermediaries. Each intermediary has been able to assume the additional workload, provide orientation and training for the providers, and process bills while maintaining adequate cash flow to providers. The designated intermediaries accomplished this even though, for most of them, the home health workload increased 100 percent or more. We have demonstrated our ability to conduct a smooth transition.

Comment: A commenter with an HHA-based hospice located in a State that is currently served by Aetna has as its intermediary Prudential, because Prudential serves the parent HHA as an alternative designated HHA intermediary. The hospice asked whether it would have to transfer to the intermediary for the State, Aetna. The commenter pointed out that the proposed exception that would allow a hospice currently served by Prudential or California Blue Cross to remain with that intermediary was restricted to freestanding hospices.

Response: We appreciate the commenter calling this situation to our attention. It is our intent that all hospices be assigned to designated intermediaries, but that this be achieved in the least disruptive manner. Therefore, we are allowing any freestanding hospice that is currently assigned to Prudential or Blue Cross of California to continue to be served by that intermediary even if it is not the designated or alternate intermediary for its location. (However, as noted earlier, Prudential does not intend to serve as intermediary after December 31, 1988; its hospices and HHAs will be reassigned by that time.) We will also allow a provider-based hospice currently assigned to any one of the ten designated intermediaries to continue to be served by that intermediary even if it is not the regional or alternate intermediary for its location. Therefore,

the hospice may stay with Prudential if it so chooses.

Although it was not stated in the proposed rule, it is our intention to grandfather in any HHAs in this same situation. We are therefore clarifying the regulations to allow any HHA that is currently served by any one of the designated intermediaries to continue to be served by that intermediary even if it is not the regional or alternate intermediary for its location, if the HHA so chooses.

Comment: Many of the commenters stated that dealing with two intermediaries will be costly and cumbersome and will create confusion. Regarding the latter, the example most often stated was receiving conflicting advice from each intermediary; e.g., regarding preparation of cost reports.

Response: It is true that in some cases providers may need to incur costs for minor computer modifications and personnel training. However, aside from the initial setup expenses, the effect on ongoing costs is expected to be minimal. Costs incurred by the HHA or its parent provider will be reimbursed according to established Medicare reimbursement principles to the extent they are reasonable, allowable, and verified by the intermediary. Hospice rates, on the other hand, are subject to limits and there is no provision for increases beyond the limits even if due to cost increases.

We have taken steps to reduce the possibility of confusion of having two intermediaries serving the provider by assigning each separate, clearly identifiable areas. For example, questions related to fiscal areas such as preparation of cost reports, setting interim rates, audit and cost settlement will be answered by the intermediary serving the "parent" provider. The home health agency or hospice will deal with its designated intermediary regarding all other issues. We will work with intermediaries and providers to make sure that they are informed and clearly understand these divisions of responsibility. Should a question be directed to the inappropriate intermediary (because of the education effort we expect this to be a rare occurrence), that intermediary will not provide an answer, but will refer the question or questioner to the proper intermediary. Therefore, concern that the provider will need to deal with conflicting advice from two intermediaries is unwarranted. We are amending 42 CFR 421.100 to clarify the delineated responsibilities for service to provider-based hospices and HHAS.

Comment: A couple of commenters suggested that they should have access to toll-free 800 numbers to the designated intermediaries.

Response: We are not considering the establishment of toll-free telephone lines. The costs of provider telephone calls continue to be included in the HHA's cost report as a normal business expense and are reimbursable under established Medicare reimbursement principles.

Comment: One commenter stated that providers are being deprived of their right to a choice of intermediary.

Response: In the case of home health agencies and hospices, the right of a provider to choose its intermediary is limited by statute (sections 1816(e)(4) and 1816(e)(5) of the Act). Under this rule HHAs retain the same right other providers have to request a change of intermediary; i.e., they may request a change to the alternative designated intermediary. As in the case of other providers, we will evaluate any such request based on criteria at 42 CFR 421.106. An exception is provided for a hospice or HHA that as of [the effective date of this rule] is receiving payment from any one of the ten designated regional intermediaries. Such a hospice or HHA may, if it so desires, continue to receive payment from that intermediary even if that intermediary is not the designated regional intermediary or the alternative designated regional intermediary for the particular State in which the hospice or HHA is located.

Comment: A few commenters questioned our objectivity in selecting the designated intermediaries. Some quoted the General Accounting Office (GAO) report, "Need to Strengthen Home Health Care Payment Control and Address Unmet Needs", (GAO/HRD–87–9) that stated that information we used in the selection process raised questions about the prior performance of all 47 intermediaries assessed, including the 10 selected to serve as regional intermediaries.

Response: In making selections of the 10 regional intermediaries, we engaged in a public process to allow input from all interested parties. We published a proposed notice (50 FR 14162) on April 10, 1985, with a 60 day comment period announcing this initiative. On February 13, 1986, after an analysis of all comments received, we published a final notice (51 FR 5403). To summarize what is explained in detail in those notices: in the selection process, we considered the distribution of providers and workload, transition risks, and each intermediary's performance against an entire array of criteria as compared with other existing intermediaries available within the proposed regional configurations. We evaluated each intermediary's performance specific to serving HHAs, their electronic data processing capability and past performance as measured by HCFA's fiscal year 1983 and 1984 Contractor Performance Evaluation Program (CPEP).

With respect to the GAO report, we note that GAO criticism of our selection relied heavily on data related to denials. As we stated in the February 13, 1986 final notice, we did not use denial rates in our analysis because denial rates are subject to ambiguous interpretation. For example, it is not clear to what extent low denial rates are related to good provider education efforts by intermediaries or overly broad interpretations of existing coverage policy.

Comment: A number of commenters were concerned that the transition could disrupt cash flow to the provider-based agencies.

Response: We will make every effort to assure that there will be no interruption of cash flow. Before the transition, we will identify each home health agency, its method of reimbursement and its frequency of receiving that reimbursement so that we can identify potential problem areas. As we have done in the past transitions, we will work closely with the intermediaries and affected providers to resolve problems that could interrupt cash flow. Additionally, we will use existing payment procedures to meet provider cash flow requirements under special circumstances. The reassignment of freestanding HHAs was completed September 1, 1987. Approximately 3,000 HHAs were transferred. The transfers went well; no major problems occurred. We promptly addressed and settled issues raised.

Comment: One commenter stated that since the regional intermediary is used to dealing with proprietary agencies only, it will not understand the special needs and functions of a hospital-based agency.

Response: Our designated intermediaries serve all types of home health agencies within their service area. These include, in addition to proprietary agencies, visiting nurse association agencies, combined government and voluntary agencies, official health agencies, private non-profit agencies, rehabilitative facility-based agencies and hospital-based and skilled nursing facility-based agencies. Each intermediary is aware of and able to accommodate the unique features and special needs of each type of agency to the extent appropriate to do so.

Comment: Several commenters expressed the opinion that there could

be problems in the timely exchange of remittance and utilization information between the designated intermediary and the local intermediary. These commenters were concerned about how this would effect setting interim rates.

Response: Separating the claim processing and fiscal functions will require coordination between the two intermediaries. The intermediary serving the parent provider will need utilization data from the regional intermediary in order to establish and adjust interim rates.

We are working to identify data exchange needs and establish time frames for exchange of those data. This procedure will be in place before we begin transfer of provider-based HHAs. Since the designated intermediary is also a local intermediary for hospitals in its own State, it is aware of the need for prompt and accurate Provider Statistical and Reimbursement (PS & R) reports.

Comment: A substantial number of commenters stated that they have had a good working relationship with their current intermediary and some questioned whether this type of relationship will continue.

Response: We are pleased to hear that providers have been satisfied with the service given by their current intermediaries. The designated intermediaries and we will do everything possible to facilitate the formation of new, effective working relationships with the providers that are transferred. To illustrate, designated intermediaries have held nearly 700 workshops for providers reassigned to them. These workshops will continue with the reassignment of the provider-based HHAs. In addition, a HCFA ombudsman is available in each HCFA region to help solve any problems which may arise.

Comment: A few commenters stated that the current regional home health intermediaries are overburdened and are not processing claims timely. Some questioned whether the intermediaries can absorb the additional workload.

Response Eight out of the ten designated regional intermediaries are meeting or exceeding the Congressional standard for timely HHA bill processing (95 percent of clean claims must be paid within 30 days of receipt). Of the two remaining intermediaries, one is very near this standard (based on data for September 1987) and the other is experiencing problems unrelated to the absorption of the freestanding HHA workload. The intermediary has taken steps to correct the problem and improvement in timely HHA bill processing is anticipated shortly.

Regarding absortion of the provider-based HHA workload, as we did for the freestanding HHA transition, HCFA will ask each designated intermediary to submit a plan which details the measures it will take; i.e., the number, location, and frequency of provider training workshops and the hiring and training of additional staff needed to accommodate this workload successfully. We will carefully review each plan to ensure that each designated intermediary will have the capability to process home health bills timely and correctly without disruption of service to providers.

Comment: A few commenters thought that the change to designated intermediaries would be confusing for beneficiaries.

Response: Claims for home health services are submitted to the intermediaries by the providers and reimbursement is made directly to the providers. Generally, beneficiaries communicate with intermediaries only when they request a reconsideration or an appeal of a decision. In those instances, they will have a written decision from the intermediary who processed the claim and will therefore know where they should direct their request.

Comment: One commenter stated that it is inappropriate to allow providers to request and be served by an alternative regional intermediary. The commenter pointed out that it is contrary to the goal of consistency in coverage determinations to allow home health providers in the same State to have different regional intermediaries.

Response: We agree that the ideal situation, with respect to consistency, would be to have only a single intermediary serving home health agencies within a given location. However, as administrator of a national program we also wish to treat all classes of providers fairly and grant them the same privileges, insofar as possible. Therefore, we think it is appropriate to maintain the ability to request a change of intermediary. This policy is consistent with existing regulations at 42 CFR 421.106(b), which empowers us to permit a provider to change to another intermediary if we conclude that such change is in the best interest of the Medicare program.

Comment: One commenter stated that our interpretation of when a request to be served by the alternative designated regional intermediary is in the best interests of effective and efficient administration of the Medicare program has become more restrictive over the past twelve months. The commenter felt we should provide more detailed instructions on the criteria that will be used to determine assignment to the alternative designated regional intermediary.

Response: The right of a home health agency to request to be served by an alternative intermediary was first established by 42 CFR 421.117 when we reduced the number of HHAs dealing directly with HCFA. At that time, HHAs that were served by HCFA's Office of Direct Reimbursement and that did not wish to be served by the designated regional intermediary were given the opportunity to elect to be served by the alternative designated intermediary. Freestanding HHAs that were served by intermediaries were given the opportunity to request a change to the alternative intermediary. However, in the case of these HHAs served by intermediaries, such requests were not to be granted automatically. These HHAs were required to demonstrate that the change to the alternative intermediary would be consistent with the effective and efficient administration of the Medicare program.

The policy relative to granting approval for use of the alternative intermediary can be misinterpreted so that one might believe a request to change intermediaries would be automatically granted. We would like to state clearly in this preamble that no request for a change in intermediary will be granted without sufficient development. The policy as established by 42 CFR 421.117 (f) and (g) is still effective and is not being changed by this rule.

It should be noted, however, that a hospice or an HHA that as of June 20, 1988 is served by one of the ten designated intermediaries may continue, if it so desires, to be served by that intermediary even if that intermediary is not the designated regional intermediary or the alternative designated regional intermediary for the particular State in which the hospice or HHA is located. This exception is established by this rule at 42 CFR 421.117(h).

Our rules at 42 CFR 421.117 (f) and (g) reflect our desire to accommodate a provider faced with a totally unacceptable situation (such as, but clearly not limited to, a conflict of interest situation) that would preclude acceptable operational efficiencies being realized by the Medicare program, were the HHA required to remain with the designated regional intermediary. In those cases where an HHA or an HHA chain desires to be served by the alternative intermediary, and in the absence of a clearly unacceptable situation, such as the demonstrable

conflict of interest situation, we fully expect the HHA to quantify the operational advantages specifically to be realized by the Medicare program as well as any advantages that accrue to the agency. We will examine, in order to verify, the reported benefits to the Medicare program before we approve any request for transfer to any alternative intermediary. We will decide each case on an individual basis and on its own merits.

Comment: One commenter, a Medicare-participating health maintenance organization (HMO) with a Medicare-certified HHA, stated that it currently submits a UB–82 form on each home health patient as a "no-pay" claim so that Medicare will have a record of the services. The commenter raised two points. First, this HMO was concerned that information regarding its practice patterns would be going to an intermediary which competes with it in the marketplace, giving the intermediary a competitive advantage. Second, the commenter pointed out that since the designated intermediary would not make coverage determinations, but would only forward the no-pay bill data to HCFA, the significant advantages that will accrue from more uniform interpretation of coverage policy will not apply to HMOs. The commenter suggested we, therefore, consider an exception to the assignment to the designated intermediary.

Response: An HMO is no longer required to submit "no-pay" bills for services provided by its HHA. The HMO community was informed informally of this some time ago and this change will be formalized by revised instructions in the HMO and HHA Manuals. This resolves both of the above issues. First, the potential for the intermediary to gain a competitive advantage is eliminated since data will not be submitted to the designated intermediary. (Note: The Medicare intermediary agreement prohibits the intermediary from using either its position as a Medicare contractor or information it obtains in performing its functions as a Medicare contractor for purposes of furthering its private business interests or gain.) Second, it is not necessary to make an exception in the regulations, since the assignment of the HMO-based HHA will be, in effect, merely a "paper" tie-in. Because the provider need not submit any claims or data to the intermediary, the tie-in will have no effect on the provider's operation.

Comment: One commenter, a statewide hospital association commenting on behalf of its membership, stated that as a general policy it believes it is unwise to create specialized intermediaries for each service covered under the Medicare program.

Response: We agree there should not be a general policy to have specialized intermediaries for all Part A services. Each covered service needs to be evaluated individually to determine whether specialized intermediaries are desirable. In the case of the home health and hospice benefits, designation of intermediaries was legislatively mandated for such freestanding facilities. We have evaluated the situation and have concluded that it is efficient and effective to treat provider-based home health agencies and hospices in the same manner.

Comment: A Medicare intermediary suggested that we also transfer the provider-based rural health clinics (RHCs) to the intermediaries designated to serve the freestanding RHCs.

Response: As stated in the previous response, each service needs to be evaluated individually. In 1985, HCFA staff did an analysis concerning specialization of RHCs and at that time recommended against specializing the provider-based RHC workload. We appreciate the commenter's interest in improving the Medicare program but we are not adopting this comment.

Comment: One commenter stated that Mississippi Blue Cross' loss of the HHA workload would deprive the State of Mississippi of needed revenue.

Response: Although Mississippi Blue Cross is losing the provider-based home health and hospice workloads in terms of bill processing, it is retaining responsibility for all fiscal functions such as audit and settlement of cost reports for these providers. Based on historical patterns, we expect the reduction in HHA and hospice bill volume will be mostly offset by an increase in the volume of other bill types. The slight decrease in the workload of one organization should have imperceptible consequences for the state economy.

Comment: Two commenters stated that chain providers should be exempt from these regulations. They did not give specific rationale.

Response: Section 1816(e)(4) of the Act does not permit exemption for chain providers from the requirement that they be served by designated intermediaries. We recognize that there may be cases in which the degree of centralization of the chain would make it more efficient for the chain to be served by a single intermediary. Therefore, a chain may, in accordance with proposed 42 CFR 421.117(e), request to be served by a single intermediary. We will evaluate such a request in accordance with criteria contained at 42 CFR 421.106.

Comment: A Medicare intermediary commented that if the proposal were adopted and if the CPEP standards remain consistent for FY 1988, our proposed reassignment could jeopardize the intermediary's ability to pass CPEP.

Response: This initiative should not adversely affect intermediary performance; rather, we anticipate a greater ability to sustain or improve current performance. We do, however, recognize that there are differing responsibilities between the intermediary serving the parent provider and the designated regional intermediary. It is possible that one of these intermediaries could be adversely affected by some action or inaction of the other. As spelled out in CPEP, if a condition exists that adversely affects an intermediary's performance and that is outside of that intermediary's control, we will assess the adverse circumstances and make appropriate adjustments in performance measures.

Comment: One commenter questioned our reason for going to ten designated intermediaries for hospices rather than staying with the two currently designated to serve the freestanding hospices. The commenter stated the belief that the growth of the certified hospice movement is questionable.

Response: Increasing the number of intermediaries designated to serve hospices was not based solely on the number of hospice providers (128 freestanding, 275 provider-based, as of September 1, 1987). We agree that this workload could be handled by two intermediaries. However, one of our goals is to minimize disruption among the hospice providers. Regulations in effect at the time we designated the ten regional intermediaries for freestanding home health agencies required that hospices be served by the intermediary serving the parent provider. Since approximately 65 percent of the provider/based hospices were based in freestanding home health agencies, an indirect result of the HHA intermediary designation was a concentration of the provider/based hospices in the ten designated HHA intermediaries. We did not want to require these hospices, which had recently transferred along with the parent home health agency, to transfer to a new intermediary again.

Comment: One commenter recommended that if a hospital has both an affiliated home health agency and hospice, their transfer to the designated intermediary should coincide.

Response: We agree; they will be transferred at the same time.

III. Provisions of the Final Rule

We are adopting in final, with minor technical changes to correct typographical errors, the rules as proposed on January 22, 1987. As proposed, we are amending our regulations at 42 CFR 421.117 so that all HHAs and hospices are to be assigned to designated regional intermediaries. (See section B.2. of the Background for a listing of these intermediaries and their service areas.)

As proposed, we are granting all HHAs and hospices the right to request to be assigned to an alternative designated intermediary. We will not grant these requests automatically; the provider must demonstrate that the change would be consistent with the effective and efficient administration of the Medicare program. The request must be filed in accordance with the timetable established at 42 CFR 421.106(a) and will be evaluated in accordance with criteria contained at § 421.106(b). (See section B.2. of the Background for a listing of the alternative designated intermediaries and the areas in which they will be available.)

We are amending regulations at 42 CFR 421.100 to delineate clearly in regulations the responsibilities for service to provider-based HHAs and provider-based hospices. Where the HHA or hospice and its parent provider will be served by different intermediaries, the designated regional intermediary will process bills, make coverage determinations and make payments to the HHAs and hospices. The intermediary serving the parent provider will perform all fiscal functions, including audits and settlement of the Medicare cost reports and the HHA and hospice supplement worksheets.

The proposed rule allowed any freestanding hospice to continue to be served by Prudential or Blue Cross of California, if it so wished. As explained in the "Comment" section, we are expanding this exception so that any hospice or HHA that is currently served by a designated regional intermediary or alternative designated regional intermediary also may remain with that intermediary.

We are adopting the technical changes as proposed.

IV. Implementation Activities

We expect approximately 1,200 provider-based HHAs and approximately 80 provider-based hospices to be reassigned to another intermediary under this proposal.

A. Notification to Providers

We will send a notice to each affected HHA and hospice, advising it of the name of its designated regional intermediary and the scheduled change-over date for bill submittals.

B. Transfer Schedule

Providers will receive at least a 60-day advance notice before the date of the change-over. Fiscal functions will remain the responsibility of the intermediary serving the parent provider. Consequently, transfers need not be based on the provider cost report year ending date. The reassignment of all affected HHAs and hospices is expected to be completed within 6 months.

C. Procedures During the Change-Over Period

We will notify each affected HHA and hospice by mail of procedures to follow during the change-over process. We are arranging for an orderly transition of service.

1. HHAs and hospices will submit bills for services provided before the change-over date to the current intermediary. This same intermediary will continue to be responsible for the settlement of cost reports, prior unsettled cost reports, any appeals arising from those cost reports, and all other fiscal issues.

2. The HHAs and hospices will submit all bills for services provided on and after the change-over date to the designated intermediary.

3. We are continuing ombudsmen-type positions established in each HCFA regional office to assist providers in resolving any problems encountered during the transition or thereafter.

D. Assurance of Cash Flow

We will make every effort to assure that there will be no interruption of cash flow to HHAs or hospices. We will work closely with the designated intermediary, HHAs and hospices to identify and resolve problems that might interrupt the provider's cash flow.

E. Transition Costs

HHA costs incurred due to the transfer will be allowable and reimbursable under established Medicare reimbursement principles. If the HHA's costs exceed the limits as the result of the required transfer to a designated regional intermediary, we will grant an exception to the limits, to the extent that the costs are reasonable, attributable to the circumstances specified, separately identified by the provider and verified by the intermediary. We will process requests for transition cost exceptions consistent with the provisions for handling other exceptions requested under 42 CFR 413.30(f)(2).

In the case of hospices, there is no legislative or regulatory basis for exceptions to the rates.

Regulatory Impact Statement

A. Executive Order No. 12291

Executive Order No. 12291 requires us to prepare and publish an initial regulatory impact analysis for any regulations that are likely to meet criteria for a "major rule".

A major rule is one that would result in:

(1) an annual effect on the economy of $100 million or more;

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

(3) 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.

This document contains our description of how we will interpret and implement sections 1816(e) (4) and (5) of the Act. We believe it is not a rule subject to the Executive Order. Nevertheless, in the spirit of the Executive Order, we are voluntarily providing the following information.

We project that, under our proposal, 1,200 provider-based HHAs and approximately 80 provider-based hospices will be reassigned from their present intermediary to a different intermediary. We project that we will incur one-time administrative costs of $2 million for travel and training related to the reassignment of these providers. We expect to achieve some administrative savings as a result of the consolidation of the HHAs and hospices and the reduction in the number of intermediaries serving them. Savings will be associated with reduced systems modification expenses and with minimal economies-of-scale that would lower unit processing costs. The potential savings, coupled with the one-time costs, will not begin to approach the $100 million threshold and would not produce a major increase in cost or prices.

Generally, we consider an adverse effect on employment, productivity, innovation, or competition to be significant only if that effect is

equivalent to an economic loss of $10 million or more, and the adverse effect results in a 10 percent or greater change in a year for a common measurement of an economic variable of the affected entities. For the reasons discussed above, we expect these proposed reassignments to have beneficial, rather than adverse, effects on productivity and possibly on innovation. Further, although the reassignment of provider-based HHAs and hospices to fewer intermediaries might result in a reduced level of employment by those intermediaries that will no longer serve those providers, we believe this will be of insignificant magnitude.

Finally, we have determined that this rule will not have an adverse effect on competition. Section 1816 of the Act gives providers the right to nominate their servicing intermediary. Because of this, HCFA, in selecting intermediaries, is exempt by operation of law from the requirement of competition that governs most Federal procurements. Historically, with the exception of a few contracts entered into under experimental or demonstration contracting authority, intermediaries have been administratively selected without competition. This designation of regional intermediaries for provider-based HHAs and hospices is consistent with existing law and policy. For the above reasons, we have determined that the assignment and reassignment of provider-based HHAs and hospices to the designated regional intermediaries do not meet any of the criteria for identifying major rules. Therefore, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), we prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider all providers to be small entities.

For the reasons given, we have determined, and the Secretary certifies, that these regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required. Nevertheless, in the spirit of E.O. 12291 and the RFA, we are voluntarily providing the following information.

This rule will have an impact upon approximately 30 percent of the Medicare-certified hospices. It also requires reasssignment of a substantial number of provider-based HHAs to the designated regional intermediaries and, for purposes of regulatory flexibility analysis, we consider all providers and other entities participating in Medicare to be small entities. However, we have determined that the impact on the affected entities will be insignificant.

Since audit and fiscal functions will remain the responsibility of the affected providers' current intermediaries, the impact of assignment to the designated intermediaries will be slight. Additionally, we will provide reasonable advance notice of the change-over date and will make every effort to assure a continued cash flow for each of the affected providers. For these reasons, we believe, and the Secretary certifies, that this rule will not result in a significant impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

Paperwork Burden

Section 421.117(f) of this rule contains information collection requirements that are subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980. A notice will be published in the **Federal Register** when approval is obtained.

List of Subjects in 42 CFR Part 421

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 421 is amended as set forth below:

PART 421—INTERMEDIARIES AND CARRIERS

1. The authority citation for Part 421 continues to read as follows:

Authority: Secs. 1102, 1815, 1816, 1833, 1842 1861(u), 1871, 1874, and 1875 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395h, 1395l, 1395u, 1395x(u), 1395hh, 1395kk, and 1395ll), and 42 U.S.C. 1395b–1.

2. Section 421.3 is revised by removing the modifier "freestanding" that applies to home health agencies to read as follows:

§ 421.3 Definitions.

"Intermediary" means an entity that has a contract with HCFA to determine and make Medicare payments for Part A or Part B benefits payable on a cost basis and to perform other related functions. For purposes of designating regional or alternative regional intermediaries for home health agencies and of designating intermediaries for hospices under § 421.117 as well as for applying the performance criteria in § 421.120 and the statistical standards in § 421.122 and any adverse action resulting from such application, the term intermediary also means a Blue Cross Plan which has entered into a subcontract approved by HCFA with the Blue Cross and Blue Shield Association to perform intermediary functions.

3. In § 421.100, the introductory paragraph is republished for the convenience of the reader and a new paragraph (i) is added to read as follows:

§ 421.100 Intermediary functions.

An agreement between HCFA and an intermediary shall provide for the performance of the following functions:

* * * * *

(i) *Dual intermediary responsibilities.* With respect to the responsibility for service to provider-based HHAs and provider-based hospices, where the HHA or hospice and its parent provider will be served by different intermediaries under § 421.117 of this part, the designated regional intermediary will process bills, make coverage determinations and make payments to the HHAs and hospices. The intermediary serving the parent provider will perform all fiscal functions, including audits and settlement of the Medicare cost reports and the HHA and hospice supplement worksheets.

4. Section 421.117 is amended by redesignating paragraphs (b) through (g) as (c) through (h) respectively, adding a new paragraph (b), and revising paragraphs (a), (c), and (d) through (h). As revised, § 421.117 reads as follows:

§ 421.117 Designation of regional and alternative designated regional intermediaries for home health agencies and hospices.

(a) This section is based on section 1816(e)(4) of the Social Security Act, which requires the Secretary to designate regional intermediaries for home health agencies (HHAs) other than hospital-based HHAs but permits him or her to designate regional intermediaries for hospital-based HHAs only if the designation meets promulgated criteria concerning administrative efficiency and effectiveness; on section 1816(e)(5) of the Social Security Act, which requires the Secretary to designate intermediaries for hospices; and on section 1874 of the Act, which permits HCFA to contract with any organization for the purpose of making payments to any provider that elects to receive payment directly from HCFA.

(b) HCFA applies the following criteria to determine whether the assignment of hospital-based HHAs to designated regional intermediaries will result in the more effective and efficient administration of the Medicare program:

(1) Uniform interpretation of Medicare rules;

(2) Expertise in bill processing;

(3) Control of administrative costs;

(4) Ease of communication of program policy and issues to affected providers;

(5) Ease of data collection;

(6) Ease of HCFA's monitoring of intermediary performance; and

(7) Other criteria as the Secretary believes to be pertinent.

(c) Except as provided in paragraphs (e), (f), and (g) of this section, an HHA must receive payment through a regional intermediary designated by HCFA.

(d) Except as provided in paragraphs (f) through (h) of this section, a hospice must receive payment for covered services furnished to Medicare beneficiaries through an intermediary designated by HCFA.

(e) An HHA chain not desiring to receive payment from designated regional intermediaries may request service by one lead intermediary with the assistance of a local designated regional intermediary. Alternatively, the chain may request to be serviced by a single intermediary. A lead, local, or a single intermediary must be an organization that is a designated regional intermediary. Any request made under this paragraph is evaluated by HCFA in accordance with the criteria contained at § 421.106 of this subpart.

(f) An HHA or hospice not wishing to receive payment from a regional intermediary designated under paragraph (c) or (d) of this section may submit a request to the HCFA Regional Office to receive payment through an alternative regional intermediary designated by HCFA.

(g) Except as provided in paragraph (h) of this section, any request that an HHA or hospice may make to change from a designated regional intermediary to an alternative designated regional intermediary, in accordance with paragraph (f) of this section, is evaluated by HCFA in accordance with the criteria set forth at § 421.106(b) of this subpart and must be filed within the timeframe established at § 421.106(a) of this subpart.

(h) *Exception:* An HHA or a hospice that, as of June 20, 1988 is receiving payment from a designated regional intermediary may, without regard to the limitations contained in § 421.106 of this subpart, continue to receive payment from that intermediary. It may do so even if that intermediary is not the designated regional intermediary or the alternative designated regional intermediary for the particular State in which the HHA or hospice is located.

5. Section 421.128(f) is revised by removing the modifier "freestanding" that applies to home health agencies and hospices to read as follows:

§ 421.128 Intermediary's opportunity for hearing and right to judicial review.

* * * * *

(f) *Exception.* An intermediary adversely affected by the designation of a regional intermediary or an alternative regional intermediary for HHAs, or an intermediary for hospices, under § 421.117 of this subpart is not entitled to a hearing or judicial review concerning adverse effects caused by the designation of an intermediary.

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance)

Dated: February 22, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: April 1, 1988.

Otis R. Bowen,

Secretary.

[FR Doc. 88-11206 Filed 5-18-88; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6788]

List of Communities Eligible for the Sale of Flood Insurance; North Carolina

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities were required to adopt floodplain management measures compliant with the NFIP revised regulations that became effective on October 1, 1986. If the communities did not do so by the specified date, they would be suspended from participation in the NFIP. The communities are now in compliance. This rule withdraws the suspension. The communities' continued participation in the program authorizes the sale of flood insurance.

EFFECTIVE DATE: April 5, 1988.

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

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

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding.

In addition, the Director of the Federal Emergency Management Agency has identified the Special Flood Hazard Areas in these communities by publishing a Flood Insurance Rate Map. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the Special Flood Hazard Area shown on the map.

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

PART 64—[AMENDED]

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

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

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

In each entry, the suspension for each listed community has been withdrawn. The entry reads as follows:

§ 64.6 List of eligible communities.

State	Community name	County	Community No.	Effective date
North Carolina	Charlotte, city of	Mecklenburg	370159	April 5, 1988, suspension withdrawn.
Do	Gastonia, city of	Gaston	370100	Do.
Do	Harrisburg, town of	Cabarrus	370038	Do.
Do	Indian Trail, town of	Union	370235	Do.
Do	Kings Mountain, city of	Cleveland	370304	Do.
Do	Long View, town of	Catawba	370055	Do.
Do	Unincorporated areas	Mecklenburg	370158	Do.
Do	Mount Holly, city of	Gaston	370102	Do.
Do	Spencer, town of	Rowan	370216	Do.
Do	Wingate, town of	Union	370365	Do.

Harold T. Duryee,
Administrator, Federal Insurance Administration.

Issued: May 8, 1988.

[FR Doc. 88-11205 Filed 5-18-88; 8:45 am]
BILLING CODE 6718-21-M

44 CFR Part 64

[Docket No. FEMA 6789]

List of Communities Eligible for the Sale of Flood Insurance; Pennsylvania et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

EFFECTIVE DATES: The dates listed in the third column of the table.

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

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

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

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

PART 64—[AMENDED]

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

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

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

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

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Pennsylvania: Smithfield, township of, Monroe County.	421896	Nov. 8, 1974, Emerg.; Mar. 4, 1988, Reg.; Mar. 4, 1988, Susp.; Apr. 5, 1988, Rein.	Mar. 4, 1988.
Kentucky:			
Greenup, city of, Greenup County	210088	Dec. 15, 1975, Emerg.; July 5, 1982, Reg.; Feb. 4, 1988, Susp.; Apr. 5, 1988, Rein.	July 5, 1982.
Woodford County, unincorporated areas.	210230	Mar. 30, 1973, Emerg.; June 1, 1978, Reg.; Feb. 4, 1988, Susp.; Apr. 6, 1988, Rein.	June 1, 1978.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Missouri:			
Neosho, city of, Newton County	290265	Apr. 22, 1975, Emerg.; July 5, 1982, Reg.; July 5, 1982, Susp.; Apr. 6, 1988, Rein.	July 5, 1982.
Monroe, city of, Marion and Monroe Counties.	290688	May 4, 1976, Emerg.; Sept. 4, 1986, Reg.; Sept. 4, 1986, Susp.; Apr. 6, 1988, Rein.	Mar. 4, 1988.
Pennsylvania: McSherrystown, borough of, Adams County.	421245	Dec. 4, 1975, Emerg.; Mar. 4, 1988, Reg.; Mar. 4, 1988, Susp.; Apr. 6, 1988, Rein.	Do.
Florida: Fanning Springs, town of, Gilchrist and Levy Counties.	120146	Aug. 22, 1975, Emerg.; Sept. 5, 1984, Reg.; Sept. 5, 1984, Susp.; Apr. 8, 1988, Rein.	Sept. 5, 1984.
Pennsylvania: Freedom, township of, Adams County.	421251	Jan. 13, 1975, Emerg.; Mar. 16, 1988, Reg.; Mar. 16, 1988, Susp.; Apr. 8, 1988, Rein.	Mar. 16, 1988.
Kansas: St. George, city of, Pottawatomie County.	200274	Apr. 8, 1988, Emerg	Jan. 3, 1975.
Texas:			
Bee Cave, village of, Travis County [1]	481610	Apr. 12, 1988, Emerg.; Apr. 12, 1988, Reg	Do.
Opdyke West, town of, Hockley County [2].	481611-New	Apr. 14, 1988, Emerg	Do.
Tennessee: Mount Pleasant, city of, Maury County.	470125	Oct. 5, 1973, Emerg.; Feb. 17, 1988, Reg.; Feb. 17, 1988, Susp.; Apr. 11, 1988, Rein.	Feb. 17, 1988.
Kentucky: Cattlesburg, city of, Boyd County.	210018	Aug. 21, 1975, Emerg.; Jan. 3, 1979, Reg.; Feb. 4, 1988, Susp.; Apr. 11, 1988, Rein.	Jan. 3, 1979.
Pennsylvania:			
Bath, borough of, Northampton County.	420717	Aug. 8, 1975, Emerg.; Feb. 17, 1988, Reg.; Feb. 17, 1988, Susp.; Apr. 14, 1988, Rein.	Feb. 17, 1988.
Upper Frankford, township of, Cumberland County.	421588	Aug. 22, 1975, Emerg.; Apr. 5, 1988, Reg.; Apr. 5, 1988, Susp.; Apr. 14, 1988, Rein.	Apr. 5, 1988.
New Hampshire: Lee, town of, Strafford County.	330148	July 23, 1975, Emerg.; Apr. 2, 1986, Reg.; Apr. 2, 1986, Susp.; Apr. 18, 1988, Rein.	Apr. 2, 1986.
New York: Lodi, township of, Seneca County.	360753	Sept. 21, 1976, Emerg.; Jan. 15, 1988, Reg.; Jan. 15, 1988, Susp.; Apr. 18, 1988, Rein.	Jan. 15, 1988.
North Carolina: Haywood County, unincorporated areas.	370120	June 9, 1975, Emerg.; July 16, 1984, Reg.; July 16, 1984, Susp.; Apr. 18, 1988, Rein.	July 16, 1984.
New Hampshire: Fremont, town of, Rockingham County.	330131	Apr. 21, 1988, Emerg.; Apr. 21, 1988, Reg	Apr. 15, 1981.
Tennessee: McMinnville, city of, Warren County.	470195	Jan. 15, 1974, Emerg.; Mar. 16, 1988, Reg.; Mar. 16, 1988, Susp.; Apr. 19, 1988, Rein.	Mar. 16, 1988.
Florida: Tavares, city of, Lake County	120138	May 15, 1975, Emerg.; Mar. 16, 1988, Reg.; Mar. 16, 1988, Susp.; Apr. 27, 1988, Rein.	Do.
Georgia: Fort Oglethorpe, city of, Catoosa County.	130248	Oct. 18, 1974, Emerg.; Feb. 1, 1984, Reg.; Feb. 4, 1988, Susp.; Apr. 27, 1988, Rein.	Feb. 1, 1984.
New Hampshire: Ashland, town of, Grafton County.	330042	June 4, 1975, Emerg.; Apr. 2, 1986, Reg.; Apr. 2, 1986, Susp.; Apr. 29, 1988, Rein.	Apr. 2, 1986.
Pennsylvania:			
Frailey, township of, Schuylkill County	422007	Dec. 3, 1975, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.; Apr. 29, 1988, Rein.	Sept. 1, 1986.
Kiskiminetas, town of, Armstrong County.	421209	Feb. 28, 1977, Emerg.; Apr. 5, 1988, Reg.; Apr. 5, 1988, Susp.; Apr. 29, 1988, Rein.	Apr. 5, 1988.
Michigan: White Oak, township of, Ingham County.	260417	Apr. 28, 1988, Emerg	Do.
New Mexico: San Juan County, unincorporated areas [3].	350064	Dec. 15, 1975, Emerg.; Apr. 22, 1988, withdrawn	Dec. 15, 1975.

[1] The Village of Bee Cave, Texas (481026) has adopted Travis County's Flood Insurance Study with accompanying maps effective April 1, 1982, for floodplain management and insurance purposes. Note that the County's FIRM was revised on September 27, 1985.
[2] The Town of Opdyke West has adopted Hockley County's FHBM dated October 25, 1977, for floodplain management and insurance purposes.
[3] San Juan County is withdrawing from participation in the NFIP before its conversion to the Regular Program. The conversion is scheduled to take effect on August 4, 1988. However, if the County's Program status is nonparticipating on that date, the County will not be converted to the Regular Program. The County's FIRM will be in effect.

State	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Current effective map date
Region III, Minimal Conversions				
Pennsylvania	Dallas, township of, Luzerne County	420602	Apr. 1, 1988, Suspension Withdrawn.	Apr. 1, 1988.
Do.	Larimer, township of, Somerset County	422515	do	Apr. 1, 1988.
West Virginia	Capon Bridge, town of, Hampshire County	540046	do	Apr. 1, 1988.
Do.	Hundred, town of, Wetzel County	540256	do	Apr. 1, 1988.
Do.	Lester, town of, Raleigh County	540171	do	Apr. 1, 1988.
Do.	Pine Grove, town of, Wetzel County	540210	do	Apr. 1, 1988.
Virginia	Berryville, town of, Clarke County	510037	do	Apr. 1, 1988.
Region II—Regular Program Conversions				
New York	Annsville, town of, Oneida County	360516	Apr. 5, 1988, Suspension Withdrawn.	Apr. 5, 1988.
Region III				
Pennsylvania	Cranberry, township of, Venango County	422109	do	Apr. 5, 1988.

State	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Current effective map date
Do.	Parks, township of, Armstrong County	421311	do.	Apr. 5, 1988.
Do.	Honaker, town of, Russell County	510321	do.	Apr. 5, 1988.
Region IV				
Alabama	Cottonwood, town of, Houston County	010102	do.	Apr. 5, 1988.
Region V				
Illinois	Ogle County, unincorporated areas	170525	do.	Apr. 5, 1988.
Region VI				
Louisiana	Catahoula Parish, unincorporated areas	220047	do.	Apr. 5, 1988.
Do.	Harrisonburg, village of, Catahoula Parish	220048	do.	Apr. 5, 1988.
Region VIII				
North Dakota	Tioga, city of, Williams County	380147	do.	Apr. 5, 1988.
Region IX				
California	Solano County, unincorporated areas	060631	do.	Apr. 5, 1988.
Do.	Sutter County, unincorporated areas	060394	do.	Apr. 5, 1988.
Region X				
Idaho	Boise County, unincorporated areas	160205	do.	Apr. 5, 1988.
Do.	Idaho City, city of, Boise County	160222	do.	Apr. 5, 1988.
Oregon	Dallas, city of, Polk County	410187	do.	Apr. 5, 1988.
Do.	Independence, city of, Polk County	410189	do.	Apr. 5, 1988.
Do.	Monmouth, city of, Polk County	410190	do.	Apr. 5, 1988.
Do.	Polk County, unincorporated areas	410186	do.	Apr. 5, 1988.
Region II, Regular Program Conversions				
New York	Vernon, village of, Oneida County	360560	April 15, 1988, Suspension Withdrawn.	Apr. 15, 1988.
Region III				
Delaware	Newark, city of, New Castle County	100025	do.	Apr. 15, 1988.
Region V				
Illinois	Amboy, city of, Lee County	170414	do.	Apr. 15, 1988.
Do.	Dixon, city of, Lee County	170417	do.	Apr. 15, 1988.
Region VIII				
Wyoming	Ranchester, town of, Sheridan County	560046	do.	Apr. 15, 1988.
Region IX				
Arizona	Avondale, city of, Maricopa County	040038	do.	Apr. 15, 1988.
Do.	Carefree, city of, Maricopa County	040126	do.	Apr. 15, 1988.
Do.	El Mirage, town of, Maricopa County	040041	do.	Apr. 15, 1988.
Do.	Gila Bend, town of, Maricopa County	040043	do.	Apr. 15, 1988.
Do.	Glendale, city of, Maricopa County	040045	do.	Apr. 15, 1988.
Do.	Good Year, town of, Maricopa County	040046	do.	Apr. 15, 1988.
Do.	Mesa, city of, Maricopa County	040048	do.	Apr. 15, 1988.
Do.	Maricopa County, unincorporated areas	040037	do.	Apr. 15, 1988.
Do.	Peoria, city of, Maricopa County	040050	do.	Apr. 15, 1988.
Do.	Phoenix, city of, Maricopa County	040051	do.	Apr. 15, 1988.
Do.	Surprise, town of, Maricopa County	040053	do.	Apr. 15, 1988.
Do.	Tempe, city of, Maricopa County	040054	do.	Apr. 15, 1988.
Do.	Wickenburg, town of, Maricopa County	040056	do.	Apr. 15, 1988.
Region X				
Idaho	Stites, city of, Idaho County	160071	do.	Apr. 15, 1988.

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

Issued: May 12, 1988.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 88-11204 Filed 5-18-88; 8:45 am]

BILLING CODE 6718-21-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 514 and 515

[APD 2800.12 CHGE 55]

Acquisition Regulation; Use of SF-30 for Additional Awards to an Offeror Under a Single Solicitation

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) Chapter 5, is amended to add §§ 514.407-1 and 515.414 to prescribe the Standard Form 30, Amendment of Solicitation/Modification of Contract, for use in making additional awards to an offeror under a single solicitation and to provide the regulatory authority for such awards. The intended effect is to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: June 13, 1988.

FOR FURTHER INFORMATION CONTACT: Ms. Ida M. Ustad, Office of GSA Acquisition Policy and Regulations on (202) 566-1224.

SUPPLEMENTARY INFORMATION:

Background

The General Services Administration published GSAR Notice 5-180 in the **Federal Register** (53 FR 2515) on January 28, 1988, inviting comments from interested parties. No comments were received from the public; however, comments received from the Office of Federal Procurement Policy and various offices within GSA have been reviewed, reconciled, and incorporated when appropriate, in this final rule.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rule simply clarifies a procedural matter relating to the form used when making additional contract awards to an offeror under one solicitation. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under (44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR Parts 514 and 515

Government procurement.

1. The authority citation for 48 CFR Parts 514 and 515 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 514—SEALED BIDDING

2. The table of contents for Part 514 is amended by adding § 514.407-1 to read as follows:

Subpart 514.4—Opening of Bids and Award of Contract

* * * * *

Sec.

514.407-1 General.

3. Section 514.407-1 is added to read as follows:

514.407-1 General.

If an award is made to a bidder for less than all of the items that may be awarded to that bidder under a solicitation and additional items are being withheld for possible subsequent award, any subsequent award to that bidder must be made using SF-30, Amendment of Solicitation/Modification of Contract (except see GSAR 519.502-3(c) regarding partial set-asides). The authority cited in paragraph 13D of SF-30 for the subsequent award will be FAR 14.407-1(c)(4). This procedure presumes that initial and subsequent awards are being made during the bid acceptance period.

PART 515—CONTRACTING BY NEGOTIATION

4. The table of contents for Part 515 is amended by adding § 515.414 to read as follows:

Subpart 515.4—Solicitation and Receipt of Proposals and Quotations

* * * * *

Sec.

515.414 Forms.

5. Section 515.414 is added to read as follows:

515.414 Forms.

When an award is made to an offeror for less than all of the items that may be awarded to that offeror and additional items are being withheld for subsequent award, the first award to that offeror shall state that the Government may make subsequent awards on those additional items within the offeror's offer acceptance period. Subsequent awards to the offeror must be made using SF-30, Amendment of Solicitation/Modificiation of Contract (except see GSAR 519.502-3(c) regarding partial set-asides). The authority cited in paragraph 13D of SF-30 for subsequent awards will be GSAR 515.414.

Dated: May 12, 1988.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 88-11173 Filed 5-18-88; 8:45 am]

BILLING CODE 6820-61-M

48 CFR Part 552

[APD 2800.12 CHGE 54]

Acquisition Regulation; Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5, is amended to revise the matrixes in §§ 552.320-70 and 552.370 to add a reference to the FAR clause at 52.222-37, Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era. In addition, the reference to the FAR clause at 52.222-28, Equal Opportunity Preaward Clearance of Subcontracts, is deletd from the matrix at 552.370. Acquisition Circular AC-87-2 is canceled. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: May 27, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano, Office of GSA Acquisition Policy and Regulations, 18th and F Streets NW., Room 4027, Washington, DC 20405, (202) 523-4763.

SUPPLEMENTARY INFORMATION: On April 15, 1987, the General Services Administration published in the **Federal Register** (52 FR 12182) Acquisition Circular AC-87-2, which temporarily amended Part 552 of the GSAR to implement the reporting requirements of the Veterans' Compensation, Education and Employment Amendment of 1982 prescribed by the Department of Labor (DOL) on March 4, 1987 (52 FR 6674-6679). The rule was not published in the **Federal Register** for public comment because it merely implemented the

Labor Department regulation which had already undergone the public comment process.

Impact

The Director, Office of Management and Budget (OMB) by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule cancels the acquisition circular since the reporting requirements of the Veterans' Compensation, Education and Employment Amendment of 1982 were incorporated in the Federal Acquisition Regulation by FAC 84–32 and merely adds a reference to the FAR clause regarding the reporting requirements, in the clause matrixes. The OMB has assigned OMB Control No. 1293–0005 to the DOL information collection requirements reflected in FAR clause 52.222–37.

List of Subjects in 48 CFR Part 552

Government procurement.

PART 552—[AMENDED]

1. The authority citation for 48 CFR Part 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

§ 552.300 [Amended]

Editorial Note: The matrixes listed in the summary of this rule are illustrated in and made a part of the regulation. However, the matrixes are not illustrated in the **Federal Register** or the Code of Federal Regulations. Individual copies may be obtained from the Director of the Office of GSA Acquisition Policy and Regulations (VP), 18th and F Streets, NW., Washington, DC 20405.

Dated: May 10, 1988.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 88–11175 Filed 5–18–88; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 575

[Docket 88–04, Notice 2]

Federal Motor Vehicle Safety Standards; New Pneumatic Tires

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

ACTION: Final rule.

SUMMARY: This notice amends Standard No. 109, *New Pneumatic Tires*, to include an additional maximum inflation pressure, 340 kPa, in the Standard. The European Tyre and Rim Technical Organization (E.T.R.T.O.) submitted a petition for rulemaking requesting the inclusion of the 340 kPa pressure. The petitioner stated that its members are receiving requests with increasing frequency from vehicle manufacturers for reinforced tires at an inflation pressure higher than 300 kPa, for purposes of safety and optimum vehicle handling. The requests for these tires are primarily for station wagons. E.T.R.T.O. requested that a pressure of 340 kPa be added, so that the standard inflation pressure for reinforced tires (280 kPa) can be increased for special performance requirements with no increase in tire load capacity. After evaluating the petition and comments on the proposal, NHTSA has decided to include 340 kPa as a permissible inflation pressure.

DATES: The final rule is effective June 20, 1988. Petitions for reconsideration must be filed by June 20, 1988.

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

FOR FURTHER INFORMATION CONTACT: Mr. Larry Cook, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–4803).

SUPPLEMENTARY INFORMATION: Until the effective date of this rule, Standard No. 109, *New Pneumatic Tires*, requires that the maximum permissible inflation pressure for each tire must be 32, 36, 40 or 60 psi, or 240, 280 or 300 kPa. The standard specifies differing test criteria depending upon the maximum permissible inflation pressure.

The European Tyre and Rim Technical Organization (E.T.R.T.O.) submitted a petition for rulemaking requesting the inclusion of an additional inflation pressure, 340 kPa, in Standard No. 109. The petitioner stated that its members are receiving requests with increasing frequency from vehicle manufacturers for reinforced tires at an inflation pressure higher than 300 kPa, for purposes of safety and optimum vehicle handling. The requests for these tires are primarily for station wagons. E.T.R.T.O. requested that a pressure of 340 kPa be added, so that the standard inflation pressure for reinforced tires (280 kPa) can be increased for special performance requirements with no increase in tire load capacity.

On January 18, 1988, NHTSA published a notice of proposed rulemaking to allow a new maximum permissible tire inflation pressure. (53 FR 936.) NHTSA addressed petitions raising almost identical issues in 1978. As discussed in the January 18, proposal, the 300 kPa maximum pressure for non-reinforced tires was added to the standard in response to those petitions. The relationship of the 300 kPa non-reinforced tire to the standard inflation pressure (240 kPa) non-reinforced tire is analogous to that of the 340 kPa reinforced tire to the 280 kPa reinforced tire. Thus, NHTSA tentatively concluded that the 340 kPa tire pressure should be added to Standard No. 109 for the same reasons the 300 kPa pressure was added. The agency explained its reason in detail in the January 18, proposal.

The agency received comments from Chrysler Motors Corporation, General Motors Corporation, General Tire, and Volkswagen of America. Each commenter endorsed the proposal. NHTSA is adopting the proposed changes for the reasons expressed in the proposal.

Further, the agency is issuing a conforming amendment to Table 1, 49 CFR 575.104, *Uniform Tire Quality Grading Standards*, to set out the 340 kPa maximum permissible inflation pressure. The agency inadvertently neglected to propose the Table 1 amendment when NHTSA issued the proposed rule. Without such an amendment, NHTSA could not conduct compliance testing for UTQGS of tires with a 340 kPa maximum inflation pressure. The agency finds that there is good cause for amending Table 1 without notice and comment because the amendment adds no new substantive requirement for tires with a 340 kPa maximum inflation pressure.

The agency finds that there is good cause for making this final rule effective in less than 180 days because the amendment relieves a restriction, and permits the sale of tires that can provide better performance without any negative impact on safety.

Impact Assessments

The agency has analyzed this proposal and determined that it is neither "major" within the meaning of Executive Order 12291, nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The amendments do not impose new requirements for current tires, but instead permit a new category

of tire. Since the new tires can provide better performance, the amendments will result in consumer benefits.

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The agency believes that few of the tire manufacturers qualify as small businesses. Any tire manufacturers that do qualify as small businesses might benefit to a small extent by being permitted to produce these new tires. Small non-profit organizations and small governmental units are affected by the final rule only to the extent that they purchase motor vehicles. These small entities may benefit to small extent if they purchase vehicles with these new tires.

The agency has analyzed this action under principles and criteria of Executive Order 12612, and has determined that this final rule does not have sufficient Federalism implications to warrant preparing a Federalism Assessment.

Finally, the agency has considered the environmental implications of this proposed rule in accordance with the National Environmental Policy Act of 1969 and determined that the rule does not have any significant impact on the human environment.

List of Subjects in 49 CFR Parts 571 and 575

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

In consideration of the foregoing, 49 CFR Parts 571 and 575 are amended as follows:

PART 571—[AMENDED]

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

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

§ 571.109 [Amended]

2. S4.2.1(b) is revised to read as follows:

* * * * *

(b) Its maximum permissible inflation pressure shall be either 32, 36, 40 or 60 psi, or 240, 280, 300 or 340 kPa.

* * * * *

3. S4.2.2.2 is revised to read as follows:

* * * * *

S4.2.2.2 *Physical dimensions.*

The actual section width and overall width for each tire measured in accordance with S5.1, shall not exceed the section width specified in a submission made by an individual manufacturer, pursuant to S4.4.1(a) or in one of the publications described in S4.4.1(b) for its size designation and type by more than:

(1) (For tires with a maximum permissible inflation pressure of 32, 36, or 40 psi) 7 percent, or

(2) (For tires with a maximum permissible inflation pressure of 60 psi or 240, 280, 300, or 340 kPa) 7 percent or 0.4 inch, whichever is larger.

* * * * *

4. S4.3.4 is revised to read as follows:

* * * * *

S4.3.4 If the maximum inflation pressure of a tire is 240, 280, 300, or 340 kPa, then:

(a) Each marking of that inflation pressure pursuant to S4.3(b) shall be followed in parenthesis by the equivalent inflation pressure in psi, rounded to the next higher whole number; and

(b) Each marking of the tire's maximum load rating pursuant to S4.3(c) in kilograms shall be followed in parenthesis by the equivalent load rating in pounds, rounded to the nearest whole number.

* * * * *

5. Tables I–A, I–B, I–C, and II of Appendix A are revised to read as follows:

Appendix A—[Amended]

TABLE I–A.—FOR BIAS PLY TIRES WITH DESIGNATED SECTION WIDTH OF 6 INCHES AND ABOVE

Cord Material	Maximum permissible inflation						
	32 lb/in²	36 lb/in²	40 lb/in²	240 kPa	280 kPa	300 kPa	340 kPa
Rayon (in-lbs)	1,650	2,574	3,300	1,650	3,300	1,650	3,300
Nylon or polyester (in-lbs)	2,600	3,900	5,200	2,600	5,200	2,600	5,200

TABLE I–B.—FOR BIAS PLY TIRES WITH DESIGNATED SECTION WIDTH BELOW 6 INCHES

Cord Material	Maximum permissible inflation						
	32 lb/in²	36 lb/in²	40 lb/in²	240 kPa	280 kPa	300 kPa	340 kPa
Rayon (in-lbs)	1,000	1,875	2,500	1,000	2,500	1,000	2,500
Nylon or polyester (in-lbs)	1,950	2,925	3,900	1,950	3,900	1,950	3,900

TABLE I–C.—FOR RADIAL PLY TIRES

Size Designation	Maximum permissible inflation						
	32 lb/in²	36 lb/in²	40 lb/in²	240 kPa	280 kPa	300 kPa	340 kPa
Below 160 mm (in-lbs)	1,950	2,925	3,900	1,950	3,900	1,950	3,900
160 mm or above (in-lbs)	2,600	3,900	5,200	2,600	5,200	2,600	5,200

* * * * *

TABLE II.—TEST INFLATION PRESSURES

Maximum permissible inflation pressure	32 lb/in²	36 lb/in²	40 lb/in²	60 lb/in²	240 kPa	280 kPa	300 kPa	340 kPa
Pressure to be used in tests for physical dimensions, bead unseating, tire strength, and tire endurance	24	28	32	52	180	220	180	220
Pressure to be used in test for high-speed performance	30	34	38	58	220	260	220	260

PART 575—[AMENDED]

6. The authority citation for Part 575 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1407, 1421, and 1423; delegation of authority at 49 CFR 1.50.

7. Table 1 to § 575.104(g) is revised to read as follows:

§ 575.104 [Amended]

* * * * *

(g) * * *

TABLE 1.—TEST INFLATION PRESSURES

Maximum permissible inflation pressure	32 lb/in²	36 lb/in²	40 lb/in²	260 lb/in²	240 kPa	280 kPa	300 kPa	340 kPa
Pressure to be used in tests for treadwear and in determination of tire load for temperature resistance testing	24	28	32	52	180	220	180	220
Pressure to be used for all aspects of temperature resistance testing other than determination of tire load	30	34	38	58	220	260	220	260

* * * * *

Issued on May 11, 1988.

Diane K. Steed,

Administrator.

[FR Doc. 88–11078 Filed 5–18–88; 8:45 am]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 53, No. 97
Thursday, May 19, 1988

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

Farmers Home Administration

7 CFR Part 1942

Industrial Development Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend the Agency's policies and procedures governing the administration of Industrial Development Grants. This action is necessary to comply with the Omnibus Budget Reconciliation Act of 1987 and the continuing resolution for 1988, which allows private nonprofit organizations to participate with public agencies as grant recipients and expands the use of grant funds to include the financing of small and emerging rural businesses. The agency's proposal to expand the Industrial Development Grant Program will result in enterprise development and job creation in distressed rural communities.

DATES: Comments must be received on or before June 20, 1988.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives and Forms Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address. The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Frederick R. Young, Branch Chief, Community Facilities Division, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250; Telephone: (202) 382-9699.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291, and has been determined to be nonmajor since the annual effect on the economy is less than $100 million and there will be no increase in costs or prices for consumers, individual industries, organizations, governmental agencies or geographic regions. There will be 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.

Environmental Impact Statement

This document has been reviewed in accordance with FmHA Instruction 1940-G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

The Administrator, Farmers Home Administration, has determined this action will not have significant economic impact on a substantial number of small entities, because the action, while increasing costs to ineligible transferees in Community Programs, will not affect a significant number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

Program Affected

This program, Industrial Development Grants, is listed in the Catalog of Federal Domestic Assistance under Number 10.424. The FmHA program and projects which are affected by this instruction are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1901-J.

List of Subjects in 7 CFR Part 1942

Business and industry, Grant programs—Housing and community development Industrial park, Rural areas.

Accordingly, FmHA proposes to amend Chapter XVIII, Title 7, Code of Federal Regulations as follows:

PART 1942—ASSOCIATIONS

1. The authority citation for Part 1942 is revised to read as follows and the authority citations throughout Subpart G are removed:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart G.—Industrial Development Grants

2. Section 1942.301 is revised to read as follows:

§ 1942.301 Purpose.

This subpart outlines Farmers Home Administration (FmHA) policies and authorizations and sets forth procedures for making grants to finance and facilitate development of private business enterprises.

3. Section 1942.302 is revised to read as follows:

§ 1942.302 Policy.

(a) The grant program will be used to support the development of small and emerging private business enterprises in rural areas.

(b) FmHA officials will maintain liaison with officials of other federal, state, regional and local development agencies to coordinate related programs to achieve rural development objectives.

4. Section 1942.304 is amended by revising paragraph (a) and adding paragraphs (f), (g), and (h) to read as follows:

§ 1942.304 Definitions.

(a) Industrial Development (ID) grants—Grants made to finance and facilitate development of small and emerging private business enterprises in rural areas. Grants are made from FmHA funds under authority of the Consolidated Farm and Rural

Development Act, as amended, section 310B (7 U.S.C. 1932).

* * * * *

(f) Technical Assistance—A function performed for the benefit of a grantee project and is a problem solving activity such as market research, product and/or service improvement, feasibility study, etc.

(g) Project—The result of the use of program funds, i.e., a facility, whether constructed by the applicant or a third party from a loan or grant made with grant funds; technical assistance; startup operating costs or working capital. A revolving fund established in whole or in part with grant funds will also be considered a project for the purpose of Intergovernmental and Environmental Review under § 1942.310 paragraphs (b) and (c), as well as the specific uses of the revolving funds.

(h) Small and emerging private business enterprise—Generally any private business which will employ 50 or less new employees and has less than $1.0 million in projected gross revenues and has or will utilize technological innovation and commercialization of: (1) New products that can be used in rural areas and (2) new processes that can be used in such production.

5. Section 1942.305 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 1942.305 Eligibility and priority.

(a) *Eligibility.* (1) ID grants may be made to public bodies and private nonprofit corporations serving rural areas. Public bodies include States, counties, cities, townships, and incorporated towns and villages, boroughs, authorities, districts, and Indian tribes on Federal and State reservations and other Federally recognized Indian Tribal groups in rural areas. The State Director will proceed as follows in rural area determinations: When the FmHA State Director determines an area to be urbanized or urbanizing, the State Director must then determine the population density per square mile. If the area appears to be eligible, the State Director will request the National Office to provide the correct density figure. All such density determinations will be made on the basis of minor civil division or census county division as used by the Bureau of the Census. In making the density calculations, large nonresidential tracts devoted to urban land uses such as railroad yards, airports, industrial sites, parks, golf courses, and cemeteries or land set aside for such purposes will be excluded.

* * * * *

(b) *Project selection process.* The following paragraphs indicate items and conditions which must be considered in selecting applications for further development. When ranking eligible applications for consideration for limited funds, FmHA officials must consider the priority items met by each application and the degree to which those priorities are met, and apply good judgment.

(1) *Applications.* The application and supporting information submitted with it will be considered in determining the proposed project's priority for available funds.

(2) *State Office review.* All applications will be reviewed for priority for funding and scored. When considering authorizing an application for funding, the State Director should consider the remaining funds in the State allocation, and the anticipated allocation of funds for the next fiscal year as well as the amount of time necessary to complete grant processing. Those applicants with eligible lower priority scoring applications which obviously cannot be funded within a funding cycle should be notified that funds are not available; and requested to advise whether they wish to have their application maintained in an active file for future consideration. The State Director may request an additional allocation of funds from the National Office for such applications. Such requests will be considered along with all others on hand.

(3) *Selection priorities.* The priorities described below will be used by the State Director to rate applications. Points will be distributed as indicated in paragraphs (b)(3)(i) through (v) of this section. A copy of the score sheet should be placed in the case file for future reference.

(i) *Population.* Proposed project(s) will primarily be located in a community of under 25,000 population—10 points.

(ii) *Economic conditions.* (A) Proposed project(s) will primarily be located in areas where the unemployment rate: (1) Exceeds the State rate by 25% or more—20 points, (2) exceeds the State rate by less than 25%—10 points, (3) is equal to or less than the State rate—0 points.

(B) Proposed project(s) will primarily be located in areas where Median Household Income (MHI) as prescribed by Office of Management and Budget under section 624 of Economic Opportunity Act of 1964 for a family of 4 for the state is: (1) Less than poverty line—25 points, (2) more than poverty line but less than 85% of state MHI—15 points, (3) between 85% and 100% of state MHI—10 points, (4) equal or greater than state MHI—0 points.

(iii) *Experience.* Applicant has substantial experience in administering a rural economic development program—15 points.

(iv) *Other.* (A) Grant funds will be used to develop or construct industrial or business sites—25 points.

(B) Applicant has industry or business committed to locate in the sites—25 points.

(C) Applicant is a unit of general purpose local government (Public Body or Indian Tribe)—15 points.

(D) Grant request contains evidence of substantial commitment of funds from nonfederal sources for proposed projects—25 points.

(v) *Discretionary.* In certain cases FmHA may assign up to 50 points in addition to those that may be assigned in paragraphs (b)(3)(i) through (iv) of this section. Use of these points must include a written justification such as geographic distribution of funds, criteria which will result in substantial employment improvement, mitigation of economic distress of a community through the creation or salvation of jobs or emergency situations.

6. Section 1942.306 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1942.306 Purposes of grants.

(a) Grant funds may be used to finance and develop small and emerging private business enterprises in rural areas including, but not limited to, the following:

(1) Acquisition and development of land, easements and rights-of-way.

(2) Construction, conversion, enlargement, repairs or modernization of buildings, plants, machinery, equipment, access streets and roads, parking areas, utilities, and pollution control and abatement facilities.

(3) Startup operating cost and working capital.

(4) Technical assistance for proposed grantee projects.

(5) Reasonable fees and charges for professional services necessary for the planning and development of the project including packaging. Services must be provided by individuals licensed in accordance with appropriate State accreditation associations.

(6) Refinancing of debts exclusive of interest incurred by or on behalf of an association before an application for a grant when all of the following exist:

(i) The debts were incurred for the facility or part thereof or service to be installed or improved with the grant, and

(ii) Arrangements cannot be made with the creditors to extend or modify the terms of the existing debt.

(b) Grants may be made only when there is a reasonable prospect that they will result in development of small and emerging private business enterprises.

* * * * *

7. Section 1942.307 is revised to read as follows:

§ 1942.307 Limitations on use of grant funds.

(a) Funds will not be used:

(1) To produce agricultural products through growing, cultivation and harvesting either directly or through horizontally integrated livestock operations except for commercial nurseries or timber operations.

(2) To finance comprehensive areawide type planning. This does not preclude the use of grant funds for planning for a given project.

(3) For loans by grantees when the rates, terms and changes for those loans are not reasonable or would be for purposes not eligible under § 1942.306 of this subpart.

(b) Funds will not be used for any project which will require more than $500,000 in FmHA grant funds available under this subpart.

(c) At least 51 percent of the outstanding interest in the project has membership or is owned by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

8. Section 1942.310 is amended by revising paragraphs (b) and (d); removing paragraph (e); redesignating paragraphs (f), (g), and (h) as paragraphs (e), (f), and (g); and by adding new paragraphs (h) and (i) to read as follows:

§ 1942.310 Other considerations.

* * * * *

(b) *Environmental requirements.* (1) *General applicability.* Unless specifically modified by this section, the requirements of Subpart G of Part 1940 of this Chapter apply to this subpart. FmHA will give particular emphasis to ensuring compliance with the environmental policies contained in § 1940.303 and § 1940.304 in Subpart G of Part 1940 of this Chapter. Although the purpose of the grant program established by this subpart is to improve business, industry and employment in rural areas, this purpose is to be achieved, to the extent practicable, without adversely affecting important environmental resources of rural areas such as important farmlands and forest lands, prime rangelands, wetlands and floodplains. Prospective recipients of grants, therefore, must consider the potential environmental impacts of their applications at the earliest planning stages and develop plans, grants and projects that minimize the potential to adversely impact the environment.

(2) *Technical assistance.* The application for a technical assistance project is generally excluded from FmHA's environmental review process by § 1940.310(e)(1) of Subpart G of Part 1940 of this Chapter. However, as further specified in § 1940.330 of Subpart G of Part 1940 of this Chapter, the grantee for a technical assistance grant, in the process of providing technical assistance, must consider the potential environmental impacts of the recommendations provided to the recipient of the technical assistance.

(3) *Applications for Direct Construction Project.* The application by a potential grantee who intends to directly use grant funds for a nontechnical assistance project, such as a construction project, shall be reviewed and processed under the applicable requirements of Subpart G of Part 1940 of this Chapter.

(4) *Applications for Grants to Provide Financial Assistance to Third Party Recipients.* As part of the preapplication, the applicant must provide a complete Form FmHA 1940–20, "Request for Environmental Information," for each project specifically identified in its plan to provide financial assistance to third parties who will undertake eligible projects with such assistance. FmHA will review the preapplication, supporting materials and any required Forms FmHA 1940–20 and initiate a Class II assessment for the preapplication. This assessment will focus on the potential cumulative impacts of the projects as well as any environmental concerns or problems that are associated with individual projects and that can be identified at this time from the information submitted. Because FmHA's commitment to the use of grant funds for any identified third party projects (see § 1942.316 of this Subpart), no public notification requirements for a Class II assessment will apply to the preapplication. After the grant is approved, each third party project to be assisted under the grant will undergo the applicable environmental review and public notification requirements in Subpart G of Part 1940 of this Chapter, prior to FmHA providing its consent to the grantee to assist the third party project.

(5) *Combined Applications.* Whenever an applicant files a preapplication that includes a direct construction project and a plan to provide financial assistance to third parties who will undertake eligible projects, the following environmental requirements will apply.

(i) The proposed direct construction project(s) will be reviewed under the requirements of paragraph (b)(3) of this section prior to authorization of the application.

(ii) The plan to provide financial assistance to third parties will be reviewed and processed under the requirements of paragraph (b)(4) of this section. Additionally, the Class II assessment required for the plan shall address and analyze the cumulative impacts of all proposed projects, direct or third party, identified within the preapplication.

* * * * *

(d) *Management assistance.* Grant recipients will be supervised as necessary to assure that projects are completed in accordance with approved plans and specifications and that funds are expended for approved purposes. Grants made under this subpart will be administered under and are subject to 7 CFR Part 3015 and 7 CFR Part 3016, as appropriate, and established FmHA guidelines.

* * * * *

(h) *Flood or mudslide hazard area precautions.* If the grantee financed project is in a flood or mudslide area, then flood or mudslide insurance must be provided.

(i) *Termination of Federal requirements.* Once the grantee has provided assistance to projects from a revolving fund, in an amount equal to the grant provided by FmHA, the requirements imposed on the grantee shall not be applicable to any new projects thereafter financed from the revolving fund. Such new projects shall not be considered as being derived from Federal funds.

9. Section 1942.311 is amended by removing paragraph (b) and redesignating paragraph (c) as (b), and by revising paragraph (a) to read as follows:

§ 1942.311 Application processing.

(a) *Preapplications and applications.* (1) The application review and approval procedures outlined in § 1942.2 of Subpart A of Part 1942 of this Chapter will be followed as appropriate. The State Director should assist the applicant in application assembly and processing. If the application is for the development of facilities, the applicant shall use Form AD–624, "Application for Federal Assistance (for Construction Programs)." If the application is for the financing of facilities, the applicant shall

use Form AD–623, "Application for Federal Assistance (Non-Construction Programs)."

(2) Applications which propose to establish revolving loan programs shall contain detail on the applicant's experience operating a revolving loan program, proposed projects to be funded from the revolving fund, applicant's financial ability to administer a revolving fund, need for a revolving fund, and other funds available to leverage funds made available under this program.

(3) Each application for assistance will be carefully reviewed in accordance with the priorities established in § 1942.305(b)(3) of this Subpart. A priority rating will be assigned to each application. Applications selected for funding will be based on the priority rating assigned each application and the total funds available. All applications submitted for funding should contain sufficient information to permit FmHA to complete a thorough priority rating.

* * * * *

§§ 1942.312 and 1942.313 [Removed and Reserved]

10. Sections 1942.312 and 1942.313 are removed and reserved.

11. Section 1942.314 is needed and reads as follows:

§ 1942.314 Scope of work.

For applications involving a loan to a third party, the applicant shall develop a Scope of Work. As a minimum the Scope of Work should contain the following:

(a) The specific purposes for which grant funds will be utilized.

(b) Timeframes or dates by which action surrounding the use of funds will be accomplished.

(c) Who will be carrying out the purpose for which the grant is made.

(d) How the grant purposes will be accomplished.

12. Section 1942.316 is amended by revising the heading and paragraph (c) to read as follows:

§ 1942.316 Grant approval, fund obligation and third party financial assistance.

* * * * *

(c) *Third party financial assistance.* Approval of a grant to an applicant who will use grant funds to provide financial assistance to a third party does not constitute approval of the projects financed by the grantee. The review, approval and disbursement of funds for specific projects financed by grantees will be completed in accordance with applicable sections of this Subpart.

§§ 1942.317, 1942.318, 1942.319 and 1942.320 [Removed and Revised]

13. Sections 1942.317, 1942.318, 1942.319, and 1942.320 are removed and reserved.

§ 1942.322 [Amended]

14. Section 1942.322 is removed and reserved.

15. Section 1942.350 is revised to read as follows:

§ 1942.350 Forms, guides, and attachments.

Exhibit A of Subpart H of Part 1942 of this Chapter, Guides 1 and 2 of this Subpart, Attachment 1, and forms referenced (all available in any FmHA office) are for use in administering ID Grants.

Exhibits A and B to Subpart G— [Removed]

16. Exhibits A and B to Subpart G of Part 1942 are removed.

Dated: May 3, 1988.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88–11089 Filed 5–18–88; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88–NM–16–AD]

Airworthiness Directives; British Aerospace Model BAC 1–11 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to British Aerospace Model BAC 1–11 series airplanes equipped with R.F.D. Type AES–12B inflatable escape slides, which would require installation of a longer operating cable on the emergency escape slide deployment system. This modification would increase the clearance between the outboard edge of the forward passenger door and the slide during the slide inflation sequence. This proposal is prompted by a report of an incident where it was found that, if the passenger entrance door is pushed open slowly, it is possible for the slide to inflate before sufficient clearance between the door and doorway sill has been achieved. This condition, if not corrected, could result in improper slide deployment during emergency evacuation procedures.

DATES: Comments must be received no later than July 11, 1988.

ADDRESSES: 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. 88–NM–16–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Armella Donnelly, Standardization Branch, ANM–113, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168; telephone (206) 431–1967.

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 communications 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 light of the comments received. 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 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. 88–NM–16–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement notified the FAA of an unsafe condition which exists on British Aerospace Model BAC 1–11 airplanes equipped with certain R.F.D. inflatable escape slides. An incident has been reported where it was found that if the passenger entrance door is pushed open slowly, it is possible for the slide to inflate before sufficient clearance between the door and doorway sill has been achieved. This condition, if not corrected, could result in improper slide deployment during emergency evacuation procedures.

That incident occurred on an airplane using an R.F.D. Type AES–12A slide. The manufacturer issued British Aerospace Service Bulletin 25–PM–5943, dated November 24, 1986, which describes procedures for installation of a longer inflation cable on R.F.D. Type AES–12A slide to increase the clearance between the outboard edge of the forward passenger door and the slide during inflation of the slide and, thereby, prevent the unsafe condition from occurring. The CAA classified that service bulletin as mandatory, and FAA issued AD 87–18–02, Amendment 39–5720 (52 FR 34632; September 14, 1987) to require, among other things, the installation of the longer cable in accordance with the British Aerospace service bulletin.

That service bulletin did not address the R.F.D. Type AES–12B slide, however. Recent tests by the manufacturer have revealed that the R.F.D. AES–12B slide is also subject to the same unsafe condition described above.

British Aerospace has now issued Service Bulletin 25–PM5943, Revision 1, dated May 8, 1987, which describes procedures for replacement of the existing 27-inch long operating cable, part number 2399029, with a new 37.5-inch long operating cable, part number 4020601, on the R.F.D. Type AES–12B slide assembly. The CAA has classified this service bulletin as mandatory.

This airplane is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist on other airplanes of this model registered in the United States, an AD is proposed which would require installation of a longer operating cable on the emergency slide deployment assembly, in accordance with the service bulletin previously mentioned. This proposal would only be applicable to those airplanes equipped with R.F.D. type AES–12B inflatable escape slides.

It is estimated that 6 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $600.

The regulation set forth in this notice would be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federal Assessment.

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, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($100). 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

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 Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Model BAC 1–11 series airplanes equipped with R.F.D. AES–12B inflatable excape slides, identified in British Aerospace BAC 1–11 Service Bulletin 25-PM5943, Revision 1, dated May 8, 1987, certificated in any category. Compliance is required within 5 months after the effective date of this AD, unless previously accomplished.

To prevent failure of the emergency escape slide deployment system, accomplish the following.

A. Modify the F.F.D. Type AES–12B emergency escape slide system in accordance with BAC 1–11 Service Bulletin 25–PM5943, Revision 1, dated May 8, 1987.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of a FAA Principal Maintenance Inspector, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modification required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 10, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88–11201 Filed 5–18–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 88–ASW–6]

Proposed Revision of Transition Area; Athens, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to revise the transition area located at Athens, TX. The development of a new VOR/DME-A standard instrument approach procedure (SIAP) to the Athens Municipal Airport, utilizing the Frankston Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC), and the

subsequent cancellation of the current NDB RWY 35 SIAP to the airport when the new VOR/DME-A SIAP becomes effective, have made this proposed revision necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the new VOR/DME-A SIAP to the Athens Municipal Airport and to return that controlled airspace no longer required due to the cancellation of the NDB RWY 35 SIAP.

DATE: Comments must be received on or before June 20, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 88–ASW–6, Department of Transportation, Federal Aviation Administration, Forth Worth, TX 76193–0530.

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.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5561.

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 postcare on which the following statement is made: "Comments to Airspace Docket No. 88–ASW–6." 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 Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Adminstration, Fort Worth, TX 76193–0530. 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 section 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Athens, TX. The development of a new VOR/DME–A SIAP to the Athens Municipal Airport, utilizing the Frankston VORTAC, and the subsequent cancellation of the current NDB RWY 35 SIAP to the Athens Municipal Airport, when the new VOR/DME–A SIAP becomes effective, have necessitated this proposed revision. The existing controlled airspace designed for the SIAP serving the Lochridge Ranch Airport will not be changed. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the new VOR/DME–A SIAP to the Athens Municipal Airport and to return that controlled airspace no longer required due to the cancellation of the current NDB RWY 35 SIAP to the airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 1, 1988.

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, when promulgated, will not have a significant 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.

The Proposed Amendment

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:

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:

Athens, TX [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Athens Municipal Airport (Latitude 32°09'43" N., Longitude 95°49'40" W.), and within 2 miles each side of the 289° radial of the Frankston VOR (Latitude 32°04'28" N., Longitude 95°31'50" W.), extending from the 6.5-mile radius area to 9 miles east of the Athens Municipal Airport; and within an 8.5-mile radius of the Lochridge Ranch Airport (Latitude 31°59'21" N., Longitude 95°57'03" W.), and within 4.5 miles each side of the 356° bearing of the Lochridge Ranch NDB (Latitude 32°02'48" N., Longitude 95°57'27" W.), extending from the 8.5-mile radius area to 10.5 miles north of the Lochridge Ranch NDB.

Issued in Fort Worth, TX, on May 4, 1988.

Larry L. Craig,

Manager, Air Traffic Division Southwest Region.

[FR Doc. 88–11197 Filed 5–18–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–ASW–59]

Proposed Revision of Transition Area; San Marcos, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area located at San Marcos, TX. The development of a new standard instrument approach procedure (SIAP) to the Lockhart Municipal Airport, Lockhart, TX, utilizing the Austin Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC), has made this proposed

revision necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing this new SIAP to the Lockhart Municipal Airport. Coincident with this proposal would be the changing of the status of the Lockhart Municipal Airport from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received on or before June 23, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 87–ASW–59, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

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.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5561.

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. 87–ASW–59." 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 NPR's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530. 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 the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at San Marcos, TX. The development of a new SIAP to the Lockhart Municipal Airport, utilizing the Austin VORTAC, has necessitated the proposal of this revision. This proposal would expand the existing San Marcos Transition Area to include the Lockhart Municipal Airport. The intended effect of this proposed revision is to provide adequate controlled airspace for aircraft executing the new SIAP to the Lockhart Municipal Airport. Coincident with this action would be the changing of the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 1, 1988.

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, when promulgated, will not have a significant 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.

The Proposed Amendment

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:

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:

San Marcos, TX [Revised]

By adding to the end of the legal description: and within a 6.5-mile radius of the Lockhart Municipal Airport (latitude 29°50'58" N., longitude 97°40'20" W.).

Issued in Fort Worth, TX, on May 6, 1988.

Larry L. Craig,

Manager, Air Traffic Division Southwest Region.

[FR Doc. 88–11197 Filed 5–18–88; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL–990–86]

Registration Requirements With Respect to Certain Debt Obligations; Sanctions on Issuers of Registration-Required Obligations Not in Registered Form

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document provides a notice of proposed rulemaking relating to the definition of the term "registration-required obligations" with respect to pass-through certificates and the application of the sanctions on issuers of "registration-required obligations" not in registered form to the issuers of such certificates. In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary income tax regulations with respect to this subject. The text of these temporary regulations serves as the comment document for this notice of proposed rulemaking.

DATE: Written comments and requests for a public hearing must be delivered or mailed by July 18, 1988.

ADDRESS: Send comments and requests for public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (INTL–990–86), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Carl M. Cooper of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Attention: CC:LR:T [INTL–990–86], telephone 202–566–3388, (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 1.163–5T (d) was deleted by T.D. 8110, which was published on December 19, 1986, in the **Federal Register** at 51 FR 45453 when all of § 1.163–5T was removed. Paragraph (d) is being replaced retroactively into the regulations as § 1.163–5T (d) (with prior paragraphs reserved) through temporary regulations published in the Rules and Regulations portion of this issue of the **Federal Register.**

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for A Public Hearing

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

Drafting Information

The principal author of this regulation is Carl Cooper of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of substance and style.

List of Subjects in 26 CFR 1.61 Through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Proposal of Regulations

The temporary regulations, FR Doc. [T.D. 8202] published in the Rules and Regulations portion of this issue of the **Federal Register,** are hereby also proposed as final regulations under section 163 of the Internal Revenue Code of 1954.

Lawrence B. Gibbs,

Commissioner of Internal Revenue

[FR Doc. 88–11260 Filed 5–18–88; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 1

[INTL–905–87]

Registration Requirements With Respect to Certain Debt Obligations; Sanctions on Issuers of Registration Required Obligations Not in Registered Form

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document provides a notice of proposed rulemaking relating to the application of the sanctions on issuers or registration required obligations not in registered form. These regulations would provide the public with guidance necessary to comply with the Tax Equity and Fiscal Responsibility Act of 1982.

DATES: Written comments and requests for a public hearing must be delivered or mailed before July 18, 1988. These regulations are proposed to be applicable to the transfers of obligations occurring after August 17, 1988.

ADDRESS: Send comments and request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (INTL–905–87), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Carl M. Cooper of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attn: CC:LR:T). Telephone 202–566–3388 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Section 4701 imposes a tax on issuers of "registration-required obligations" not in registered form. Section 5f.103–1(c) (1) provides generally that an obligation is in registered form if it is registered with the issuer (or its agent) and may be transferred by surrender and reissuance by the issuer (or its agent), or through a book entry system maintained by the issuer (or its agent), or through both of these methods.

Explanation of Provisions

An issuer or its agent may have no knowledge or control over the method of transfer of an obligation that is held by a nominee. A new paragraph (d)(7) of § 1.163–5T has been proposed to provide explicitly for the application of section 4701 to circumstances in which a holder transfers an obligation through a method not described in § 5f.103–1(c)(1).

Section 1.163–5T(d)(7) of these proposed regulations provides, pursuant to § 46.4701–1(a)(5), that any person who holds a registration required obligation that is in registered form within the meaning of § 5f.103–1(c)(1) and who transfers the obligation through a method not described in § 5f.103–1(c)(1) is considered the issuer of the obligations transferred for purposes of section 4701. Such transferor is therefore subject to the tax imposed under section 4701, even though he may not be the person whose interest deduction would be disallowed by reason of section 163(f)(1). Such transferor is considered to have issued the obligation on the date of the transfer in the principal amount of the obligation transferred. Section 1.163–5T(d)(7) would apply to transfers occurring after August 17, 1988.

Special Analyses

It has been determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking that solicits public comments, it has been determined that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6) and a Regulatory Flexibility Analysis has not been prepared.

Comments and Requests for a Public Hearing

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

Drafting Information

The principal author of these regulations is Carl M. Cooper of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing these regulations, both in matters of substance and style.

Lists of Subjects in 26 CFR 1.61–1 Through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Proposed Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Part 1 are as follows:

PART 1—INCOME TAX REGULATIONS

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

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

Par. 2. Paragraph (d)(7) is added immediately after paragraph (d)(6) of § 1.163–5T. The added paragraph reads as follows:

§ 1.163–5T Denial of interest deduction on certain obligations issued after December 31, 1982, unless issued in registered form (temporary).

(d) *Pass-through certificates.*

* * * * *

(7)(i) For purposes of section 4701, any person who holds a registration-required obligation that is in registered form within the meaning of § 5f.103–1 (c)(1) and transfers the obligation through a method not described in § 5f.103–1 (c)(1) is considered to have issued the obligation so transferred on the date of the transfer in the principal amount of the obligation received by the transferee. Such person is therefore liable for any excise tax under section 4701 that may be imposed. This paragraph (d)(7) applies to transfers of obligations occurring after August 17, 1988.

(ii) The provisions of this paragraph (d)(7) may be illustrated by the following examples:

Example (1). X, a corporation, holds a registration required obligation in registered form in the principal amount of 10x with a maturity date of December 31, 1999. X transfers the obligation through a method not described in § 5f.103–1 (c)(1) on June 30, 1990. For purposes of section 4701, X is considered to have issued an obligation on June 30, 1990 in the principal amount of 10x with a maturity date of December 31, 1999. Because X has issued a registration required obligation not in registered form, X is liable for the tax imposed by section 4701 in an amount computed with reference to the principal amount of 10x and the period beginning on June 30, 1990 and ending on December 31, 1999.

Example (2). X, a corporation, holds a registration required obligation in registered form as nominee of Y, a corporation. The principal amount of the obligation is 10x and the maturity date of the obligation is December 31, 1999. On June 30, 1990, X issued a bearer receipt to Y for the obligation. For purposes of section 4701, X is considered to have issued an obligation on June 1990 in the principal amount of 10x with a maturity date of December 31, 1999. Because X has issued a registration required obligation not in registered form, X is liable for the tax imposed by section 4701 in an amount computed with reference to the principal amount of 10x and the period beginning June 30, 1990 and ending December 31, 1999.

Example (3). The facts are the same as in *Example* (1) except that X transfers 5x of the 10x obligation held by X. X is considered to have issued an obligation on June 30, 1990 in the principal amount of 5x with a maturity date of December 31, 1999. Because X has issued a registration required-obligation not in registered form, X is liable for the tax imposed by section 4701 in an amount computed with reference to the principal amount of 5x and the period beginning on June 30, 1990 and ending on December 31, 1999.

Example (4). The facts are the same as in *Example* (1) except that X is a natural person. X is considered to have issued an obligation on June 30, 1990 in the principal amount of 10x with a maturity date of December 31, 1999. Because X is a natural person, the obligation is not a registration-required obligation and, therefore, X is not subject to the tax imposed under section 4701.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 88–11258 Filed 5–18–88; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7–88–10]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Lauderdale-by-the-Sea, the Coast Guard is considering a change to the regulations governing the Commercial Boulevard (SR 870) drawbridge at Lauderdale-by-the-Sea, Florida, by extending the hours of the existing regulation. This proposal is being made because of highway traffic delays. This action should accommodate the current needs of vehicular traffic and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before July 5, 1988.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, Brickell Plaza Federal Building, 909 SE. 1st Avenue, Miami, Florida 33131–3050. The comments and other materials referenced in this notice will be available for inspection and copying on the 4th Floor, of the Brickell Plaza Federal Building, 909 SE. 1st Ave, Miami, Florida. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments also may be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Brodie Rich (305) 536–4103.

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

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

Drafting Information:

The drafters of this notice are Mr. Brodie Rich, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Proposed Regulations

The Commercial Boulevard drawbridge presently opens on signal, except that, from November 1 through May 15 from 12 noon to 6 p.m., Monday through Saturday, and from 9 a.m. to 6 p.m. on Sundays, the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour.

The City of Lauderdale-by-the-Sea has asked that the bridge open only on the hour, quarter-hour, half-hour, and three-quarter hour from 8 a.m. to 6 p.m. daily, year-round. The Coast Guard has carefully evaluated information about highway traffic volumes and drawbridge openings for this bridge. Although regulation changes appear to be needed to help reduce highway traffic delays, the level of highway service and limited number of drawbridge openings do not justify opening restrictions during the off-season months.

The proposed 15-minute operating schedule the busiest boating months should allow accumulated vehicular traffic to disperse between bridge openings with minimal additional delay to vessels. Public vessels of the United States, tugs with tows, and vessels in a situation where a delay would endanger life or property would continue to be passed at any time.

Economic Assessment and Certification

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

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

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.261 is amended by revising paragraph (ee) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(ee) *Commercial Boulevard bridge, mile 1059.0 at Lauderdale-by-the-Sea.* The draw shall be open on signal; except that, from November 1 through May 15 from 8 a.m. to 6 p.m., the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour.

* * * * *

Dated: May 3, 1988.

H.B. Thorsen,

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

[FR Doc. 88–11251 Filed 5–18–88; 8:45 am]

BILLING CODE 4910–14–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 86–7A]

Extension of Comment Period; Inquiry of Definition of Cable Systems

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of comment period.

SUMMARY: The Copyright office is re-opening for additonal public comment its Notice of Inquiry (RM 86–7) into issues relating to the definition of cable systems for purposes of 17 U.S.C. 111. The Office is broadening the scope of its Inquiry to include issues relating to the eligibility of satellite carriers to operate under the section 111 cable compulsory license.

DATE: Comments should be received on or before July 18, 1988.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail to: Library of Congress, Department 100, Washington, DC 20540.

If delivered by hand, copies should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, DC.

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

SUPPLEMENTARY INFORMATION: On October 15, 1986, the Copyright Office in a Notice of Inquiry (51 FR 36705) invited public comment on the definition of the term "cable system" as it concerns the operation of the compulsory licensing mechanism in title 17 U.S.C. 111, the Copyright Act of 1976 Comments were invited through December 15, 1986, and reply comments through January 13, 1987. The comment period was reopened from August 3, 1987, until September 2, 1987 (52 FR 28731), so that the public might respond to four comments received by the Copyright after the closing of the intial comment and reply period.

Since the closing of the second comment period in this Inquiry, the Copyright Office has receive statements of account and royalty fees for the first accounting period of 1987 deposited by two satellite carriers. These filing raise the question of whether a satellite carrier that retransmits broadcast signals nationwide to home satellite earth station owners is a "cable system" eligible for a cable compulsory license pursuant to section 111. The Office is reopening the comment period in this Inquiry on the definition of "cable system" to receive the benefit of public commentary on that issue prior to deciding whether to amend its regulations at 37 CFR 201.11(a)(3).

The Office is aware that certain aspects of the issues raised in this notice are currently being litigated in U.S. district courts.[1] Furthermore, the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the House Committee on the Judiciary is considering legislation that would give satellite carriers a new interim statutory licesne to cover satellite carriers' retransmission of superstations for private veiwing by earth station owners. H.R. 2848, 100th Cong., 1st Sess. (June 30, 1987). Accordingly, the office will be cautious to avoid any administrative action that may impede the judicial or legislative processes, and may ultimately decide to take no action, pending a judicial decision.

The filing of statements of account by two different satellite carriers ordinarily requires some action by the Copyright Office. Either the Office must accept the filing without comment; accept them provisionally, either taking no position

[1] The Office understands that the cases have been briefed, and the parties await the decision of the court. Only one of the two carries filing statements of account is involved in the litigation.

on the filings or commenting upon any reservations we may have; or refuse the filings as not eligible under the compulsory license, giving appropriate written reasons for that position. The statements of account filed by the carriers (United Video and Satellite Broadcast Network) are open to public inspection. The Office notes that United Video apparently has received satellite resale carrier authorization from the Federal Communications Commission for other transmission activities but not necessarily for servicing the home earth station market.

In addition to general comment about the eligibility of satellite carriers to qualify as cable systems for purposes of 17 U.S.C. 111(c), the Office seeks comment as to whether the same entity may qualify for the passive carrier exemption of section 111(a) with respect to certain transmissions and also qualify as a cable system with respect to other transmissions.

List of Subjects in 37 CFR Part 201

General provision on copyrights, Cable television, Cable compulsory license.

Dated: May 4, 1988.

Ralph Oman,

Register of Copyrights.

[FR Doc. 88-11171 Filed 5-18-88; 8:45 am]

BILLING CODE 1410-08-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105-60

Freedom of Information

AGENCY: Office of Administration, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is proposing to revise its regulations to incorporate the predisclosure notification procedures for confidential commercial information prescribed by EO 12600 of June 23, 1987.

DATE: Comments should be submitted in writing to the address shown below on or before June 20, 1988.

ADDRESS: General Services Administration (CAIR), Room 3016, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Alexandra Mallus, GSA Freedom of Information Act (FOIA) Officer (202-535-7983).

SUPPLEMENTARY INFORMATION: On June 23, 1987, the President signed EO 12600. This order mandates that agencies establish procedures to notify submitters of records containing confidential commercial information when those records are requested under the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, unless the provisions of section 8 apply. The General Services Administration has determined that this rule is not a major rule for the purpose of EO 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs; has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 105-60

Freedom of Information.

It is proposed to amend 41 CFR Part 105-60 to read as follows:

PART 105-60—PUBLIC AVAILABILITY OF AGENCY RECORDS AND INFORMATIONAL MATERIALS

1. The authority citation for 41 CFR Part 105-60 is revised to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486(c); and 5 U.S.C. 552 (Pub. L. 90-23, as amended by Pub. L. 93-502 and Pub. L. 99-570); and EO 12600 of June 23, 1987.

2. Section 105-60.101 is revised to read as follows:

105-60.101 Purpose.

Part 105-60 implements the provisions of the Freedom of Information Act, 5 U.S.C. 552 ("FOIA") (Pub. L. 90-23, which codified Pub. L. 89-487 and amended section 3 of the Administrative Procedure Act, formerly 5 U.S.C. 1002 (1964 ed.); Pub. L. 93-502, popularly known as the Freedom of Information Act Amendments of 1974, as amended by Pub. L. 99-570, the Freedom of Information Reform Act of 1986; and EO 12600, Predisclosure Notification Procedures for Confidential Commercial Information, of June 23, 1987. This part prescribes procedures by which the public may inspect and obtain copies of GSA records under the FOIA.

3. Section 105-60.405 is added to read as follows:

105-60.405 Processing requests for confidential commercial information.

(a) *General.* The following additional procedures apply when processing requests for confidential commercial information.

(b) *Definitions.* For the purposes of this section, the following definitions apply.

(1) "Confidential commercial information" means records provided to the Government by a submitter that contain material arguably exempt from release under 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) "Submitter" means any person or entity who provides confidential commercial information to the Government. The term "submitter" includes, but is not limited to, corporations, State governments, and foreign governments.

(c) *Designating confidential commercial information.* After January 1, 1988, submitters must designate confidential commercial information as such, when it is submitted to GSA or at a reasonable time thereafter. For information submitted in connection with negotitated procurements, the requirements of FAR 15.407(c)(8) and 52.215-12 also apply.

(d) *Procedural requirements—consultation with the submitter.* (1) If GSA receives an FOIA request for confidential commercial information, it will notify the submitter promptly in writing before releasing any records unless paragraph (f) of this section applies.

(2) GSA will give the submitter 7 workdays from receipt of the letter to object to releasing the information. If the submitter objects to disclosure, he or she must provide GSA with a detailed written explanation as to how disclosure of any specified portion of the records would be competitively harmful.

(3) At the same time GSA notifies the submitter, it will also advise the requester that there will be a delay in rsesponding to the request due to the need to consult with the submitter.

(4) GSA will review all grounds for nondisclosure before deciding whether the information must be released or should be withheld. If the agency decides to release the requested information, it will provide the submitter with a written statement explaining why his or her objections are not sustained. The letter to the submitter should contain a complete copy of the material to be disclosed or should offer the submitter an opportunity to review the material in one of GSA's offices. If GSA decides not to release the material, it

will notify the submitter orally or in writing.

(5) GSA will inform the submitter that GSA will delay 5 workdays from the estimated date the submitter receives GSA's reply before it releases the information.

(e) *When notice is required.* (1) For confidential commercial information submitted prior to January 1, 1988, GSA will notify a submitter whenever it receives an FOIA request for such information:

(i) If the records are less than 10 years old and the information has been designated by the submitter as confidential commercial information; or

(ii) If GSA has reason to believe that disclosure of the information could resonably be expected to cause substantial competitive harm.

(2) For confidential commercial information submitted on or after January 1, 1988, GSA will notify a submitter whenever it determines that the agency may be required to disclose records:

(i) That the submitter has previously designated as privileged or confidential; or

(ii) The disclosure of which GSA believes could reasonably be expected to cause substantial competitive harm.

(3) GSA will provide notice to a submitter for a period of up to 10 years after the date of submission.

(f) *When notice is not required.* The notice requirements of this section will not apply if:

(1) GSA determines that the information should not be disclosed;

(2) The information has been published or has been officially made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552);

(4) Disclosure is required by an agency rule that—

(i) Was adopted pursuant to notice and public comment,

(ii) Specifies narrow classes of records submitted to the agency that are to be released under FOIA, and

(iii) Provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted or a reasonable time thereafter, that disclosure of the information could reasonably be expected to cause substantial competitive harm;

(5) The information is not designated by the submitter as exempt from disclosure under paragraph (c) of this section, unless GSA has substantial reason to believe that disclosure of the information would be competitively harmful; or

(6) The designation made by the submitter in accordance with paragraph (c) of this section, appears obviously frivolous; except that, in such case, the agency must provide the submiter with written notice of any final administrative decision 5 workdays prior to disclosing the information.

(g) *Lawsuits.* If an FOIA requester sues the agency to compel disclosure of confidential commercial information, GSA will notify the submitter as soon as possible. If the submitter sues GSA to enjoin disclosure of the records, GSA will notify the requester.

Dated: April 28, 1988.

Paul T. Weiss,

Associate Administrator for Administration.

[FR Doc. 88-11174 Filed 5-18-88; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Extension of Comment Period; Stephen's Kangaroo Rat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that the comment period will be reopened for the proposed determination of endangered status for the Stephen's kangaroo rat (*Dipodomys stephensi*). The species has suffered widespread habitat loss and degradation, resulting in small isolated populations. The reopening of the comment period will allow comments on this proposal to be submitted from all interested parties.

DATES: The comment period which originally closed on January 19, 1988, and was extended to April 19, 1988, now closes June 20, 1988.

ADDRESSES: Written comments and materials should be sent to the Regional Director, U.S. Fish and Wildlife Service, 500 NE., Multnomah Street, Suite 1692, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Regional Endangered Species Office at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

The Stephen's kangaroo rat is found in the vicinity of the Perris and San Jacinto Valleys in western Riverside County and the San Luis Rey and Temecula Valleys in northern San Diego County. Occupied habitats are usually described as sparce slightly disturbed coastal sage scrub or annual grasslands. The species is threatened by deterioration or loss of habitat. A proposal of endangered status was published in the **Federal Register** (52 FR 44453) on November 19, 1987.

The comment period on the proposal originally closed on January 19, 1988. The Service extended the comment period to April 19, 1988. Written comments may not be submitted until June 20, 1988, to the Service office in the Addresses section.

Author

The primary author of this notice is Mr. Wayne S. White, U.S. Fish and Wildlife Service, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231-6131 or FTS 429-6131).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; 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).

List of Subjects in 50 Part 17

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

Dated: May 10, 1988.

Rolf L. Wallenstrom,

Regional Director.

[FR Doc. 88-11278 Filed 5-18-88; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 18, 228, and 402

Incidental Take of Endangered, Threatened and Other Depleted Marine Mammals; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed rule; notice of 45-day extension of comment period.

SUMMARY: The Fish and Wildlife Service and the National Marine Fisheries

Service give notice that they are extending the comment period for regulations proposed to implement recent amendments to the Marine Mammal Protection Act of 1972 and Endangered Species Act of 1973. That rule proposes to amend existing procedures governing incidental take authorizations for activities other than commercial fishing. By request, the comment period is being extended for 45 days.

DATE: Comments on the proposed rule will now be accepted through July 5, 1988.

ADDRESS: Comments should be submitted to the Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Robert Peoples, Division of Fish and Wildlife Management Assistance, Fish and Wildlife Service, 202–343–6307, or Patricia Montanio, Protected Species Management Division, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 202–673–5348.

SUPPLEMENTARY INFORMATION: A proposed rule to amend existing regulations (50 CFR 18.27, 50 CFR Part 228, 50 CFR 402.14(i)) governing the taking of marine mammals incidental to specified activities (other than commercial fishing) was published in the **Federal Register** on March 15, 1988 (53 FR 8473). The proposed rule included a 60-day period, ending May 16, 1988, for submitting comments. Since several interested parties have requested additional time to review the proposal, the Fish and Wildlife Service and National Marine Fisheries Service have decided to extend the comment period for another 45 days to ensure all affected entities have ample opportunity to provide comments.

Author: The primary author of this notice is Robert Peoples, Fish and Wildlife Service, Department of the Interior.

Authority: 16 U.S.C. 1361 *et seq.* and 16 U.S.C. 1531 *et seq.*

List of Subjects

50 CFR Part 18

Administrative practice and procedure, Fish and Wildlife Service, Imports, Indians, Marine mammals, Transportation.

50 CFR Part 228

Administrative practice and procedure, Marine mammals, Outer continental shelf oil and gas exploration

50 CFR Part 402

Endangered and threatened species, Fish and Wildlife Service, National Oceanic and Atmospheric Administration.

Date: May 13, 1988.

Frank Dunkle,

Director, U.S. Fish and Wildlife Service

Date: May 13, 1988.

James E. Douglas, Jr.,

Deputy Assistant Administrator, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

[FR Doc. 88–11283 Filed 5–18–88; 8:45 am]

BILLING CODE 3510–22–M/4310–55–M

Notices

Federal Register
Vol. 53, No. 97
Thursday, May 19, 1988

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

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census; Commerce
Title: 1990 Decennial Census—Listing Phase of the List/Enumerate Operation
Form Number: Agency–D–104A, D–104B, D–104C, and D–169(LE); OMB–NA
Type of Request: New collection
Burden: 8,654,800 respondents; 1,211,672 reporting hours
Needs and Uses: The purpose of this operation is to count rural and sparsely populated areas of the United States, and its commonwealths and territories. This operation will be a combination of visiting households, listing addresses, picking up completed short questionnaires, and completing long questionnaires as needed.
Affected Public: Individuals or households
Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 13, 1988.
Edward Michals,
Departmental Clearance Officer, Office of Management and Organization.
[FR Doc. 88–11247 Filed 5–18–88; 8:45 am]
BILLING CODE 3510–07–M

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Proposed Revision of Exploration License

AGENCY: National Oceanic and Atomspheric Administration Commerce.
ACTION: Notice of receipt of application from Ocean Minerals Company to revise exploration plan incorporated into exploration license issued August 29, 1984, and request for comments.

SUMMARY: On April 5, 1988, the Ocean Minerals Company (OMCO), 3385 Scott Boulevard, Santa Clara, California 95051, submitted to the National Oceanic and Atomspheric Administration (NOAA) a proposal to change the exploration plan incorporated into deep seabed mining exploration license, USA–1, issued to OMCO by NOAA on August 29, 1984, as revised on August 30, 1985, and April 5, 1988, pursuant to the Deep Seabed Hard Mineral Resources Act and 15 CFR Part 970. NOAA has determined that this proposal constitutes an application for revision of the license under 15 CFR 970.513, and is commencing public review procedures prescribed in 15 CFR 970.514(b).

OMCO's current 10-year exploration plan, as revised in 1985, consists of two 5-year phases. Phase I of OMCO's work schedule is designed to analyze and integrate exploration data from settlement agreements and other sources, compile environmental data, and identify test sites and candidate sites suitable for commerical mining. In Phase II, OMCO has scheduled selection and integration of survey systems, survey and selection of commerical recovery permit areas, and collection and analysis of environmental data. Survey operations and scale-up in expenditures for the pilot plant and equipment development have been planned in Phase II, in conjunction with the investment decision whether or not to proceed with commerical mining.

In accordance with § 970.203, OMCO is requesting that Phase I be extended 1 year in order to postpone investment decisions in a time of metals market uncertainty. It also defines the initiation of Phase II (tentatively license year number seven) as the time of corporate decision to proceed with scale-up pilot plant operations. This revised work plan will also provide a longer period for the evaluation of significant quantities of exploration data gained by OMCO through conflict resolution with domestic and foreign mining consortia. OMCO has also requested a reduction in total expenditures for Phase I, from $1,700,000 to $1,050,000.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the application for revision and to provide comments by July 18, 1988. These documents may be examined at NOAA, 1825 Connecticut Avenue NW., Suite 710, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: John W. Padan, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., Suite 710, Washington, DC 20235, (202) 673–5117.

Dated: May 16, 1988.
John J. Carey,
Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.
[FR Doc. 88–11248 Filed 5–18–88; 8:45 am]
BILLING CODE 3510–12–M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Bottomfish Fishery Management Plan Monitoring Team (PMT) will convene separate public meetings at the National Oceanic and Atomspheric Administration, National Marine Fisheries Service, Honolulu Laboratory, 2570 Dole Street, Honolulu, HI, as follows:

May 18, 1988—will convene from 9 a.m. to noon to: (1) Draft criteria for defining fishing power replacement

vessels and new entrants for the Northwestern Hawaiian Island (NWHI) bottomfish fishery under the limited entry program established in Amendment 2 of the FMP, (2) review the status of bottomfish programmatic projects, and (3) discuss research and data needs for 1990–1995.

May 26, 1988–will convene from 9 a.m. to noon to discuss the status of the 1987 annual report. PMT members will review draft modules and discuss PMT recommendations to be presented to the Western Pacific Council for management action.

For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Date: May 12, 1988.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–11279 Filed 5–18–88; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Intent To Grant Exclusive Patent License; Eagle Crusher Co.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Eagle Crusher Company, having a place of business in Galion, OH, an exclusive right in six foreign countries to manufacture, use, and sell products embodied in the invention entitled "Low Profile Crushing Apparatus", under foreign patents counterpart to U.S. Patent 4,288,040. Foreign patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Douglas J. Campion, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 88–11220 Filed 5–18–88; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Socialist Republic of Sri Lanka

May 13, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for a new agreement year.

EFFECTIVE DATE: June 1, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Kimbang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port of call (202) 343–6580. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION: During recent negotiations between the Governments of the United States and the Democratic Socialist Republic of Sri Lanka, agreement was reached to establish a new Bilateral Textile Agreement, effected by a Memorandum of Understanding dated March 23, 1988, for the period which begins on June 1, 1988 and extends through June 30, 1992. The first agreement period will be from June 1, 1988 through June 30, 1989. Each agreement period thereafter will be from July 1 to June 30 of the following year.

A copy of the Memorandum of Understanding is available from the Textiles Division, Economic Bureau, U.S. Department of State, (202) 647–1998.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the *Correlation:* Textile and Apparel Categories with Tariff Schedules of the United States Annotated (See **Federal Register** notice 52 FR 47745, dated December 11, 1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of is provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

May 16, 1988.

Committee for the Implementation of Textile Agreements

May 13, 1988.

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Memorandum of Understanding dated March 23, 1988 between the Governments of the United States and the Democratic Socialist Republic of Sri Lanka; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 1, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products and silk blend and other vegetable fiber apparel in the following categories, produced or manufactured in Sri Lanka and exported during the thirteen-month period which begins on June 1, 1988 and extends through June 30, 1989, in excess of the following levels of restraint:

Category	13-mo restraint limit
331/631	1,711,667 dozen pairs.
333/633	34,667 dozen.
334	243,750 dozen.
335/835	178,750 dozen.
336	82,333 dozen.
337/637	184,167 dozen.
338/339	812,500 dozen of which not more than 677,083 dozen shall be in shirts other than T-shirts and tank tops (Categories 338pt./339pt.) [1]
340	639,167 dozen of which not more than 216,667 dozen shall be in shirts made from fabrics of two or more colors in the warp and/or the filling (Category 340pt.) [2]
341	639,167 dozen of which not more than 270,833 dozen shall be in shirts and blouses made from fabrics of two or more colors in the warp and/or the filling (Category 341pt.) [3]
342/642/842	422,500 dozen.
345/845	109,417 dozen.
347/348/847	845,000 dozen.
350/650	75,833 dozen.
351/651	178,789 dozen.

Category	13-mo restraint limit
352/652	866,667 dozen.
359-C/659-C [4]	1,625,000 pounds.
363	7,854,167 numbers.
369-D [5]	1,300,000 pounds.
369-S [6]	1,083,333 pounds.
434	3,250 dozen.
435	7,042 dozen.
442	14,818 dozen.
445/446	102,917 dozen.
448	6,500 dozen.
634	162,500 dozen.
635	238,333 dozen.
636/836	185,250 dozen.
638/639/838	557,917 dozen.
640	135,417 dozen.
641	639,167 dozen.
644	325,000 numbers
645/646	130,000 dozen.
647/648	671,667 dozen.

[1] In Category 338pt., only TSUSA numbers 381.0240, 381.0425, 381.3516, 381.4020, 381.4130, 381.4337, 381.6610, 381.8506, 381.9924, 384.0216, 384.0223, 384.0229, 384.0232, 384.2818, 384.2930, 384.2970, 384.3437 and only TSUSA numbers 384.0213, 384.0214, 384.0217, 384.0225, 384.0227, 384.0230, 384.0231, 384.0233, 384.0235, 384.0330, 384.0461, 384.2704, 384.2815, 384.2816, 384.2821, 384.2934, 384.2935, 384.2950, 384.2960, 384.2980, 384.3439, 384.3441, 384.3462, 384.5404, 384.7704 and 384.9517 in Category 339pt.

[2] In Category 340pt., only TSUSA numbers 381.0522, 381.5500, 381.5610, 381.5625, 381.5637 and 381.5660.

[3] In Category 341pt., only TSUSA numbers 384.0505, 384.0511, 384.0512, 384.4608, 384.4610, 384.4612 and 384.4788.

[4] In Categories 359-C/659-C, only TSUSA numbers 381.0822, 381.6510, 384.0928 and 384.5222 in Category 359-C; and 381.3325, 381.9805, 384.2205, 384.2530, 384.8606, 384.8607 and 384.9310 in Category 659-C.

[5] In Category 369-D, dishtowels in TSUSA numbers 365.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 366.2440 and 366.2860.

[6] In Category 369-S, shoptowels in TSUSA number 366.2840.

Imports charged to the category limits for the periods June 1, 1987 through December 31, 1987 and January 1, 1988 through May 31, 1988 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The foregoing limits may be adjusted in the future under the provisions of the Memorandum of Understanding dated March 23, 1988 between the Governments of the United States and the Democratic Socialist Republic of Sri Lanka.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-11245 Filed 5-18-88; 8:45 am]

BILLING CODE 3510-DR-M

Announcing Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Egypt

May 13, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing new agreement year limits.

EFFECTIVE DATE: May 20, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: On March 7 and 14, 1988 the Governments of the United States and the Arab Republic of Egypt exchanged notes to amend and extend the Bilateral Textile Agreement of December 7 and 28, 1977 for the period which began on January 1, 1987 and extends through December 31, 1989.

All overshipments of 1987 specific limits will be charged to 1988 specific limits. Current data show overshipments in Categories 300/301 (8,383,624 pounds), 315 (2,787,805 square yards) and 339 (33,663 dozen).

A copy of the current Bilateral Textile Agreement between the Governments of the United States and the Arab Republic of Egypt is available from the Textiles Division, Economic Bureau, U.S. Department of State, (202) 647-1998.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the *Correlation:* Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, dated December 11, 1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 13, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Textile Agreement of December 7 and 28, 1977, as amended and extended, between the Governments of the United States and the Arab Republic of Egypt; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 20, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Egypt and exported during the twelve-month period which began on January 1, 1988 and extends through December 31, 1988, in excess of the following levels of restraint:

Category	12-mo. restraint limit [1]
218-220, 224-227, 313-317 and 326, as a group.	65,000,000 square yards.
Sublevels in the group:	
218	3,000,000 square yards.
219	16,250,000 square yards.
220	16,250,000 square yards.
224	16,250,000 square yards.
225	16,250,000 square yards.
226	16,250,000 square yards.
227	16,250,000 square yards.
313	26,000,000 square yards.
314	16,250,000 square yards.
315	16,250,000 square yards.
317	16,250,000 square yards.
326	3,000,000 square yards.
Individual Limits not in a Group:	
300/301	11,688,000 pounds of which not more than 1,636,320 pounds shall be in Category 301.
393	504,688 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1987.

The foregoing restraint limits are subject to adjustment in the future according to the provisions of the current bilateral agreement between the Governments of the United States and the Arab Republic of Egypt.

Imports charged to the category limits for the periods January 1, 1987 through December 31, 1987 and September 1, 1987 through December 31, 1987 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits

established for those periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The following amounts should be charged to the limits established in this directive. The charges are for goods imported during the period January 1–31, 1988. Additional charges will be supplied as data become available.

Category	Amount to be charged
300	230,773 pounds.
339	24,760 dozen.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88–11246 Filed 5–18–88; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Futures Contract; Japanese Stock Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Board of Trade ("CBOT") has applied for designation as a futures contract market in CBOT Japanese Stock Index futures. The Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before July 18, 1988.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CBOT Japanese Stock Index futures contract.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254–7227.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBOT in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Request for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the CBOT in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on May 16, 1988.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 88–11270 Filed 5–18–88; 8:45 am]

BILLING CODE 6351-01-M

Chicago Mercantile Exchange Proposed Futures Contract; Morgan Stanley Capital International United Kingdom Stock Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Mercantile Exchange ("CME") has applied for designation as a contract market in futures on the Morgan Stanley Capital International United Kingdom Stock Index. The Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 1240.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before July 18, 1988.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CME Morgan Stanley United Kingdom Stock Index futures contract.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254-7227.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and condition can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CME in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and condition of the proposed futures contract, or with respect to other materials submitted by the CME in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on May 16, 1988.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 88-11271 Filed 5-18-88; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 12, 1988.

The USAF Scientific Advisory Board AD Hoc Committee on Aircraft Infrastructure—Subsystem and Component Reliability Improvement Research and Development Needs meeting originally scheduled on 24–25 May 1988, will now take place on 21–22 June 1988 from 8:00 a.m. to 5:00 p.m., at the Office of the USAF Scientific Advisory Board, Room 5D982, the Pentagon, Washington, DC, 20330–5430.

The purpose of this meeting is to review the task statement, focus on the task, decide on a study approach, agree on the required milestones, and obtain required reliability and maintainability informational briefings on the representative system to be studied. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88-11221 Filed 5-18-88; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

May 12, 1988.

The USAF Scientific Advisory Board AD Hoc Committee on Requirements for Hypersonic Test Facilities will meet on 15–17 June 1988, from 8:00 a.m. to 5:00 p.m., at the Office of the Air Force Scientific Advisory Board, the Pentagon, Room 5D982, Washington, DC.

The purpose of this meeting is to prepare a status briefing for SAF/AQ and NASA on the progress of the study. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88-11222 Filed 5-18-88; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: 9 June 1988.

Time of Meeting: 0900–1500 hours.

Place: Southwest Research Institute, San Antonio, Texas.

Agenda: The Army Science Board Ad Hoc Subgroup on U.S. Army Belvoir Research, Development and Engineering Center effectiveness review will visit the Southwest Research Institute to discuss the relationship of the Institute to the Belvoir RD&E Center. The subgroup will be gathering information relative to the effectiveness of the Center-Institute relationship in the area of fuel and lubrication. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88-11223 Filed 5-18-88; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: 10 June 1988.

Time of Meeting: 0830–1530 hours.

Place: 1800 Diagonal Road, Alexandria, VA.

Agenda: The Army Science Board Steering Group will meet to discuss the status of current studies and peer reviews, prioritization of HQ TRADOC's proposed topics and potential new studies. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board

[FR Doc. 88-11224 Filed 5-18-88; 8:45 am]

BILLING CODE 3710-08-M

Military Carrier Qualification Program; Freight Carrier Qualification Program

AGENCY: Military Traffic Management Command (MTMC), Department of the Army, DOD.

ACTION: Proposed program for qualifying DOD freight motor carriers.

SUMMARY: MTMC requests public comment on its proposed Freight Carrier Qualification Program. Subject to certain exceptions, the program will apply to all freight motor carriers intending to participate in transportation of all freight administered by MTMC's Directorate of Inland Traffic (except used household goods, hazardous, or secret materials, and sensitive weapons and munitions). The program will commence at a date announced in the final publication of the program in the **Federal Register.** Carriers without rates on file as of the effective date will have to qualify prior to MTMC's acceptance of their service offers. Carriers with rates on file as of the effective date will be required to submit qualification data when requested by MTMC. All carriers will be required to meet these qualification standards on or before 1 July 1990.

Carriers interested in qualifying or remaining qualified will submit the data described below to the appropriate area command (Bayonne, NJ or Oakland, CA) based on the carrier's headquarters domicile. The area command will schedule a meeting with the carrier to clarify any qualification elements. The carrier must attend and provide an oral presentation on its company. The carrier may also receive guidance on how to do business with the DOD. The area command will then evaluate the data to determine whether the carrier has the equipment, facilities, personnel and finances necessary to handle the carrier's proposed scope of operations.

If the carrier is approved and signs the agreement, HQMTMC will then accept (or in the case of existing carriers continue to accept) tenders, tariffs or similar rate submissions. Carriers disapproved will be notified of the problems found and may reapply for

approval once the problems have been corrected.

DATE: Comments must be received by June 20, 1988.

ADDRESS: Comments may be addressed to: Headquarters, Military Traffic Management Command, 5611 Columbia Pike, ATTN: MT-INF, Room 607, Falls Church, VA 22041-5050.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Sours or Ms. Patricia McCormick at (703) 756-1565/1566.

SUPPLEMENTARY INFORMATION: MTMC's proposed qualification criteria are as follows:

a. Safety Ratings. Carrier will not have an "unsatisfactory" safety rating with the Federal Highway Administration, Department of Transportation, and if it is an intrastate motor carrier, with the appropriate state agency. Carriers with "conditional" or "insufficient information" ratings may be used to transport DOD general commodities provided that such carriers certify in writing that they are now in full compliance with Department of Transportation safety requirements.

b. Operating Authorities. Carriers will submit copies of all certificates authorizing operations as a common carrier (interstate and intrastate) needed to transport DOD traffic.

c. Insurance—Public Liability and Cargo. (1) *Public Liability.* Motor carriers will submit proof of their public liability insurance to MTMC on either a DOT Form MCS 90 or an ICC Form BMC-91/91X and a certificate of insurance form issued by the insurance company. The certificate holder block of the form will identify HQMTMC, 5611 Columbia Pike, Falls Church, Virginia 22041, ATTN: MT-INFF, to be notified 30 days in advance of any change or cancellation. The public liability requirements are specified by 49 CFR 387.9 and are summarized as follows based on the commodities transported:

Property (nonhazardous)	$750,000
Oil; hazardous wastes, materials, and substances not in bulk	1,000,000

(2) Cargo. Motor carriers will be required to have their insurance company provide proof of cargo insurance to MTMC on a certificate of insurance form. The certificate holder block of the form will identify HQMTMC, 5611 Columbia Pike, Falls Church, Virginia 22041, ATTN: MT-INFF, to be notified 30 days in advance of any change or cancellation. DOD's minimum cargo insurance requirements are $150,000 for loss and damage of Government freight and/or $20,000 per vehicle transported (e.g., automobile transporters or vehicles in haulaway service) in the form of certificate(s) of insurance.

d. Financial Records. Motor carriers will provide copies of their balance sheet and income statements for the last 3 years. Motor carriers in existence less than 3 years but more than 12 months must provide copies of all balance sheets and income statements from the date business was commenced (proforma income statements and balance sheets may be required). Carriers in business less than 12 months must provide proforma income statements and balance sheets. All carriers must also state their extent of financial interests in other transportation companies or their affiliation with any firm holding interests in other transportation companies.

e. Carriers will provide the following information: (1) A listing of the company's officers.

(2) A listing of the company's owners and the percentage owned by each.

(3) Company background and history including the year the company was formed.

(4) A list by type and quantity of equipment owned and leased.

(5) The number of company drivers employed and number of drivers under lease.

(6) Copies of interline agreements, long-term and short-term lease agreements, and equipment leases.

(7) A list of terminal locations including the street address and telephone numbers.

(8) Three reference letters from the shippers they served during the previous 12 months.

(9) Proposed services by type of service, traffic lane, or geographical area.

(10) Copies of driver hiring, screening, and training procedures.

(11) Small business, disadvantaged business, and women-owned business certification statements (if applicable).

f. Carriers meeting the above qualification requirements will be required to sign the following agreement:

Basic Agreement Between the Military Traffic Management Command and Motor Common Carriers for Approval To Transport General Commodities for the Department of Defense

1. The undersigned, who is duly authorized and empowered to act on behalf of _____, hereinafter called the carrier, as a prerequisite for approval to transport general commodities for the account of the Department of Defense (DOD) and the Military Traffic Management Command (MTMC), hereinafter called the Government, agrees to comply with all requirements and conditions as set forth in this Agreement. This Agreement governs the transportation of all DOD freight administered by the Directorate of Inland Traffic, MTMC (except used household goods, hazardous or secret materials, and sensitive weapons and munitions). Noncompliance by the carrier with any provision of this Agreement may result in termination by MTMC of approval to participate in this traffic. If the carrier's approval is revoked, the carrier may be prohibited from participation in any DOD freight traffic transportation for up to 1 year.

2. Approval and Revocation.

a. Carrier understands that its initial approval and retention of approval are contingent on establishing and maintaining, to MTMC's satisfaction, sufficient resources to support its proposed scope of operations and services. Sufficient resources include the equipment, personnel, facilities, and finances to handle the traffic anticipated by DOD/MTMC under the carrier's proposed scope of operations in accordance with the service requirements of the shipper.

b. The carrier understands that MTMC may revoke approval at any time upon discovery of grounds for ineligibility or disqualification. The carrier further understands that it is not authorized to submit tenders for shipments requiring a Transportation Protective Service until it has served DOD in an approved status for 12 continuous months.

c. In addition to the initial evaluation, the carrier agrees that it will cooperate with MTMC followup evaluations at any time subsequent to signing this agreement to confirm continued eligibility.

3. Lawful Performance. Transportation for the DOD will be performed in accordance with all applicable Federal, State, municipal, and other local laws and regulations (no fines, charges, or assessments for overloaded vehicles or other violations of applicable laws and regulations will be passed to or be paid by any agency of the Federal Government).

4. Operating Authority. Carrier will maintain valid motor common carrier operating certificates for its scope of operations. Any carrier found to be, in fact, involved in the brokerage of DOD freight traffic will have its approval revoked.

5. Insurance.

a. Minimum public liability insurance requirements are prescribed in Title 49 of the Code of Federal Regulations,

Section 387.9. Carriers will ensure that their insurance company(s) file with MTMC and the Interstate Commerce Commission proof of public liability insurance, in the form of a BMC 91 or 91–X, MCS 90, in accordance with Sections 29 and 30 of the Motor Carrier Act of 1980.

b. The carrier will also file with MTMC proof of $150,000 per incident minimum cargo insurance for loss and damage of Government freight. If transporting automobiles or vehicles in haulaway service using automobile transporters or trailers, the carrier will file proof of minimum cargo insurance of $20,000 per vehicle.

c. The insurance, carried in the name of the carrier, will be in force at all times while this Agreement is in effect or until such time as the carrier cancels all tenders of service or similar rate schedules with DOD/MTMC. The carrier will ensure that the policies include a provision requiring the insurer to notify HQMTMC 30 days prior to any change or cancellation of the policies. Proof of insurance must also be on file with HQMTMC prior to any performance of service by the carrier. Changes, renewals and cancellation notices must also be sent to HQMTMC at the address in paragraph 18. *This requirement applies to both interstate and intrastate carriers.* Carrier's insurance policy(s) must cover all equipment used to transport DOD freight.

6. Safety.

a. Carrier will not have an "unsatisfactory" safety rating with the Federal Highway Administration, Department of Transportation, and, if it is an intrastate motor carrier, with the appropriate state agency. The carrier further agrees to allow unannounced safety inspections of its facilities, terminals, equipment, employees, operations, and procedures by DOD civilian, military, or contract employees. These inspections may include in transit surveillance of vehicles and drivers. Carrier will provide evidence of an active driver safety training and evaluation program that fulfills the requirements set forth at 49 CFR 390–396. Inspection of carrier equipment, driver's records, route plans, and inspection reports will be allowed during pickup and delivery of shipments and in coordination with police or other authorities while in transit. Upon request, the carrier agrees to furnish sufficient information to permit MTMC to verify or inspect carrier and driver records.

b. The carrier will have, in place, a company-wide safety management program. Carrier safety programs will comply with applicable Federal, State and local statutes or requirements. Safety programs at the company wide or terminal level may be subject to evaluation by a DOD representative.

c. The carrier will notify the consignor and consignee named on the Government bill of lading (GBL) or Commercial bill of lading (CBL) of cargo loss, damage, or unusual delay. Information reported will include origin/destination, GBL/CBL number, shipping paper information, and time, place of occurrence, and other pertinent accident details. When requested, carrier will furnish to MTMC a copy of accident reports submitted to Department of Transportation on Form MCS 50–T (Property).

7. Driver Requirements. Drivers used by carriers to transport DOD freight must possess a valid driver's license issued by his or her state of domicile. Drivers must have, at a minimum, 1 year's experience driving equipment similar to that used to transport DOD freight or have graduated from an accredited motor carrier driving school.

8. Equipment. The carrier is prohibited from using trip-leased equipment or drivers, except upon prior approval from HQMTMC. Leases of less than 30 days are considered trip leases.

9. Shipment. The carrier agrees to provide the status of any shipment within 24 hours after an inquiry is made at no additional cost to the Government. Further, the carrier will not divulge any information to unauthorized persons concerning the nature and movement of any DOD shipment.

10. Documentation.

a. Carrier agrees to accept GBLs and CBLs on which freight charges will be paid by the Government and will be bound by all terms and conditions stated on SF 1103 regardless of the type of bill of lading tendered.

b. The carrier will comply with the documentation prelodge procedures in effect at Military Ocean Terminals when cargo is consigned for further movement overseas. (Prelodging is the submission of advance shipment documents which identifies the shipment to the Military Ocean Terminal prior to delivery of the cargo at the terminal.) Instructions will be provided by the consignor to furnish certain data at least 24 hours in advance of cargo delivery to the terminal.

11. Loss or Damage. The carrier will be liable for loss or damage to cargo in accordance with the provisions of Title 49, United States Code, Section 11707 (the Carmack Amendment to the Interstate Commerce Act). Carrier agrees to promptly settle uncontested claims for loss or damage.

12. Standard Tender of Service.

a. The carrier will comply with the preparation and filing instructions and applicable freight traffic rules publications issued by MTMC. Carrier understands that tenders not in compliance with these instructions will be rejected by MTMC.

b. Carrier will provide MTMC with a street address where the company office is located in lieu of a post office box number. Carrier will provide the address prior to or in conjunction with submission of any tenders or other rate schedules. The carrier will also advise MTMC of any change in address prior to the effective date of the change. Failure to do so is grounds to discontinue the use of the carrier.

c. Carrier understands that tenders inadvertently accepted and distributed for use and not in compliance with this agreement, the provisions contained in the Standard Tender of Freight Services (MT Form 364–R), or the applicable MTMC Freight Traffic Rules Publication, and supplements thereof, will be subject to immediate removal. The issuing carrier will be advised when tenders are removed under these circumstances. The carrier may also be placed in a nonuse status pending correction of the tenders.

13. Rates. Carrier agrees to transport Government shipments at its lowest applicable rate whether or not the rate tender is referenced on the GBL/CBL.

14. Carrier Performance. Carrier's equipment, performance, and standards of service will conform with its obligations under Federal, State, and local law and regulation as well as with the guidelines found in the Defense Traffic Management Regulation and this Agreement. The carrier fully understands its obligation to remain current in its knowledge of service standards. The carrier accepts the Government's right to revoke approval, declare ineligible, nonuse, or disqualify the carrier for unsatisfactory service subsequent to approval or for any other operating deficiency.

15. General Provisions. The carrier agrees to have a valid Standard Carrier Alpha Code (SCAC) and use it on all DOD billing documents. If different operating divisions of a carrier desire to file tenders with the DOD, the carrier agrees to maintain a separate agreement and SCAC with MTMC for each division.

16. Terms of the Agreement.

a. The terms of this Agreement will be applicable to each shipment.

b. This Agreement shall be effective from the date of acknowledgment by MTMC until terminated upon receipt of written notice by either party.

c. Nothing in this Agreement will be construed as a guarantee by the Government of any particular volume of traffic.

d. The carrier will promptly notify MTMC of any changes in ownership, executive officers, and/or board members.

17. Additional Specialized Requirements. The terms of this Agreement will not prevent different or additional requirements with respect to negotiated agreements or added requirements for any other types of service and/or commodities.

18. Inquiries. Inquiries may be referred to: Commander, Military Traffic Management Command, Attention: MT-INFF, 5611 Columbia Pike, Falls Church, VA 22041-5050.

19. Carrier Acknowledgment and Acceptance. The certifying carrier official will ensure all company officials and employees are familiar with the requirements of this Agreement and are in full compliance with the applicable provisions contained herein.

Any information found to be falsely represented in the Motor Carrier Qualification Form, the attachments, or during the qualification procedures shall be grounds for automatic cancellation of this agreement and immediate nonuse of the carrier, the affiliated companies, divisions and entities.

I, (typed name and title of carrier official), understand the requirements of this agreement and on behalf of (typed name of carrier), agree to comply with the terms and conditions contained herein.

Name of carrier _____
Carrier address _____

_____

_____

_____

Signature of carrier official

_____

Date

Telephone number ( ) _____
24 Hr emergency number ( ) _____
SCAC _____
Interstate operating authority certificate number—MC _____

Intrastate operating authority certificate number(s) (Include issuing State e.g. PA—#12345). ___ ___ ___ ___ ___ ___ ___ ___ ___ ___ ___ ___

Military Traffic Management Command Acknowledgment/Acceptance

Signature _____
Title _____
Date _____

(Initial Date)

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 88-11188 Filed 5-18-88; 8:45am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Morgantown Energy Technology Center; Financial Assistance Grant Award

AGENCY: U.S. Department of Energy (DOE), Morgantown Energy Technology Ceter.

ACTION: Notice of Restricted Eligibility for Grant Award.

SUMMARY: The DOE, Morgantown Energy Technology Center, in accordance with 10 CFR 600.7(b), gives notice of its plans to award a 12-month grant to the National Academy of Sciences, National Research Council, Polar Research Board, Washington, DC., in the amount of $20,000.

The DOE has determined that restriction to the national Academy of Sciences is appropriate based on the following information:

The National Research Council was established by the National Academy of Sciences in 1916 to associate the broad community of science and technology with the Academy's purposes of furthering knowledge and of advising the Federal Government in matters pertaining to science, engineering and medicine. The National Research Council's Polar Research Board, founded in 1958, serves the national interest by monitoring the status and needs of polar sciences and assisting U.S. Government agencies in the development and maintenance of strong programs of polar research that are responsive to scientific opportunities and national interests in the Arctic and Antarctic.

The DOE is keenly interested in enhancing the supply of domestic fossil fuels by encouraging scientific and technological advances at all stages of research in resource development and technology transfer. This is especially true of the enormous supplies of oil and natural gas on the Alaskan North Slope and the potential supplies in the Alaskan Beaufort, Chukchi, and Bering Seas. These areas represent nearly 60 percent of the U.S. offshore undiscovered oil and 40 pecent of the undiscovered offshore gas. As such, the DOE is interested in ascertaining what solid-earth geoscience research is needed in advancing the knowledge base for economic environmentally safe recovery of the Arctic fossil fuels. The Polar Research Board, with its multidisciplinary staff and resources is uniquely qualified to carry out the work under this project. Therefore, it has been determined that it is appropriate to award a grant to the National Research Council's Polar Research Board, National Academy of Sciences, on a restricted eligibility basis.

This project will consist of the execution of tasks related to the identification of the principal research questions in Arctic solid-earth sciences; recommendation of the priorities to guide the direction of future research in this field; and an indication of the facilities and support required for a meaningful research program for the remainder of this century.

FOR FURTHER INFORMATION CONTACT: James H. Urbati, I-07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507-0880, Telephone: (304) 291-4089, Procurement Request No. 21-88MC25103.000.

Ronald E. Cone,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 88-11285 Filed 5-18-88; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Reseach Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Date and Time: June 13, 1988-8:30 a.m.-5:00 p.m., June 14, 1988-8:15 a.m.-2:30 p.m., June 15, 1988-8:30 a.m.-12:00 Noon.

Place: Lawrence Livermore National Laboratory (LLNL), MFE Computer Center—Building 451, 7000 East Avenue, Livermore, CA 94550, (415) 423-2576.

Contact: John E. Metzler, Executive Director, Energy Research Advisory Board, Department of Energy, Office of Energy Research, ER-6, 1000 Independence Avenue SW, Washington, DC 20585, Telephone: (202) 586-5444.

Purpose of the Board: To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: The specific agenda items and times are subject to the last minute changes. Visitors planning to attend for a specific topic

should confirm the time prior to and during the date of the meeting.

June 13, 1988

8:30 a.m. Business Items
9:00 a.m. Welcoming Remarks
9:10 a.m. DOE Welcome and Report on the Site Evaluation Task Force for the New Production Reactor (NPR)
9:30 a.m. Overview of the NPR Technology Assessment
10:00 a.m. NPR Subpanel Report: Liquid Metal Reactor
10:45 a.m. Break
11:00 a.m. NPR Subpanel Report: Light Water Reactors
11:45 a.m. NPR Subpanel Report: Modular High Temperature, Gas-Cooled Reactors
12:30 p.m. Lunch
1:30 p.m. NPR Subpanel Report: Heavy Water Reactors
2:15 p.m. Discussion of NPR Technology Assessment
3:30 p.m. Break
3:45 p.m. Continuation of Discussion
4:50 p.m. Public Comment (10 minute rule)
5:00 p.m. Adjourn

June 14, 1988

8:15 a.m. Review of Draft Report: Research and Technology Utilization (RTU)
10:15 a.m. Break
10:30 a.m. Continuation of Reveiw of RTU Report
11:30 a.m. Review of Draft Report: Science and Engineering Education
12:30 p.m. Lunch
1:30 p.m. Continuation of the Report on Science and Engineering Education
2:30 p.m. Public Comment (10 minute rule)
2:30 p.m. Adjourn

June 15, 1988

8:30 a.m. Approval of the NPR Technology Assessment Report
10:00 a.m. Break
10:15 a.m. Approval of the RTU Report
10:45 a.m. Approval of the Science and Engineering Education Report
11:30 a.m. Discussion of Possible New Topics for ERAB Other Business
11:50 a.m. Public Comment (10 minute rule)
12:00 Noon Adjourn

Public Participation: The meeting is opne to the public. The Chairman of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Written statements may be filed with the Board either before of after the meeting. Members of the public who wish to make oral statments pertaining to agenda items should contact John Metzler at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. *Please note:* To facilitate access to the meeting room, members of the public are encouraged to call Ms. Silillian Anderson on (202) 586–5444 to let her know you plan to attend. U.S. citizenship is required. Just prior to the beginning of the meeting each day a bus will be at the East Entrance of the Laboragory to take you to the meeting site.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW, Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal Holidays.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 88–11286 Filed 5–18–88; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $360,045 obtained as a result of a Consent Order that the DOE entered into with Power Test Petroleum Distributors, Inc. (Case No. KEF–0042), a reseller-retailer of motor gasoline located in Westbury, New York. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to case number KEF–0042.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2390.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a December 13, 1983 consent order between the DOE and Power Test Petroleum Distributors, Inc. (Powertest). That consent order settled certain disputes between the firm and the DOE concerning Powertest's possible violations of DOE regulations in its sales of motor gasoline. The consent order covers the period August 19, 1973 through January 27, 1981.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account in the amount of $360,045, funded by Powertest pursuant to the consent order. The DOE has proposed that the consent order fund be disbursed to purchasers that were allegedly overcharged by Powertest in its sales of motor gasoline. Under the proposed procedures, purchasers of Powertest motor gasoline may file claims for refunds from the escrow fund. The amount of the refund available to an applicant will generally be a pro rata or volumetric share of the Powertest consent order fund. In order to obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of motor gasoline from Powertest. The DOE has proposed to adopt a small-claims presumption in which reseller-retailer claimants whose claims are under $5,000 are presumed injured. Those reseller-retailer claimants whose claims exceed $5,000 will be required to show injury. The specific requirements for proving injury are set forth in the Proposed Decision and Order.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized. Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: May 12, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 12, 1988.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Power Test Petroleum Distributors, Inc.

Date of Filing: June 20, 1986.

Case Number: KEF–0042.

On June 20, 1986, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a petition with the Office of Hearings and Appeals (OHA) requesting that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings involving Power Test Petroleum Distributors, Inc., (Powertest). 10 CFR Part 205, Subpart V. This Proposed Decision and Order sets forth the OHA's tentative plan for distributing these funds to qualified refund applicants. Because the procedures set forth in this Decision are in proposed form, no refund applications should be filed at this time. A final determination will be issued at a later date announcing that the filing of Powertest refund applications is authorized.

I. Background

Powertest was a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and was located in Westbury, New York during the period of price controls.[1] Powertest was therefore subject to the Mandatory Petroleum Price and Allocation Regulations set forth at 10 CFR Parts 211 and 212. The ERA conducted an extensive audit of Powertest's operations and found in a Notice of Probable Violation (NOPV) that the firm had violated applicable DOE pricing regulations in its sales of motor gasoline during the period August 19, 1973 through January 27, 1981 (the consent order period).[2] In order to settle all claims and disputes between Powertest and the DOE, the two parties entered into a Consent Order that became final on December 13, 1983. The Consent Order covers Powertest's sales of motor gasoline during the consent order period.

Under the terms of the Consent Order, Powertest agreed to remit $450,000 to the DOE to settle alleged violations that occurred during the consent order period. Pursuant to the Consent Order, disbursements were made from a constructive fund of $125,000 that was established on March 1, 1984, from which payments were directly made by Powertest to settle claims in DOE-approved judgments or settlements.[3] The balance of the settlement amount, $325,000, was paid to the DOE in monthly installments which included accrued interest on each monthly payment. Powertest made its final payment to the DOE on January 28, 1986. The total amount remitted by Powertest available for distribution equals $360,045 plus accrued interest. This Proposed Decision and Order concerns the distribution of those funds. Comments are solicited on these proposed procedures.

II. Proposed Refund Procedures

We propose that firms and individuals that purchased Powertest motor gasoline during the consent order period may file refund claims in this proceeding.[4] Although the NOPV indicates that Powertest sold motor gasoline chiefly to retail stations, we recognize that other firms and individuals may have purchased Powertest products. Therefore, based on our considerable experience in conducting Subpart V refund proceedings, we believe that most potential claimants will fall into the following categories: (1) End-users, i.e., consumers who used Powertest motor gasoline; (2) regulated non-petroleum industry entities that used Powertest motor gasoline in their businesses, or cooperatives that resold Powertest products; and (3) resellers, retailers or refiners that resold Powertest motor gasoline.

In establishing the procedures that will govern the Powertest Special Refund Proceeding, we propose to adopt certain presumptions that will permit claimants to participate in the refund process without incurring inordinate expense and that will enable the OHA to consider refund applications in the most efficient manner possible.[5] *American Pacific International*, 14 DOE ¶ 85,158 (1986) (*API*). First, we propose to adopt a presumption that the alleged overcharges were dispersed equally among all sales of motor gasoline made by Powertest during the consent order period and that refunds should therefore be made on a volumetric basis. In the absence of better information, a volumetric refund presumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. *API*, 14 DOE at 88,293.[6]

Under the volumetric refund approach we propose to adopt, a claimant will be eligible to receive a refund equal to the number of gallons of Powertest motor gasoline purchased times the per gallon refund amount, plus accrued interest. Allocating the alleged violations on a volumetric basis results in a maximum refund amount of $.00042 per gallon (hereinafter referred to as the volumetric refund amount).[7]

We also propose to adopt a number of injury presumptions that will simplify and streamline the refund process. These presumptions will excuse members of certain applicant categories from proving that they were injured by Powertest's alleged overcharges. We will discuss these presumptions and the showing that each type of applicant must make in Section II(A) below.

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[1] Powertest sold its products primarily to retail stations located in the New York City, Long Island and Mid-Hudson area. Powertest is presently located in Nassau County, New York and is an affiliate of Getty Oil Company.

[2] The ERA issued a NOPV to Powertest on December 30, 1980.

[3] In compliance with the terms of the Consent Order, Powertest made a DOE-approved deduction of $50,000 from the constructive fund to Silberline, Inc. (Silberline) of West Orange, New Jersey as a result of a July 5, 1983 settlement between Powertest and Silberline. Furthermore, on December 7, 1984, in the case of *Patrick Bello v. Power Test Corporation*, (Bello) Civil Action No. 81–1936 (E.D. Pa.), Powertest made a DOE-approved payment of $73,179 to the plaintiff. After these disbursements were made, Powertest paid $1,821, the remaining balance of the constructive fund, plus $8,404 in accrued interest to the DOE.

[4] We propose that Silberline and Bello may apply for a refund in this proceeding. However, their applications must include a detailed explanation of the facts surrounding any prior payment received from Powertest as a result of their settlement with the DOE.

[5] The Subpart V regulations specifically authorize the use of presumptions in special refund proceedings. 10 CFR Part 205, Subpart V.

[6] Nevertheless, we recongize that the impact of Powertest's pricing practices on an individual purchaser may have been greater than the volumetric amount. We therefore propose that the volumetric presumption will be rebuttable, and we will allow a claimant to submit evidence detailing the specific overcharge that it incurred in order to be eligible for a larger refund. *See, e.g., Standard Oil Co. (Indiana)/Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984).

[7] To compute this figure, we first estimated that Powertest's sales of motor gasoline during the consent order period totalled approximately 852,737,989 gallons. This figure was obtained from sales data supplied by Powertest and verified by data suplied by the ERA. Dividing this total volume into the $360,045 received from Powertest yields a volumetric refund amount of $.00042, exclusive of interest. Each successful applicant will also receive a pro rata share of interest which will increase over time and will be computed for each refund at the time of payment.

(A) Specific Application Requirements for Each Category of Refund Applicants

(1) Refund Applications of End-Users

We propose to adopt a presumption that end-users or ultimate consumers whose businesses are unrelated to the petroleum industry were injured by Powertest's alleged overcharges. Unlike regulated firms in the petroleum industry, end-users generally were not subject to price controls during the consent order period. Moreover, they were not required to keep records that justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See, e.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 at 88,450 (1986). Consequently, end-users of Powertest's motor gasoline will only have to document their purchase volumes from Powertest to demonstrate injury.

(2) Refund Applciations of Cooperatives and Regulated Firms

We propose that firms whose prices for goods and services are regulated by a government agency or by the terms of a cooperative agreement will not be rquired to demonstrate injury as a result of alleged overcharges on Powertest motor gasoline. Although such firms, e.g., public utilities and agricultural cooperatives, generally would have passed any overcharges through to their customers, they generally would pass through any refunds as well. Therefore, we propose to require that such applicants certify that they will pass any refund received through to their customers. We further propose that such aplicants provide us with a detailed explanation of how they plan to accomplish this restitution and how they will notify the appropriate regulatory body or membership group of their receipt of the refund money. *See Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We note, however, that a cooperative's sales of Powertest motor gasoline to non-members will be treated in the same manner as sales by other resellers.

(3) Refund Applications of Resellers, Retailers and Refiners

We propose to adopt a presumption, as we have in many previous cases, that purchasers seeking small refunds were injured by Powertest's pricing practices. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,224–25 (1982) (*Uban*). We recognize that the cost to the applicant of gathering evidence of injury to support a small refund claim could exceed the expected refund. Consequently, without simplified procedures, some injured parties would be denied an opportunity to obtain a refund. Under the small-claims presumption, a claimant seeking total refunds of $5,000 or less will not be required to submit any evidence of injury beyond establishing the volume of Powertest motor gasoline it purchased during the consent order period. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88, 210 (1984).

We propose that if a reseller, retailer or refiner's claim exceeds $5,000, it will be required to provide a detailed demonstration of injury. First, a firm is generally required to provide a monthly schedule of its "banks" of unrecouped increased product costs for the motor gasoline that it purchased from Powertest during the consent order period.[8] We further propose that a firm must show that market conditions forced it to absorb the alleged overcharges. Such a showing might be made through a demonstration of lowered profit margins, decreased market share, or depressed sales volume during the period of purchases from Powertest. *API*, 14 DOE at 88,295. If a claimant elects not to submit a detailed demonstration of injury, it may still apply for a small claims refund of $5,000, plus accrued interest.

(4) Refund Applications for Spot Purchasers

If a claimant made only sporadic purchases of significant volumes of Powertest motor gasoline, we will consider that claimant to be a spot purchaser. We propose to adopt the rebuttable presumption that claimants who made only spot purchases from Powertest were not injured. Spot purchasers tend to have considerable discretion in where and when to make purchases. Therefore, they generally would not have made spot purchases from Powertest unless they were able to pass through the full amount of any price increases to their own customers. *See Office of Enforcement*, 8 DOE ¶ 82,597 (1981). Therefore, a firm that made only spot purchases from Powertest will not receive a refund unless it presents evidence rebutting the spot purchaser presumption and establishing the extent to which it was injured.

(B) General Refund Application Requirements

In addition to the specific requirements outlined above, all Applications for Refund must be in writing and must be signed by the applicant. An application must refer to the Power Test Petroleum Distributors, Inc., Special Refund Proceeding (Case No. KEF–0042). If an applicant indirectly purchased Powertest motor gasoline from a reseller, it must explain why it believes that the products originated with Powertest and must identify the reseller from which the product was purchased.

We propose to establish a minimum amount of $15.00 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds of less than $15.00 are sought outweighs the modest benefits of restitution in those situations. *Uban*, 9 DOE at 85,225.

(C) Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all refund claims from the Powertest fund have been analyzed, the funds in that account will be disbursed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986, H.R. 5400, Title III, 99th Cong. 2d Session., Cong. Rec. H11319–21, (Daily E. October 17, 1986).

III. Conclusion

Applications for Refund should not be filed at this time. Detailed procedures for filing Applications for Refund will be provided in a final Decision and Order. Before distributing any portion of the consent order fund, we intend to publicize the distribution process, to solicit comments on the proposed refund procedures, and to provide an opportunity for any potential claimants to file a claim. Comments regarding the tentative distribution process set forth in this Proposed Order should be filed with the Office of Hearings and Appeals within 30 days of publication of this Proposed Order in the **Federal Register**.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Power Test Petroleum Distributors, Inc., pursuant to the Consent Order executed on December 13, 1983 will be distributed in accordance with the foregoing decision.

[FR Doc. 88–11210 Filed 5–18–88; 8:45 am]

BILLING CODE 6450–01–M

[8] A "bank" must be equal to the amount of the refund claimed beginning with the first month of the period for which a refund is claimed through the date on which either motor gasoline was decontrolled or the banking regulations expired. Retailers and resellers of motor gasoline were only required to maintain cost banks through July 15, 1979 and April 30, 1980, respectively, rather than through January 27, 1981, the decontrol date of motor gasoline.

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3382-3]

Fuels and Fuel Additives; Correction of Fuel Waiver Granted to the Texas Methanol Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Correction.

SUMMARY: The Environmental Protection Agency (EPA) is correcting a conditional waiver granted under section 211(f) of the Clean Air Act (Act) to the Texas Methanol Corporation on February 1, 1988. The conditional grant of the waiver stated that heptanols and octanols were restricted to a maximum of five percent by weight of the higher molecular weight alcohols (pentanols, hexanols, heptanols and octanols). This notice corrects that condition, to more accurately reflect the waiver application, so that the heptanols and octanols are restricted to a maximum of five percent by weight of the total cosolvent mix.

ADDRESS: Copies of documents relevant to this waiver application and subsequent submissions are available for inspection in public docket EN-87-06 at the Central Docket Section (LE-131) of the EPA, South Conference Center, Room 4, 401 M Street SW., Washington, DC 20460, (202) 382-7548, between the hours of 8:00 a.m. and 3:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: David J. Kortum, Environmental Engineer, Field Operations and Support Division (EN-397F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (202) 475-8841.

SUPPLEMENTARY INFORMATION: Section 211(f)(1) of the Act makes it unlawful, effective March 31, 1977, for any manufacturer of a fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. Section 211(f)(4) of the Act provides that the Administrator of EPA may waive the prohibitions of section 211(f)(1) if the Administrator determines that the applicant has established that such fuel or fuel additive will not cause or contribute to a failure of vehicles to meet emission standards.

The Texas Methanol Corporation submitted a waiver application for a gasoline-alcohol fuel blend, referred to as OCTAMIX, on August 7, 1987. A **Federal Register** notice was published on September 2, 1987 (52 FR 33262), acknowledging receipt of the application and soliciting comments. On February 1, 1988, the Administrator granted the waiver, subject to certain conditions. A **Federal Register** notice of this decision was published on February 8, 1988 (53 FR 3636). One of those conditions was that the heptanols and octanols in the cosolvent mix would be limited to a maximum of five percent by weight of the higher molecular weight alcohols (pentanols, hexanols, heptanols, and octanols). Subsequent to publication of the decision notice, EPA discovered that the application had actually been intended to limit heptanols and octanols to a maximum of five percent by weight of the total cosolvent mix. After a review of the fuel configuration as stated in the application, the Agency has concluded that the technical difference between the condition imposed by EPA and that intended by the application is insubstantial. If 2.5 percent by volume cosolvent is used, the different interpretations would result in less than one tenth of one percent difference in allowable amounts of heptanols and octanols in the final fuel. Such a small difference would not have any impact on emissions.

EPA is, therefore, correcting its original decision such that the heptanols and octanols are limited to a maximum of five percent by weight of the total cosolvent mix rather than five percent by weight of the higher molecular weight alcohol fraction (pentanols, hexanols, heptanols and octanols).

Thus, Texas Methanol's gasoline-alcohol fuel waiver is now subject to the following conditions:

(1) The final fuel consists of a maximum of 5 percent by volume methanol, a minimum of 2.5 percent by volume cosolvent in unleaded gasoline. The cosolvents are any one or a mixture of ethanol, propanols, butanols, pentanols, hexanols, heptanols and octanols within the following constraints: the ethanol, propanols and butanols or mixtures thereof must compose a minimum of 60 percent by weight of the cosolvent mix, whereas a maximum limit of 40 percent by weight of the cosolvent mix is placed on the pentanols, hexanols, heptanols and octanols or mixtures thereof. Furthermore, the heptanols and octanols are limited to a maximum 5 percent by weight of the cosolvent mix;

(2) A maximum concentration of up to 3.7 percent by weight oxygen in the final fuel is observed;

(3) Petrolite's proprietary corrosion inhibitor formulation, TOLAD MFA-10, is blended in the final fuel at 42.7 milligrams/liter;

(4) The final fuel must meet ASTM D439-85a Standard Specifications for Automotive Gasoline (a copy of which is in the docket), with the qualification that Test Method D323 for RVP be replaced by the "dry" test method described in ASTM D-2 Proposal P-176, Proposed Specification for Automotive Spark Ignition Fuel, Annex A.3 or by automatic apparatus described in Annex A.4 of the D-2 Proposal 176 (attached to the decision document as Appendix B);

(5) The final fuel must meet the maximum temperature for phase separation as specified in ASTM D-2 Proposal P-176, Table 4 using the test method for water tolerance contained in Annex A.5 (attached to the decision document as Appendix C);

(6) The fuel manufacturer must take all reasonable precautions, including identification and description of the product on shipping manifests, to ensure that the finished fuel is not used as a base gasoline to which other oxygenated materials are added, provided, however, that up to two percent by volume of methyl tertiary butyl ether (MTBE) will be allowed in the base stock to which the alcohols are added if the MTBE is present only as a result of commingling in transport and storage, not purposefully added as an additional component to the alcohol blend;

(7) Specifications for alcohol purity attached to the decision document as Appendix D are met.

EPA has determined that this action does not meet any of the criteria for classification as a major rule under Executive Order 12291. Therefore, no regulatory impact analysis is required.

This action is not a "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because EPA has not published, and is not required to publish, a Notice of Proposed Rulemaking under the Administrative Procedure Act, 5 U.S.C. 553(b), or any other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small entities.

Authority: Section 211, 42 U.S.C. 7545.

Dated: May 12, 1988.

Lee M. Thomas,

Administrator.

[FR Doc. 88-11253 Filed 5-18-88; 8:45 am]

BILLING CODE 6560-50-M

Proposed Administrative Penalty Assessment and Opportunity To Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Administrative Penalty Assessment and Opportunity to Comment.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR Part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after issuance of public notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Jones Ford—Mercury, Inc., Wickenburg, Arizona; EPA Docket No. IX–FY88–21; filed on May 10, 1988, with James Casuscelli, Regional Hearing Clerk, U.S. EPA, Region 9, 215 Fremont St., San Francisco, California 94105, (415) 974–0718; proposed penalty up to $125,000 for discharging to Waters of the United States without an NPDES permit.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of EPA's Consolidated Rules, review the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty days after the date of publication of this notice.

Dated: May 10, 1988.

Keith Takata,

Acting Director, Water Management Division.

[FR Doc. 88–11255 Filed 5–18–88; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Lafayette Bancorporation; 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 availble 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 these applications must be received not later than May 30, 1988.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Lafayette Bancorporation,* Lafayette, Indiana; to acquire 100 percent of the voting shares of Banc of Reynolds, Reynolds, Indiana, and thereby indirectly acquire Bank of Reynolds, Reynolds, Indiana.

B. Federal Reserve Bank of St. Louis. (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Spring Rivers Bancshares, Inc.,* Imboden, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Imboden, Imboden, Arkansas.

Board of Governors of the Federal Reserve System, May 17, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88–11416 Filed 5–18–88; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICE

Alcohol, Drug Abuse, and Mental Health Administration

Research Grants on Alcohol-Related Behavior That Increases the Risk of AIDS and/or Research on Prevention Strategies To Reduce That Risk

AGENCY: National Institute on Alcohol Abuse and Alcoholism; HHS.

ACTION: Amendment notice.

SUMMARY: Notice was given in the **Federal Register** on April 12, 1987, Volume 53, No. 70, on page 12076 of the availability of a Request for Applications (RFA) for Research Grants on Alcohol-Related Behavior that Increases the Risk of AIDS and/or Research on Prevention Strategies to Reduce that Risk. As stated in the subject notice, the single application receipt date for this RFA is May 25, 1988. This is to amend that notice to announce that late applications will be held and reviewed in October-November 1988 with other AIDS applications submitted to NIAAA during the next AIDS review cycle.

Date: May 16, 1988.

Donald Ian Macdonald,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 88–11256 Filed 5–18–88; 8:45 am]

BILLING CODE 4160–20–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Consensus Development Conference on Dental Implants; Meetings

Notice is hereby given of the NIH Consensus Development Conference on Dental Implants, sponsored by the National Institute of Dental Research, the NIH Office of Medical Applications of Research, and the Food and Drug Administration. The conference will be held June 13–15, 1988, in the Masur Auditorium of the Warren Grant Magnuson Clinical Center (Building 10)

at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The use of dental implants in or on the jawbone to replace missing teeth is becoming an important component of modern dentistry that is expected to increase dramatically in the future. Implants are now available for patients who have lost all of their teeth or only a few. It is not clear, however, whether there is an implant device appropriate for every patient situation, nor are the long-term efficacy and safety of the most widely used implants clearly established. Conference participants will address these and other issues.

The conference will bring together dentists, including oral surgeons, prosthodontists, periodontists and pathologists, as well as other experts in orthopedics, bone biology, statistics, biomaterials science, bioengineering, and representatives of the public. Following two days of presentations by dental and medical experts and discussion by the audience, a consensus panel will weigh the scientific evidence and formulate a draft statement in response to several key questions:

- What is the evidence that dental implants are effective for the long term?
- What are the indications and contraindications of various types of dental implants?
- What are the requirements for surgical, restorative, and periodontal management of patients with dental implants?
- What are the health risks of dental implants?
- What are the future directions for research on materials and designs of dental implants and on clincial management?

On the final day of the meeting, the draft statement will be read to the conference audience and there will be an opportunity for comments and questions at that time.

Information on the program may be obtained from: Kathleen Edmonds, Prospect Associates, 1810 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 468–6555.

Dated: May 11, 1988.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 88–11273 Filed 5–18–88; 8:45 am]

BILLING CODE 4140–01–M

Consensus Development Conference on Perioperative Red Cell Transfusion; Meetings

Notice is hereby given of the NIH Consensus Development Conference on "Perioperative Red Cell Transfusion," sponsored by the National Heart, Lung, and Blood Institute, the NIH Office of Medical Applications of Research, the NIH Clinical Center, and the Food and Drug Administration. The conference will be held June 27–29, 1988, in the Masur Auditorium of the Warren Grant Magnuson Clinical Center (Building 10) at the National Institutes of Health, 900 Rockville Pike, Bethesda, MD 20892.

About 70 percent of red cell transfusions are given to support surgery—preoperatively, during surgery, or in the postoperative period. Improved understanding of the immediate and long-term risks of blood transfusion has triggered a reevaluation of the need and benefits of this procedure. Older guidelines on when and how to use red cell transfusion in the perioperative period may no longer be appropriate.

The meeting will deal with infection and other risks of blood transfusion and with the effect of anemia on surgery and the ability of a patient to recover from surgery.

Experts in surgery, anesthesiology, transfusion medicine, hematology, respiratory physiology, virology, immunology, and nursing and members of the general public and representatives of the blood-banking industry will gather for this two-and-one-half-day conference.

Following 2 days of presentations by medical experts and discussion by the audience, a consensus panel will weigh the scientific evidence and formulate a draft statement in response to the following key questions:

- What should the criteria be for perioperative red cell transfusion?
- What are the risks of red cell transfusion—both immediate and long term?
- What is the morbidity of anemia in the perioperative period?
- What are the alternatives to red cell transfusion?
- What are the directions for future research?

On the final day of the meeting, the Consensus Panel Chairman will read the draft statement to the conference audience and invite comments and questions.

Information on the program may be obtained from: Andrea Manning, Prospect Associates, 1801 Rockville Pike, Suite 500, Rockville, MD 20852, (301) 468–MEET.

Date: May 11, 1988.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 88–11274 Filed 5–18–88; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of June 1988:

Name: Health Services Developmental Grants Review Subcommittee.

Date and Time: June 28–29, 1988, 8:30 a.m.

Place: The Majestic Hotel, 1500 Sutter Street, San Francisco, California.

Open June 28, 8:30 a.m. to 9:30 a.m.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing to do analysis of data derived from experiments and demonstrations designed to test the cost-effectiveness or efficiency of particular methods of health services delivery and financing, for the research grants program administered by the National Center for Health Services Research and Health Care Technology Assessment.

Agenda: The open session of the meeting of June 28 from 8:30 a.m. to 9:30 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Director, NCHSR. During the closed sessions, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S. Code, Appendix 2 and Title 5, U.S. Code 552b(c)(6), the Director, National Center for Health Services Research and Health Care Technology Assessment has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mr. Hoke S. Glover, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–3091.

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Name: Health Services Research Review Subcommittee.

Date and Time: May 31–June 1, 1988, 1:00 p.m.

Place: Tucson Hilton East, Parlor A, 7600 East Broadway, Tucson, Arizona.

Open May 31, 1:00 p.m. to 2:00 p.m.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by the National Center for Health Services Research and Health Care Technology Assessment.

Agenda: The open session of the meeting on May 31 from 1:00 p.m. to 2:00 p.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Director, DER, NCHSR. During the closed sessions, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S. Code, Appendix 2 and Title 5, U.S. Code 552b(c)(6), the Director, National Center for Health Services Research and Health Care Technology Assessment has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. The information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Dr. Anthony Pollitt, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

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Name: Health Care Technology Study Section.

Date and Time: June 7-8, 1988, 8:30 a.m.

Place: Days Inn—Congressional Park, Montrose Room, 1775 Rockville Pike, Rockville, Maryland.

Open June 7, 8:30 a.m. to 9:30 a.m.

Closed for the remainder of meeting.

Purpose: The Study Section is charged with conducting the initial review of health services research grant applications addressing the effects of health care technologies and procedures, including those in the area of information sciences, as well as those addressing the process of diffusion and adoption of new technologies and procedures.

Agenda: The open session from 8:30 a.m. to 9:30 a.m. on June 7 be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Director, NCHSR. The closed sessions of the meeting will be devoted to a review of health services research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S. Code, Appendix 2 and Title 5, U.S. Code 552b(c)(6), the Director, National Center for Health Services Research and Health Care Technology Assessment has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. The information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

Agenda items are subject to change as priorities dictate.

Date: May 12, 1988.

J. Michael Fitzmaurice,

Director, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 88-11275 Filed 5-18-88; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Ranking of Applications for Emergency Shelters/Halfway Houses for Indian Youth

AGENCY: Office of Construction Management, Interior.

ACTION: Notice of ranking.

This notice is published to inform all Tribal applicants of the ranking for renovation and/or construction funding for emergency shelters/halfway houses for Indian youth pursuant to Pub. L. 99-570, the Anti-Drug Abuse Act of 1986, section 4213 "Emergency Shelters."

Sixty (60) applications were received and evaluated by a five member committee with representation from Bureau of Indian Affairs, Division of Social Services, Branch of Judicial Services, Facilities Management and Construction Center and Office of Indian Education Programs, along with representation from Indian Health Service. Twenty-three (23) of the applications were disqualified because they did not conform with the requirement of an emergency shelter/halfway house as described in Pub. L. 99-570, section 4213 or the respondent was not requesting construction funding.

The remaining thirty-seven (37) applications were scored by each of the five committee members based upon established criteria and point values. The individual criteria scores were then accumulated, averaged and totaled. The results of this evaluation process are as follows:

Ranking and Applicant's Name

1—Crow Creek Sioux Tribe—South Dakota
2—Ute Mountain Ute Tribe—Colorado
3—Oglala Sioux Tribe—South Dakota
4—Shoshone and Arapahoe Tribe—Wyoming
5—Rosebud Sioux Tribe—South Dakota
6—Couer D'Alene Tribe of Idaho—Idaho
7—Toiyabe Indian Health Project—California
8—Crownpoint Youth Home—New Mexico
9—Cheyenne and Arapahoe Tribe of Oklahoma—Oklahoma
10—Northwest Inter-Tribal Education and Training Board—Washington
11—Sault Ste. Marie Tribe of Chippewa Indian—Michigan
12—[1] Bay Mills Indian Community—Michigan
13—[1] Fort Sill Apache (The)—Oklahoma
14—[1] Santo Domingo Tribe—New Mexico
15—Southern Indian Health Council, Inc.—California
16—Fallon Paiute-Shoshone Tribe—Nevada
17—Ute Indian Tribe—Utah
18—Santa Clara Indian Pueblo—New Mexico
19—Tetlin Village Council—Alaska
20—Kiowa Tribe of Oklahoma—Oklahoma
21—Chinle Agency Alcohol and Substance Abuse Task Force—Arizona
22—Iowa Tribe of Oklahoma—Oklahoma
23—Northern Cheyenne Tribe—Montana
24—Blackfeet Nation—Montana
25—St. Croix Tribal Council—Wisconsin
26—Chippewa Cree Tribe of the Rocky Boy's Reservation—Montana
27—Yankton Sioux Tribe—South Dakota
28—[1] Port Lions Tribal Council—Alaska
29—[1] Colville Confederated Tribes—Washington
30—Omaha Tribe of Nebraska—Nebraska
31—Turtle Mountain Agency—North Dakota
32—Twin Hills Village Council—Alaska
33—Cherokee Agency—North Carolina
34—Confederated Tribes of Siletz Indians of Oregon—Oregon
35—Arctic Village Alaska—Alaska
36—Crooked Creek Traditional Council—Alaska
37—Ft. McDowell Mohave-Apache Indian Community—Arizona

FOR FURTHER INFORMATION CONTACT: Arthur M. Love, Jr., Director, Office of Construction Management Department of the Interior, 18th & C Streets, NW.,

[1] Scores were tied.

Mail Stop 2415, Washington, DC 20240, (202) 343-3403.

Rick Ventura,

Assistant Secretary, Policy, Budget & Administration.

[FR Doc. 88-11177 Filed 5-18-88; 8:45 am]

BILLING CODE 4310-RK-M

Bureau of Land Management

[NV-930-08-4212-24; N-43232]

Airport Leases; Termination of Segregative Effect; Nevada

May 12, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; termination of segregative effect, Nevada.

SUMMARY: This notice terminates the segregative effect of airport lease application, N-43232.

FOR FURTHER INFORMATION CONTACT: James W. Elliott, District Manager, 1535 Hot Springs Road, Suite 300, Carson City, NV 89701, (702) 882-1631.

EFFECTIVE DATE: June 20, 1988.

SUPPLEMENTARY INFORMATION: Pursuant to 43 CFR 2091.3-2(b), the segregative effect, as it pertains to the following described lands, will terminate on June 20, 1988:

Mount Diablo Meridian, Nevada

T. 13 N., R. 21 E.,
Sec. 33, W½SE¼.

The airport lease application was filed on January 21, 1986, at which time the lands became segregated from all forms of appropriation.

The Douglas County Board of County Commissioners denied the applicant's request for a Special Use Permit for the operation of an airport facility. Therefore, the subject application has been rejected.

At 10:00 a.m., on June 20, 1988, the land will be open to the operation of the public land laws, subject to valid existing rights. All valid applications received prior to or at 10:00 a.m., on June 20, 1988, will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

At 10:00 a.m., on June 20, 1988, the land will also be open to the operation of the mining laws.

Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

The land remains open to mineral leasing and material sale laws.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 88-11225 Filed 5-18-88; 8:45 am]

BILLING CODE 4310-HC-M

[AK-967-4213-15]

Alaska Native Claims Selection; Sealaska Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Sealaska Corporation. The lands involved are in the vicinity of Kake and Hoonah, Alaska.

COPPER RIVER MERIDIAN, ALASKA

Serial No.	Land description	Approximate acreage (acres)
AA-10485	T. 57 S., R. 73 E., Sec. 23.	9
AA-10528	T. 42 S., R. 62 E., Sec. 8.	21

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the Juneau Empire. Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513 (907) 271-5660).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until June 20, 1988 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of KCS Adjudication.

[FR Doc. 88-11185 Filed 5-18-88; 8:45 am]

BILLING CODE 4310-JA-M

[ID-020-08-4322-12]

Meeting and Agenda for Burley District Grazing Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting and agenda for Burley District Grazing Advisory Board.

SUMMARY: Notice is hereby given that the Burley District Grazing Advisory Board will meet on June 28 and 29, 1988.

The meeting will convene at 9:30 am on June 28, 1988 in the conference room of the Bureau of Land Management Office, 200 South Oakley Highway, Burley, Idaho. (The 29th will be a tour of the Burley District pilot riparian project and will convene at the District Office at 8:00 am.)

Agenda items for the meeting will include: 1. Election of Board officers; 2. Discussion regarding Advisory Board funds and possible bookkeeper/treasurer; 3. Project cost tracking program review; 4. Review 1988 range improvement projects as a Board; 5. Discuss procedure for processing Advisory Board funded projects (project request through completion); 6. Discuss weed control funding possibilities; 7. Items of information: (a) Proposed 1988 weed and grasshopper control activities; (b) Review current Burley District Grazing Advisory Board Charter; (c) Unauthorized agricultural use update. Tour of Burley District pilot riparian project.

The public is invited to attend the meeting. Interested persons may make an oral statement to the Board beginning at 1:00 pm on June 28, 1988, or they may file written statements for the Board's consideration. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager. Anyone wishing to make an oral statement or file a written statement must contact the Associate District Manager by June 27, 1988 for inclusion in the meeting schedule. Anyone wishing to attend the tour of the pilot riparian project must furnish their own transportation and food. A pickup or high clearance vehicle is recommended.

Detailed minutes of the Board meeting will be maintained in the District Office, 200 South Oakley Highway, Burley,

Idaho, and will be available for public inspection during regular business hours, (7:45 am to 4:30 pm, Monday thru Friday) within 30 days following the meeting.

DATE: June 28 and 29, 1988.

ADDRESS: Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho 83318.

FOR FURTHER INFORMATION CONTACT: Marvin Bagley, Associate District Manager, (208) 678–5514.

Date: May 13, 1988.

Marvin R. Bagley,

Associate District Manager.

[FR Doc. 88–11226 Filed 5–18–88; 8:45 am]

BILLING CODE 4310-GG-M

[UT-080-08-4830-12]

Vernal District Advisory Council Tour

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of district advisory council tour.

SUMMARY: Notice is hereby given that on Thrusday, July 7, beginning at 8:00 a.m., District personnel will take members of the Vernal District Advisory Council on a two-day tour to parts of the Book Cliffs Resource Area. The tour will begin at the District Office located at 170 South 500 East, Vernal, Utah.

The purpose of the tour is to provide the Council with on-the-ground information on management concerns which will be discussed at a subsequent Council meeting.

The tour calls for specific visits to the following specific and possibly other incidental sites:

Thursday, July 7th

- Local natural building stone sites
- Local threatened cactus areas
- Cooperative BLM–Ute Tribe wild horse management sites
- Site of proposed north-south county all-weather road to connect Vernal with Interstate 70
- Greenwood Sales area

Friday, July 8th

- Sweetwater Riparian Management Area
- Chaining Site
- Livestock-Wildlife management area

The tour is open to the public, however, they would need to supply their own food, transportation and sleeping facilities.

A written summary of the tour highlights will be maintained at the District Office and will be available for public review.

David E. Little,

Vernal District Manager.

Date: May 12, 1988.

[FR Doc. 88–11178 Filed 5–18–88; 8:45 am]

BILLING CODE 4310-DQ-M

[MT-920-08-4111-12; SDM 43977]

Proposed Reinstatement of Terminated Oil and Gas Lease; South Dakota

Under the provisions of Pub. L. 97–451, a petition for reinstatement of oil and gas lease SDM 43977, Harding County, South Dakota, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $7 per acre and 16⅔% respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: May 16, 1988.

June A. Bailey,

Chief, Leasing Unit.

[FR Doc. 88–11227 Filed 5–18–88; 8:45 am]

BILLING CODE 4310-DN-M

[ID-040-07-4212-11-I-25474]

Realty Action; Classification for Recreation Public Purpose Lease; Custer County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, classification for recreation public purpose lease of public land in Custer County, Idaho.

TERM AND DATE:

The effective date of this classification will be 60 days from the date of **Federal Register** publication. The lease will be subject to the following terms and conditions:

1. Development in accordance with the approved Plan of Development.
2. Civil Rights requirements.
3. All conditions contained in section 1–8 of Lease from 2912–1.

SUMMARY: The below described public land has been identified and examined and is hereby classified as suitable for lease under the provisions of the Recreation and Public Purposes Act of June 14, 1926, as amended.

T.11N., R.18E., B.M.,

Section 27: NE¼NE¼

Containing 10 acres.

The Custer County Commissioners have made application for this parcel in order to develop a solid waste collection site (dumpster).

The classification is based on the following reasons:

1. The lands are physically suitable for the proposed development.

2. The lands meet the guidelines for conveyances and leases as contained in 43 CFR 2741.4.

3. These lands are valuable for public purposes as stated in 43 CFR 2430.4(a) and may properly be classified for lease under the Recreation and Public Purposes Act as stated in 43 CFR 2430.4(c).

The previously described lands are hereby segregated from appropriation under the public land laws except the R&PP Act including the mining laws for a period of 18 months.

SUPPLEMENTARY INFORMATION: Detailed information concerning the conditions of the lease can be obtained by contacting Robert H. Hale, Challis Resource Area Manager, at (208) 756–5400.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467..

Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

The following petition for classification is hereby approved.

Name of Petitioner: Custer County Commissioners

Type of Petition: Recreation and Public Purpose Act of June 14, 1926, as amended.

Dated: May 10, 1988.

Steven R. Till,

Acting District Manager.

[FR Doc. 88–11182 Filed 5–18–88; 8:45 am]

BILLING CODE 4310-66-M

NM-940-084520-1]

Filing of Plat of Survey; New Mexico

May 12, 1988.

The plats of surveys described below were officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on the dates shown.

The supplemental plats amending certain lot numbers in section 4, Township 5 South, Range 1 East, and section 6, Township 5 South, Range 1 East, New Mexico Principal Meridian, New Mexico, filed May 12, 1988.

The supplemental plat amending a certain lot number in section 15, Township 7 North, Range 11 West, Indian Meridian, Oklahoma, filed May 12, 1988.

These supplemental plats were requested by the Records Improvement Unit, New Mexico State Office, Bureau of Land Management.

These plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plats may be obtained from the office upon payment of $2.50 per sheet.

Kelley R. Williamson,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 88-11180 Filed 5-18-88; 8:45 am]

BILLING CODE 4310-FB-M

[WY-940-08-4520-12]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of plats of survey.

SUMMARY: The plsts of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., May 9, 1988.

Sixth Principal Meridian

T. 24 N., R. 60 W.

The plat representing the retracement of the Nebraska-Wyoming State Boundary between Mile Posts 72 and 74, the dependent resurvey of a portion of the individual lines, and the subdivision of section 15, T. 24 N., R. 60 W., Sixth Principal Meridian, Wyoming, Group No. 500, was accepted May 3, 1988.

T. 54 N., R. 68 W.

The plat representing the dependent resurvey of the Eighth Auxiliary Meridian West, through T. 54 N., between Rs. 68 and 69 W., portions of the east and north boundaries and the subdivisional lines, T. 54 N., R. 68 W., Sixth Principal Meridian, Wyoming, Group No. 483, was accepted May 3, 1988.

T. 54 N., R. 69 W.

The plat representing the dependent resurvey of the west and north boundaries, and the subdivisional lines, T. 54 N., R. 69 W., Sixth Principal Meridian, Wyoming, Group No. 482, was accepted May 3, 1988.

T. 21 N., R. 85 W.

The plat representing the dependent resurvey of the west boundary and a portion of the north boundary, Fort Steele Military Reservation, and portions of the east, west and north boundaries and a portion of the subdivisional lines, T. 21 N., R. 85 W., Sixth Principal Meridian, Wyoming, Group No. 443, was accepted May 3, 1988.

T. 21 N., R. 114 W.

The plat representing the dependent resurvey of portions of Lot Nos. 37 and 39, a portion of the subdivisional lines, and the metes and bounds survey of Tract 46, T. 21 N., R. 114 W., Sixth Principal Meridian, Wyoming, Group No. 502, was accepted May 3, 1988.

These surveys were executed to meet certain administrative needs of this Bureau.

T. 42 N., R. 114 W.

The plat representing the dependent resurvey of portions of the north boundary, subdivisional lines and subdivision of section 6, and the survey of the subdivision of section 6, and the metes and bounds survey of Tracts 38 and 39, T. 42 N., R. 114 W., Sixth Principal Meridian, Wyoming, Group No. 506, was accepted May 3, 1988.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: May 11, 1988.

Richard L. Oakes,

Chief, Branch of Cadastral Survey.

[FR Doc. 88-11231 Filed 5-18-88; 8:45 am]

BILLING CODE 4310-22-M

[MT-930-08-4220-10; SDM 76798]

Proposed Withdrawal and Opportunity for Public Meeting; South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, has filed an application to withdraw 5,569.45 acres of National Forest System lands near the Jewel Cave National Monument for protection of existing cave resources and preservation and protection of caverns which are of great scientific and public interest. This notice closes the lands for up to 2 years from location and entry under the United States mining laws. The Forest Service will continue to permit uses within the statutory authorities pertinent to National Forest lands and subject to discretionary approval.

DATE: Comments and requests for meeting should be received on or before August 17, 1988.

ADDRESS: Comments and meeting requests should be sent to the Montana State Director, BLM, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: James Binando, Chief, Branch of Land Resources, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-657-6082.

SUPPLEMENTARY INFORMATION: On April 14, 1988, the U.S. Department of Agriculture filed an application to withdraw the following described National Forest System lands from location and entry under the general mining laws, subject to valid existing rights:

Black Hills Meridian

T. 3 S., R. 2 E.,
  Sec. 34, S½;
  Sec. 35, S½.
T. 4 S., R. 2 E.,
  Sec. 2, lots 1 to 4, inclusive, S½N½, SW¼;
  Sec. 3, lots 1 to 4, inclusive, S½N½, S½;
  Sec. 10, all;
  Sec. 11, all;
  Sec. 12, all.
T. 3 S., R. 3 E.,
  Sec. 20, N½;
  Sec. 31, lots 1 and 2, E½SW¼, SE¼.
T. 4 S., R. 3 E.,
  Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼, E½SW¼, SE¼;
  Sec. 7, lots 1 to 4, inclusive, E½, E½W½.

The areas described aggregate 5,569.45 acres in Custer County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is

afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting. The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are those that are within the statutory authorities pertinent to National Forest lands and subject to discretionary approval.

The temporary segregation of the lands in connection with this withdrawal application shall not affect the administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands by the Department of Agriculture.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

May 9, 1988.

[FR Doc. 88-11176 Filed 5-18-88; 8:45 am]

BILLING CODE 4310-DN-M

[CA-010-08-4212-13; CA 22479]

Realty Actions; Sales, Leases, etc.; California

AGENCY: Bureau of Land Management (BLM); Interior.

REALTY ACTION: Exchange of Public Lands in Placer and Yuba Counties, CA.

SUMMARY: The following described public lands are being considered for exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Placer County, California

T. 15 N., R. 10 E., MDM,
Sec. 14, N½NE¼, lot 1;
Sec. 22, E½SE¼, SW¼SE¼;
Sec. 23, S½S½NE½, N½SE¼, SW¼SE¼, NW¼SE¼SE¼;
Sec. 26, W½NW¼SW¼, SW¼SW¼, S½SE¼SW¼, lots 1, 2, 8, 9 & 11;
Sec. 35, W½NE¼, N½N½NW¼, SW¼NW¼NW¼, W½SW¼NW¼.

Yuba County, California

T. 19 N., R. 6 E., MDM,
Sec. 13, NW¼NW¼, lots 1, 2, 3, 4, 5, 6 & 7.

SUPPLEMENTARY INFORMATION: In exchange for some of the above public lands (not all would be exchanged), the United States would acquire approximately 600 acres of private land from Bohemia Inc. The private lands offered to the U.S. by Bohemia, Inc. are located in the vicinity of the North Fork of the American River which Congress has designated as a Wild and Scenic River in 1978.

This notice, as provided in 43 CFR 2201.1(b), shall segregate the public lands that are being considered for this exchange. By publication of this notice, those vacant, unappropriated and unreserved public lands described above are segregated from settlement, location and entry under the public land laws, including the mining laws, but not the mineral leasing laws. The segregative effect shall terminate upon issuance of patent, or upon publication in the **Federal Register** of a termination of the segregation, or two (2) years from the date of this notice, whichever occurs first. This action is necessary while eliminating conflicting encumbrances on the public lands during exchange processing. Once negotiations are completed, a notice will be published identifying the specific Federal and private lands to be exchanged.

ADDRESS: Information concerning this exchange proposal is available from Mike Kelley at the Folsom Resource Area Office, 63 Natoma Street, Folsom, CA 95630; (916) 985-4474.

DATE: For a period of forty-five (45) days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Area Manager at the above address.

Date: May 13, 1988.

D.K. Swickard,

Area Manager.

[FR Doc. 88-11228 Filed 5-18-88; 8:45 am]

BILLING CODE 4310-84-M

[MT-070-04-4212-14; M-64171]

Realty Action: Sale of Public Land in Powell County, MT

AGENCY: Bureau of Land Management; Interior.

ACTION: Proposed noncompetitive sale of public land in Powell County, Montana.

SUMMARY: The following described land has been examined and identified as suitable for disposal by direct sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian, Montana

T. 13 N., R. 12 W.,
Sec. 18, lot 16, containing .10 acres more or less.

The above described land is being offered as a direct sale to the owners of the improvement on the land at the appraised value. Sale of the land will not be held until 60 days after the date of this notice.

DATE: For a period of 45 days from the date of this notice, interested parties may submit comments to the Butte District Manager, P.O. Box 3388, Butte, Montana 59702. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

SUPPLEMENTARY INFORMATION: The proposed sale will resolve an inadvertent occupancy trespass. The action is consistent with the Garnet Resource Management Plan. Powell County and Montana government officials have been notified of the sale. The land has been not been used for and is not required for any Federal purpose. The public interest will be served by the sale of this parcel to protect the private landowner's equity.

Publication of this notice in the **Federal Register** will segregate the public land described above from settlement, location, or entry under the public land laws, including the mining laws, as provided in 43 CFR 2711.102, but not from sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976.

Detailed information concerning the sale is available at the Buttle District Office.

May 13, 1988.

James A. Moorhouse,

District Manager.

[FR Doc. 88-11230 Filed 5-18-88; 8:45 am]

BILLING CODE 4310-DN-M

[ES-940-08-4520-13; (ES-038801, Group 154)]

Minnesota; Filing of Plat of Subdivision of Section 8

May 12, 1988.

1. The plat of the dependent resurvey of the east boundary and portions of the south and west boundaries and a

portion of the subdivisional lines of Township 143 North, Range 39 West, Fifth Principal Meridian, Minnesota, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on June 27, 1988.

2. The dependent resurvey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., June 27, 1988.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 88-11277 Filed 5-18-88; 8:45 am]

BILLING CODE 4310-GJ-M

Minerals Management Service

Development Operations Coordination Document; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Developemnt Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submnitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5618, Block 221, South Timbalier Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Fourchon, Louisiana.

DATE: The subject DOCD was deemed submitted on May 11, 1988. Comments must be received within 15 days of the publication date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the Subject DOCD is availavle for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Lars T. Herbst; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2533).

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: May 11, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-11232 Filed 5-18-88; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Corpus Christi Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Corpus Christi Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 9001, Block 705, Matagorda Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Port O'Conner, Texas.

DATE: The subject DOCD was deemed submitted on May 13, 1988.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Joseph; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: May 13, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-11233 Filed 5-18-88; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5605, Block 145, South Timbalier Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on May 10, 1988.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Joseph; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Land Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: May 10, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88–11181 Filed 5–18–88; 8:45 am]

BILLING CODE 4310–MR–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395–7340.

Title: Permanent Program Inspection and Enforcement Procedures, 30 CFR Part 840.

Abstract: Section 517 of Pub. L. 95–87 requires that inspections of surface coal mining and reclamation operations are conducted as necessary to administer and evaluate approved State programs. This information is used by the regulatory authority and the Office of Surface Mining Reclamation and Enforcement to ensure that surface coaling mining and reclamation operations are conducted in a manner which preserves and enhances environmental concerns as expressed in the Act.

Bureau Form Number: None.

Frequency: On occasion, monthly, quarterly, and annually.

Description of Respondents: State regulatory authorities.

Annual Responses: 120,100.

Annual Burden Hours: 456,492.

Bureau Clearance Officer: Nancy Ann Baka, (202) 343–5981.

Dated: May 12, 1988.

Andrew F. DeVito,

Acting Chief, Regulatory Development and Issues Management Office.

[FR Doc. 88–11234 Filed 5–18–88; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-383 (Final)]

Certain Bimetallic Cylinders From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Japan of certain bimetallic cylinders,[2] provided for in item 678.35 of the Tariff Schedules of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective January 15, 1988, following a preliminary determination by the Department of Commerce that imports of bimetallic cylinders from Japan were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 3, 1988 (53 FR 3084). The hearing was held in Washington, DC, on April 7, 1988, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 13, 1988. The views of the Commission are contained in USITC Publication 2080 (May 1988), entitled "Certain Bimetallic Cylinders from Japan: Determination of the Commission in Investigation No. 731–TA–383 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: May 13, 1988.

Kenneth R. Mason,

Secretary.

[FR Doc. 88–11209 Filed 5–18–88; 8:45 am]

BILLING CODE 7020–02–M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Bimetallic cylinders are defined as hollow metal cylinders that serve as part of a machine used to process various materials, including plastic resins, and various types of food, either by injection molding, extrusion, or by blow molding. The products consist of an outer shell of steel and an inner lining of a corrosion- and abrasion-resistant alloy that are metallurgically bonded, and are, if imported, reported under items 678.3570, 678.3575, and 678.3580 of the Tariff Schedules of the United States Annotated (TSUSA).

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Under Resource Conservation and Recovery Act; Keystone Consolidated Industries, Inc.

In accordance with Departmental policy, notice is hereby given that on May 11, 1988, a proposed Consent Decree in *United States v. Keystone Consolidated Industries, Inc.*, was lodged with the United States District Court for the Central District of Illinois. The proposed Consent Decree provides for compliance with closure requirements under the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, at defendant's facility in Peoria, Illinois, and for payment by defendant of a civil penalty.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Keystone Consolidated Industries, Inc.*, D.J. reference #90–7–1–338.

The proposed Consent Decree may be examined at the office of the United States Attorney, Central District of Illinois, 100 NE. Monroe Street, room 253, Peoria, Illinois, at the Region V office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, 9th Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.00 payable to the Treasurer of the United States.

Roger J. Marsulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–11187 Filed 5–18–88; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant To Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on May 5, 1988, a proposed consent decree in *United States of America; and State of Maine and Board of Environmental Protection v. Richard Dingwell d/b/a The McKin Company, et al.*, Civil Action No. 88–0101–B, was lodged with the United States District Court for the District of Maine. The complaint filed by the United States, jointly with the State of Maine, sought recovery of response costs and injunctive relief under the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act against over 300 companies that generated hazardous wastes found at the McKin Landfill in Gray, Maine.

The consent decree provides that the settling defendants will complete remedial work at the site, and will reimburse the United States and the State of Maine for most of their past response costs and future costs of overseeing the remedial action.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States of America; and State of Maine and Board of Environmental Protection v. Richard Dingwell d/b/a The McKin Company, et al.*, D.J. Ref. 90–11–2–133.

The proposed consent decree and amendment may be examined at the office of the United States Attorney, 156 Federal Street, Portland, Maine and at the Region I office of the Environmental Protection Agency, 2203 JFK Federal Building, Boston, Mass. 02203. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. Copies of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

In requesting a copy, please enclose a check in the amount of ____ (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–11236 Filed 5–18–88; 8:45 am]

BILLING CODE 4410–01–M

Consent Decree in Clean Air Act Enforcement Action; Multi-Color Corp.

In accordance with the Departmental Policy, 28 CFR 50.7, notice is hereby given that a Compliant and Consent Decree in *United States v. Multi-Color Corporation*, Civil Action No. C–1–88–0425 was lodged with the United States District Court for the Southern District of Ohio on May 9, 1988. The Complaint alleges Multi-Color Corporation has violated the Clean Air Act and the Ohio State Implementation Plan for volatile organic compounds at Multi-Color's Cincinnati, Ohio facility. The proposed decree requires Multi-Color to install pollution control technology, to satisfy various monitoring, record keeping and reporting requirements, and orders Multi-Color to pay a civil penalty of $75,000.

The Department of Justice will receive for thirty (30) days from the publication date of this notice written comments relating to the decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and refer to *United States v. Multi-Color Corporation*, 90–5–2–1–957A.

The proposed consent decree can be examined at the office of the United States Attorney, 220 U.S. Post Office, 5th and Walnut Street, Cincinnati, Ohio 45202 and at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1521, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. In requesting a copy, please enclose a check in the amount of $1.50 (10 cents per page reproduction cost) payable to the Treasurer of the United States. The Decree can be examined at the above address without cost.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–11237 Filed 5–18–88; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Pursuant to the National Cooperative Research Act of 1984—SEMATECH, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 et seq. ("the Act"), the members of SEMATECH, Inc. ("SEMATECH") have filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the members of SEMATECH and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the potential recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to SEMATECH and SEMATECH's general area of planned activity, are given below.

The members of SEMATECH are:

Advanced Micro Devices, Inc.
American Telephone & Telegraph Company
Digital Equipment Corporation
Harris Corporation

Hewlett-Packard Company
INTEL Corporation
International Business Machines Corporation
Micron Technology, Inc.
Motorola, Inc.
National Semiconductor Corporation
Rockwell International Corporation
Texas Instruments Incorporated
NCR Corporation

SEMATECH's area of planned activity is research and development related to advanced semiconductor manufacturing techniques that can be used by SEMATECH's members in their own manufacturing processes.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 88-11235 Filed 5-18-88; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Cambridge Isotope Laboratories

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 14, 1988, Cambridge Isotope Laboratories, 20 Commerce Way, Woburn, Massachusetts 01801, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine, its salts, optical isomers, and salts of its optical isomers (1100).	II
Methamphetamine, its salts, isomers, and salts of its isomers (1105).	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Morphine (9300)	II

These substances will be manufactured in limited quantities ranging from two to ten grams.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Adminstration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than (30 days from publication).

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: May 11, 1988.

[FR Doc. 88-11261 Filed 5-18-88; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration

By Notice dated February 8, 1988, and published in the **Federal Register** on February 12, 1988; (53 FR 4233), Ganes Chemicals, Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Methadone (9250)	II
Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane (9254).	II
Bulk dextropropoxyphene (non-dosage forms) (9273).	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: May 11, 1988.

[FR Doc. 88-11262 Filed 5-18-88; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application; Radian Corp.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 11, 1988, Radian Corporation, P.O. Box 201088, 8501 Mo-Pac Boulevard, Austin, Texas 78759, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Amphetamine, its salts, optical isomers, and salts of its optical isomers (1100).	II
Methamphetamine, its salts, isomers, and salts of its isomers (1105).	II
Phencyclidine (7471)	II
Fentanyl (9801))	II

These materials will be produced in order to prepare analytical standards and the maximum amount of any of these substances which will be manufactured is 5 grams.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than (30 days from publication).

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: May 11, 1988.

[FR Doc. 88-11263 Filed 5-18-88; 8:45 am]

BILLING CODE 4410-09-M

Smithkline and French Laboratories, Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 8, 1988, Smithkline and French Laboratories, Division of Smithkline Beckman Corporation, 1530 Spring Garden Street, Philadelphia, Pennsylvania 19101, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance amphetamine, its salts, optical isomers, and salts of its optical isomers (1100).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and

may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than June 20, 1988.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: May 11, 1988.

[FR Doc. 88–11264 Filed 5–18–88; 8:45 am]

BILLING CODE 4410–09–M

Smithkline Chemicals, Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 8, 1988, Smithkline Chemicals, Division Smithkline Beckman Corporation, 900 River Road, Conshohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-methoxyamphetamine (7411)	I
Amphetamine, its salts, optical isomers, and salts of its optical isomers (1100)	II
Phenylacetone (8501)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such commnents, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than June 20, 1988.

Dated: May 11, 1988.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 88–11265 Filed 5–18–88; 8:45 am]

BILLING CODE 4410–09–M

Western Fehr Laboratories, Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 28, 1988, Western Fher Laboratories, Inc., Carretera 132, KM. 25.3, P.O. Box 7468, Ponce, Puerto Rico 00732, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance phenmetrazine and its salts (1631).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than June 20, 1988.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: May 11, 1988.

[FR Doc. 88–11266 Filed 5–18–88; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Partially Open Meeting; Expansion Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Community Foundation Initiative Section) to the National Council on the Arts will be held on June 7, 1988 from 9:00 a.m.–5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 7, 1988 from 9:00–10:00 a.m. and from 4:30–5:30 p.m. The topics for discussion will include general program review and policy issues.

The remaining sessions of the meeting on June 7, 1988, from 10:00 a.m.–4:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 16, 1988.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88–11287 Filed 5–18–88; 8:45 am]

BILLING CODE 7537–01–M

Partially Open; Expansion Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Services to the Field Section) to the National Council on the Arts will be held on June 8, 1988 from 9:00 a.m.–5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 8, 1988 from 9:00–10:30 a.m. and from 4:20–5:30 p.m. The topics for discussion will include general program overview and policy issue.

The remaining sessions of the meeting on June 8, 1988, from 10:30 a.m.–4:20 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for

financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW, Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, ro call (202) 682–5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

May 16, 1988.

[FR Doc. 88–11288 Filed 5–18–88; 8:45 am]

[BILLING CODE 7537-01-M

Closed Meeting; Inter-Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Folk Arts Section) to the National Council on the Arts will be held on June 9, 1988, from 9:00 a.m.–5:30 p.m.; June 10, 1988, from 9:00 a.m.–10:30 p.m.; and on June 11, 1988, from 9:00 a.m.–4:00 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

May 16, 1988.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88–11289 Filed 5–18–88; 8:45 am]

BILLING CODE 7537-01-M

Partially Open Meeting; Museum Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Arts Advisory Panel to the National Council on the Arts to be held on May 24, 1988 from 9:00 a.m.–5:30 p.m. in room M–14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 has been changed. This notice supersedes the previous notice in 53 FR 17128, May 13, 1988.

A portion of the meeting that was to be closed to the public on May 24, 1988, from 9:15–10:00 a.m. has been changed. The meeting will be open to the public on a space available basis from 9:00 a.m.–5:30 p.m. The topics for discussion will include guidelines, budget and other policy issues.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

May 16, 1988.

[FR Doc. 88–11290 Filed 5–18–88; 8:45 am]

BILLING CODE 7537-01-M

Meeting; Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including dicussion of information given in confidence to the agency by grant applications. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code..

1. *Date:* June 6, 1988.

Time: 8:30 a.m. to 5:00 p.m.

Room: 315.

Program: This meeting will review Texts/ Publication Subvention applications in the fields of literature and linguistics, submitted to the Division of Research Programs, for projects beginning after October 1, 1988.

2. *Date:* June 3, 1988.

Time: 8:30 a.m. to 5:00 p.m.

Room: 315.

Program: This meeting will review Texts/Publication Subvention applications in the fields of the arts and philosophy, submitted to the Division of Research Programs, for projects beginning after October 1, 1988.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 88–11249 Filed 5–18–88; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection:

10 CFR Part 35—Medical Use of Byproduct Material
NRC Form 473—Diagnostic Misadministration Report

3. The form number if applicable: NRC Form 473.

4. How often the collection is required: Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses or amendments may be submitted at any time. Applications for renewal of licenses are submitted every five years. NRC Form 473 is submitted following the occurrence of a diagnostic misadministration.

5. Who will be required or asked to report: Physicians and medical institutions who are applicants for or holders of an NRC license authorizing the administration of byproduct material or its radiation to humans for medical care.

6. An estimate of the number of responses:

10 CFR Part 35—85, 755
NRC Form 473—500

7. An estimate of the total number of hours needed to complete the requirement or request:

10 CFR Part 35—An average of 0.34 hours per response plus 156 hours per recordkeeper. The total industry burden is 419,929 hours.
NRC Form 473—An average of one hour per response. The total industry burden is 500 hours.

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: 10 CFR Part 35, Medical Use of Byproduct Material, contains requirements that apply to NRC licensees who are authorized to administer byproduct material or its radiation to humans for medical care. NRC Form 473 is used by NRC medical licensees to report diagnostic misadministrations of radiopharmaceuticals as required by 10 CFR Part 35. The information in the required reports, applications and records is used by the NRC to ensure that the health and safety of the public is protected and that licensee possession and use of byproduct material is in compliance with license and regulatory requirements.

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, Vartkes L. Broussalian, (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 12th day of May, 1988.

For the Nuclear Regulatory Commission.

William G. McDonald,

Director, Office of Administration and Resources Management.

[FR Doc. 88–11214 Filed 5–18–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–369 and 50–370]

Duke Power Co.; Environmental Assessment and Finding of No Significant Impact

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–9 and NPF–17, issued to Duke Power Company, (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

Environmental Assessment

Identification of Proposed Action

The amendments would change Technical Specification (TS) 5.3.1 "Fuel Assemblies" to provide increased flexibility in the substitution of solid stainless steel rods and open water channels (i.e., vacancies) for fuel rods in reconstitutible fuel assemblies to be reinserted in the reactor core during a refueling outage. Presently, TS 5.3.1 requires that each fuel assembly contain 264 fuel rods clad with Zircaloy-4, except that limited substitutions of fuel rods with filler rods consisting of Zircaloy-4 or stainless steel, or by vacancies, may be made in peripheral fuel assemblies if justified by cycle-specific reload analyses. The revised TS 5.3.1 would require that each fuel assembly nominally contain 264 fuel rods clad with Zircaloy-4, except that substitutions of fuel rods by filler rods consisting of Zircaloy-4 or stainless steel, or by vacancies, may be made in fuel assemblies if justified by cycle-specific reload analyses using NRC-approved methodology. The proposed revision would also state that should more than 30 rods in the core, or 10 rods in any assembly, be replaced per refueling, a special report describing the number of rods replaced would be submitted to the Commission pursuant to Specification 6.9.2 within 30 days after cycle startup.

The Need for the Proposed Action

The proposed TS change which removes TS requirements concerning "limited substitutions" and "peripheral fuel assemblies" is needed to provide increased operational flexibility. Under the proposed change, limitations on fuel rod substitutions or omissions and limitations regarding core locations are those implicit in the justifying analyses required to be performed by the licensee for each fuel cycle using NRC-approved methodology to demonstrate that existing design limits and safety analyses criteria continue to be met. The proposed flexibility is intended to provide for improved fuel performance by permitting the timely removal of individual fuel rods which are found to be leaking during a refueling outage. The requirement for special reporting is proposed in response to the NRC's request to be informed in the event a significant deviation from past fuel performances should be observed during a refueling outage.

Environmental Impacts of the Proposed Action

The purpose of the change is to provide for reductions in future occupational radiation exposure and plant radiological releases through improvements in the licensee's fuel performance program. The licensee's present goal for fuel reliability improvement is that the cycle average steady-state Iodine-131 activity, corrected for tramp contribution and normalized to a common purification rate, remain below 0.02 microcuries per gram. This corresponds to about 12 leaking fuel rods. The licensee's goal is to achieve one-half the present goal, or 0.01 microcuries per gram, by 1990 and beyond. This will be achieved, in part, by an action plan of outage inspections and reconstitution; if the I–131 activity exceeds 0.05 microcuries per gram anytime during the cycle, then all of the

reconstitutable assemblies to be reinserted will be examined by special ultrasonic testing (UT) equipment for defects in individual failed rods and results used for reconstitution decisions. Fuel handling, UT, and reconstitution of failed assemblies of a reconstitutable top-nozzle design would be conducted in parallel during refueling outages. The licensee estimates the fuel improvement program will reduce the total station occupational dose by at least 5 to 10 percent. Radiological releases from the station during normal operation would also be significantly reduced because of improved fuel performance.

The Commission has completed its review of the proposed amendments to revise the TS. The revision does not result in any significant adverse change in the process for determining the adequacy for reload designs and plant operation. The licensee will continue to justify each cycle specific reload by analyses using NRC-approved methodology in order to demonstrate that existing design and operating limits are met in advance of operation. Therefore, the proposed change does not increase the probability or consequences of accidents. As discussed above, no adverse changes are being made in the types or amounts of effluents that may be released offsite, and there is not significant increase in the allowable individual or cumulative occupational radiation exposure.

Accordingly, the Commission concludes that this proposed action would result in no significant adverse radiological environmental impact.

With regard to potential non-radiological impacts, the proposed change to the TS involves systems located within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendments. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the "Final Environmental Statement Relating to Operation of William B. McGuire—Nuclear Station, Units 1 and 2," dated April 1976 or its addendum dated January 1981.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant adverse effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated April 1, 1988 and a previous application of February 5, 1988 which it replaced. Also see D. Hood memorandum of April 1, 1988, entitled "Summary of March 28, 1988 meeting on TS changes Regarding Use of Steel Rods and Open Water Channels in Reconsititutable Fuel Assemblies." These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Rockville, Maryland, this 13th day of May 1988.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Project Directorate II–3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–11215 Filed 5–18–88: 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322]

Long Island Lighting Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the required on-site primary property damage insurance requirement of 10 CFR 50.54(w)(1) to the Long Island Lighting Company (LILCO), the licensee, for the Shoreham Nuclear Power Station (SNPS), located in Suffolk County, New York.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from the requirements of 10 CFR 50.54(w)(1) to reduce the full amount of required on-site primary property damage insurance. By letter dated November 23, 1987, the licensee requested an exemption to reduce the amount of primary property damage insurance from 1.06 billion dollars to 337 million dollars unit such time LILCO is authorized to operate SNPS at power levels greater than five percent of full rated powera. The reduction in the amount of required on-site primary property damage insurance is the proposed action being considered by the staff.

The Need for the Proposed Action

The licensee's November 23, 1987 letter provided technical justification that 337 million dollars of primary property damage insurance provides an adequate level of coverage to return the SNPS plant to a condition ready for decommissioning following an accident considering the current operational limit. Granting the exemption request relieves the licensee from the unnecessary financial burden of carrying insurance coverage of 1.06 billion as required by 10 CFR 50.54(w)(1) while operation of SNPS is limited to five percent of full rated power.

Environmental Impacts of the Proposed Action

The proposed exemption affects only the amount of on-site primary property damage insurance coverage and does not affect the manner of normal facility operation or the risk of facility accidents. While the change in insurance coverage may affect the financial arrangement of the licensee and have some economic consequences, the possibility that the environmental impact of licensed activities would be altered by changes in insurance coverage is extremely remote. The staff has determined, in a safety evaluation which will be issued separately, that a reduction in the amount of required on-site damage insurance, from 1.06 billion dollars to 337 million dollars is commensurate with the clean-up cost associated with a postulated accident while operating at power levels less than or equal to five percent of full rated power. Thus, the reduced coverage authorized by the proposed exemption is sufficient to fund clean-up of radiological impacts associated with any accidents postulated at 5% power. In addition, the exemption in question

would not authorize construction or operation, would not authorize a change in licensed activities nor effect changes in the permitted types or amounts of radiological effluents. Post-accident radiological releases will not differ from those determined previously, and the proposed exemption does not otherwise affect facility radiological effluents or occupational exposure. With regard to potential non-radiological impacts, the proposed exemption does not affect plant non-radiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there is no measurable environmental impact associated with the proposed exemption, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the exemption would be to require the licensee to carry 1.06 billion dollars of on-site primary property damage insurance. Such an action would not enhance the protection of the environment.

Alternative Use of Resources

This action does not involve the use of any resources not considered in the Final Environmental Statement for the Shoreham Nuclear Power Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's letter dated November 23, 1987. This letter is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786–9697.

Dated at Rockville, Maryland, this 12th day of May 1988.

For the Nuclear Regulatory Commission.

Walter Butlers,

Director, Project Directorate I–2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–11216 Filed 5–18–88: 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–388]

Pennsylvania Power & Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–22, issued to Pennsylvania Power and Light Company, (the licensee), for operation of the Susquehanna Steam Electric Station, Unit 2, located in Luzerne County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the provisions in the Technical Specifications (TS) to support the Residual Heat Removal System (RHR) modifications intended to reduce the potential of waterhammer when RHR system is required to switchover from Suppression Pool Cooling (SPC) mode of operation to Low Pressure Coolant Injection (LPCI) mode of operation.

The proposed action is in accordance with the licensee's application for amendment dated December 23, 1987, as supplemented by its letters dated March 11 and 24, 1988.

The Need for the Proposed Action

The proposed change to the TS is required in order to permit the licensee to incorporate modifications to install RHR system bypass capability which would reduce the potential of waterhammer when RHR system switches over from SPC mode to LPCI mode of operation.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to Technical Specifications. The proposed modification will be made to install bypass lines across valves HV–251FO28 A&B. These bypass flow paths will be used for normal suppression pool cooling. The new piping will also include fast closing valves HV–25129 A&B, which will isolate upon RHR pump trip or LPCI initiation signal. The closing time is selected to allow RHR piping to remain water filled, thereby reducing the potential of a waterhammer. The modification will neither affect the present valves used for suppression pool cooling, nor will it adversely affect LPCI injection, since the new valves being installed close faster than the current valves. Therefore, both RHR mode and LPCI mode of operation will be unaffected. Therefore, the proposed changes do not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed change to the TS involves systems located within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on March 11, 1988 (53 FR 7995). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal altenative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Susquehanna Steam Electric Station, Unit 1 and 2, dated June 1981.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact

statement for the proposed license amendment.

Based on the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated December 23, 1987 and supplements dated March 11 and 24, 1988 which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Rockville, Maryland, this 12th day of May 1988.

For the Nuclear Regulatory Commission.

Walter Butler,

Director, Project Directorate I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-11217 Filed 5-18-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Co.; Consideration of Issuance of Amendment to Provisional Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-20, issued to Consumers Power Company (the licensee), for operation of the Palisades Plant located in Van Buren County, Michigan.

In accordance with the licensee's application for amendment dated December 22, 1987, as revised April 12, 1988, the amendment would revise the provisions in the Technical Specifications relating to low temperature, overpressure protection and the heatup and cooldown limits for meeting the requirements of 10 CFR Part 50, Appendix G.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 20, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject provisional operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to paricipate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-600 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a) (i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated December 22, 1987, as revised April 12, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Van Zoeren Library, Hope College, Holland, Michigan 49201.

Dated at Rockville, Maryland, this 11th day of May, 1988.

For The Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Director, Project Directorate III–1, Division of Reactor Projects III, IV, V & Special Projects.

[FR Doc. 88–11218 Filed 5–18–88; 8:45 am]

BILLING CODE 7590–01–M

Nuclear Safety Research Review Committee; Meeting Notice

The Nuclear Safety Research Review Committee (NSRRC) will hold its second meeting of FY 1988 on June 2 and 3, 1988, at the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland. The meeting will be open to public attendance with the exception of the Closed Session noted below.

The meeting will begin at 8:15 a.m. on June 2 and 3 and conclude at 6:00 p.m. on June 2 and 3:00 p.m. on June 3. The Committee will hold a Closed Session with the Director of the Office of Nuclear Regulatory Research (RES) on June 2 from 2:00 p.m. to 2:30 p.m. to discuss personnel matters of importance. The Committee will also hold an Open Session on June 2 from 2:30 p.m. to 3:00 p.m. to discuss matters relating to the Committee's review.

The primary objective of this second meeting will be for the Nuclear Regulatory Commission (NRC) staff to provide the Committee with additional information on the NRC nuclear safety research program and address questions raised by the Committee resulting from the initial NSRRC meeting that was held February 17 and 18, 1988. The Committee is expected to provide advice and recommendations to the NRC concerning the overall management and direction of its nuclear safety research program.

I have determined in accordance with subsection 10(d) Pub. L. 92–463 that it is necessary to close a portion of this meeting as noted above to discuss information related to the internal personnel rules and practices of the agency [5 U.S.C. 556b(c)(2)], and for information the release of which would represent a clearly unwarranted invasion of personal privacy [5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed can be obtained from Dr. R. L. Shepard (telephone 301/492–3710).

Date: May 16, 1988.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 88–11269 Filed 5–18–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–457]

Commonwealth Edison Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a schedular exemption from the requirements of 10 CFR 50.49(f) and 50.49(j) as it pertains to Environmental Qualification and a partial exemption from the requirements of Appendix J to 10 CFR Part 50 to Commonwealth Edison Company (CECo, the licensee) for Braidwood Nuclear Power Station, Unit No. 2, located in Will County, Illinois.

Environmental Assessment

Identificastion of Proposed Action: The proposed action would grant schedular exemptions from the requirements of 10 CFR 50.49(f) and (j) relating to the environmental qualification of four Bunker Ramo instrument penetrations. During an NRC environmental qualification audit inspection conducted at the Braidwood facility during February and March of 1988, it was determined that the environmental qualification of four containment penetration assemblies supplied by Bunker Ramo had not been adequately demonstrated. These assemblies protect electric circuits for certain post-accident monitoring equipment. Further review led the NRC staff to conclude that the tests used by the licensee to environmentally qualify the assemblies in accordance with the requirements of 10 CFR 50.49(f) were inadequate with regrard to licensing criteria applicable to the facility and did not demonstrate qualification of the assemblies.

The partial exemption from Appendix J would eliminate the full pressure test required by Paragraph III.D.2(b)(ii) of Appendix J following normal air lock opening and substitute a seal leakage test to be conducted at a pressure specified in the Technical Specifications. The proposed exemption is in accordance with the applicant's request in the Final Safety Analysis Report in the response to Question 022.78. The proposed exemption was found acceptable in section 6.2.6 of both "Safety Evaluation Report Related to the Operation of Byron Station, Unit 2," dated February 1982, and "Safety Evaluation Report Related to the Operation of Braidwood Station, Units 1 and 2," dated November 1983 (NUREG–0876 and NUREG–1002, respectively).

The Need for the Proposed Action: The proposed exemption to 10 CFR 50.49(f) and (j) is needed to allow issuance of the full power license for the facility. The exemption is strictly schedular in that the licensee has committed to either qualifying the Bunker Ramo penetrations in question or replacing them following the Braidwood Unit 2 surveillance outage in the January 1989 time frame with penetrations which have been previously demonstrated to be qualified per the licensing criteria applicable to the facility. Additionally, the licensee has provided a detailed evaluation of the economic impact associated with the immediate replacement of the electrical penetration assemblies in advance of the scheduled January 1989 surveillance outage. The evaluation indicated this would result in undue hardship (economic costs) that is significantly in excess of that incurred by others similarly situated.

The NRC staff reviewed the licensee's description of the special circumstances relative to this exemption request and determined that special circumstances do exist as required by 120 CFR 50.12 and that this exemption authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

The proposed exemption to Appendix J is required to provide the applicant with greater plant availability over the lifetime of the plant.

Environmental Impacts of the Proposed Action: The proposed schedular exemption to 10 CFR 50.49(f) and 50.49(j) relating to the environmental qualification of four Bunker Ramo instrument penetrations would allow operation of Braidwood Unit 2 until completion of the first surveillance outage in January 1989. With regard to potential radiological impacts to the general public, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. Additionally, automatic functions in the reactor protection and engineered safety features system would operate in a timely fashion during any accident condition by suitable alternative means should a failure of these penetrations occur. This exemption does not affect the potential for or consequences of radiological accident and does not affect radiological plant effluents. The exemption has no effect on non-radiological impacts of facility operation. Therefore, the Commission concludes that there is no significant

impact associated with this proposed exemption.

The staff's detailed evaluation will be documented in Supplemental Safety Evaluation Report, SSER No. 6 (NUREG–1002), dated May 1988, which supports issuance of the Braidwood Unit 2 full power license.

The proposed exemption to Appendix J grants the substitution of an air lock seal test for an air lock pressure test while the reactor is in a shutdown or refueling mode. When no maintenance has been performed on the air lock that could affect its sealing capability, the air lock doors has been properly closed, and the periodic 6-month test at Pa required by Paragraph III.D.2(b)(i) of Appendix J has been performed on schedule, there is no reason to expect the air lock to leak excessively just because it has been opened while the reactor is in a shutdown or refueling mode. Performing the door seal leak test of Paragraph III.D.2(b)(iii) of Appendix J is sufficient, in this case, to demonstrate the continuing integrity of the air lock.

With respect to this exemption from Appendix J, the increment of environmental impact is related solely to the potential increased probability of containment leakage during an accident. This could lead to higher offsite and control room doses. However, this potential increase is very small, due to the added seal leakage test and the protection against excessive leakage afforded by the other tests required by Appendix J and, therefore, there is no environmental impact with respect to this exemption.

Alternative to the Proposed Actions: Because the staff has concluded that the environmental effects of the proposed actions are negligible, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative in each case would be to deny the requested exemptions. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility, delay licensing, and unjustified costs for the licensee.

Alternative Use of Resources: These actions involve no use of resources not previously considered in the Final Environmental Statements (construction permit and low power license) for the Braidwood Nuclear Power Station, Units 1 and 2.

Agencies and Persons Consulted: the NRC staff reviewed the licensee's request and no other agencies or persons were consulted.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon this environmental assessment, we conclude that the proposed action will have no significant effect on the quality of the human environment.

For details with respect to this action, see the request for schedular exemption dated April 7, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 17th day of May 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Project Directorate III–2, Division of Reactor Projects–III, IV, V and Special Projects.

[FR Doc. 88–11357 Filed 5–18–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–261]

Carolina Power & Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–23 issued to Carolina Power & Light Company (the licensee) for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2, located in Darlington County, South Carolina.

The proposed amendment would change the Technical Specifications (TS) by:

(1) Changing section 3.3.1, Safety Injection and Residual Heat Removal Systems, to remove the restriction of operating power to 1380 MWt with two safety injection (SI) pumps operable.

(2) Changing section 3.10.2, Power Distribution Limits, to restore the power peaking factor (Fq) to 2.32 from its current value of 2.26 with two SI pumps operable.

The proposed amendment would allow operation at a steady state reactor core power level not in excess of 2300 MWt with two SI pumps operable.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By June 20, 1988, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to R.E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated May 7, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Hartsville Memorial Library, Home and Fifth Avenue, Hartsville, South Carolina 29535.

Dated at Rockville, Maryland, this 16th day of May 1968.

For the Nuclear Regulatory Commission.

Lester L. Kintner,

Acting Director, Project Directorate II–1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–11356 Filed 5–18–88; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Investment Policy Advisory Committee; Meeting and Determination of Closing of Meeting

The meeting of the Investment Policy Advisory Committee to be held Monday, May 24, 1988, from 9:30 a.m. to 12:00 Noon in Washington, DC will include the development, review and discussion of current issues which influence the trade policy of the United States. Pursuant to section 2155(f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

Inquiries may be directed to Barbara W. North, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, DC 20506.

Clayton Yeutter,

United States Trade Representative.

[FR Doc. 88–11238 Filed 5–18–88; 8:45 am]

BILLING CODE 3190–01–M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Application for Special Use of Parks and Plazas

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Public notice.

SUMMARY: Notice is hereby given that the Corporation withdraws its public notice on the same subject published in the Federal Register March 7, 1988 (53 FR 7271). The reason for this withdrawal is to provide additional opportunity for discussion of the considerations that form the basis for the general and special conditions upon which the Corporation approves applications for special use permits and to integrate these considerations into the process of developing procedures and uniform standards for public use of parks and plazas (53 FR 14500, April 25, 1988).

DATE: This action is effective as of March 19, 1988.

ADDRESS: Pennsylvania Avenue Development Corporation, Suite 1220N, 1331 Pennsylvania Avenue NW., Washington, DC 20004–1703.

FOR FURTHER INFORMATION CONTACT: Talbot J. Nicholas II, Attorney, (202) 724–9057.

M.J. Brodie,

Executive Director.

Date: May 13, 1988.

[FR Doc. 88–11186 Filed 5–18–88; 8:45 am]

BILLING CODE 7630–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–16401 (812–7032)]

E.F. Hutton & Co. Inc., et al.; Application and Temporary Order

May 16, 1988.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of Application for an Order of Permanent Exemption under the Investment Company Act of 1940 ("1940 Act"), and Order of Temporary Exemption.

Applicants: E.F. Hutton & Company Inc. ("Hutton"), Shearson Lehman Hutton Inc., formerly Shearson Lehman Brothers Inc. ("Shearson"), Shearson Asset Management Inc. ("Asset Management"), Shearson Lehman Investment Strategy Advisors Inc. ("Strategy Advisors"), Shearson Lehman Global Asset Management S.A. ("SLGAM"), Bernstein-Macaulay, Inc. ("Bernstein"), The Boston Company Advisors, Inc. ("Boston Advisors"), TBC Funds Distributor, Inc. ("TBC Distributor"), Lehman Management Co., Inc. ("LEMCO"), The Ayco Corporation ("Ayco"), Mercer Allied Corporation ("Mercer"), Carnegie Capital Management Company ("Carnegie") and Carnegie Fund Distributors, Inc. ("Carnegie Distributors") (collectively, "Applicants"). Applicants request that any relief granted by the Commission also apply, subject to the terms and conditions set forth in the application, to any future affiliate of Hutton or its successor company.

Relevant 1940 Act Sections: Permanent order requested, and temporary order granted, under section 9(c) from section 9(a).

Summary of Application: Applicants seek a permanent order pursuant to

section 9(c) of the 1940 Act granting exemption from the provisions of section 9(a). Applicants also request a temporary order granting exemption from section 9(a) until the Commission takes final action on the request for the permanent order.

Filing Date: The application was filed on May 16, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application, or ask to be notified if a hearing is ordered. Any requests must be received by the Commission by 5:30 p.m., on June 13, 1988. Request a hearing in writing, stating the nature of your interest, the reason for the request, and the issues you contest. Serve Applicants with the request, either personally or by mail, and also send it to the Secretary of the Commission, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549; Hutton, One Battery Park Plaza, New York, New York 10004; Shearson, American Express Tower, World Financial Center, New York, New York 10285; Asset Management and Strategy Advisors, Two World Trade Center, New York, New York 10048; SLGAM, One Broadgate, London EC2M 7HA, United Kingdom; Bernstein, 410 Park Avenue, New York, New York 10022; Boston Advisors and TBC Distributor, One Boston Place, Boston, Massachusetts 02108; LEMCO, 55 Water Street, New York, New York 10041; Ayco and Mercer, One Wall Street, Albany, New York 12205; Carnegie and Carnegie Distributors, 1100 Halle Building, 1228 Euclid Avenue, Cleveland, Ohio 44115.

FOR FURTHER INFORMATION CONTACT: Thomas C. Mira, Staff Attorney, (202) 272–3033, or Houghton R. Hallock, Jr., Special Counsel, (202) 272–3030 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from either the Commission's Public Reference Branch in person or the Commission's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Each Applicant, other than Carnegie and Carnegie Distributors, is a direct or indirect, wholly-owned subsidiary of Shearson Each Applicant serves as investment adviser or depositor of investment companies registered under the 1940 Act and/or principal underwriter for registered open-end investment companies or registered unit investment trusts. Applicants collectively serve as investment adviser and/or principal underwriter for 81 registered management investment companies ("Funds") and as depositor or principal underwriter for over 1,500 series of unit investment trusts ("UITs", collectively with Funds, "Investment Companies"). Shearson is an indirect, majority-owned subsidiary of American Express Company ("American Express"), which, through its subsidiaries, is primarily engaged in providing a variety of travel related, investment, international banking, insurance and investors diversified financial services.

2. Under the terms of an Agreement and Plan of Merger, by and among The E.F. Hutton Group Inc. ("Hutton Group"), the parent company of Hutton, Shearson Lehman Brothers Holdings Inc. ("Shearson Holdings"), the parent company of Shearson, and SLBP Acquisition Corp., a wholly-owned subsidiary of Shearson Holdings, Shearson Holdings agreed to acquire all the outstanding common stock of Hutton Group. On April 29, 1988, Hutton Group became a wholly-owned subsidiary of Shearson, and, as a result, Hutton is now an indirect, wholly-owned subsidiary of Shearson. Over a period of time, the business and operations of Hutton Group and Hutton have been in part, and will continue to be, consolidated with those of Shearson and certain of its subsidiaries and, in the future, Hutton Group and Hutton will be merged into Shearson. The merger of Hutton into Shearson is currently anticipated to occur within 90 days of the filing of this application. The business and operations of Hutton Group and Hutton have not been, and are not expected to be, consolidated with those of any of Applicants other than Shearson. As of May 16, 1988, all of Hutton's branch offices have been consolidated into the Shearson branch office system. Hutton's investment advisory business is currently expected to be operated for the immediate future as the "Hutton Asset Management" division ("HAM") of Hutton. HAM is anticipated to be operated separately and distinctly from the investment advisory businesses of Shearson and Shearson's affiliates other than Hutton. Under current plans, HAM would continue as a separate division of Shearson, the Hutton Advisory Division, at such time as Hutton is merged into Shearson.

3. Applicants state that on April 15, 1988, Hutton entered into a plea agreement with the United States Attorney for the District of Rhode Island pursuant to which Hutton, on May 16, 1988, entered a plea of guilty ("Conviction") in the United States District Court for the District of Rhode Island to three felony counts. One count charged that Hutton conspired to violate, and the other two counts charged that Hutton did violate, certain provisions of the Bank Secrecy Act ("BSA") due to a failure to file currency transaction reports with the Internal Revenue Service. The counts to which Hutton agreed to plead guilty carry an aggregate fine of $1,010,000 that will be paid at the time of sentencing. According to the application, the unlawful conduct occurred at Hutton's Providence, Rhode Island branch office ("Hutton-Providence") primarily in the period from 1982 to 1983, and none transpired later than October, 1984—more than three years before Shearson acquired Hutton. Applicants represent that none of the conduct underlying the Conviction involved the Investment Companies or securities owned by the Investment Companies. Applicants represent that none of the individuals who were principally involved in the conduct underlying the Conviction, including the brokers who participated in the wrongdoing and their branch manager, is now employed by Hutton or Shearson.

4. Applicants state that in December, 1987, Shearson retained outside counsel to conduct an internal investigation and provide legal advice concerning compliance by Hutton, with the reporting requirements of the BSA. The internal investigation covered 24 Hutton retail branch offices in the New York metropolitan area, four Hutton retail branch offices randomly selected in the Los Angeles, Dallas, Chicago, and Miami financial districts, and relevant headquarters administrative departments. The investigation revealed unreported currency transactions at certain of Hutton's New York branch offices prior to Shearson's acquisition of Hutton. No such transactions were found in the offices reviewed outside the New York area. Outside counsel is in the process of evaluating the possible involvement of any individuals in these branches, and will provide Shearson with a report as to such involvement. Shearson will take appropriate action against any current Hutton employee involved in a violation of currency transaction reporting requirements. To date, outside counsel's investigation has not revealed evidence of involvement of

any Hutton corporate management personnel. Outside counsel to date is aware of no evidence that suggests that unreported currency transactions were a pervasive problem throughout Hutton's branch office operations prior to Hutton's acquisition by Shearson. Shearson has reported the results of its internal investigation to the office of the United States Attorney for the Southern District of New York and is cooperating with that office in resolving any remaining questions.

5. Applicants state that, as of February 8, 1988, each former Hutton branch office was made subject to the same internal procedures for processing currency transactions to which Shearson and its retail brokerage subsidiaries are subject. According to the application, Shearson's procedures with respect to currency transaction reporting ("Procedures") were adopted as a means of avoiding the type of situation that occurred at Hutton-Providence. The Procedures prohibit the deposit or payment in currency at any Shearson or Hutton branch office. The Procedures also mandate that any Shearson or Hutton employee, who is asked by a customer to deposit currency in any account, inform the customer that Shearson and Hutton will only accept a non-cash instrument and will not accept cash. The Procedures further protect against the kind of irregularities that occurred at Hutton-Providence by requiring Shearson and Hutton employees to notify immediately not only their branch manager, but also Shearson's Compliance Department (located in New York City), if any customer, during a limited period of time (typically from one to three days), deposits a series of cashier's checks, traveler's checks, money orders or checks in bearer form (*i.e.*, checks made payable to cash or endorsed in blank) that are each under $10,000 but collectively exceed $10,000. The Compliance Department has a full-time staff that regularly conducts follow-up inquiries with the branch offices to ascertain whether any employee has been involved in a violation of the Procedures. The Compliance Department determines whether the various Shearson branch offices are complying with the Procedures by means of, among other things, a specially developed computer software program that reviews all daily deposits for each Shearson branch office.

6. According to the application, Sheason believes that the Procedrues are "state-of-the-art", and are designed reasonably to ensure that neither Shearson nor any of its retail brokerage affiliates will be used as a vehicle for "laundering" money or otherwise avoiding the reporting of income to the Government. In view of the adoption of the Procedures, Shearson believes that the type of irregularities that occurred at Hutton-Providence are extremely unlikely to occur at any Shearson or former Hutton branch offices in the future.

Applicants' Legal Analysis

1. Under section 9(a)(1) of the 1940 Act, any person convicted of certain crimes is disqualified from serving or acting in the capacity of investment adviser or depositor of any registered investment company or principal underwriter for any registered open-end investment company, registered unit investment trust or registered face-amount certificate company. Section 9(a)(3) of the 1940 Act extends the prohibitions of section 9(a)(1) to any affiliated person of a person disqualified under the provisions of section 9(a)(1). Although not related to Hutton at the time that the events underlying the Conviction occurred, Applicants acknowledge that each of the Applicants other than Hutton is now an affiliated person (as the term "affiliate" is defined in section 2(a)(3) of the 1940 Act) of Hutton. Therefore, to the extent that the Conviction operates to disqualify Hutton from serving in the capacities specified in section 9(a) of the 1940 Act, section 9(a)(3) operates similarly to disqualify those Applicants other than Hutton from serving in the capacities enumerated in section 9(a).

2. In support of their position that the Commission should issue orders granting Applicants temporary and permanent exemptions from the provisions of section 9(a) of the 1940 Act, Applicants assert the following:

a. The facts underlying the Conviction did not involve any activities of the Investment Companies, Applicants' activities on behalf of the Investment Companies or Applicants' activities with respect to any of their other investment advisory clients and customers. Moreover, none of the conduct underlying the Conviction involved either the Investment Companies or securities held by the Investment Companies. The Conviction relates solely to the unauthorized actions of terminated employees committed in violation of Hutton's then-existing rules and regulations. Further, the facts underlying the Conviction relate to events that transpired only at Hutton-Providence and more than three-and-one-half years have elapsed since cessation of the unlawful activities.

b. To the extent that Applicants other than Hutton are subject to the prohibitions of section 9(a), they are so subject solely because they are currently affiliated persons of Hutton within the meaning of the 1940 Act. Moreover, the transactions underlying the Conviction occurred well before Applicants other than Hutton became affiliated with Hutton.

c. In order to diminish the possibility of future occurrence of the activity that formed the basis for the Conviction, Shearson has not only adopted the Procedures and applied them to all Hutton branch offices, but now has several full-time employees in its Compliance Department who review the results of a specially created computer program that reflects all daily deposits for each Shearson branch office and for each former Hutton office. In addition, Shearson is reaffirming in written and oral communications to its employees, including all former Hutton brokers, the requirements of Federal law and the Procedures as they relate to currency transactions taking place at Shearson branch locations. Shearson submits that the implementation of the Procedures at all former Hutton offices reflects a bona fide effort to prevent the occurrence or reoccurrence of the conduct that formed the basis of the Conviction.

d. The prohibitions of section 9(a) would be unduly and disproportionately severe as applied to the Investment Companies, because those prohibitions would deprive the Funds and their shareholders of Applicants' investment advisory and distribution services and deprive the UITs and their unitholders of Applicants' sponsorship and market making functions. In the absence of the requested relief, the shareholders of the Investment Companies would be deprived of the advisory and distribution services they have selected in investing in the Investment Companies and would be forced to undergo the effort and expense involved in securing alternate investment advisory and distribution arrangements. The uncertainties and expenses involved in making those arrangements could also engender significant net redemptions of shares of the Funds, which may frustrate efforts to manage effectively the Funds' assets and further increase their expense ratios, to the detriment of the remaining shareholders. The prohibitions of section 9(a) would thus operate significantly to the detriment of the financial interests of the Investment Companies (which have in excess of $60 billion in assets) and their over 3.3 million investor accounts, none of which were affected, to

Shearson's or Hutton's knowledge, by the events that gave rise to the Conviction.

e. The prohibitions of section 9(a) would be unduly and disproportionately severe as applied to Applicants because these prohibitions would deprive Applicants of their ability to render investment advisory and distribution services to the Investment Companies and to other registered investment companies that may be organized in the future. In the absence of the requested relief, Applicants, which have approximately 700 offices and over 35,000 employees, could be forced to curtail their operation as they relate to those services. Curtailing Applicants' investment advisory and distribution operations could have the collateral effect of reflecting unfavorably and unfairly on areas of Applicants' businesses not involving servicing registered investment companies. Section 9(a) could thus operate significantly to the detriment of the financial interests of Applicants and their employees, as those interests relate to servicing registered investment companies, none of which were in any way involved in the events that gave rise to the Conviction.

f. The events that underlie the Conviction are not such as to make it against the public interest or protection of investors to grant the relief requested in the application.

g. In order to maintain uninterrupted operations of Applicants and the Investment Companies, it is necessary and appropriate in the public interest that the temporary exemption requested by Applicants be granted.

3. Applicants submit that, because entities other than Applicants may become affiliated persons of Hutton or its successor company at sometime in the future and serve in the capacities enumerated in section 9(a) of the 1940 Act, it is necessary that the requested relief apply to those entities, subject to the terms and conditions set forth in the application.

4. Shearson and Hutton represent and warrant that they will cooperate and use their best efforts to cause their present and former officers, directors, employees and agents to cooperate with the Commission in any investigation by the Commission into any matters relating to, regarding or arising out of the Conviction.

5. In making the application, Applicants acknowledge, understand and agree that no permanent order will be issued by the Commission until such time as the conditions set forth above have been satisfied. In addition, Applicants acknowledge, understand and agree that the application and any order granting a temporary or permanent exemption issued with respect to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigations or enforcement actions pursuant to the Federal securities laws, or the consideration by the Commission of any application for exemptions from statutory requirements, including, without limitation, the consideration of Applicants' request for an order granting a permanent exemption pursuant to section 9(c) from the provisions of section 9(a) of the 1940 Act or the revocation or removal of any order granting a temporary exemption granted in connection with the application. Applicants further acknowledge, understand and agree that the exemptive relief sought by the application shall apply only to the disqualification of Applicants under section 9(a) of the 1940 Act that may occur as a result of the Conviction.

Applicants' Conditions

Shearson and Hutton agree to the imposition of the following conditions in connection with the requested relief:

(1) The proposed consolidation of the investment company business and operations of Hutton with that of Shearson and certain of Shearson's subsidiaries may be completed, so long as no current officer or employee of Hutton involved in the development or provision of distribution, investment advisory or administrative services to any management investment company registered under the 1940 Act, to the best of Shearson's knowledge based upon reasonable inquiry, engaged in violations of the currency transaction reporting provisions of the BSA at any time during the five-year period preceding the filing of the application.[1]

(2) Hutton and Hutton Group may not act or continue to act as promoter, sole managing underwriter or lead co-managing underwriter or investment adviser for any management investment company that is registered or required to be registered under the 1940 Act or any company that elects to be treated as a business development company under section 54 of the 1940 Act, unless:

(a) A majority of the board of directors or trustees of the management investment company consists of persons who are not "interested persons" as defined in section 2(a)(19) of the 1940 Act ("disinterested directors or trustees");

(b) The disinterested directors or trustees of the management investment company retain counsel experienced in matters under the 1940 Act and the Investment Advisers Act of 1940 who will represent only the disinterested directors or trustees and not Hutton or Hutton Group or investment companies serviced by Hutton or Hutton Group; and

(c) The management investment company has an audit committee composed solely of disinterested directors or trustees.

(3) Hutton and Hutton Group may not act as sole managing or lead co-managing underwriter or promoter for any new management investment company, including any new series of registered management investment companies to which Hutton currently provides distribution, investment advisory or administrative services,[2] for so long as the temporary order requested by Applicants remains in effect.[3]

(4) Shearson will retain its independent auditors, at its expense, (a) to confirm that the Procedures are in place, and that the computer software program used in connection with the Procedures is operational, with respect to each former Hutton branch office, (b) to review the Procedures (i) to determine whether the Procedures are reasonably designed to ensure compliance with the currency transaction reporting provisions of the BSA, (ii) to detect non-compliance with the Procedures, and (iii) to make recommendations, if appropriate, for changes in the Procedures and staffing necessary reasonably to ensure compliance with applicable law relating to currency transaction reporting; and (c) to report to Shearson the results of its review. The auditors' review shall be completed

[1] This representation does not apply to any Hutton employee whose only contact with any such registered investment company was as a registered representative selling shares of the company.

[2] Hutton may sponsor new UITs or new series of its existing UITs.

[3] As described above, it is anticipated that Hutton will be merged into Shearson within 90 days of the filing of the application. Subsequent to this action, so long as the temporary order is in effect, Shearson, acting through its Hutton Advisory Division, may not: (a) Act or continue to act as the sole managing or lead co-managing underwriter, promoter or investment adviser for any management investment company that is registered or required to be registered under the 1940 Act or any company that elects to be treated as a business development company under Section 54 of the 1940 Act unless lthe requirements described in paragraph 2 above are met, and (b) act as the sole managing or lead co-managing underwriter or promoter for any new management investment company, including any new series of registered management investment companies to which Hutton previously provided distribution, investment advisory or administrative services.

within 180 days of the filing of the application with the Commission. Shearson will, within 60 days of delivery to it of the auditors' report and recommendations, if any, submit the report and recommendations to the Commission together with a report of Shearson setting forth the action it has taken or proposes to take concerning the implementation of the recommendation.

Temporary Order

Based on the foregoing, the Commission has considered the matter and finds, under the standards of section 9(c) of the 1940 Act applicable to this matter, that Applicants have made the necessary showing to justify granting of a temporary exemption.

Accordingly, it is ordered, under serction 9(c) of the 1940 Act, that Applicants, as listed above, are hereby temporarily exempted, to the extent necessary as a result of the Conviction, from the provisions of section 9(a) of the 1940 Act until the Commission takes final action on the application for an order granting Applicants a permanent exemption from the provisions of section 9(a) of the 1940 Act.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-11242 Filed 5-18-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16402/(812-7031)]

IDS Financial Corporation, et al.; Application and Temporary Order

May 16, 1988.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of Application for an Order of Permanent Exemption under the Investment Company Act of 1940 ("1940 Act") and Order of Temporary Exemption.

Applicants: IDS Financial Corporation ("Financial Corp."), IDS Financial Services Inc. ("IDS"), IDS Life Insurance Company ("IDS Life"), IDS International, Inc., IDS Advirory Group Inc. (collectively, the "IDS Applicants"), American Express Service Corporation ("AESC") and Economic Security Association Incorporated ("ESAI," collectively with AESC and IDS Applicants, "Applicants").

Relevant 1940 Act Sections: Permanent order requested, and temporary order granted, under section 9(c) from section 9(a).

Summary of Application: Applicants seek a permanent order pursuant to section 9(c) of the 1940 Act granting exemption from the provisions of section 9(a). Applicants also request a temporary order granting exemption from section 9(a) until the Commission takes final action on the request for a permanent order.

Filing Date: The application was filed on May 16, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application, or ask to be notified if a hearing is ordered. Any requests must be received by the Commission by 5:30 p.m., on June 13, 1988. Request a hearing in writing, stating the nature of your interest, the reason for the request, and the issues you contest. Serve Applicants with the request, either personally or by mail, and also send it to the Secretary of the Commission, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549; IDS Applicants, IDS Tower 10, Minneapolis, Minnesota 55440; AESC, American Express Tower, World Financial Center, New York, New York 10285; ESAI, 1650 Los Gamos Drive, San Rafael, California 94903.

FOR FURTHER INFORMATION CONTACT: Thomas C. Mira, Staff Attorney (202) 272-3033, or Houghton R. Hallock, Jr., Special Counsel (202) 272-3030 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from either the Commission's Public Reference Branch in person or the Commission's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Each Applicant is a direct or indirect, wholly-owned subsidiary of American Express Company ("American Express"), which, through its subsidiaries, is primarily engaged in providing a variety of travel related, investment, international banking, insurance and investors diversified financial services. Until January, 1984, Financial Corp., now a wholly-owned subsidiary of American Express, was a subsidiary of Alleghany Corporation, a publicly-traded company having no affiliation with American Express or any of its subsidiaries. The other four IDS Applicants are all wholly-owned subsidiaries of Financial Corp. During the period 1982 through 1984, AESC and ESAI (the "American Express Applicants") were essentially inactive. ESAI today serves as investment adviser to American Express Variable Annuity Fund Inc., which is currently inactive and has no assets. AESC today serves as the investment manager and distributor of The American Express Funds, a registered investment company whose registration statement was declared effective by the Commission on April 7, 1988.

1. Each Applicant is a direct or indirect, wholly-owned subsidiary of American Express Company ("American Express"), which, through its subsidiaries, is primarily engaged in providing a variety of travel related, investment, international banking, insurance and investors diversified fiancial services. Until January, 1984, Financial Corp., now a wholly-owned subsidiary of American Express, was a subsidiary of Alleghany Corporation, a publicly-traded company having no affiliation with American Express or any of its subsidiaries. The other four IDS Applicants are all wholly-owned subsidiaries of Financial Corp. During the period 1982 through 1984, AESC and ESAI (the "American Express Applicants") were essentially inactive. ESAI today serves as investment adviser to American Express Variable Annuity Fund Inc., which is currently inactive and has no assets. AESC today serves as the investment manager and distributor of The American Express Funds, a registered investment company whowee registration statement was declared effective by the Commission on April 7, 1988.

2. At December 31, 1987, the IDS Applicants collectively served as investment adviser or principal underwriter for 28 registered management investment companies ("IDS Funds") and the American Express Applicants collectively served as investment adviser and/or principal underwriter for two registered management investment companies ("non-IDS Funds") (IDS Funds and non-IDS Funds, collectively the "Funds"). IDS Certificate Company ("Certificate Company"), a registered face-amount certificate company, is wholly-owned subsidiary of Financial Corp. which issues face-amount certificates. Financial Corp. serves Certificate Company as investment manager or adviser, and IDS serves Certificate Company as principal underwriter.

3. The requested exemption is sought in connection with the agreement by E.F. Hutton & Company Inc. ("Hutton"), an indirect subsidiary of American Express

and a registered broker-dealer and investment adviser, to the entry of a judgment of conviction relating to the conduct of two employees of Hutton's branch office in Providence, R.I., that took place during the period 1982 through 1984. Under the terms of an Agreement and Plan of Merger dated as of December 2, 1987, The E.F. Hutton Group Inc., the parent company of Hutton, became a wholly-owned subsidiary of Shearson Lehman Hutton Inc. ("Shearson") on April 29, 1988. Shearson, a registered broker-dealer and investment adviser, is a wholly-owned subsidiary of Shearson Lehman Brothers Holdings Inc. which is in turn a majority-owned subsidiary of American Express.

4. By virtue of being direct or indirect wholly-owned subsidiaries of American Express, each of the Applicants is currently an "affiliated person" within the meaning of section 2(a)(3) of the 1940 Act of both Shearson and Hutton, although none of the Applicants was affiliated with Hutton prior to Shearson's acquisition of Hutton in January, 1988. None of the Applicants was involved in any manner in the acquisition of Hutton.

5. Applicants operate independently of both Shearson and Hutton. The principal place of business of each of the Applicants, other than AESC, is located outside of New York City, which is the location of Shearson's and Hutton's principal place of business. Neither Shearson nor Hutton acts as the principal underwriter for securities of any of the Funds or Certificate Company (Funds and Certificate Company are referred to collectively hereinafter as the "Investment Companies"), and as a result, securities of the Investment Companies are not sold through any Shearson or Hutton offices.

6. Applicants state that any overlap of the operations of the Investment Companies and Applicants at the present time with those of Shearson is minimal and with those of Hutton is non-existent. Applicants and certain subsidiaries of Shearson other than Hutton ("Shearson Subsidiaries") share responsibility for providing certain services specified in the application to two investment companies registered under the 1940 Act. In addition, two investment companies served by Shearson Subsidiaries serve as funding vehicles for life insurance policies issued by an IDS Applicant, IDS Life, and a wholly-owned subsidiary of IDS Life, IDS Life New York.

7. The Shearson Subsidiaries became affiliated persons of Hutton within the meaning of the 1940 Act with the acquisition of Hutton by Shearson. To the best of Applicants' knowledge: (1) The Shearson Subsidiaries operate separately and distinctly from Hutton; (2) no current member of Hutton's senior management is a member of senior management of any of the Shearson Subsidiaries; and (3) certain of the principal executive officers of the Shearson Subsidiaries are officers of Shearson, but all of those officers assumed their positions with Shearson prior to the acquisition of Hutton in January, 1988.

8. A number of former Hutton employees have become associated with certain of the IDS Applicants and, as a result, may sell securities of the IDS Funds and Certificate Company. To Applicants' knowledge, none of these former Hutton employees, however, was involved in any way in the conduct underlying the conviction described below. In addition, to Applicants' knowledge, but on the basis of no special inquiry, no current or former Hutton officer or employee responsible for ensuring Hutton's compliance with the currency transaction reporting requirements of the Bank Secrecy Act (the "BSA") is now employed by or associated with any of Applicants.

9. According to the application, on April 15, 1988, Hutton entered into a plea agreement with the United States Attorney for the District of Rhode Island pursuant to which Hutton, on May 16, 1988, entered a plea of guilty ("Conviction") in the United States District Court for the District of Rhode Island on the counts set forth in an Information dated May 6, 1988 ("Information"). The Conviction arises out of the conduct of two brokers, formerly employed in Hutton's Providence, Rhode Island branch office, occurring primarily in the period from 1982 to 1983 and not later than October, 1984—more than three years before Shearson acquired Hutton. One count of the Information charged that Hutton conspired to violate, and the other two counts charged that Hutton did violate, certain provisions of the BSA due to a failure to file currency transaction reports with the Internal Revenue Service.

Applicants' Legal Analysis

1. Under section 9(1)(1) of the 1940 Act, any person is disqualified from serving or acting in the capacity of investment adviser or depositor of any registered investment company or principal underwriter for any registered open-end investment company, registered unit investment trust or registered face-amount certificate company, if the person has been convicted within the past 10 years of any felony or misdemeanor involving the purchase or sale of a security or arising out of the person's conduct as an underwriter, broker, dealer or investment adviser. For purposes of the application, Applicants are proceeding on the basis that the actions underlying the Conviction arose out of Hutton's conduct as a broker or dealer. Section 9(a)(3) of the 1940 Act extends the prohibitions of section 9(a)(1) to any affiliated person of a person disqualified under the provisions of section 9(a)(1). Although not related to Hutton at the time of the events underlying the Conviction, each Applicant is now an affiliated person of Hutton solely because of the common ownership of Shearson and each Applicant directly or indirectly by American Express. Therefore, to the extent that the Conviction operates to disqualify Hutton from serving in the capacities specified in section 9(a) of the 1940 Act, section 9(a)(3) operates similarly to disqualify Applicants from serving in those capacities.

2. In support of their position that the Commission should grant the requested temporary and permanent exemptions from the provisions of section 9(a) of the 1940 Act, Applicants assert the following:

a. To the extent that Applicants are subject to the prohibitions of section 9(a), they are so subject solely because they are currently affiliated persons of Hutton within the meaning of the 1940 Act. None of the Applications is described in the Information or subject to the Conviction. Moreover, the transactions underlying the Conviction occurred more than three years prior to Applicant's becoming affiliated with Hutton.

b. The facts underlying the Conviction did not involve any activities of the Investment Companies, Applicants' activities on behalf of the Investment Companies or Applicants' activities with respect to any of their other investment advisory clients and customers. Moreover, to Applicants' knowledge, none of the conduct underlying the Conviction involved either the Investment Companies or securities held by the Investment Companies.

c. The prohibitions of section 9(a) would be unduly and disproportionately severe as applied to the Investment Companies, because those prohibitions would deprive the Funds and their shareholders and Certificate Company and its certificate-holders, of investment advisory and distribution services provided by the various Applicants. In the absence of the requested relief, the shareholders or certificate-holders of the

Investment Companies would be deprived of the advisory and distribution services they have selected by investing in the Investment Companies, and would be forced to undergo the effort and expense involved in securing alternate investment advisory and distribution arrangements. The uncertainties and expenses involved in making those arrangements could also engender significant net redemptions of shares of the Funds and surrenders of certificates of Certificate Company, which may frustrate efforts to manage effectively the Investment Companies' assets and cause an increase in expense ratios, to the detriment of the remaining securityholders. The prohibitions of section 9(a) would thus operate significantly to the detriment of the financial interests of the Investment Companies (which have in excess of $19 billion in assets), their over 1.8 million investor accounts and their approximately 340,000 IDS Life policies or contracts.

d. The prohibitions of section 9(a) would be unduly and disproportionately severe as applied to Applicants because these prohibitions would deprive Applicants of their ability to render investment advisory and distribution services to the Investment Companies and to other registered investment companies that may be organized in the future. In the absence of the requested relief, Applicants, which have over 3,700 employees, could be forced to curtail their operations as they relate to those services. Curtailing Applicants' investment advisory and distribution operations could have the collateral effect of reflecting unfavorably and unfairly on areas of Applicants' businesses not involving servicing registered investment companies. Section 9(a) could thus operate significantly to the detriment of the financial interests of Applicants and their employees, as those interests relate to servicing registered investment companies, none of which were in any way involved in the events that gave rise to the Conviction.

e. For the reasons outlined above, the conduct of Applicants is not such as to make it against the public interest or protection of investors to grant the relief requested in the application.

f. In order to maintain uninterrupted operations of Applicants and the Investment Companies, it is necessary and appropriate in the public interest that the temporary exemption requested by Applicants be granted.

3. In making the application, Applicants acknowledge, understand and agree that the application and any order granting a temporary or permanent exemption issued with respect thereto shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigations or enforcement actions pursuant to the Federal securities laws, or the consideration by the Commission of any application for exemption from statutory requirements, including, without limitation, the consideration of Applicants' request for an order granting a permanent exemption pursuant to section 9(c) from the provisions of section 9(a) of the 1940 Act or the revocation or removal of any order granting a temporary exemption granted in connection with the application.

4. In making the application, Applicants acknowledge, understand and agree that the exemptive relief sought by the application shall apply only to the disqualification of Applicants under section 9(a) of the Act that may occur as a result of the Conviction.

Temporary Order

Based on the foregoing, the Commission has considered the matter and finds, under the standards of section 9(c) of the 1940 Act applicable to this matter, that Applicants have made the necessary showing to justify the granting of a temporary exemption.

Accordingly, it is ordered, under section 9(c) of the 1940 Act, that Applicants are hereby temporarily exempted, to the extent necessary as a result of the Conviction, from the provisions of section 9(a) of the 1940 Act until the Commission takes final action on the application for an order granting Applicants a permanent exemption from the provisions of section 9(a) of the 1940 Act.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-11243 Filed 5-18-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB on May 13, 1988

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on May 13, 1988, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone, (202) 366-4735, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on May 13, 1988.

DOT No: 3062.

OMB No: 2106-0028.

Administration: Department of Transportation /OST.

Title: Carrier Owned Computer Reservation Systems.
Need for Information: To monitor compliance with regulations and to prevent unfair competitive practices by CRS owners.
Proposed Use of Information: Information will be used by CRS users to monitor compliance with regulations. Information about bookings through CRS will be used in airline marketing and sales planning.
Frequency: Upon request of recipient of information.
Burden Estimate: 5,604.25.
Respondents: Airlines affiliated with or operating computer reservation systems.
Form(s): None.

DOT No: 3063.
OMB No: 2105–0517.
Administration: Department of Transportation/OST.
Title: Transportation Acquisition Regulation (TAR).
Need for Information: *Necessary for administering and monitoring Government property in the possession of contractors.
Proposed Use of Information: *To monitor and track Government property in the possession of contractors.
Frequency: *Yearly.
Burden Estimate: **84,110.
Respondents: *630.
Form(s): N/A.
*These responses apply only to TAR clause 1252.245–70, Government Property Reports, which was added to the TAR in November 1987. The addition of this clause necessitated a modification to the previously approved paperwork submission for the TAR.
**This estimate is for the entire TAR, it includes 5,670 hours for the new TAR clause 1252.245–70, Government Property Reports.

DOT No: 3064.
OMB No: New.
Administration: Department of Transportation/OST—Aviation.
Title: Part 215—Use and Change of Names of Air Carriers, Foreign Air Carriers, and Commuter Air Carriers.
Need for Information: To ensure that carriers do not advertise or operate in any name other than that in which they are authorized to do so by the Department.
Proposed Use of Information: To enable the Department and the public to identify the specific carriers offering or operating services.
Frequency: As necessary.
Burden Estimate: 335.
Respondents: 65.
Form(s): None.

DOT No: 3065.
OMB No: New.
Administration: U.S. Coast Guard.
Title: Survey of Alcohol Intoxication in Recreational Boat Operations.
Need for Information: This information collection requirement is needed to determine the relative risk of fatal recreational boating accidents associated with various Blood Alcohol Concentrations (BAC's).
Proposed Use of Information: The information will be used to determine the blood alcohol level of the boat operators. The Coast Guard and state boating officials will further use this information to inform and educate boat operators about the risk associated with intoxication and boating.
Frequency: One time.
Burden Estimate: 175.
Respondents: Boat operators.
Form(s): CG–5472 (OT).

DOT No: 3066.
OMB No: 2106–0049.
Administration: Department of Transportation.
Title: Basic Essential Air Service Questionnaire.
Need for Information: To enable DOT to meet statutory mandate to review basic essential air service requirements for all eligible points.
Proposed Use of Information: Base documents for DOT analysis of small community air transportation needs.
Frequency: Triennial.
Burden Estimate: 596.
Respondents: State and local governments.
Form(s): None.

DOT No: 3067.
OMB No: 2106–0006.
Administration: Department of Transportation/OST—Aviation.
Title: Part 323—Terminations, Suspensions, or Reductions of Service.
Need for Information: To enable DOT to meet statutory mandate of guaranteeing air service to eligible communities.
Proposed Use of Information: Base document for DOT actions of holding-in filing carriers and seeking replacement carriers.
Frequency: On occasion.
Burden Estimate: 664.
Respondents: Air carriers and State and local governments.
Form(s): N/A.

DOT No: 3068.
OMB No: 2115–0061.
Administration: U.S. Coast Guard.
Title: Shipping Articles, Forecastle Card, and Master's Report of Seamen Shipped or Discharged.
Need for Information: The Coast Guard needs this information collection requirement to ensure that various navigational statutes are being complied with for its commercial vessel safety program.
Proposed Use of Information: The information is used by the Coast Guard as a means of managing and enforcing vessel manning laws and regulations and it provides a written contract and record for seamen's protection and relief. Seamen also use this information to obtain their entitlements or benefits. Casualty investigators use the information to examine the qualifications of the crew members.
Frequency: On occasion.
Burden Estimate: 6,063.
Respondents: Merchant seamen, shipping companies.
Form(s): CG–704, 705A and 735T.

DOT No: 3069.
OMB No: 2106–0024.
Administration: Department of Transportation/OST—Aviation.
Title: Part 316 of the Department's Procedural Regulations—Collection of Claims owed the United States.
Need/Proposed Use of Information: This Part implements the Federal Claims Collection Act, by the General Accounting Office and Department of Justice. It provides procedures under which the Department will collect claims owed to the United States arising from activities under the Departments jurisdiction.
Frequency: Occasionally.
Burden Estimate: 60 hours.
Respondents: Air carriers that owe money to the U.S. Government.
Form(s): None.

DOT No: 3070.
OMB No: 2106–0001.
Administration: Department of Transportation/OST—Aviation.
Title: Part 223—Free and Reduced Rate Transportation.
Need for Information: Implements Section–403(b) of the Federal Aviation Act relating to free and reduced rate transportation.
Proposed Use of Information: To monitor carrier compliance with Section 403(b) of the Act, and to enable carriers to obtain exemptions therefrom.
Frequency: Other: On occasion.
Burden Estimate: 32.3 hours.
Respondents: U.S. & Foreign Air Carriers.
Form(s): None.

DOT No: 3071.
OMB No: 2106–0028.

Administration: Department of Transportation/OST—Aviation.
Title: Carrier Owned Computer Reservation Systems.
Need for Information: To facilitate enforcement of prohibitions on biased displays and discriminatory fees by permitting CRS users to monitor the performance of vendors.
Proposed Use of Information: For disclosure to CRS users.
Frequency: Information to be disclosed upon request.
Burden Estimate: 5604.25 hours.
Respondents: 5.
Form(s): None.

DOT No: 3072.
OMB No: 2106–0012.
Administration: Department of Transportation/OST.
Title: Part 205 Aircraft Accident Liability Insurance.
Need For Information: To monitor insurance coverage for all air carriers regarding policy effectiveness, and proper amount of coverage.
Proposed Use of Information: On file to ensure that in the event of an accident, the public is adequately compensated.
Frequency: Occasionally.
Burden Estimate: 570
Respondents: U.S. Air Carriers and Foreign Air Carriers.
Form(s): OST 4520 Formerly—CAB Form 205A.

DOT No: 3073.
OMB No: 2106–0013.
Administration: Department of Transportation.
Title: Part 294—Canadian Charter Air Taxi Operators Economic Regulations Enactment Docket 39000.
Need For Information: Required to obtain a benefit of flying into the U.S. for charter purposes.
Proposed Use of Information: To monitor foreign air carriers flying into the U.S.
Frequency: On occasion.
Burden Estimate: 25.
Respondents: Canadian Air Taxi Operators.
Form(s): OST Form 4505 (Formerly CAB Form 294–A.

DOT No: 3074.
OMB No: 2133–0511.
Administration: Maritime Administration
Title: Parent Company of Foreign-Flag Vessels.
Need For Information: To verify information on vessels that could be vital in a national or international emergency.
Proposed Use of Information: To perform contingency planning for sealift mobilization requirements.
Frequency: Annually.
Burden Estimate: 47.5 hours.
Respondents: Ship owners, ship operators.
Form(s): N/A.

DOT No: 3075.
OMB No: 2130–0500.
Administration: Federal Railroad Administration.
Title: Accident/Incident Reporting and Recordkeeping Requirements.
Need For Information: To identify hazardous conditions on the railroads.
Proposed Use of Information: FRA uses this information to identify hazardous conditions associated with rail transportation and to assure compliance with the Railroad Safety Act.
Frequency: Recordkeeping, On Occasion, Monthly, Annually.
Burden Estimate: 56,102 hours.
Respondents: Railroads.
Form(s): FRA–F–6180.45; FRA–F–6180.54; FRA–F–6180.55; FRA–F–6180.55A; FRA–F–6180.57;.

DOT No: 3076.
OMB No: 2130–0506.
Administration: Federal Railroad Administration.
Title: Identification of Cars Moved in Accordance with Order 13528.
Need For Information: To identify freight cars being moved in accordance with Order 13528.
Proposed Use of Information: An identification card is applied to any freight equipment setting forth the restrictions to be complied with for legal movement under order 13528.
Frequency: Recordkeeping.
Burden Estimate: 110 Hours.
Respondents: Railroads.
Form(s): None.

DOT No: 3077.
OMB No: 2125–0025.
Administration: Federal Highway Administration.
Title: Highway Safety Improvement Program and Priorities.
Need For Information: To meet the recordkeeping reporting requirements contained in 23 U.S.C. 130 and 152, and 23 CFR 924.
Proposed Use of Information: For States to identify hazards, prioritize corrections and schedule improvements, and to report to Congress the required information on the effectiveness of highway safety improvement projects.
Frequency: Annually.
Burden Estimate: 96,208.
Respondents: State highway agencies.
Form(s):

DOT No: 3078.
OMB No: 2130–0525.
Administration: Federal Railroad Administration.
Title: Certification of Glazing Materials.
Need For Information: To assure that window glazing materials are in compliance with Federal Safety Standards.
Proposed Use of Information: FRA uses this information to assure that glazing materials have been fully tested and are in compliance with Federal safety requirements.
Frequency: Recordkeeping.
Burden Estimate: 321 Hours.
Respondents: Railroads.
Form(s): None.

DOT No: 3097.
OMB No: New.
Administration: Research and Special Programs Administration.
Title: Reporting Unsafe Conditions on Gas and Hazardous Liquid Pipeline and Liquefied Natural Gas Facilities.
Need For Information: As provided by P.L. 99–516, gas and hazardous liquid pipeline operators would be required to give notice of certain safety-related conditions, prompting government intervention if needed to avoid an incident or accident.
Proposed Use of Information: To monitor corrective actions proposed by operators with the objective of preventing occurrence of an incident or accident.
Frequency: On occasion.
Burden Estimate: 48,300..
Respondents: State and local governments and Businesses.
Form(s): N/A.

Issued in Washington, DC, on May 13, 1988.

Robert J. Woods,

Director of Information Resource Management.

[FR Doc. 88–11252 Filed 5–18–88; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[CGD 87–095]

Lists of Ports or Terminals Holding Certificates of Adequacy Notice

This document publishes lists of each U.S. port or terminal holding a valid Certificate of Adequacy (COA) issued as evidence of meeting the requirements of Annexes I or II of the 1978 Protocol to the International Convention for the Prevention of Pollution from Ships (Marpol 73/78) and 33 CFR Part 158, Subparts B or C. These lists are published as required by The Act to Prevent Pollution from Ships (33 U.S.C. 1905(d)), to aid ship owners, operators and agents in locating ports and terminals having adequate reception facilities capable of receiving residues

and mixtures containing oil or noxious liquid substances (NLS) from seagoing ships. The lists include all COA's issued and in effect as of May 1, 1988.

Definitions of the terms used in these lists are found in 33 CFR 158.120.

Table I, published below, lists the ports or terminals holding a valid Certificate of Adequacy (COA) issued under 33 CFR Part 158, Subpart B (Criteria for Reception Facilities: Residues and Mixtures Containing Oil). The list provides the names, locations, telephone numbers and quantities of oily wastes that each can accept. The ports and terminals which have "0" listed under the "Daily Capacity of Reception Facility" column are small facilities in remote, rugged areas that receive only a few ships operating in a dedicated trade. To comply with the intent of MARPOL 73/78 and the regulations, ships visiting these ports or terminals have agreed to discharge their oily waste at other locations, where adequate reception facilities are available.

Table II, published below after Table I, lists the ports or terminals holding a valid COA issued under 33 CFR Part 158, Subpart C (Criteria for Certifying That a Port's or Terminal's Facilities Are Adequate for Receiving NLS Residue). The list provides the names, locations, telephone numbers and quantities of various categories of NLS waste that each can accept. A listing of cargo names and their appropriate Annex II pollution category are found in 46 CFR Part 153, Table I. The ports and terminals which have no amounts listed under the column "Daily Capacity," receive only vessels that do not require any prewashing of their cargo tanks. They have the capacity to reduce back pressure to below 1 BAR to facilitate stripping of cargo tanks but have no capacity to receive NLS waste.

Date: May 12, 1988.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

TABLE I—ANNEX/RECEPTION FACILITIES

State	City	Terminal	Area code and phone No.	Daily capacity of reception facility (metric tons)
AK	Angoon	Angoon Ferry Terminal	907-465-3946	0
AK	Angoon	Port of Angoon Alaska	907-788-3653	0
AK	Clark Bay	Clark Bay Ferry Terminal	907-465-3946	0
AK	Craig	Port of Craig Alaska	907-826-3275	0
AK	Excusion Inlet	Excursion Inlet Packing Co	907-586-4244	0
AK	Haines	Haines	907-766-2448	0
AK	Haines	Haines Army Terminal	907-766-2357	0
AK	Haines	Haines Ferry Terminal	907-465-3946	0
AK	Hobart Bay	Hobart Bay Logging Camp	907-225-2675	0
AK	Hollis	Hollis Ferry Terminal	907-465-3946	0
AK	Homer	Port of Homer	907-235-8597	447
AK	Hoonah	Hoonah Ferry Terminal	907-465-3946	0
AK	Hoonah	Port of Hoonah Alaska	907-945-3670	0
AK	Hydaburg	Hydaburg	907-285-3761	0
AK	Juneau	Alaska Marine Highway System	907-465-3955	1,607
AK	Juneau	Auke Bay Ferry Terminal	907-465-3946	0
AK	Juneau	City and Borough of Juneau	907-586-5255	20
AK	Juneau	Union Oil Juneau, Alaska	907-586-1276	0
AK	Kake	Kake Ferry Terminal	907-465-3946	0
AK	Kake	Port of Kake Alaska	907-785-3804	0
AK	Kasaan	Port of Kasaan Alaska	907-542-2212	0
AK	Kenai	Kenao Pipeline Co. Mikiski Term.	907-776-8161	642
AK	Kenai	Tesoro Alaska Petroleum Co	907-776-8191	354
AK	Kenai	Unocal Chem Division	907-776-8121	590
AK	Ketchikan	Chevron USA Ketchikan	907-225-2106	20
AK	Ketchikan	City Docks	907-225-3111	20
AK	Ketchikan	Ketchikan Ferry Terminal	907-465-3946	0
AK	Ketchikan	Unocal	907-225-4176	20
AK	Klawock	Port of Klawock Alaska	907-755-2261	0
AK	Metlakatla	Annette Island Packing	907-866-4661	0
AK	Metlakatla	Metlakatla Ferry Terminal	907-465-3946	0
AK	Metlakatla	Port of Metlakatla Alaska	907-886-4646	0
AK	Pelican	Port of Pelican Alaska	907-735-2202	0
AK	Petersburg	Chevron USA Petersburg	907-772-4251	0
AK	Ketchikan	City Docks	907-225-3111	20
AK	Ketchikan	Ketchikan Ferry Terminal	907-465-3946	0
AK	Ketchikan	Unocal	907-225-4176	20
AK	Klawock	Port of Klawock Alaska	907-755-2261	0
AK	Metlakatla	Annette Island Packing	907-866-4661	0
AK	Metlakatla	Metlakatla Ferry Terminal	907-465-3946	0
AK	Metlakatla	Port of Metlakatla Alaska	907-886-4646	0
AK	Pelican	Port of Pelican Alaska	907-735-2202	0
AK	Petersburg	Chevron USA Petersburg	907-772-4251	0
AK	Petersburg	Icicle Seafoods Co	907-772-4294	0
AK	Petersburg	Nelbro Packing Co	907-772-4486	0
AK	Petersburg	Petersburg Ferry Terminal	907-465-3946	0
AK	Petersburg	Port of Petersburg Alaska	907-772-4688	0
AK	Port of Anchorage	Municipality of Anchorage	907-272-1531	1,400
AK	Rig Tender Dock, Kenia	Puget Sound Tug and Barge Co	907-776-8880	45
AK	Sitka	Port of Sitka	907-907-3439	20
AK	Sitka	Sitka Ferry Terminal	907-465-3946	0
AK	Skagway	Port of Skagway Alaska	907-983-2297	0
AK	Skagway	Skagway Ferry Terminal	907-465-3946	0
AK	Tenakee Springs	Port of Tenakee Springs	907-736-2221	0

TABLE I—ANNEX/RECEPTION FACILITIES—Continued

State	City	Terminal	Area code and phone No.	Daily capacity of reception facility (metric tons)
AK	Tenakee Springs	Tenakee Springs Ferry Terminal	907-465-3946	0
AK	Wrangell	Wrangell Ferry Terminal	907-465-3946	0
AK	Yakutat	Chevron USA Yakutat	907-784-3411	0
AK	Yakutat	Port of Yakutat Alaska	907-784-3323	0
AK	Chicksaw	Mobile-Chicksaw Port Facility	205-456-7648	1,587
AL	Jackson Co. Port Authority	Port of Pascagoula	601-762-4041	206
AL	Mobile	Alabama Dry Dock & Shipbuilding	205-690-7011	2,809
AL	Mobile	Alabama State Docks	205-690-6113	4,408
AL	Mobile	Amerada Hess Corp	205-456-4688	12,000
AL	Mobile	Chicksaw Terminal Corp	205-456-6375	4,408
AL	Mobile	Louisiana Land & Exploration Co	205-675-7040	206
AL	Mobile	Mobile Bulk Terminal	205-438-9891	178
AL	Mobile	Mobile River Terminal Co.	205-432-3233	4,408
AL	Theodore	Pacific Molasses Co.	205-432-8771	4,408
AL	Theodore	Ideal Basic Industries	205-653-5800	4,408
CA	Alameda	Resource Consultants, Inc	205-653-6324	20
CA	Benicia	Pennzoil	415-522-4224	450
CA	Carpinteria	Benicia Port Terminal	707-745-2394	358
CA	Crockett	Chevron U.S.A.	213-782-1939	0
CA	Hunnington Beach	C&H Sugar	415-772-3918	460
CA	Long Beach	Golden West Refining Co	714-536-8130	2,110
CA	Long Beach	Cooper/T. Smith Stevedoring Co	213-437-3524	459
CA	Long Beach	Domtar Gypsum America Inc	213-436-4611	131
CA	Long Beach	Dow Chemicalo USA	213-533-5375	288
CA	Long Beach	Forest Terminals Corp	213-432-5401	228
CA	Long Beach	Four Corners Pipeline	213-428-9022	7,646
CA	Long Beach	Gold Bond Buliding Products	213-435-4465	1,309
CA	Long Beach	International Transportation	213-435-7781	229
CA	Long Beach	Long Beach Container Terminal	213-435-8585	228
CA	Long Beach	Maersk Lines Long Beach Pier G	213-435-7706	131
CA	Long Beach	Metropolitan Stevedoring Co.	213-830-5340	360
CA	Long Beach	Ocean Salt Co	213-437-0071	20
CA	Long Beach	Pacific Coast Cement	213-435-0195	210
CA	Long Beach	Pacific Container Terminal	213-435-0842	245
CA	Long Beach	Petro-Diamond Terminal Co	213-435-8364	346
CA	Long Beach	Procter & Gamble Mfg. Co.	213-432-6981	346
CA	Long Beach	Salen Shipping Agencies, Inc	213-436-9961	364
CA	Long Beach	Standard Fruit & Steamship CP	213-437-3521	2,153
CA	Long Beach	Star Terminal Co. Inc	213-436-2273	130
CA	Long Beach	Stevedoring Services of America	213-432-6477	245
CA	Long Beach	Texaco Refiners & Marketing	213-513-2463	15,000
CA	Long Beach	Toyota Motor Sales, USA, Inc	213-437-6767	549
CA	Long Beach	United States Lines Inc	213-435-3761	228
CA	Los Angeles	Defense Fuel Support Point	213-832-3144	5,135
CA	Los Angeles	Distribution & Auto Service Inc	213-549-18-	131
CA	Los Angeles	Indies Terminal Co	213-547-3351	245
CA	Los Angeles	Los Angles Cruiseship Terminals	213-519-4049	228
CA	Los Angeles	Matson Terminals Inc	213-519-6438	346
CA	Los Angeles	Mobil Oil Corporation SW Terminal	213-832-2702	174
CA	Los Angeles	Overseas Terminal Co	213-832-3341	0
CA	Los Angeles	PASHA	213-437-0911	244
CA	Los Angeles	Penzoil Petroleum Terminal	213-385-0311	346
CA	Los Angeles	Petrolane, Inc.	213-833-5275	2,178
CA	Los Angeles	Southern Calirornia Outport	213-514-4970	638
CA	Los Angeles	Todd Pacific Shipyards Corp	213-832-3361	346
CA	Los Angeles	Union Oil Co-Supertanker Term	213-832-4519	20
CA	Los Angeles	Unocal Corp	213-513-7600	1,200
CA	Los Angeles	Western Oil Fuel Co	213-549-7711	837
CA	Oakland	Maersk Line	415-398-1515	460
CA	Oakland	Matson Container Terminal	415-271-9819	460
CA	Oakland	Oakland Ctr Term	415-834-5822	460
CA	Oakland	Pacific Dry Dock and Repair	415-893-7020	67
CA	Oakland	Schnitzer Steel Products	415-444-3919	460
CA	Oakland	Sealand Services	415-271-1000	460
CA	Oakland	Stevedoring Services	415-271-1800	460
CA	Oakland	Stevedoring Services of America	415-271-1800	460
CA	Richmond	Burmah-Castrol Terminal	415-236-6312	30
CA	San Diego	Bay City Marine Inc	619-224-6655	2,975
CA	San Diego	Campbell Industries	619-233-7115	1,489
CA	San Diego	Continental Maritime	619-234-8851	2,975
CA	San Diego	Embarcadero Marine Inc	619-233/6884	1,052
CA	San Diego	National Steel and Ship Building	619-696-7938	3,346
CA	San Diego	Naval Supply Ctr, Pt. Loma Annex	619-225-2355	4,738
CA	San Diego	Port of San Diego	619-291-3900	3,346
CA	San Diego	Southwest Marine, Inc	619-238-1000	2,975
CA	San Diego	Tuna Clipper Marine	619-232-1838	1,654
CA	San Francisco	Continental Maritime Inc	415-957-1500	3,360
CA	San Francisco	Baker Commodities	415-282-4188	460

TABLE I—ANNEX/RECEPTION FACILITIES—Continued

State	City	Terminal	Area code and phone No.	Daily capacity of reception facility (metric tons)
CA	San Francisco	C & H Sugar Co	415-772-3918	460
CA	San Francisco	California Fats and Oils Inc	415-826-6108	460
CA	San Francisco	California Stevedore & Ballast	415-826-7100	460
CA	San Francisco	Continental Grain Co	415-824-7177	460
CA	San Francisco	Continental Maritime	415-957-1500	3,360
CA	San Francisco	Forrest Terminals	415-951-5113	1,346
CA	San Francisco	Maersk Line	415-398-1515	460
CA	San Francisco	Marine Terminals	415-986/6576	460
CA	San Francisco	Matson Container	415-271-9819	460
CA	San Francisco	Oakland Center Terminal	415-834-5822	460
CA	San Francisco	Pennzoil Co	415-522-4224	450
CA	San Francisco	Pier 70	415-546-9111	460
CA	San Francisco	San Francisco Port Commission	415-391-8000	460
CA	San Francisco	Star Terminal	415-981-6622	460
CA	San Francisco	Stevedoring Service of America	415-271-1800	460
CA	San Francisco	Todds Shipyard	415-621-8633	2,279
CA	San Pedro	American President Lines	213-432-5991	228
CA	San Pedro	Chevron USA Inc	213-632-3324	150
CA	San Pedro	Evergreen Trminal	213-519-6942	20
CA	San Pedro	Gatx Tank Storage Terminal	213-547-9655	257
CA	San Pedro	Gatx Terminals Corp	213-547-0881	547
CA	San Pedro	Kaiser International Corp	213-514-2880	346
CA	Terminal Island	Hugo Neu Proler T1 210	213-775-6626	346
CA	Wilmington	Berth 200-A	213-830-8181	131
CA	Wilmington	Berths 180-181, LA Harbor	213-834-3444	0
CA	Wilmington	Cargill Inc	213-830-8231	228
CA	Wilmington	Chamolin Petroleum Co	213-834-7254	7,463
CA	Wilmington	Gatx L.A. Marine Terminal	213-835-0187	0
CA	Wilmington	L.A. Terminals	213-549-5822	228
CA	Wilmington	Marine Terminal	213-834-7254	7,463
CA	Wilmington	Marine Terminals Corp	213-432-5904	288
CA	Wilmington	Pacific Molasses Company	213-549-1810	530
CA	Wilmington	Shell Oil Co	213-834-2638	3,000
CA	Wilmington	United Fruit Co	213-834-2631	346
CA	Wilmington	Wilmington Liquid Bulk Terminals	213-549-0961	500
CT	East Hartford	Andrew Wilgoos Turbine Lab	203-565-3975	90
CT	East Hartford	Texaco Sales Terminal	203-568-9600	0
CT	East Hartford	The Atlas Oil Company	203-568-7220	0
CT	Groton	Pfizer Inc	203-441-3206	102
CT	Groton	United Fuel Corp	203-445-4095	1,488
CT	Middleton	Peterson Oil	203-346-7775	0
CT	Middleton	United Technologies Corporation	203-344-4317	273
CT	New London	New London Terminals Div	203-442-3939	240
CT	Norwich	Dahl Oil Company	203-889-3525	0
CT	Norwich	Lehigh Oil Company	203-889-1311	0
CT	Norwich	State of Ct. Norwich Hospital	203-889-7361	0
CT	Portland	Chevron Asphalt	203-342-1440	408
CT	Portland	Rocky Hill Oil Co., Inc	203-563-8123	30
CT	Rocky Hill	F.L. Roberts & Co., Inc	203-529-6821	0
CT	Wethersfield	Amerada Hess Wethersfield	203-529-7781	0
CT	Wethersfield	Northeast Petroleum	203-529-3299	0
FL	Canaveral	Canaveral Port Authority	305-783-7831	252
FL	Cape Canaveral	Belcher Oil Company	904-783-3393	272
FL	Dania	Port Denison	305-920-2581	189.6
FL	Ft. Lauderdale	Port Everglades	305-523-3404	5,380
FL	Ft. Lauderdale	Tracor Marine, Inc	305-463-1211	77
FL	Ft. Pierce	Ft. Pierce	305-464-5600	120
FL	Ft. Pierce	Indian River Terminal Company	305-465-7700	113.51
FL	Jacksonville	Amerada Hess Corporation	904-757-4498	281
FL	Jacksonville	Amoco Oil Co	904-757-5706	61
FL	Jacksonville	Belcher Oil Company	904-783-3393	20
FL	Jacksonville	Bellinger Shipyard	904-246-9981	1,250
FL	Jacksonville	Bernuth Lembecke Co	904-355-6567	214
FL	Jacksonville	Canaveral Port Authority	904-783-7831	252
FL	Jacksonville	Celotex Corporation	904-751-4400	61
FL	Jacksonville	Chevron U.S.A. Inc	904-353-1094	368
FL	Jacksonville	Commodores Points Terminal Corp	904-353-0828	2,934
FL	Jacksonville	Eastern Seaboard Petroleum Co	904-355-9675	122
FL	Jacksonville	Gulf Product Division of B.P. Inc	904-757-4650	61
FL	Jacksonville	Jacksonville Bulk Terminal Inc	904-355-8099	404
FL	Jacksonville	Jacksonville Port Authority	904-633-5140	61
FL	Jacksonville	Naval Supply Center Jacksonville	904-757-5354	2,367
FL	Jacksonville	North Florida Shipyards Inc	904-354-3278	1,481
FL	Jacksonville	Phillips Pipeline Co	904-353-6740	122
FL	Jacksonville	Port of Fernandina	904-261-0753	1,550
FL	Jacksonville	Shell Oil Co	904-355-5521	3,020
FL	Jacksonville	Trailer Marine Transport Corp	904-354-0352	2,720
FL	Jacksonville	U.S. Gypsum Company	904-768-2501	850

TABLE I—ANNEX/RECEPTION FACILITIES—Continued

State	City	Terminal	Area code and phone No.	Daily capacity of reception facility (metric tons)
FL	Jacksonville	Witco Corp	904-353-0941	20
FL	Key West	Port of Key West	305-294-3721	53.45
FL	Miami	Port of Miami	305-371-7678	431
FL	Panama City	Port of Panama City	904-763-8471	4,388
FL	Pensacola	Port of Pensacola	904-436-4270	72
FL	Port St. Joe	Amerada Hess Corp	205-229-6763	1,250
FL	Port St. Joe	Armerada Hess Corporation	904-229-6763	1,250
FL	West Palm Beach	Port of Palm Beach	305-842-4201	3,321
GA	Brunswick	Brunswick Port Authority	912-265-3700	601
GA	Brunswick	Georgia Authority	912-264-7295	342
GA	Brunswick	LCP Chemicals-Georgia	912-265-8560	6,563
GA	Garden City	Gold Bond Building Products	912-964-1561	274
GA	Garden City	Koch Asphalt Co	912-964-1913	196
GA	Port Wentworth	Savannah Sugar Refinery	912-964-1361	601
GA	Port Wentworth	Stone Container Corp	912-964-1271	1,312
GA	Savannah	Amoco Oil Company	912-964-6282	601
GA	Savannah	Belcher Oil Company	912-964-1811	196
GA	Savannah	Blue Circle Atlantic Inc	912-263-6318	1,500
GA	Savannah	Bulk Terminal Management	912-964-2785	1,500
GA	Savannah	Chevron USA	912-232-0184	3,111
GA	Savannah	Colonial Oil Industries, Inc	912-236-1331	347
GA	Savannah	Damond Manufacturing Co	803-233-3003	134
GA	Savannah	East Coast Terminal Company	912-236-1531	1,500
GA	Savannah	Genstar	912-233-4951	1,005
GA	Savannah	Georgia Port Authority	912-964-3811	196
GA	Savannah	Georgia Steamship Company	912-964-0719	7,875
GA	Savannah	Marcona Ocean Industries, Ltd	912-234-5005	340
GA	Savannah	Occidental Chemical Agricultural	912-964-1214	196
GA	Savannah	Panocean Southland Inc	912-964-1811	196
GA	Savannah	Powell Duffryn Terminals	912-437-2600	3,925
GA	Savannah	Sayler Marine Corp	912-234-2266	123
GA	Savannah	Union Oil Company	912-233-9266	601
GA	Wentworth	Atlantic Wood Industries, Inc	912-964-1234	10
IL	Chicago	International Port District	312-646-4400	294
IN	Portage	Burns International Port	219-787-8636	103
LA	AMA	ADM-Growmark System	504-431-8245	10,000
LA	Arabi	Amstar Corp	504-271-5331	1,100
LA	Arabi	Amstar Corporation	504-271-5331	1,100
LA	Arabi	Kaiser Aluminum Chemical	504-271-7046	20
LA	Avondale	International Matex	504-436-4486	40
LA	Baton Rouge	Exxon Company USA	504-359-7518	15,000
LA	Baton Rouge	Formoss Plastics Corp	504-356-3341	6,048
LA	Baton Rouge	Port of Greater Baton Rouge	504-387-4207	104,909
LA	Belle Chasse	Miss. River Grain Elevator	504-656-2213	199
LA	Belle Chasse	B.P. Oil Inc	504-656-7711	6,530
LA	Belle Chasse	Chevron Chemical Co	504-394-4320	50
LA	Belle Chasse	Dockside Elevators, Inc	504-524-0611	4,200
LA	Brunside	Burnside Terminal	504-473-4245	1,175
LA	Carville	Cos-Mar Company	504-642-5454	180
LA	Chalmette	Exxon Co, USA	504-359-7605	6,000
LA	Chalmette	Tenneco Oil Company P&M	504-279-9481	100
LA	Convent	Delta Bulk Terminals	504-524-7105	640
LA	Convent	Diamond Shambrock	504-562-7402	20
LA	Convent	Zen-Noh Grain Elevator	504-562-3571	2,940
LA	Darrow	Cooper/T. Smith Stevedoring	504-473-4288	24
LA	Darrow	River Cement Company	504-473-6748	1,581
LA	Davant	Electro-Cal Transfer Corp	504-524-4181	2,300
LA	Destrehan	Bunge Corporation	504-466-5300	595
LA	Destrehan	St. Charles Grain Elevator Co	504-466-2753	3,000
LA	Destrehan	Tulane Anchorage	504-464-1466	980
LA	Donaldsonville	Agrico Chemical	504-473-4271	150
LA	Donaldsonville	C & F Industries, Inc	504-473-8291	1,200
LA	Donaldsonville	Triad Chemical	504-473-9231	2,976
LA	Geismar	Allied Corporation	504-642-8311	180
LA	Geismar	Shell Chemical Plant	504-473-4261	1,470
LA	Goodhope	GATX Terminal Corp	504-443-2511	802
LA	Gramercy	Kaiser Aluminum & Chemical Corp	504-525-0460	20
LA	Grameron	Colonial Sugar, Inc	504-529-1102	61
LA	Hackberry	OXY Cities Services N.G.L. Inc	504-762-4201	1,699
LA	Hahnville	Becker Industries Corp	504-783-6872	1,100
LA	Hahnville	Occidental Chemical Corp	504-783-6611	389
LA	Hahnville	Union Carbide Corp	504-468-4300	645
LA	Harvey	BP North America Petroleum, Inc	504-368-2560	4,200
LA	Harvey	Delta Commodity, Inc	504-340-4911	199
LA	Houma	Texas Pipe Line Company	504-876-5645	1,250
LA	Lake Charles	Citgo Pipeline	318-491-6237	11,000
LA	Lake Charles	Conoco	318-491-5855	1,670
LA	Lake Charles	Lake Charles Carbon	318-437-3200	31

TABLE I—ANNEX/RECEPTION FACILITIES—Continued

State	City	Terminal	Area code and phone No.	Daily capacity of reception facility (metric tons)
LA	Lake Charles	Lake Charles Harbor & Terminal	318-439-3661	812
LA	Lake Charles	Olin Corporation	318-491-3320	1,670
LA	Lake Charles	PPG Industries	318-491-4266	1,670
LA	Lake Charles	Truckline LNG	318-478-9936	1,000
LA	Marrero	Texaco Refining & Marketing, Inc	504-595-6611	150
LA	Meraux	Murphy Oil, Inc	504-271-4141	47
LA	New Orleans	Avondale Industries Shipyard	504-436-5165	2,350
LA	New Orleans	Buck Kreiks, Co	504-524-7681	1,400
LA	New Orleans	Chevron Pipeline Co	504-364-2496	1,000
LA	New Orleans	Dixie Machine & Welding Inc	504-581-3088	100
LA	New Orleans	I.T.O. Corporation	504-899-9544	1,200
LA	New Orleans	Port of New Orleans	504-528-3209	9,413
LA	New Orleans	Southern Scrap Material Co., Ltd	504-944-3371	3,000
LA	Paulina	Peavey Grain Elevator	504-482-4405	47
LA	Plaquemines	Dow Chemical Corp	504-389-8646	58
LA	Plaquemines	Georgia Gulf Corp	504-685-2500	159
LA	Port Sulphur	Freeport Sulphur	504-564-3981	5,400
LA	Port Sulphur	International Marine Terminals	504-656-7341	3,000
LA	Reserve	Godchaux Henderson Sugar, Co	504-536-1161	1,200
LA	St. James	Koch Gathering Systems	504-265-2112	500
LA	St. James	Shell Pipeline Corporation	504-588-4831	1,250
LA	Sulphur	Fredemans Shipyard	318-583-7383	1,670
LA	Sunshine	Petrounited Terminals, Inc	504-642-8335	2,205
LA	Uncle Sam	Freeport Chemical Co	504-562-3501	27
LA	Union	Missouri Portland Cement	504-562-7471	1,400
LA	Westlake	Conoco	318-491-5222	1,050
LA	Westlake	Dravo Basic Materials	318-436-5642	1,670
LA	Westlake	Ideal Basic Industries	318-436-7561	20
LA	Westwego	Continental Grain Elevator	504-436-9200	1,000
LA	Westwego	Gold Bond Building Products	504-341-8596	381
LA	Westwego	Pacific Molasses	504-347-8454	389
LA	Westwego	Park Tank	504-623-0000	191
MA	Boston	Boston Edison Company	617-424-3547	2,284
MA	Boston	Economic Development & Ind. Co	617-725-3300	1,003
MA	Boston	Mass Port Authority	617-973-5354	730
MA	Boston (Charleston)	Amstar Corp. Bunker Hill Refin	617-242-5335	1,003
MA	Boston (Charlestown)	Blue Circle Atlantic Cement	617-241-9040	983
MA	Boston (East)	Boston Fuel Transportation, Inc	617-567-9100	983
MA	Boston (East)	Mobil Oil Corporation	617-381-4039	298
MA	Boston (South)	Belcher of South Boston, Inc	617-269-8400	1,391
MA	Chelsea	Cumberland Farms Inc	617-884-5980	983
MA	Chelsea	Eastern Minerals	617-884-0029	3,126
MA	Chelsea	Gulf Oil Products Company	617-884-5980	983
MA	Chelsea	Northeast Petroleum	617-884-7570	125
MA	Chelsea	U.S. Gypsum Co	617-241-9100	1,003
MA	Chelsea	Ultramar Petroleum Inc	617-288-1100	983
MA	Dorchester	Boston Gas Co	617-288-3820	983
MA	E. Braintree	Citgo Petroleum Corporation	617-848-2595	298
MA	East Boston	Amerada Hess Corp	203-529-7781	76
MA	East Boston	General Ship	617-569-4200	2,530
MA	Everett	Coldwater Seafood Corporation	617-387-2050	1,151
MA	Everett	Everett Marine LNG Terminal	617-423-5959	730
MA	Everett	Exxon Co., USA-Everett Terminal	617-381-2800	983
MA	Everett	Independent Cement Corporation	617-387-3829	1,155
MA	Everett	Prolerized New England Company	617-389-8300	298
MA	Fall River	Borden & Remington Corp	617-675-0181	1,003
MA	Fall River	Northeast Products Co., Inc	617-678-8367	1,004
MA	Gloucester	Americold/Quincy Market Cold	617-283-6100	1,003
MA	Lynn	General Electric Company	617-594-3834	1,155
MA	New Bedford	Frionor Kitchens, Inc	617-997-0031	122
MA	New Bedford	Glen Petroleum Corp	617-996-8271	327
MA	New Bedford	Global Petroleum Corp	617-997-4534	327
MA	North Weymouth	C.H. Sprague & Son Co	603-431-1000	983
MA	Quincy	General Dynamics Corp	617-471-4200	214
MA	Quincy	Quincy Oil, Inc	617-773-2500	1,391
MA	Quincy	The Proctor & Gamble Mfg Co	617-471-9100	298
MA	Revere	Belcher New England, Inc	617-284-4490	1,391
MA	Revere	Gibbs Oil, Div. of BP Oil, Inc	617-289-4201	1,391
MA	Revere	Northeast Petroleum	617-884-7570	1,391
MA	Revere	Revere Terminal Corporation	617-289-2102	1,391
MA	Salem	New England Power Co	617-744-5540	1,281
MA	Salem	Northeast Petroleum	617-884-7570	1,391
MA	Sandwich	Esco Terminals, Inc	617-888-2001	327
MA	Somerset	Montaup Electric Co	617-678-5283	327
MA	Somerset	New England Power Company	617-678-8321	327
MA	Woods Hole	Woods Hole Oceanographic	617-548-1400	1,003
MD	Baltimore	Agrico Chemical Corporation	301-276-8100	546
MD	Baltimore	Amerada Hess Corporation	301-355-0705	124

TABLE I—ANNEX/RECEPTION FACILITIES—Continued

State	City	Terminal	Area code and phone No.	Daily capacity of reception facility (metric tons)
MD	Baltimore	Amoco Oil Co	301-636-0522	491
MD	Baltimore	Amstar Corporation	301-752-6150	115
MD	Baltimore	B.P. Oil Inc	301-355-7200	619
MD	Baltimore	Blue Circle Atlantic	301-355-4440	3,872
MD	Baltimore	Cargill	301-539-5950	390
MD	Baltimore	Central Soya, Canto Grain Eleva	301-522-5100	2,251
MD	Baltimore	Chesapeake Terminal	301-625-1370	1,866
MD	Baltimore	Conoco Docking Facility	301-355-5296	3,062
MD	Baltimore	Consolidation Coal Sales Company	301-342-1020	454
MD	Baltimore	Curtis Bay Coal & Ore Pier	301-347-5201	583
MD	Baltimore	Eastalco Aluminum Co	301-354-1113	1,516.3
MD	Baltimore	Essex Industrial Chemical, Inc	301-355-1770	828
MD	Baltimore	G & M Terminal Incorporated	301-355-8833	575
MD	Baltimore	Gold Bond Building Products	301-563-5315	615
MD	Baltimore	Indiana Grain-Locust Pt. Elev	301-685-6410	108
MD	Baltimore	Joseph E. Seagrams & Sons, Inc	301-247-1000	2,579
MD	Baltimore	Lebanon Chemical Corp	301-327-4700	11,067
MD	Baltimore	Louis Dreyfus Canada	301-752-6997	119
MD	Baltimore	Maryland Port Administration	301-955-1160	1,820
MD	Baltimore	Petroleum Fuel & Terminal	301-342-7800	1,075
MD	Baltimore	Port Covington Piers 4, 5, 6	301-347-5201	583
MD	Baltimore	Rukert Terminal Corp	301-276-1013	154
MD	Baltimore	Shell Oil Co	301-354-0404	327
MD	Baltimore	Support Terminal Services, Inc	301-355-6262	49
MD	Baltimore	Texaco Refining & Marketing Inc	301-355-6500	58
MD	Baltimore	The Proctor & Gamble Mfg. Co	301-576-1291	113
MD	Baltimore	United States Gypsum Company	301-355-6600	860
MD	Piney Point	Stuart Petroleum	301-994-1200	686
MD	Sparrows Point	Bethlehem Steel	301-388-7707	959
ME	Bangor	Barrett Paving	207-942-4681	305
ME	Bangor	Irving Oil Co	207-942-6323	305
ME	Bangor	Mobil Oil Co	207-942-8248	305
ME	Bangor	Webber Oil Co	207-942-5501	305
ME	Bar Harbor	CN Marine Terminal	207-288-3395	0
ME	Brewer	Mainway Terminal Inc	207-989-2410	305
ME	Brewer	Webber Thomas Inc	207-989-7770	305
ME	Bucksport	C.H. Sprague & Son Co	207-469-7946	305
ME	Bucksport	Elden Corp	207-469-7450	305
ME	Bucksport	Webber Tanks Inc	207-469-3165	305
ME	Cousins Island	Central Maine Power-Wyman	207-846-9055	197
ME	Easport	Federal Marine Terminals, Inc	207-853-6096	120
ME	Hampden	Texaco Inc	207-945-9465	305
ME	Portland	Portland International Lyons	207-775-5611	197
ME	Searsport	C.H. Sprague & Son Co	207-548-2531	305
ME	Searsport	Irving Oil Co	207-942-6323	305
ME	Searsport	Tenco Service's	207-548-2201	305
ME	So. Harpswell	Defense Fuel Supply Point	207-833-6232	306
ME	So. Portland	BP Oil Inc	207-799-8586	305.8
ME	So. Portland	Exxon Co. Inc	207-767-2141	306
ME	So. Portland	Getty Petroleum Corp	207-799-8518	305
ME	So. Portland	Koch Fuels Inc	207-767-2161	305
ME	So. Portland	Mobil Oil Corp	207-767-3251	259
ME	So. Portland	Portland Pipeline Corp	207-767-3231	20
ME	So. Portland	Texaco Inc	207-799-3394	200
ME	So. Portland/Portsmouth	Northeast Petroleum	207-799-2294	328
ME	Winterport	Maine Terminal Inc	207-223-5011	305
ME	Wiscasset	Central Maine Power-Mason	207-882-6212	259
ME	Yarmouth	Central Maine Power-Wyman	207-846-9055	197
MI	Bay City	Dow Chemical Seaway Terminal	517-667-0308	120
MI	Bay City	Saginaw Valley Marine	517-895-8571	120
MI	Detroit	Harridon Terminal	313-841-7880	444
MI	Ludington	Dow Chemical USA	616-845-4444	10
MI	Port Huron	Port Huron Terminal Company	313-982-8596	444
MI	River Rouge	Nicholson Terminal & Dock Co	313-842-4300	6,643
MI	Saginaw	Berger and Company	517-754-1460	120
MN	Duluth	Port of Duluth/Superior	218-727-8525	150
MS	Bay St. Louis	Port Bienville	601-467-9231	389
MS	Gulfport	MS State Port Authority	601-865-4317	354
MS	Pascagoula	Chevron, USA, Inc	601-938-4214	6,432
MS	Pascagoula	Ingalls Shipbuilding Division	601-935-4676	370
NC	Morehead City	Port of Morehead City	919-726-3158	6,394
NC	Wilmington	Amerada Hess Wilmington	919-763-5123	6,394
NC	Wilmington	Cape Fear Terminal Port	919-762-6615	6,339
NC	Wilmington	Exxon Terminal	919-799-0144	650
NC	Wilmington	Gold Bond Building Products	919-799-3954	6,394
NC	Wilmington	Paktank Corp-Wilmington Terminal	919-763-0104	1,314
NC	Wilmington	Port of Wilmington	919-371-2325	1,743
	Wilmington	Transcarolina Terminal	919-763-4444	6,394

TABLE I—ANNEX/RECEPTION FACILITIES—Continued

State	City	Terminal	Area code and phone No.	Daily capacity of reception facility (metric tons)
NC	Wilmington	W.R. Grace-Nitrex Plant	919-763-0171	20
NC	Wilmington	Wilmington Shipyard, Inc	919-763-6274	380
NH	Newington	C.H. Sprague & Son	603-431-1000	331
NH	Newington	Fuel Storage Corp	803-431-6000	327
NH	Newington	Sea-3 Inc	603-431-5990	327
NH	Portsmouth	C.H. Sprague	603-431-1000	331
NH	Portsmouth	Gold Bond Building Products	603-436-4848	305
NH	Portsmouth	Granite State Minerals Inc	603-436-8505	1,003
NH	Portsmouth	New Hampshire State Port Auth	603-436-8500	1,008
NJ	Bayonne	Constable Terminal Corporation	201-437-2993	278
NJ	Bayonne	Exxon Company USA	201-858-5503	14,460
NJ	Bayonne	Gordon Terminal Service	201-437-8300	279
NJ	Bayonne	Hoboken Shipyards, Inc	800-845-4506	412
NJ	Bayonne	Imtt-Bayonne	201-437-2200	3,325
NJ	Bayonne	Port Belcher of New York	201-437-2104	11,760
NJ	Bayonne	Powell Duffern Terminals	201-437-2600	540
NJ	Bayonne	Rollins Terminals, Inc	201-436-5000	279
NJ	Bayonne	Standard Tank Cleaning Corp	201-339-5222	15,360
NJ	Bayonne	Texaco Refining and Marketing Inc	201-436-2200	15,008
NJ	Carteret	Amoco Oil Company	201-541-5131	187
NJ	Carteret	CGatx Terminal Corporation	201-541-5161	15,008
NJ	Elizabeth	Atlantic Container Lines	201-289-3000	262
NJ	Elizabeth	Chevron-Bayway Lube Plant	201-354-1700	443
NJ	Elizabeth	Croda Storage Inc	201-353-8933	621
NJ	Elizabeth	Crown Central Petroleum Corp	201-352-0542	0
NJ	Elizabeth	Puerto Rico Marine Management	201-225-2121	
NJ	Elizabeth	Sea-Land Service, Inc	201-558-6001	11,760
NJ	Hoboken	Union Drydock & Repair	201-792-9090	14,895
NJ	Jersey City	Global Terminal Cont Serv, Inc	201-451-5200	15,008
NJ	Jersey City	Port Maher Terminal	201-963-2100	15,008
NJ	Kearny	Columbia Terminals Inc	201-344-3604	5,040
NJ	Linden	BP Tremley Point	201-862-2990	15,008
NJ	Linden	Citgo Petroleum Corp	201-862-3300	20,843
NJ	Linden	E.I. Du Pont De Nemours & Co	201-474-1726	313
NJ	Linden	Exxon Bayway	201-474-7361	14,460
NJ	Newark	Celanese Chemical Co., Inc	201-589-2705	137
NJ	Newark	Port Tenneco Oil Company	201-589-8582	2559
NJ	Newark	Sun Refining & Marketing Co	201-465-3200	25
NJ	Newark	Texaco Refining & Marketing Inc	201-344-6815	15,008
NJ	Newark	Trumball Asphalt	201-998-2534	390
NJ	Newark	Van Iderstine Co	201-465-1900	11,760
NJ	Perth Amboy	Chevron U.S.A. Inc	201-738-2000	75
NJ	Perth Amboy	Stolt Terminals Inc	201-826-1144	192
NJ	Port Newark	B.P. North American	201-465-2424	15,008
NJ	Port Newark	Ecuadorian Line Inc	201-589-8894	127
NJ	Port Newark	Hudson Tank Storage Company	201-465-1115	440
NJ	Port Newark	InterAmerican Juice Company, Inc	201-589-4044	0
NJ	Port Newark	Maersk Container Service Co., Inc	201-465-1000	15,008
NJ	Port Newark	Turbana Corp. Shed 138 Berth 4	201-690-5390	198
NJ	Sewaren	Port Shell Oil Co	201-634-1000	15,202
NJ	Sewaren	Royal Petroleum, Inc	201-634-3344	3,500
NJ	Woodbridge	Amerada Hess Port Hudson	201-750-6555	124
NY	Albany	Cibro Petroleum Products, Inc	518-462-4237	262
NY	Albany	Port Mobil	518-436-6575	76
NY	Athens	Peckham Materials Corp	518-945-1120	34
NY	Beacon	Garret-Storm Inc	914-831-1100	0
NY	Bronx	Fred M. Schildwachter & Sons	212-828-2500	0
NY	Bronx	Getty Terminals Corporation	212-324-5134	0
NY	Bronx	Port Castle Coal & Oil Co., Inc	212-823-8800	11,760
NY	Bronx	Port Cibro Petroleum	212-585-0600	576
NY	Bronx	Ultramar Petroleum Inc	201-573-0300	512
NY	Brooklyn	Amoco Oil Company	718-389-5961	238
NY	Brooklyn	Amstar Corporation	718-387-6800	11,760
NY	Brooklyn	Coastal Drydock & Ship Repair	718-403-6291	15,008
NY	Brooklyn	Lumber Exchange Terminal, Inc	718-383-5000	512
NY	Brooklyn	Newton Creek Water Pollution	212-860-9314	0
NY	Brooklyn	Port Continental Terminal, Inc	718-875-4935	15,008
NY	Brooklyn	South Brooklyn Marine Terminal	718-499-3900	11,760
NY	Brooklyn	Terminelle Corp	718-388-7011	0
NY	Buffalo	Gateway Trade Center Inc	716-826-2890	20
NY	Buffalo	NIA Frontier Trans. Authority	716-852-1921	20
NY	Cementon	Port Lehigh Portland Cement Co	718-943-5300	421
NY	East Elmhurst	Dept. of Corrections	718-728-7659	15,008
NY	East Greenbush	Gold Bond Products Terminal	518-449-7354	419
NY	Glenmont	Sears Petroleum & Transport Co	518-436-7942	323
NY	Glenwood Landing	Glenwood Terminal Corrections	516-676-2500	0
NY	Glenwood Landing	Port Long Island Lighting Co	516-671-3100	103
NY	Great Neck	A.H.J. Associates	516-922-7000	337

TABLE I—ANNEX/RECEPTION FACILITIES—Continued

State	City	Terminal	Area code and phone No.	Daily capacity of reception facility (metric tons)
NY	Great Neck	Universal Utilities, Inc	516-922-7000	337
NY	Highland	Star Terminal Corp	914-691-8171	0
NY	Inwood	Amoco Oil Company	516-239-4913	0
NY	Inwood	Port Wetcher Petroleum	516-239-8800	0
NY	Lackawanna	Bethlehem Steel Corp	716-821-2587	20
NY	Massena	Untramar Petroleum Inc	315-769-3538	20
NY	Mt. Vernon	Amoco Oil Company	914-667-8339	0
NY	New Rochelle	Port Westchester Hudson Fuel	914-738-6110	0
NY	New Windsor	Big "S" Oil CO	914-561-4300	135
NY	New York	Con-Edison of New York	718-390-2705	514
NY	New York	Netumar Lines of NY	212-669-1709	512
NY	New York	Pier 42 East River	212-349-5075	307
NY	New York	Port Authority of NY & NJ	212-466-7968	99,999
NY	New York	Port Universal Maritime Services	212-269-5121	15,008
NY	New York	Witte Chase	201-344-7600	180
NY	Newburgh	Mid-Valley Petroleum Corporation	914-561-4000	135
NY	North Tarrytown	General Motors	914-631-6000	0
NY	Oceanside	Chevron-Oceanside	516-764-3488	88
NY	Ogdensburg	Port of Ogdensburg	315-393-7580	20
NY	Oswego	Nia. Mohawk Steam Station	315-349-2220	20
NY	Oswego	Port of Oswego Authority	315-343-4503	20
NY	Oswego	Ultramar Petroleum Inc	315-343-6070	20
NY	Port Washington	Lewis Oil Company	516-883-1000	148
NY	Poughkeepsie	Effron Fuel Oil Company	914-452-2600	744
NY	Poughkeepsie	J.R. Sousa & Sons, Inc	914-452-4330	135
NY	Ravena	Blue Circle Atlantic	518-756-6141	422
NY	Rensselaer	Atlantic Refining & Market Corp	518-449-7138	323
NY	Rensselaer	Petroleum Fuel Terminal	518-465-1557	333
NY	Rensselaer	Port Bray Terminals	518-462-5052	400
NY	Rensselaer	Ultramar Petroleum Inc	518-463-6609	124
NY	Staten Island	Chester A. Poling, Inc	718-727-1000	147
NY	Staten Island	Chevron-Gulfport Terminal	718-981-1000	479
NY	Staten Island	First Marine Shipyard Inc	212-448-1882	14,894
NY	Staten Island	Morania Oil Tankers/Shipyard	718-442-0700	14,895
NY	Staten Island	Port Mobil	718-948-2200	21,588
NY	Staten Island	Taverna Fuel Co., Inc	718-448-9840	19,260
NY	Staten Island	U. S. Lines	201-272-9600	97
NY	Stony Point	United States Gypsum Co	914-786-2712	443
NY	Syracuse	Agway Petroleum Corp	315-447-6128	0
NY	Tompkins Cove	Port Orange & Rockland Utilities	914-577-2150	95
NY	Tonawanda	Asland Pertroleum Company	716-879-8610	20
NY	Troy	Chevron-Asphalt Troy	518-272-2040	237
NY	Wards Island	Wards Is. Sewage Treatment Plant	212-860-9341	318
NY	Woodbridge	Amerada Hess Port New York	201-750-6555	15,008
NY	Yonkers	A. Tarracone Inc	914-964-9866	0
NY	Yonkers	Refined Sugars, Inc	914-963-2400	30
OH	Ashtabula	Pinney Dock & Transportation	216-964-7186	400
OH	Cleveland	Cuyahoga County Port Authority	216-241-8004	238
OH	Huron	The Pillsbury Company	419-433-4900-	80
OH	Toledo	Toledo-Lucas County Port Auth	419-243-8251	80
OR	Astoria	Port of Astoria	503-325-4521	332
OR	Coos Bay	Union Oil Co. of California	503-269-96	452
OR	Newport	New Port International	503-265-7758	268
OR	Portland	Chevron	503-221-7700	300
OR	Portland	Gasco Portland	503-286-9621	330
OR	Portland	Gatx Corp	503-286-1691	1,345
OR	Portland	Georgia-Pacific Corp	503-248-7370	332
OR	Portland	Palmco	503-286-8341	298
OR	Portland	Texaco Refining & Marketing	503-226-357	332
OR	Portland	Time Oil Co	503-286-1611	1701
OR	Portland	Trumbull Asphalt	503-227-2666	1,061
OR	Portland	Union Oil Co	503-248-1530	355
OR	Portland	Union Oil Co Chemical Division	213-977-7146	247
RI	Ere	Erie International	814-453-6651	20
RI	East Providence	Astroline Corp	401-438-1666	1,004
RI	East Providence	Getty Petroleum Corp	401-434-1322	1,004
RI	East Providence	Union Chemicals Div., Union Oil	401-438-7250	118
RI	Providence	C.H. Sprague & Son Co	401-421-4690	327
RI	Providence	George Mann and Co., Inc	401-781-5600	1,004
RI	Providence	Independent Cement Corp	401-467-8411	268
RI	Providence	Petrolane Transport	401-781-6640	1,003
RI	Providence	Port of Providence	401-781-4717	1,004
RI	Providence	Providence Terminal Associates	401-941-4640	1,004
SC	Charleston	Texaco	401-461-6600	125
SC	Charleston	Braswell Shipyard	803-577-4692	1,018
SC	Charleston	Defense Fuel Support Point	803-723-7442	1,103
SC	Charleston	Delmonte Fresh Fruit	803-723-7442	1,103
	Charleston	Exxon Charleston Term	803-723-7442	1,103

TABLE I—ANNEX/RECEPTION FACILITIES—Continued

State	City	Terminal	Area code and phone No.	Daily capacity of reception facility (metric tons)
SC	Charleston	Gulf Oil Products	803-722-3858	1,103
SC	Charleston	Macalloy Corp	803-723-7442	1,103.06
SC	Charleston	Scspa Union Pier	803-723-7442	1,103
SC	Charleston	Shipyard River Coal Terminal	803-723-7442	1,103
SC	Georgetown	International Paper Co	803-723-7442	1,103
SC	Georgetown	Scspa	803-723-7442	1,103
SC	Mt Pleasant	Detyens Shipyard	803-884-2811	2,571
SC	Mt Pleasant	Scspa Wando	803-723-7442	1,103
SC	North Charleston	Amerada Hess Charleston	803-554-1581	601
SC	North Charleston	Chem-Marine Corp	803-724-4332	1,103
SC	North Charleston	Marathon Petroleum Company	803-554-5440	601
SC	North Charleston	Scspa	803-723-7442	1,103
SC	North Charleston	Texaco Refining & Marketing Inc	803-747-5262	601
SC	North Charleston	Westvaco Dock	803-723-7442	1,103
SC	Port Royal	Port Royal-Pier 21	803-525-6001	601
TX	Arabi	Aristar Corporation	504-721-5331	11,000
TX	Aransas Pass	American Petrofina	512-758-3571	12,999
TX	Aransas Pass	Exxon Pipeline Company	512-289-4147	1,299
TX	Baytown	Exxon Baytown Refinery	713-452-3300	17,400
TX	Beaumont	Amoco Pipeline Co	409-835-5381	7,000
TX	Beaumont	Brooks Terminal	409-838-3663	155
TX	Beaumont	E.I. Dupont de Nemours & Co Inc	409-727-9565	118
TX	Beaumont	Mobil Chemical	409-839-1200	20
TX	Beaumont	Mobil Oil Corp	409-833-9411	1,419.26
TX	Beaumont	Port of Beaumont	409-722-3242	2,500
TX	Beaumont	Texas Gulf Chemicals	409-835-5311	1,907
TX	Brownsville	Port of Brownsville	512-831-4592	2,999
TX	Channelview	Cargill	713-452-4741	1,172
TX	Corpus Christi	Amerada Hess Corporation	512-884-4831	12,000
TX	Corpus Christi	American Chrome and Chemical Inc	512-883-6421	1,299
TX	Corpus Christi	Bay Incorporated	512-289-2100	1,500
TX	Corpus Christi	Center Cement Corporation	512-883-6381	1,299
TX	Corpus Christi	Champlin Petroleum Company	512-880-5475	20,250
TX	Corpus Christi	Coastal Refining and Marketing	512-887-4258	14,875
TX	Corpus Christi	Coastal States Crude Gathering	512-887-3820	1,299
TX	Corpus Christi	Diamond Shamrock	512-884-6393	1,299
TX	Corpus Christi	Interstate Grain Port Terminal	512-289-5651	1,299
TX	Corpus Christi	Koch Refining Company	512-241-4811	16,500
TX	Corpus Christi	Mobil Pipeline Co	512-884-6081	1,299
TX	Corpus Christi	Port of Corpus Christi Authority	512-882-5633	1,299
TX	Corpus Christi	Southwestern Refining Co. Inc	512-884-8863	37,250
TX	Corpus Christi	The Permian Corporation	512-884-0491	1,299
TX	Corpus Christi	Valero Refining Company	512-286-6000	25,255
TX	Deer Park	Patank Corp Deer Park Terminal	713-479-6051	2,775
TX	Deer Park	Shell Oil	713-476-6332	12,600
TX	Deer Park	Union Equity Coop. Exchange	713-479-2801	1,172
TX	Freeport	Basf Harbor Terminal	409-238-6357	1,333
TX	Freeport	Dow Chemical	409-238-4003	96
TX	Freeport	Phillip 66 Port of Freeport	409-647-4431	3,262
TX	Freeport	Port of Freeport (Brazos River)	409-233-2667	192
TX	Galena	Amerada Hess Corp	713-453-6301	23,541
TX	Galena Park	Gatx Terminals Corporation	713-455-1231	276
TX	Galena Park	International Terminals Corp	713-672-2536	2,685
TX	Galena Park	US Gypsum	713-672-8261	20
TX	Galena Park	Warren Gas Terminal	713-453-7173	40
TX	Galveston	Galveston Oil Terminal	409-744-6351	805
TX	Galveston	Pennzoil Sulphur	409-763-5374	4,255
TX	Galveston	Port of Galveston	409-766-6172	4,255
TX	Galveston	Texas A&M University	409-740-4562	2,502
TX	Galveston	Texas International Terminals	409-740-1271	3,753
TX	Gregory	Reynolds Metals Company	512-643-6531	1,299
TX	Houston	Bludworth Bond Shipyard	713-923-2001	110
TX	Houston	Care Shipping	713-457-6083	172
TX	Houston	Crown Central Petroleum	713-920-3920	4,285
TX	Houston	Hill Petroleum Co	713-923-3421	60
TX	Houston	Houston Fuel Oil Terminal Co	713-452-3300	4,286
TX	Houston	Jacob Stern & Son	713-926-8386	77.9
TX	Houston	Joe H. Hughes Inc	713-422-7577	123
TX	Houston	Lyondell Petrochemical	713-475-4506	20,600
TX	Houston	Newpark Shipyard	713-928-5051	1,728
TX	Houston	Oiltanking of Texas	713-452-5901	25
TX	Houston	Port of Houston Authority	713-226-2100	413.38
TX	Houston	Texas Petrochemical	713-474-7458	21
TX	Ingleside	E.I. du Pont de Nemours Co., Inc	512-643-7511	1,299
TX	Ingleside	Sun Marine Terminals, Inc	512-776-7535	23
TX	Nederland	Palmer Barge Line	409-982-3937	1,260
TX	Nederland	Sun Marine Terminals, Inc	409-721-4834	793
TX	Nederland	Union Oil Co. of California	409-724-3223	8,571

TABLE I—ANNEX/RECEPTION FACILITIES—Continued

State	City	Terminal	Area code and phone No.	Daily capacity of reception facility (metric tons)
TX	Nederland	Unocal	409-724-3223	8,571
TX	Orange	Orange County Navigation	409-883-4363	155
TX	Orange	Port of Orange	409-883-4363	155
TX	Pasadena	Kerley Agriculture	713-477-4400	46
TX	Pasadena	Occidental Chemical Corp	713-884-4020	60
TX	Pasadena	Georgia Gulf	713-473-4453	313
TX	Pasadena	Occidental Chemical	713-884-4020	60
TX	Pasadena	Occidental Chemical Agricultural	713-479-6008	20
TX	Pasadena	Phillips Petroleum	713-475-3612	233
TX	Point Comfort	Alcoa	512-987-2604	754
TX	Point Comfort	Port Lavaca-Point Comfort	512-987-2813	869
TX	Port Arthur	Atlantic Shippers of Texas	409-962-2457	3,990
TX	Port Arthur	Bethlehem Steel	409-838-6821	2,115
TX	Port Arthur	Carotex	409-962-0251	155
TX	Port Arthur	Chevron	409-985-1306	9,330
TX	Port Arthur	Costal Marine Service of Texas	409-983-1616	8,829
TX	Port Arthur	Fina Oil & Chemical	409-962-4421	4,791
TX	Port Arthur	Great Lakes Carbon	409-985-4421	155
TX	Port Arthur	Hall-Buck Marine Services	409-983-6271	30
TX	Port Arthur	Pabtex Terminal	409-962-8343	155
TX	Port Arthur	Port of Port Arthur	409-983-2011	155
TX	Port Arthur	Sabine Towing & Transportation	409-962-0201	4,914
TX	Port Arthur	Texaco Refining & Marketing	409-982-5711	7,200
TX	Port Arthur	Vessel Repair	409-962-1302	01,349
TX	Port Arthur	Comnotex	409-962-0251	20
TX	Port Neches	Erickson Refining	409-722-9366	128
TX	Port Neches	Texas Chemical	409-722-8381	7,200
TX	Seabrook	Baytank (Houston)	713-474-4181	20
TX	Seabrook	Celanese Chemical	713-474-2841	20
TX	Seabrook	Petro United Terminals	713-474-4433	20
TX	Texas City	Aimcor Marine Terminal	409-945-7210	3,278
TX	Texas City	Amoco Chemicals	409-948-1601	184
TX	Texas City	Amoco Oil Docks	409-945-1345	6,192
TX	Texas City	Arco Pipe Line	713-450-2081	23,197
TX	Texas City	Coastal States Crude Gathering	409-945-6622	4,255
TX	Texas City	IMC Marine Terminal	409-945-7210	4,255
TX	Texas City	Lowry-Unitank	409-948-6310	7,056
TX	Texas City	Marathon Petroleum Co	409-945-2331	4,570
TX	Texas City	Stan Trans, Inc	409-948-3561	294
TX	Texas City	Sterling Chemicals, Inc	409-942-3720	2,535
TX	Texas City	Texas City Refining	409-945-4451	2,672
TX	Texas City	Union Carbide Corp	409-948-5171	2,340
TX	Vidor	Texas Eastern Products Pipeline	409-768-1033	20
VA	Alexandria	Robinson Terminal Warehouse	703-836-8300	229
VA	Chesapeake	Amerada Hess Chesapeake	201-750-6000	6,394
VA	Chesapeake	American Hoechst Corp	801-494-2500	6,394
VA	Chesapeake	Amoco Oil Co	804-545-4641	6,394
VA	Chesapeake	Atlantic Energy Inc	804-485-1018	6,934
VA	Chesapeake	Bernuth Lembcke Co. Inc	804-543-6220	6,394
VA	Chesapeake	BP North America Inc	804-543-4444	6,394
VA	Chesapeake	Cargill Elevator	804-545-8461	9,751
VA	Chesapeake	Elizabeth River Terminals	804-543-0335	6,394
VA	Chesapeake	Hitch Terminal	804-545-0735	6,394
VA	Chesapeake	Mobil Oil Corp	804-545-4681	6,394
VA	Chesapeake	Royster Agricultural Products	804-545-3024	6,394
VA	Chesapeake	Swann Oil	804-485-3000	7,236
VA	Chesapeake	Tenneco Oil Co	804-543-3514	6,394
VA	Chesapeake	Texaco Refining Marketing	804-543-6811	6,394
VA	Chesapeake	Unocal	804-545-8455	6,394
VA	Galena Park	Amerda Hess	713-453-6301	23,541
VA	Hopewell	Allied Fibers	804-541-5000	6,394
VA	Newport News	Chesapeake Ohio Railway Co	804-380-5000	6,394
VA	Newport News	Dominion Terminal Assoc.	804-245-2275	6,394
VA	Newport News	Koch Fuels, Inc	804-244-6545	6,394
VA	Newport News	Massey Coal Term., Inc	804-244-0554	6,394
VA	Norfolk	Chemphalt of Carolina	804-545-7371	602
VA	Norfolk	Colonna's Shipyard, Inc	804-545-2414	2,074
VA	Norfolk	Exxon Company USA	804-440-2540	6,394
VA	Norfolk	Lamberts Point Docks	804-446-1200	6,394
VA	Norfolk	Lone Star Industries	804-853-6704	224
VA	Norfolk	Lyon Shipyard, Inc	804-622-4661	78
VA	Norfolk	Metro Machine Corp	804-543-6801	6,451
VA	Norfolk	Norfolk Oil Transit, Inc	804-622-2687	6,394
VA	Norfolk	Norfolk Shipbuilding & Drydock	804-545-3551	3,772
VA	Norfolk	Norfolk & Western Railway Coal	804-446-5343	9,751
VA	Norfolk	Seahorse Marine	804-625-5386	9,751
VA	Norfolk	The Jonathan Corp	804-622-0440	6,394
VA	Norfolk	U.S. Gypsum Company	804-545-2461	6,394

TABLE I—ANNEX/RECEPTION FACILITIES—Continued

State	City	Terminal	Area code and phone No.	Daily capacity of reception facility (metric tons)
VA	Portsmouth	Aluminum Co. of America	804-485-3301	6,394
VA	Portsmouth	Sea-Land Services, Inc	804-393-4071	6,394
VA	Yorktown	Amoco Oil Company	804-898-5120	429
WA	Aberdeen	Port of Grays Harbor	206-533-9519	1,050
WA	Anacortes	Port of Anacortes	206-293-3134	1,667
WA	Anacortes	Shell Oil Company	206-293-9122	275
WA	Anacortes	Texaco Refining & Marketing, Inc	206-293-0800	1,102
WA	Bellingham	Bellingham Cold Storage	206-733-1640	131
WA	Bellingham	Georgia Pacific Corp	206-733-4410	134
WA	Bellingham	Port of Bellingham	206-676-2500	920
WA	Edmonds	Unocal Edmonds Terminal	206-774-9584	824
WA	Everett	Port of Everett	206-259-3764	2,657
WA	Ferndale	Arco Petroleum Products Co	206-384-2200	3,750
WA	Ferndale	Intalco Aluminum Corp	206-384-7292	76
WA	Ferndale	Mobil Oil Corporation	206-384-1011	2,873
WA	Hoquiam	ITT Rayonier	206-532-2500	1,030
WA	Kalama	Kalama Chemical Inc	206-673-2550	332
WA	Kalama	North Pacific Grain Growers	206-673-2011	332
WA	Longview	Reynolds Aluminum Co	206-425-2800	387
WA	Manchester	Naval Supply Center	206-476-2145	1,950
WA	Mukilteo	Defense Fuel Support Point	206-355-2051	1,607
WA	Olympia	Port of Olympia	206-754-1660	1,607
WA	Port Angeles	BP North America Petroleum, Inc	206-452-1433	206
WA	Port Angeles	ITT Rayonier	206-457-3391	1,607
WA	Port Angeles	Merrill & Ring	206-452-2367	1,607
WA	Port Angeles	Port of Port Angeles	206-457-8527	1,604
WA	Port Townsend	Port Townsend Paper Corp	206-385-3170	560
WA	Richmond Beach	Chevron U.S.A., Inc	206-542-2131	364
WA	Seattle	American President Lines	206-292-4650	1,607
WA	Seattle	Atlantic Richfield	206-623-4635	1,350
WA	Seattle	Cargill, Inc	206-284-4851	1,350
WA	Seattle	Gatx TST Corporation	206-622-0920	1,350
WA	Seattle	Hanjin Container Lines (T-18)	206-447-9422	20
WA	Seattle	International Terminal Company	206-763-3460	1,350
WA	Seattle	Jacob Sterns & Sons, Inc	206-622-3260	1,350
WA	Seattle	Kaiser Cement	206-764-3075	233
WA	Seattle	Lake Union Drydock Co	206-323-6400	3,190
WA	Seattle	Lockheed Shipbuilding Co	206-292-4745	30
WA	Seattle	Marine Power & Equipment Co	206-632-1441	7,887
WA	Seattle	Maritime Contractors, Inc	206-647-0080	59
WA	Seattle	Matson Terminals, Inc	206-223-2494	1,167
WA	Seattle	Port of Seattle	206-728-3258	1,350
WA	Seattle	Seacon Terminals, Inc	206-628-6772	1,350
WA	Seattle	Shell Oil Company	206-453-3051	1,167
WA	Seattle	Stevedoring Services of America	206-623-0304	20
WA	Seattle	Terminal 37	206-622-4520	20
WA	Seattle	Terminal 91	206-284-2450	1,470
WA	Seattle	Texaco Refining & Marketing, Inc	206-623-6101	2,800
WA	Seattle	Time Oil Co	206-285-2400	1,167
WA	Seattle	Todd Pacific Shipyards Corp	206-623-1635	1,470
WA	Seattle	Wyckoff Co	206-624-3535	1,350
WA	Tacoma	Continental Grain Co	206-572-3511	504
WA	Tacoma	Domtar Gypsum America	206-627-2108	72
WA	Tacoma	Occidental Chemical Corp	206-593-1362	875
WA	Tacoma	Pennwalt Corp	206-627-9101	875
WA	Tacoma	Port of Tacoma	206-383-5841	3,217
WA	Tacoma	Sound Refining, Inc	206-835-6505	5,554
WA	Tacoma	U.S. Oil & Refining Co	206-383-1651	1,224
WA	Tacoma	Unocal Tacoma Terminal	206-272-3215	1,080
WA	Tacoma	Weyerhaeuser Co	206-593-7921	875
WA	Vancouver	Aluminum Co. of America	206-696-8657	232
WA	Vancouver	Ideal Cement	206-695-9208	1,729
WA	Vancouver	Port of Vancouver	206-693-3611	332
WI	Green Bay	Anamax Terminal	414-494-5233	148
WI	Green Bay	F.Hurlbut Dock	414-432-7731	148
WI	Green Bay	North Dock, Green Bay	414-432-8632	148
WI	Green Bay	U.S. Oil Company, Inc	414-432-4422	148
WI	Kenosha	Westlake Harbor Terminals	414-652-3125	65
WI	Manitowoc	The Manitowoc Company, Inc	414-684-6621	577
WI	Milwaukee	Port of Milwaukee	414-278-3511	65
WI	Sturgeon Bay	Bay Shipbuilding Co	414-684-6621	577
WI	Superior	Fraser S/Y, Inc	715-394-7787	168

TABLE II—ANNEX II RECEPTION FACILITIES

State	City	Terminal Name	Area code and telephone No.	Type of wastewater facility can receive (Category)	Daily Capacity (Metric tons)
CA	Long Beach	Dow Chemical	213-553-5375	B	
CA	Long Beach	Petro-Diamond Terminal Company	213-435-8364	C	
CA	Long Beach	C. Brewer Terminals, Inc	213-435-5623	C	
CA	Pittsburg	Pittsburg Terminal	415-423-5496	B, C	
CA	Richmond	Unitank Terminal Service	415-236-2020	C	228
CA	Richmond	Petromark, Inc	415-232-3275	B	50
CA	Richmond	Chevron USA, Richmond Refinery	415-620-2314	C	
CA	San Pedro	Gatx Terminals Corporation	213-547-0881	C	
4778	CA	Wilmington Liquid Bulk Terminals	213-549-0961	C	8,000
CT	Groton	Pfizer Inc	203-441-3206	C	121
CT	New Haven	E.I. Dupont Demours & Co	203-562-5151	C	
DE	Wilmington	Delaware Terminal Co	302-654-3717	B, C	
GA	Savannah	Colonial Oil Industries, Inc	912-236-1331	B, C	100
GA	Savannah	Powell Duffryn	912-437-2600	B, C	75
HI	Honolulu	Chevron U.S.A. Inc	808-527-2747	C	
IL	Chicago	Stolt Terminals (Chicago) Inc	312-646-4448	B, C	
LA	Baton Rouge	Exxon Company, USA	504-359-7518	B, C	
LA	Bridge City	Paktank Corp. (Westwego)	504-436-2242	C	762,000
LA	Carville	Cos-Mar Company	504-642-5454	C	2191
LA	Geismer	Shell Chemical Co	504-379-6368	B, C	117.5
LA	Hahnville	Union Carbide Corp	504-468-4300	C	
LA	Harvey	Delta Commodities	504-340-4911	A, B	
LA	Jennings	SBA Shipyards, Inc	201-824-1519	A	1,427
LA	Lake Charles	PPG Industries	318-491-4260	B	
LA	NORCO	Gatx Terminals Corp	504-443-2511	A, B	1,041
LA	Plaquemine	Georgia Gulf Corp	504-685-2500	B	
LA	Plaquemine	Dow Chemical Company	504-389-6157	C	
LA	Sulphur	Fredman Shipyard, Inc	318-583-7383	B, C	189
LA	Sunshine	Petrounited Terminals Inc	504-642-8335	C	
LA	Uncle Sam	Agrico Chemical Co	504-562-3501	C	
MD	Baltimore	Essex Industrial Chemical Inc	301-355-9090	C	
MD	Sparrows Point	Bethhlehem Steele Co	301-388-7417	C	
NC	Leland	Port of Wilmington	919-371-2325	C	
NC	Leland	Koch	919-371-2325	C	
NC	Leland	Chemserv Terminals Inc	919-371-2325	C	
NC	Leland	Pfizer Inc	919-371-2325	C	
NC	Wilmington	Patank Corporation	919-763-0104	C	334.7
NC	Wilmington	Exxon Company USA	919-799-0144	C	
NJ	Bayonne	Constable Terminal Corp	201-437-2993	C	191
NJ	Bayonne	Exxon Co., USA	201-858-5508	C	
NJ	Bayonne	Powell Duffryn Terminals	201-437-2600	A,B,C	75
NJ	Bayonne	Rollins Terminals, Inc	201-436-5433	B,C	412
NJ	Bayonne	Gordon Terminal Service Co	201-437-8300	C	
NJ	Bayonne	IMTT-Bayonne	201-437-2200	A,B	
NJ	Bridgeport	Monsanto Chemical Co	609-467-3000	B,C	
NJ	Deepwater	DuPont Marine Terminal	609-540-2706	B	
NJ	Elizabeth	Allied-Signal, Inc	201-354-3215	C	
NJ	Linden	Exxon Co., USA Bayway Refinery	201-474-7073	C	
NJ	Newark	Celanese Chemical Company, Inc	201-589-2705	C	
NJ	Paulsboro	BP Oil Co	609-423-4000	C	
NJ	Perth Amboy	Stolt Terminals, Inc	201-826-1144	B,C	
NJ	Port Newark	Hudson Tank Storage Co	201-465-1115	B	292
NJ	Seawaren	Shell Oil Co	201-855-3310	B,C	50
NJ	Westville	Costal Eagle Point Oil Co	609-853-3100	C	239
NY	Staten Island	Proctor & Gamble, Port Ivory	718-816-2199	C	40
PA	Marcus Hook	Sun Refining and Marketing Co	215-447-5998	C	
PA	Philadelphia	Chevron USA, Inc-Girad Point	215-339-7233	B,C	50
PA	Philadelphia	Unitank Terminal Service	215-634-3031	A,B,C	2,595
TN	Milwaukee	Milsolv River Terminal	414-252-3550	C	
TX	Corpus Christi	American Chrome & Chemicals	512-883-6421	B	
TX	Corpus Christi	Koch Refining Co	512-242-8357	B,C	
TX	Deer Park	Shell Oil Company	713-476-6815	C	
TX	Deer Park	Intercontinental Terminals Co	713-479-6024	B,C	
TX	Freeport	Dow Chemical Co	409-238-4283	B,C	100
TX	Galena Park	Warren Petroleum Terminal	713-453-7173	C	
TX	Galena Park	Paktank Corporation	713-675-9171	A,B,C	

TABLE II—ANNEX II RECEPTION FACILITIES—Continued

State	City	Terminal name	Area code and telephone No.	Type of wastewater facility can receive (category)	Daily capacity (metric tons)
TX	Galena Park	Amerada Hess Corporation	713-453-6301	A	
TX	Houston	Stolt Oiltanking Chemical	713-452-2212	A,B,C	
TX	Houston	Lyondell Petrochemical	713-475-4506	C	
TX	Houston	South Coast Terminals, Inc	713-926-7451	B	
TX	Houston	Oiltanking Inc	713-452-2212	A,B,C	
TX	Pasedena	Georgia Gulf Corp	713-920-4301	C	
TX	Seabrook	Baytank Inc	713-474-4181	A,B,C	
TX	Seabrook	Hoechst Celanese Corporation	713-474-2841	C	
TX	Seabrook	Petrounited	713-474-4433	C	
TX	Texas City	Amoco Chemicals Company	409-948-1601	B,C	
TX	Texas City	Costal States Crude Gathering	409-945-6622	C	1,633
TX	Texas City	Stan Trans, Inc	409-948-3561	B,C	1,380
TX	Texas City	Union Carbide Corp	409-948-5171	B	8,351
TX	Texas City	Unitank-Texas, Inc	409-948-6310	B,C	499
TX	Texas City	Sterling Chemicals Dock 1	409-942-3448	C	16,536
WI	Milwaukee	Milsolv River Terminal	424-252-3550	C	

[FR Doc. 88-11082 Filed 5-18-88; 8:45 am]
BILLING CODE 4910-14-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 160 (9th Mtg.)-406 MHz Emergency Locator Transmitters (ELT); Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the 9th meeting of RTCA Special Committee 160 on 406 MHz Emergency Locator Transmitters (ELT) to be held on June 5-17, 1988, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks, (2) approved of the eighth meeting's minutes, (3) review and discuss EUROCAE Working Group 29 activities, (4) report on problems of frequency interference in 406 MHz band, (5) review of task assignments from last meeting, (6) review the fifth draft of the MOPS, (7) new task assignments, (8) other business, and (9) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contract the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 12, 1988.

R.E. Reichenbach,

Acting Designated Officer.

[FR Doc. 88-11194 Filed 5-18-88; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Dauphin Borough and Middle Paxton Township, Dauphin County, PA

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 Dauphin County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Manuel A. Marks, Division Administrator, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108-1086, Telephone: (717) 782-3461.

or

William Greene, Project Manager, Pennsylvania Department of Transportation, 21st & Herr Streets, Harrisburg, Pennsylvania 17103-1699, Telephone: (717) 783-5148.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PennDOT), will prepare an Environmental Impact Statement on a proposal to relieve traffic congestion and improve safety on US 22/322 in Dauphin Borough and Middle Paxton Township, located in south central Pennsylvania. The proposed project is approximately 5.0 miles in length and may consist of a highway on a new alignment. The project begins in Dauphin and travels north to tie into the 4 lane facility in the Village of Speeceville. Section 4(f) Evaluations will be performed as necessary in conjunction with the project.

Three basic alternatives will be considered: a transportation systems management alternative using much of the existing highway system, an alignment mainly on new location with limited access, and a non-build alternative. For each of the alternatives under study, the following areas will be investigated: traffic, preliminary design and cost, air quality, noise, energy, water quality and aquatic biota, ground water, and hydrogeology, vegetation and wildlife, floodpains and flood hazard areas, endangered species, hazardous waste facilities, wetlands, soils and erosion, farmlands, visual quality, socioeconomics and land use, construction impacts, and archeological and historic resources.

Public involvement and interagency coordination will be maintained throughout the development of the Environmental Impact Statement. A Plan of Study and an invitation to scoping meetings will be distributed to interested agencies. A public hearing will be held if required to obtain formal public input on the findings of the environmental and engineering studies.

To ensure that the full range of issues related to the proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the

Environmental Impact Statement should be directed to the FHWA or PennDOT at the addresses listed above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Issued on: May 12, 1988.

George L. Hannon,

Assistant Division Administrator, Federal Highway Administration.

[FR Doc. 88-11239 Filed 5-18-88; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Availability of Funds for Research To Establish a Mid-Atlantic Trauma Registry in the States of New Jersey, Delaware, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia

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

ACTION: Notice of grant availability.

SUMMARY: The National Highway Traffic Safety Administration announces that competitive applications for grants are being accepted to conduct research to develop a regional trauma registry of uniform and widely-used format and to document in detail the potential uses at the local, state, and federal levels in optimizing the use of resources to obtain the best possible emergency medical, hospital trauma treatment, rehabilitation and trauma prevention systems with available funds.

DATE: Applications must be submitted on or before June 20, 1988.

ADDRESS: Applications must be submitted to the attention of Linda Lee Payne, Contract Specialist, Office of Contracts and Procurement, NAD-30, Room 5301, National Highway Traffic Safety Administration, DOT, 400 7th Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Carl C. Clark, Research and Development, NHTSA, 400 7th Street, SW., Washington, DC 20590, telephone (202) 366-4740.

Program Background and Objectives: The objective of this study is to generate a Trauma Registry, which is a listing of injuries requiring hospitalization and related data of cause and treatment, for the Mid-Atlantic region of the states of New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia and the District of Columbia. This will be the first effort to create a regional trauma registry, with emphasis on the state and local benefits of cooperating to share the needed data to identify the adequacy of utilization of emergency medical services, hospital emergency rooms, hospital trauma services, rehabilitation, and injury prevention. The program will identify data and means to work toward trauma prevention. The first year will utilize data presently being collected, with the trauma program goal to have a common Trauma Registry data format and agreed upon analyses and uses by the end of the second year.

This research will be supported by a two (2) year grant to one (1) grantee, not to exceed a total of $260,000. The grantee will deliver the following items during the course of the work: (1) a computer disk or tape of a preliminary trauma registry for the first two weeks of 1987, put in a standard format, for all hospitals in the mid-Atlantic region that currently have computerized trauma registries, and, through the state or DC Emergency Medical Services directors, agree to cooperate with this program, with estimates of the percent of the state of DC hospitalized trauma population served by that hospital. The standard format shall be that of the Centers for Disease Control trauma registry, including data elements linked to the hospital record from police and ambulance run reports. This preliminary data tape and all subsequent data tapes delivered to the federal government will have privacy removed.

(2) A computer disk or tape of all trauma registry data for all of 1987 from all of the cooperating hospitals, again in the standard format, delivered at the end of the fourth month. (3) Monthly progress reports, developing the forms of analysis of the trauma data that would be useful at the local, state, and national levels, in cooperation with the participating groups, and reporting other progress to attain a common format registry of all hospitalized trauma cases of the region.

(4) A final report in draft at the end of the tenth month, for review and revisions by all concerned, and submitted for publication at the end of the first year. This first year final report will discuss the problems of development and use of a common format regional trauma registry, and its utilization to improve the emergency medical system, trauma care and rehabilitation, and trauma prevention.

The second year of the grant will repeat the same four steps but with 1988 data and hopefully many more cooperating hospitals. The second year final report, after review, will be submitted for publication by June 30, 1990.

Eligible Applicants: Eligible applicants are States, interstate agencies and non-profit institutions.

Applications must be submitted on Standard Form 424 (original and five copies must be submitted) and include:

1. A description of the research to be pursued including:

(i) The method or methods that will be used.

(ii) The sources of data that will be used.

(iii) The types of data analyses that will be carried out and how they will address the development of the regional trauma registry.

2. A list of those individuals responsible for the conduct of the research, their qualifications, and the role each will play.

3. A complete budget for the period of this research, to include the grantee's shared cost, and

4. A description of the Applicants' previous or on-going efforts that relate to this type of research.

5. Written agreements with the Atlantic EMS Council to assume all necessary cooperation required to meet the grant objectives.

Review Process: All proposals will be reviewed and evaluated by the NHTSA staff to determine the applicant's understanding of the problem, the applicant's qualifications, the suitability of the proposed research plan, and evidence of the applicant's capability to effectively carry out the project on schedule.

Applicants are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Program Management: An agreement will be reached with the grantee following the award of the grant to assure that, to the maximum degree possible, there is not undue duplication of research.

Date: May 12, 1988.

Approval:

Thomas J. Stafford,

Director, Office of Contracts and Procurement, Department of Transportation/ NHTSA.

[FR Doc. 88-11189 Filed 5-18-88; 8:45 am]

BILLING CODE 4910-59-M

Saint Lawrence Seaway Development Corporation

Advisory Board Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 11:00 a.m., June 15, 1988, at the Corporation's Administration Headquarters, Room 5424, 400 Seventh St. SW., Washington, DC. The agenda for this meeting will be as follows: Opening Remarks, Consideration of Minutes of Past Meeting; Review of Programs; Business, Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than June 8, 1988, Paul A. Maroun, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590; 202/366–0091.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on May 13, 1988.

Paul A. Maroun,

Advisory Board Liaison.

[FR Doc. 88–11240 Filed 5–18–88; 8:45 am]

BILLING CODE 4910–61–M

UNITED STATES INFORMATION AGENCY

Grants Program for Private Not-For-Profit Organizations in Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. This is the second announcement for this program, with a new closing date. The program is designed to increase mutual understanding between the people of the U.S. and other countries and to strengthen the ties which unite our societies. The information collection involved in this solicitation is covered by OMB Clearance Number 3116-0175, entitled "A Grants Program for Private, Non-Profit Organization in Support of International Educational and Cultural Activities," announced in the **Federal Register** June 3, 1987.

Private Sector Organizations interested in working cooperatively with USIA on the following concept are encouraged to so indicate:

State Legislature and Congressional Information Systems: a Program For Central American Parliamentarians and Political Leaders

The Office of Private Sector Programs will assist in supporting an exchange that will bring twleve parliamentarians and young political party representatives from six Central American countries to the United States to provide them with an overview of the American legislative process and to enhance the technical and research skills of the specialized support staffs of the legislative assemblies in these countries. The participants will be selected by USIA representatives abroad. The project, scheduled for September 1988, will be conceived and executed by a U.S. not-for-profit institution with expertise in State Legislature and Congressional information systems. The program design will include a state assembly orientation program to observe state legislative processes, information systems, and research support; a comparison of state and federal government in the U.S.; and presentations and meetings in Washington, DC, on library and information retrieval systems, research support groups, and the basic process of making legislation.

USIA is most interested in working with organizations that show promise for innovative and cost-effective programming; and with organizations that have potential for obtaining private-sector funding in addition to USIA support. Organizations must have the substantive expertise and logistical capability needed to successfully develop and conduct the above project and should also demonstrate a potential for designing programs which will have lasting impact on their participants.

Interested organizations should submit a request for complete application materials—postmarked no later than fifteen days from the date of this notice—to the address listed below. The Office of Private Sector Programs will then forward a set of materials, including proposal guidelines. Please refer to this specific program by name in your letter of interest. Office of Private Sector Programs, Bureau of Educational and Cultural Affairs (ATTN: Initiative Programs, AR State Legislature), United States Information Agency, 301 4th Street SW., Washington, DC 20547.

Robert Francis Smith,

Director, Office of Private Sector Programs.

[FR Doc. 88–11179 Filed 5–18–88; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 97
Thursday, May 19, 1988

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).

STATE JUSTICE INSTITUTE

TIME AND DATE:

9:00 a.m. to 5:00 p.m., June 2, 1988.
9:00 a.m. to 5:00 p.m., June 3, 1988.
9:00 a.m. to 3:00 p.m., June 4, 1988.

PLACE: Lowes Ventana Canyon Hotel, 7000 North Resort Drive, Tucson, Arizona.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED: Consideration of Concept Papers submitted for Institute funding.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 120 South Fairfax Street, Alexandria, Virginia 22312, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 88–11308 Filed 5–17–88; 10:39 am]

BILLING CODE 6820-SC-M

Corrections

Federal Register
Vol. 53, No. 97
Thursday, May 19, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Fenbendazole

Correction

In rule document 88-9073 beginning on page 14788 in the issue of Tuesday, April 26, 1988, make the following correction:

On page 14788, in the second column, in the eighth line, "*Bunostonum*" should read "*Bunostomum*".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

Correction

In notice document 88-9071 beginning on page 14857 in the issue of Tuesday, April 26, 1988, make the following correction:

On page 14857, in the second column, in the fifth complete paragraph, the last line should read "information (5 U.S.C. 552b(c)(4))."

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-331]

Iowa Electric Light and Power Co. et al.; Notice of Consideration of Issuance of Amendment to Facility Operating License

Correction

In notice document 88-9858 beginning on page 15931 in the issue of Wednesday, May 4, 1988, make the following correction:

On page 15931, in the first column, the subject heading should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[SD-214]

VISAS; Passports and Visas Not Required for Certain Nonimmigrants

Correction

In proposed rule document 88-10482 beginning on page 16975 in the issue of Thursday, May 12, 1988, make the following correction:

On page 16975, in the third column, in amendatory instruction 2, in the first line, "paragraph (1)" should read "paragraph (l)".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 25567; Notice No. 88-5]

Improved Structural Requirements for Pressurized Cabins and Compartments in Transport Category Airplanes

Correction

In proposed rule document 88-5672 beginning on page 8742 in the issue of Wednesday, March 16, 1988 make the following correction:

§ 25.365 [Corrected]

On page 8744, in the third column, in § 25.365(e)(2), in the ninth line, the last sentence is incomplete and should read, "The size H_o must be computed by the following formula:".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8198]

Income Taxes; Corporate Distributions and Certain Nonrecognition Exchange and Other Transfers Under Section 897 (c), (d), (e), (g), (l), and (j) and Section 367(e)(2) and Withholding Under Section 1445(e) (5) and (6)

Correction

In rule document 88-9782 beginning on page 16214 in the issue of Thursday, May 5, 1988, make the following corrections:

§ 1.897-5T [Corrected]

1. On page 16218, in the third column, in § 1.897-5T(b)(3)(iii), in the third line, after "interest" insert "shall".

2. In the same column, in the same section, in the 16th line, after "of" insert "the". Also, in the 17th line, after "foreign" insert "corporation".

3. On page 16219, in the first column, in § 1.897-5T(b)(3)(iv)(A), in the sixth line, after "to" insert "the".

4. On page 16220, in the third column, in § 1.897-5T(c)(1), in the second line, "987" should read "897".

5. On page 16221, in the first column, in § 1.897-5T(c)(2)(iii), Example (1), paragraph (ii), in the last line, "(d)(2)(1)" should read "(d)(2)(i)".

§ 1.897-6T [Corrected]

6. On page 16225, in the third column, in § 1.897-6T(a)(7), Example (9), paragraph (iii), in the 14th line, "(d)(i)(C)" should read "(d)(1)(C)".

BILLING CODE 1505-01-D

federal register

Thursday
May 19, 1988

Part II

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System, Identification and Listing of Hazardous Waste; Notice of Data Availability and Request for Comments; Supplement to Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL 3368-4]

Hazardous Waste Management System, Identification and Listing of Hazardous Waste: Use of a Generic Dilution/Attenuation Factor for Establishing Regulatory Levels and Chronic Toxicity Reference Level Revisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of data availability and request for comments; supplement to proposed rule.

SUMMARY: On June 13, 1986, the Environmental Protection Agency proposed to amend its hazardous waste identification regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) by modifying the existing Toxicity Characteristic used by waste generators in determining whether their solid wastes are hazardous. As proposed in 1986, the new Toxicity Characteristic was to be based, in part, on using chronic toxicity reference levels along with compound-specific dilution/attenuation factors (DAFs) for each of the constituents.

Today's notice solicits comment on an alternative strategy for setting the DAF's in the Toxicity Characteristic, proposed on June 13, 1986. This notice also presents revised values and new information on 14 of the 38 chronic toxicity reference levels proposed in the June 13, 1986 notice.

DATE: EPA will accept public comments on this notice until July 5, 1988.

ADDRESSES: One original and three copies of all comments, identified by the Docket Number F-88-TCNN-FFFFF should be sent to the following address: EPA RCRA Docket (S-212), U.S. Environmental Protection Agency (WH-562), 401 M Street SW., Washington, DC 20460. The EPA RCRA docket is located in the sub-basement area at the above address, and is open from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal Holidays. To review docket materials, members of the public must make an appointment by calling (202) 475-9327. A maximum of 50 pages of material may be copied from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline by calling (800) 424-9346 toll-free, or (202) 382-3000. For information on specific aspects of this notice, related to the use of a generic DAF, contact John W. Goodrich-Mahoney (202) 475-8551 and for the chronic toxicity reference level revisions, contact Lisa A. Ratcliff (202) 382-4761, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460.

SUPPLEMENTARY INFORMATION:

I. Background

Section 3001 of the Resource Conservation and Recovery Act (RCRA), as amended, requires EPA to identify wastes that pose a hazard to human health and the environment, if improperly managed. One means for doing this is through identification of characteristics of hazardous wastes; one approach in developing characteristics is for the Agency to determine reasonable mechanisms by which harm to human health or the environment might occur, develop models to establish regulatory levels, and specify methods for testing the wastes. Characteristics are established at levels providing a high degree of certainty that a waste is hazardous. Thus, a characteristic level is not intended to be a threshold identifying hazard but a level that is clearly hazardous. The Agency may decide to list other wastes as hazardous based on the criteria set forth in 40 CFR 261.11.

The Extraction Procedure (EP) Toxicity Characteristic (EPTC) [40 CFR 261.24] has been used to identify wastes with the potential to produce leachate containing significant concentrations of toxicants if the wastes would be disposed in a sanitary landfill with municipal trash and garbage (*i.e.*, codisposal). The Extraction Procedure (EP) test described in detail in 40 CFR Part 261, App. II is the laboratory procedure used to estimate leachability. Wastes are considered hazardous under the existing Toxicity Characteristic if their EP test leachate concentrations exceed the regulatory levels that are specified. These levels are set so that National Interim Primary Drinking Water Standards (DWS) will not be exceeded at down-gradient drinking water wells; the EPTC assumes that toxicants will be diluted and/or attenuated during ground water transport by a factor of 100.

On June 13, 1986 [51 FR 21648], the Agency proposed to amend the EPTC by: (1) Expanding the characteristic to include 38 additional organic constituents, (2) introducing a modified leaching procedure, Method 1311 (referred to as the Toxicity Characteristic Leaching Procedure or TCLP) and (3) applying compound-specific dilution/attenuation factors (DAFs) for each organic constituent while retaining the 100-fold dilution/attenuation factor for the inorganic constituents.

The Agency's June 1986 proposal contemplated that state-of-the-art ground water modeling would allow the Agency to determine specific DAF's for each of the organic constituents in the Toxicity Characteristic. The various DAFs were to be calculated from a ground water transport model incorporating compound-specific hydrolysis and soil adsorption data, coupled with parameters describing a generic underground environment (*e.g.*, ground water flow rate, soil porosity, ground water, pH, etc.).

EPA proposed to use these compound-specific DAFs to estimate the particular reduction in concentration to be expected for each organic constituent during transport in the ground water to a drinking-water source. These values would be used in establishing regulatory levels for organic constituent concentrations in TCLP (Method 1311) leachate. For each organic constituent, the Drinking Water Standard, reference dose, or risk-specific dose, as appropriate, would be multiplied by a specific DAF to establish the regulatory level. Wastes producing leachate concentrations above the regulatory levels would potentially produce unacceptable toxicant levels at a drinking water source, and thus would exhibit the Toxicity Characteristic and be regulated as hazardous waste. Wastes producing leachate concentrations below the regulatory levels would not exhibit the toxicity characteristic and would not be hazardous with respect to that characteristic.

The Agency has received many comments on the June 1986 proposal and will address those comments and publish revisions to the ground water transport model and other aspects of the proposal at a later time. However, the Agency is today soliciting comment on an alternative approach by which the Agency would initially regulate certain wastes with high concentrations of hazardous constituents while this work

continues. The Agency is also presenting revised values and new information on 14 of the 38 chronic toxicity reference levels proposed in the June 1986 notice.

II. Discussion of Revisions and Request for Comments

A. Use of a Generic Dilution/Attenuation Factor

The Agency is evaluating alternative approaches for establishing dilution/attenuation factors (DAFs) for the 38 additional toxic organic constituents proposed in the Toxicity Characteristic in June 1986.

One alternative involves setting DAFs for these constituents in two phases. In the first phase, the Agency would use a generic DAF that is sufficiently high to assure regulation in the short-term of those wastes with high concentrations of hazardous constituents. The use of a generic DAF to determine regulatory levels is not new to the Agency; a generic DAF of 100 has been a component of the EPTC [45 FR 33110], for both organic and inorganic constituents, since 1980.

The Agency is considering applying the generic DAF to those 38 additional toxic organic constituents proposed for inclusion in the TC on June 13, 1986. Today's notice does not affect the current regulatory levels for the EP constituents. The Agency is not considering changing the DAF for the EP constituents at this time.

In the second phase, the Agency would address further the manner in which DAFs are used to set regulatory levels. The second phase is expected to result in regulatory levels that are lower than those in this first phase, and thus all wastes identified as hazardous in the first phase will remain classified as hazardous after completion of the second phase. For the second phase, EPA may continue to use generic DAF's, employ a ground water transport model to develop constituent-specific DAF's, or use a combination of the two approaches.

The Agency is also considering promulgating the TC in one phase, with use of a generic DAF, as discussed above. EPA believes a two-phase approach for promulgating the revised Toxicity Characteristic is consistent with sections 3001 (g) and (h) of the Hazardous and Solid Waste Amendments of 1984 (HSWA) and the legislative history of these provisions, which state that the EPA should take all necessary action to revise expeditiously the Toxicity Characteristic (Conference Report No. 98–1133 (98th Congress, 2nd Session) at 105–106). This approach allows the Agency to proceed with one level of regulation as quickly as possible in keeping with its Congressional mandate.

The selection of a generic DAF also allows EPA to expeditiously identify those wastes with high concentrations of hazardous constituents. The Agency intends to use a sufficiently high DAF such that wastes, which are regulated as hazardous in the first phase, should also be regulated as hazardous in the second phase.

Based on the above discussion, the Agency specifically requests comment on a two-phased approach, wherein those wastes with the highest concentrations of hazardous constituents would be identified in the first phase, the most appropriate dilution/attenuation factor to use under the two generic phased approach, and the basis for choosing that DAF. The Agency specifically solicits comment on the use of a generic DAF in the first phase of 100 or 500.

B. Chronic Toxicity Reference Level Revisions/Data Availability

1. Background

On June 13, 1986 [51 FR 21648], the Agency proposed to amend the Extraction Procedure Toxicity Characteristic by expanding the characteristic to include 38 additional toxicants, and, using chronic toxicity reference levels (combined with compound-specific dilution/attenuation factors), to calculate leachate concentration limits for individual toxicants which would define a waste as hazardous. Specifically, EPA proposed to use either the National Interim Primary Drinking Water Standard (NIPDWS) or the Maximum Contaminant Level (MCL), where available, as the starting point for establishing the regulatory level for each of the contaminants. For those toxicants where NIPDWS or MCL's have not been established, the Agency proposed to use Risk-Specific Doses (RSD's) for the carcinogens and Reference Doses (RfD's) for the noncarcinogens.

Today's notice presents revised chronic toxicity reference levels for a number of the contaminants; these changes (as shown in Table 1) are explained in detail below. To summarize, the chronic toxicity reference levels for vinyl chloride and 1,4-dichlorobenzene have been revised since the MCL's promulgated for these compounds [July 8, 1987; 52 FR 25690] differ from those proposed [November 13, 1985; 50 FR 46902]. Phenol, pyridine, and 2,3,4,6-tetrachlorophenol have different chronic toxicity reference values based on changes to their RfD's, while the values for acrylonitrile, chlordane, chloroform, heptachlor, and methylene chloride have been revised based on changes to their RSD's.

TABLE 1.—SUMMARY OF REVISED CHRONIC TOXICITY REFERENCE LEVELS FOR PROPOSED TOXICITY CHARACTERISTIC CONTAMINANTS

Contaminant	Proposed * chronic toxicity reference level (mg/L)	Revised chronic toxicity reference level (mg/L)
Acrylonitrile	0.002	0.0007
Chlordane	0.002	0.0003
Chloroform	0.005	0.06
1,4-dichlorobenzene	0.75	0.075
Heptachlor	0.0001	0.00008
Methylene chloride	0.6	0.05
Phenol	4	1
Pyridine	0.075	0.04
2,3,4,6-tetrachlorophenol	0.4	1
Vinyl chloride	0.001	0.002

* June 13, 1986; 51 FR 21648.

It should be noted that in the June 13, 1986, TC notice, EPA proposed an apportionment scheme for use with the chronic toxicity reference levels derived from RfD's [52 FR 21667]. EPA also proposed to develop RSD's using specific risk levels keyed to the Agency's classification scheme for characterizing carcinogens based on their experimental weight of evidence [52 FR 21666]. The Agency asked for and received considerable public comment on these two issues. Today's notice does not address either the proposed apportionment scheme or the choice of risk levels of concern; EPA will respond to the related comments in the final rule. Therefore, it should be noted that the risk levels used in deriving the RSD's discussed in today's notice are the same as those proposed on June 13, 1986 (10^{-5} for A and B carcinogens and 10^{-4} for C carcinogens).

Finally, the Agency is also making available for public review and comment the results of the meta-cresol, ortho-cresol, para-cresol, isobutanol, pyridine, and 2,3,4,6-tetrachlorophenol toxicity studies sponsored by the Office of Solid Waste. The studies were used by the Agency in the development of RfD's for these 6 toxicants. Accordingly, the chronic toxicity reference levels for 2 of these contaminants, pyridine and 2,3,4,6-tetrachlorophenol, have been revised based on the final study results.

2. Revisions and New Data

The following information concerning 1,4-dichlorobenzene and vinyl chloride is provided only as background for the reader. The Agency is *not* soliciting

comments regarding the derivation of the MCL's themselves, or the appropriateness of the use of MCL's as chronic toxicity reference levels. (EPA received public comment on this issue in response to the June 13, 1986 TC proposal.)

1,4-Dichlorobenzene

Chronic Toxicity Reference Level: EPA is revising the chronic toxicity reference level for 1,4-dichlorobenzene from 0.75 to 0.075 mg/L since the promulgated MCL differs from the proposed MCL. In particular, on November 13, 1985, EPA promulgated a Recommended Maximum Contaminant Level (RMCL), now called Maximum Contaminant Level Goal (MCLG), for 1,4-dichlorobenzene of 0.75 mg/L and proposed an MCL of 0.75 mg/L [50 FR 46880 and 50 FR 46902, respectively]. The MCLG and proposed MCL were based on 1,4-dichlorobenzene's classification as a Group D compound, i.e., a chemical not classified or for which there is inadequate animal evidence of carcinogenicity. This classification resulted from the Agency's assessment of several negative carcinogenicity studies in rats and mice, including one chronic inhalation study, and several subchronic inhalation and gavage studies. A suggested RfD of 0.1 mg/kg/day for 1,4-dichlorobenzene was calculated, using a no-observed-adverse-effect-level (NOAEL) of 150 mg/kg/day identified in a Battelle (1980) subchronic gavage study in rats, and an overall uncertainty factor of 1000, which was employed to account for inter- and intraspecies extrapolation (10 each) and use of data from an exposure duration significantly less than lifetime (10). The MCLG and the proposed MCL were based on the RfD, a relative source contribution factor of 20 percent for drinking water, and body weight and consumption values of 70 kg and 2 L water per day, respectively.

Since that time, the Agency received the results of a long-term study on 1,4-dichlorobenzene conducted by the National Toxicology Program (NTP). The NTP (1986) study was a chronic oral gavage bioassay utilizing F344 rats and B6C3F1 mice. The NTP concluded that there was evidence of carcinogenicity both for male rats as shown by an increased incidence of renal tubular cell adenocarcinomas, and for mice of both sexes as shown by increased incidences of hepatocellular carcinomas and hepatocellular adenomas. No evidence of carcinogenicity was seen in female rats. Based on this new information, EPA proposed to amend 1,4-dichlorobenzene's MCLG to zero and reproposed its MCL at 0.005 mg/L on April 17, 1987 [52 FR 12876]. Specifically, the Agency proposed to reclassify 1,4-dichlorobenzene as a Group B2 carcinogen. However, the notice also indicated that EPA was considering classifying 1,4-dichlorobenzene in Group C instead of Group B2. Thus, the Agency asked for public comment on the appropriate classification based on the weight of evidence.

On July 8, 1987 [52 FR 25690], EPA promulgated an MCL of 0.075 mg/L for 1,4-dichlorobenzene. Because of the limited evidence of carcinogenicity, the Agency decided to classify 1,4-dichlorobenzene as a Group C carcinogen, and as such, its MCLG and MCL were based on noncarcinogenic endpoints, using the RfD of 0.1 mg/kg/day with an additional uncertainty factor of 10, the relative source contribution factor of 20 percent, and body weight and consumption values of 70 kg and 2 L water per day, respectively. The application of an additional uncertainty factor to the RfD in deriving MCLG's and MCL's for Group C carcinogens is Agency policy [50 FR 46902, November 13, 1985]. Thus, the revised chronic toxicity reference level for 1,4-dichlorobenzene, 0.075 mg/L, is the promulgated MCL; it is a factor of 10 lower than the original proposed MCL of 0.75 mg/L.

Vinyl Chloride

Chronic Toxicity Reference Level: EPA is revising the chronic toxicity reference level for vinyl chloride from 0.001 to 0.002 mg/L since the promulgated MCL differs from the proposed MCL. Based on the statutory (Safe Drinking Water Act) directive for setting MCL's, the Agency derives MCL's from an assessment of a range of pertinent factors, including the availability and performance of the "best available technology" (BAT), the costs of these technologies for different size water systems, and the number of water systems that would have to install these technologies. The Agency also evaluates the availability of analytical methods and the reliability of analytical results, as well as the resulting health risks of various contaminant concentration reduction levels attainable by BAT. (For more information on the Agency's process for deriving MCLG's and MCL's, see 52 FR 46880 and 52 FR 46902, November 13, 1985; see also 52 FR 25690, July 8, 1987.) The "practical quantitation level" (PQL) is the lowest level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions. For vinyl chloride, EPA originally established the PQL at 0.001 mg/L, and thus proposed an MCL of 0.001 mg/L for vinyl chloride on November 13, 1985 [50 FR 46902]. The chronic toxicity reference level in the June 13, 1986, TC proposal was based on this proposed MCL. The Agency subsequently increased the PQL for vinyl chloride to 0.002 mg/L, and on July 8, 1987, promulgated an MCL based on this higher PQL [52 FR 25690]. Thus, the revised chronic toxicity reference level for vinyl chloride is 0.002 mg/L.

Phenol

Chronic Toxicity Reference Level: EPA is modifying the chronic toxicity reference level for phenol from 4 to 1 mg/L because the RfD has been revised. In particular, the Agency's RfD Workgroup verified a new RfD of 0.04 mg/kg/day on October 28, 1986 [1]. This RfD is based on a Dow Chemical Co. (1945) study in which slight kidney and liver pathology was observed in rats administered phenol by gavage for 6 months. Groups of 10 rats were gavaged with 0, 50, or 100 mg/kg of phenol, 5 days/week (estimated as 0, 35.7, or 71.4 mg/kg/day on a 7-day basis) until 135 or 136 doses were administered, after which surviving animals were killed for histopathological examination of the target organs. The animals receiving 71.4 mg/kg/day of phenol showed a greater temporary drop in body weight gain than did the other groups, but the group rapidly recovered. Surviving animals (6/10) in this group showed a very slight amount of cloudy swelling of the liver, while four animals had some kidney damage. In the animals that survived (6/10) treatment with 35.7 mg/kg/day phenol, there were two that showed a slight amount of kidney damage. Mortality was not treatment related. The low dose (35.7 mg/kg/day) was judged a lowest-observed-adverse-effect-level (LOAEL).

The original RfD of 0.1 mg/kg/day, which was used to derive the chronic toxicity reference level of 4 mg/L in June 13, 1986, TC proposal was based on the same study and LOAEL as the new RfD. However, the new RfD was calculated using a larger overall uncertainty factor (1000 vs. 500) to account for the uncertainties of concern, i.e., 10 for the uncertainty in the interspecies conversion, 10 for the uncertainty in the range of human sensitivity, and 10 for the uncertainty in the use of a less-than-chronic study. Although a LOAEL, instead of a NOAEL, was used in deriving the RfD, an extra uncertainty factor was not considered necessary because of the minimally severe effects at the low dose. Thus, the revised chronic toxicity reference level for phenol, 1 mg/L, is calculated using the

new RfD of 0.04 mg/kg/day and body weight and consumption values of 70 kg and 2 L water per day, respectively.

Comment Summary: In response to the June 13, 1986, TC proposal, two comments were received that recommended that EPA use the National Cancer Institute (1980) oral subchronic and chronic studies as the basis of the RfD for phenol. Specifically, the commenters criticized the Agency's selection of the Dow study for two reasons: (1) the study is unpublished and has not been peer reviewed, and (2) the gavage route of administration employed is not relevant for drinking-water use. Both commenters asserted that the National Cancer Institute (NCI) studies are more relevant for the RfD determination since the animals were administered phenol in drinking water.

Agency Response: The Agency maintains that the Dow study is the appropriate basis for the phenol RfD. Specifically, EPA disagrees with the commenters' argument that a gavage study is not relevant for the development of an oral RfD; the gavage route of administration is a well-established and widely-used means of determining the toxicity of ingested substances. However, the RfD Workgroup did consider all known relevant studies before verifying the RfD, including the NCI studies. In the 90-day NCI subchronic test, no effects in the liver, kidneys, or any other organs were observed in mice (1,700 mg/kg/day) and in rats (780 mg/kg/day) that received various doses of phenol in drinking water. Mice and rats were also exposed to phenol in drinking water for 103 weeks, and the animals were observed for a subsequent 2 weeks. Mice and rats treated with 313 and 153 mg/kg/day phenol, respectively, showed decreased weight gain and reduced water intake. In addition, male and female rats at the 344 mg/kg/day dose had significantly increased incidences of chronic kidney inflamation. The LOAEL identified in the chronic NCI test is 344 mg/kg. It is a science policy of the Agency to identify the critical endpoint used in noncancer dose-response assessments as the one associated with the highest NOAEL which lies below the lowest LOAEL, or the lowest LOAEL. Therefore, the RfD Workgroup chose to use the gavage study of Dow since it produced the lower LOAEL (35.7 mg/kg) [1].

EPA acknowledges the commenters' criticism that the Dow study is unpublished, and thus not readily available. The Agency is attempting to remedy this problem by placing the study report, along with the IRIS chemical file for phenol, in the RCRA docket. As for the commenters' assertion that the study has not been peer reviewed, the Agency believes that the study has undergone a thorough internal review by the RfD Workgroup. However, EPA welcomes any further public comment concerning the study report.

Pyridine

Chronic Toxicity Reference Level: EPA is modifying the chronic toxicity reference level for pyridine from 0.075 to 0.04 mg/L because the RfD has been revised. The original RfD of 0.002 mg/kg/day was verified on July 8, 1985, based on a subchronic inhalation study in rats that was reported in the 1983 Encyclopedia of Occupational Safety and Health [2.]. Confidence in the study was low because of a lack of details about the study and the identification of a free-standing LOAEL (2.15 mg/kg/day) only. Because of concern regarding reported neurotoxic symptoms associated with short-term, low-level occupational exposure to pyridine [Encyclopedia of Occupational Safety and Health, 1983], as well as clinical signs of CNS-related toxicity reported in a 1979 National Toxicology Program (NTP) subchronic oral gavage study in rats and mice, the Office of Solid Waste sponsored a subchronic oral neurotoxicity study in rats [Arthur D. Little, Inc., 1986].

In this study, Sprague-Dawley rats, 10 animals/sex/dose, were gavaged daily with 0, 0.25, 1, 10, 25, and 50 mg/kg/day pyridine for 90 days. Data generated from this test included body and organ weights, food consumption, hematological and clinical chemistry parameters, ophthalmological evaluations, and histopathological examinations of target organs. Results of this test indicated a signifiant dose-related increase in the female liver-to-body weight ratios in the 10, 25, and 50 mg/kg/day dose groups. The males of the 1 mg/kg/day dose group showed a significant decrease in the relative liver weights. However, the males in other dose groups did not show any significant differences; thus, this effect in males exposed to 1 mg/kg/day pyridine is probably an artifact.

In order to examine the neurotoxicity of pyridine, 10 rats/group were perfused at the time of sacrifice; histopathological examinations of brain, liver and target organs were conducted. The histopathological examinations did not reveal any morphological alterations in the brains of exposed and unexposed animals. However, histopathological evaluations of target organs showed a 70-percent incidence of non-neoplastic hepatic lesions in males of the high-dose group (50 mg/kg/day) compared with 10-percent incidence in the vehicle control group. The 0.25 and 1.0 mg/kg/day dose male rats also showed a 10-percent incidence of these lesions; however, no such lesions were observed in the 10 or 25 mg/kg/day dose groups. In the females, the frequency of incidence of these lesions was 30 percent in the 50 mg/kg/day group and 10 percent in the vehicle control group. Based on the data presented above, the 1 mg/kg/day was identified as a NOAEL, and 10 mg/kg/day as a LOAEL for hepatic hypertrophy in female rats.

Thus, the RfD Workgroup verified a new RfD of 0.001 mg/kg/day for pyridine on August 13, 1987 [2], using the NOAEL of 1 mg/kg/day and an overall uncertainty factor of 1000, i.e., 10 to account for the uncertainty in extrapolating from animal data to human exposure, 10 to account for the uncertainty in extrapolating from a subchronic NOAEL to a chronic NOAEL, and 10 for the variation in sensitivity among members of the human population. The chronic toxicity reference level for pyridine, 0.04 mg/L, is calculated using the new verified RfD of 0.001 mg/kg/day and body weight and consumption values of 70 kg and 2 L water per day, respectively.

Comment Summary: In response to the June 13, 1986 TC proposal, one comment was received that criticized the Agency's derivation of an RfD from the LOAEL of a study reported in a secondary source (Encyclopedia of Safety and Health, 1983). The commenter urged EPA to use the NOAEL reported for the NTP (1979) subchronic toxicity study.

Agency Response: The Agency acknowledges that the original RfD was based on a study in which confidence was low, and that the NTP subchronic toxicity test was a better study (although it was available only as a draft at that time). However, as mentioned above, the Agency felt that the possible CNS-related toxicity of pyridine warranted further testing. EPA's subchronic neurotoxicity study produced a NOAEL of 1 mg/kg/day, while the NTP subchronic study resulted in a NOAEL of 25 mg/kg/day, well above the LOAEL of 10 mg/kg/day identified in EPA's neurotoxicity study. Thus, in accordance with Agency science policy, utilization of the higher 25 mg/kg/day NOAEL would not have been sufficiently protective since adverse effects were demonstrated at a lower exposure level. The Agency's neurotoxicity study and the IRIS chemical file for pyridine are available

for review in the RCRA Docket; copies of the study are also available from the National Technical Information Service, or NTIS (Nos. PB88–176136 and PB88–176144).

2,3,4,6–Tetrachlorophenol

Chronic Toxicity Reference Level: EPA is modifying the chronic toxicity reference level for 2,3,4,6-tetrachlorophenol from 0.4 to 1 mg/L because the RfD has been revised. In particular, on July 8, 1985, the Agency's RfD Workgroup verified an RfD of 0.01 mg/kg/day based on a no-observed-effect-level (NOEL) of 10 mg/kg/day identified in a 55-day oral gavage study (Hattula et al., 1981) in rats [3]. However, an inadequate study design (few animals per group) and impurities associated with the commercial grade 2,3,4,6-tetrachlorophenol used in this study raised some concerns about the validity of the data base for use in deriving an RfD. These concerns prompted the Office of Solid Waste to sponsor a 90-day oral gavage study (American Biogenics Corp., 1986) and an oral gavage teratology study (Research Triangle Institute, 1986) in rats. Both the studies used purified 2,3,4,6-tetrachlorophenol (99–percent pure) suspended in olive oil.

In the oral subchronic study, Sprague-Dawley rats, 30 animals/sex/dose, were gavaged daily with 0, 25, 100, or 200 mg/kg/day 2,3,4,6-tetrachlorophenol. Body weight gain, food consumption, clinical signs of toxicity, and mortality were recorded throughout the study. Clinical pathology was performed on 10 rats/sex/dose both at the 44-45-day interval (interim sacrifice) and after 90 days; gross pathology was performed on all animals killed at interim or final sacrifice and on all animals found dead or sacrificed moribund. Histopathological evaluations were also conducted in animals sacrificed at 90 days as well as in cases of unscheduled death. Results of this study indicated that 200 mg/kg/day dose male rats showed progressive depression of body weights 3 weeks after the onset of dosing; these body weight depressions were significantly different from controls during week 4 and weeks 8 through 12. No such difference was observed in females. Liver and kidney weights and relative liver and kidney weights (ratio to body and brain weight) were significantly higher than controls, both in males and females at the time of sacrifice. Centrilobular hypertrophy was observed histopathologically in 15 males and 6 females at this dose (200 mg/kg), compared with none seen in the controls. Other significant biochemical or clinical pathological changes were also reported in male and female rats treated with the high dose.

Rats administered 100 mg/kg/day 2,3,4,6-tetrachlorophenol were found to have statistically significant elevations in liver weights (absolute and relative) in both males and females. In females, both absolute and relative kidney weights were also elevated. Centrilobular hypertrophy in livers was seen (with lower incidence than in the 200 mg/kg dose group) in 12 males and 1 female. The only statistically significant finding in the 25 mg/kg/day group was acidic urine in males at 45 days and in females at 90 days. Though not statistically significant, urine pH was lower than that of control males at 90 days. Since most of the ingested compound has been shown to be excreted unchanged (Hattula et al., 1981), the decrease in urinary pH may possibly be related to the presence of the compound. Based on the results discussed above, the 25 mg/kg/day dose represents the NOAEL and the 100 mg/kg/day the LOAEL for 2,3,4,6-tetrachlorophenol in this oral subchronic study.

In the oral teratology study, pregnant rats were administered daily by gavage doses of 0, 25, 100, or 200 mg/kg/day 2,3,4,6-tetrachlorophenol on days 6 through 15 of gestation. Body weight gain, food consumption, and clinical signs of toxicity were recorded during the gestation period. Rats were sacrificed on gestation day 20. Gross pathology, liver and gravid uterine weight, and status or uterine contents were recorded. Fetuses were removed, weighed, and examined for malformations.

Results of this study indicated that the only statistically significant adverse effect in the high-dose group (200 mg/kg/day) is reduced maternal weight gain (corrected to exclude weight of uterine contents) as contrasted with controls. No significant maternal effects were noted at the 25 or 100 mg/kg/day dose group. Embryo-fetal growth and prenatal viability were not adversely affected by 2,3,4,6-tetrachlorophenol exposure, nor was there any definitive evidence of an effect of the compound on fetal morphological development.

Based on the data presented above, the RfD Workgroup identified 25 mg/kg/day as the subchronic NOAEL, and applying an overall uncertainty factor of 1000 to this NOAEL, established a new verified RfD of 0.03 mg/kg/day on August 13, 1987 [3]. The uncertainty factor of 1000 accounts for the uncertainty in the use of a less-than-chronic NOAEL (10) the uncertainty in the interspecies conversion (10), and the uncertainty in the range of human sensitivity (10). Thus, the revised chronic toxicity reference level for 2,3,4,6-tetrachlorophenol, 1 mg/L, is calculated using the RfD of 0.03 mg/kg/day, and body weight and consumption values of 70 kg and 2 L water per day, respectively.

Comment Summary: In response to the June 13, 1986, TC proposal, three comments were received that pointed out that EPA has proposed a regulatory level for 2,3,4,6-tetrachlorophenol, despite stating that the existing data were insufficient for establishing an RfD [51 FR 21665]. The commenters disagreed with the Agency's decision to set a regulatory level for 2,3,4,6-tetrachlorophenol using preliminary testing data, and they questioned the basis of the chronic toxicity reference level.

Agency Response: In the June 13, 1986, TC proposal, EPA apparently was not sufficiently clear in explaining what kind of preliminary data it used to establish the RfD for 2,3,4,6-tetrachlorophenol. At that time, the Agency already had a verified RfD based on the Hattula et al. study. However, the Agency felt it would be prudent to consider the RfD "interim" until the results of the above-mentioned subchronic toxicity and teratology studies were known. These studies and the IRIS chemical file for 2,3,4,6-tetrachlorophenol are available for review in the RCRA Docket; copies of the teratology study are also available from NTIS (Nos. PB88–176151 and PB88–176169).

Isobutanol

Chronic Toxicity Reference Level: The chronic toxicity reference level for isobutanol is *not* being changed from the value (10 mg/L) presented in the June 13, 1986, TC proposal. However, EPA is taking this opportunity to make available for review and comment the results of a subchronic study which served as the basis for the RfD that the Agency's RfD Workgroup verified on May 14, 1986 [4], shortly before the TC proposal was published. In order to evaluate the toxicity of isobutanol, the Office of Solid Waste sponsored a 90-day study in Sprague-Dawley rats (Toxicity Research Laboratories, 1986). Thirty animals/sex/dose were administered daily doses of 0, 100, 316, or 1,000 mg/kg/day isobutanol by gavage. No effect on body weight or clinical and histopathological parameters was observed at doses less than or equal to 316 mg/kg/day. Treatment at the high dose (1,000 mg/kg/day) resulted in a minor decrease in

body weight gain during week 2 and decreased serum potassium levels and hypoactivity. Hypoactivity was the most frequently observed clinical sign. It occurred in every rat in the 1,000 mg/kg/day dose group during week 1; hypoactivity was markedly decreased by week 4 and occurred only sporadically thereafter. Ataxia was also seen at low incidence in the 1,000 mg/kg/day dose group throughout the study. The NOEL was identified as 316 mg/kg/day, and an overall uncertainty factor of 1,000 was applied to it to derive an RfD of 0.3 mg/kg/day. The uncertainty factor accounts for the uncertainties in the interspecies conversion (10), the range of human sensitivity (10), and the use of a less-than-chronic NOEL (10). Thus, the chronic toxicity reference level for isobutanol, 10 mg/L, is calculated using the verified RfD of 0.3 mg/kg/day and body weight and consumption values of 70 kg and 2 L water per day, respectively.

Comment Summary: In response to the June 13, 1986, TC proposal, three comments were received that pointed out that EPA was proposing a regulatory level for isobutanol, despite stating that the existing data were insufficient for establishing an RfD [51 FR 21665]. The commenters disagreed with the Agency's decision to set a regulatory level for isobutanol using preliminary testing data, and they questioned the basis of the chronic toxicity reference level.

Agency Response: In the June 13, 1986, TC proposal, EPA inadvertently identified isobutanol as one of the constituents for which preliminary toxicity data had been used in deriving "interim" RfD's, i.e., values to be used until the appropriate testing was completed [51 FR 21665]. The Agency's subchronic test for isobutanol was actually completed in late 1985, and, as mentioned above, the study results were reviewed by the RfD Workgroup in May 1986. The study and the IRIS chemical file for isobutanol are available for review in the RCRA Docket; copies of the study are also available from NTIS (No. PB88-176177).

Meta-, Ortho-, and Para-Cresol

Chronic Toxicity Reference Levels: The chronic toxicity reference levels for meta-cresol, ortho-cresol, and para-cresol are *not* being changed from those values presented in the June 13, 1986, TC proposal (2 mg/L for each isomer). Although new toxicological data are now available from which "new" RfD's have been derived, these new RfD's are the *same* numerical value as the original RfD. The RfD Workgroup previously verified on July 8, 1985, an RfD of 0.05 mg/kg/day for mixed cresols based on a TLV-TWA of 10 mg/m^3 [5]. This TLV was based on a report of a Russian study (Uzhdavine et al., 1972) in which rats and guinea pigs were exposed to o-cresol. However, the report lacks experimental details, such as the size of the experimental groups. Thus, the Office of Solid Waste sponsored 90-day subchronic studies and 90-day neurotoxicity studies for each isomer.

In the oral subchronic studies (Microbiological Associates, 1986), Sprague-Dawley rats, 30 animals/sex/dose were administered by gavage the following doses for 90 days: o-cresol at 0, 50, 175, or 600 mg/kg/day; m-cresol at 0, 50, 150, or 450 mg/kg/day; p-cresol at 0, 50, 175, or 600 mg/kg/day. In the neurotoxicity studies (Toxicity Research Laboratories, 1987), Sprague-Dawley rats, 10 animals/sex/dose, were administered by gavage the following doses for 90 days: o-cresol at 0, 50, 175, 450, or 600 mg/kg/day; m-cresol at 0, 50, 150, or 450 mg/kg/day; and p-cresol at 0, 50, 175, or 600 mg/kg/day. In the subchronic studies, the following parameters were evaluated: body and organ weights, food consumption, mortality, clinical signs of toxicity, and clinical pathology. At sacrifice, animals were necropsied and tissues and organs were subjected to histopathological evaluation.

In the neurotoxicity studies, in addition to the above-mentioned parameters, such signs of neurotoxicity as salivation, urination, tremors, piloerection, diarrhea, pupil size, pupil response, lacrimation, hypothermia, vocalization, exophthalmia, palpebral closure, convulsions (type and severity), respiration (rate and type), impaired gait, positional passivity, locomotor activity, stereotypy, startle response, righting reflex, performance on a wire maneuver, forelimb strength, positive geotrophism, extensor thrust, limb rotation, tail pinch reflex, toe pinch reflex, and hind limb splay were also evaluated. In the neurotoxicity studies, the lowest dose of each cresol isomer, 50 mg/kg/day, appeared to have caused some clinical signs of CNS-stimulation post-dosing; these incidences appeared predominantly during the first week of dosing and were sporadic in nature throughout the course of the studies. Higher doses of cresol isomers (greater than 450 mg/kg/day) produced significant neurological events, such as increased salivation, urination, tremors, lacrimation, palpebral closure, and rapid respiration. Similarly, high-dose animals also showed abnormal patterns in the neurobehavioral tests. In general, most of the clinical signs of toxicity were dose-related, although these signs diminished after reaching a peak.

In the subchronic study with m-cresol, there was a 20–25 percent reduction in body weight gain in males and 10–15 percent in females at 450 mg/kg/day; food intake was reduced by 10–15 percent in males. Also, at this dose there was a significant increase in the incidence of salivation, myotonus, and tremors. At the 150 mg/kg/day dose, weight gain was reduced by 10–15 percent in males, though no reduction was seen in females. At the 50 mg/kg/day level, there were no significant adverse effects. The NOAEL identified for m-cresol from these studies was 50 mg/kg/day.

At 600 mg/kg/day, in the subchronic study with o-cresol, there was a 47 percent mortality (9/30 males, 19/30 females), 30 percent reduction in body weight at week 1 and 10 percent at final sacrifice. Food consumption was also significantly reduced during weeks 1 through 6 and 9. The kidney-to-body weight ratio was 13 percent higher than that of the control value at the end of the study. In addition to the above effects, CNS effects such as lethargy, ataxia, coma, dyspnea, tremors, and convulsions were seen post-gavage within 15–30 minutes of dosing; recovery occurred within 1 hour post-gavage. At 450 mg/kg/day, mortality was 10 percent (1/10 males, 1/10 females). In the 175 mg/kg/day group, two animals each exhibited tremors on day 1 of the study during the hour following gavage administration, and one of these animals became comatose during that time. At 50 mg/kg/day, no significant adverse effects were observed. The NOAEL identified was 50 mg/kg/day for o-cresol based on these studies.

At 600 mg/kg/day in the subchronic study of p-cresol, there was a significant reduction in weight gain (15 percent for females, 25 percent for males), significantly reduced food consumption at weeks 1 through 7 and 9 in males, and a significantly increased incidence of CNS signs, such as lethargy, excessive salivation, tremors, and diarrhea. Also, the liver-to-body weight and kidney-to-body weight ratios were significantly increased. There was a greater prevalence of tracheal epithelial metaplasia in this group of animals compared with the animals in the control, low-dose, or mid-dose groups. At the mid-dose group (175 mg/kg/day), the reduction in weight gain was 5–10 percent in males between weeks 1 and 3, the liver-to-body weight ratio was elevated (though not statistically significantly), and the kidney-to-body weight ratio was elevated significantly

for males. At the 50 mg/kg/day level, although there was a slight reduction in weight gain and a small increase in kidney-to-body weight ratio, these effects were not statistically significant. The NOAEL identified from these studies was 50 mg/kg/day for p-cresol.

Thus, the RfD Workgroup verified on August 13, 1987, new RfD's of 0.05 mg/kg/day for m-cresol, o-cresol, and p-cresol, using a NOAEL of 50 mg/kg/day and an overall uncertainty factor of 1,000 (i.e., 10 to account for the variation in sensitivity among members of the human population, 10 to account for the uncertainty in extrapolating from animal data to human exposure, and 10 to account for the uncertainty in extrapolating from a subchronic NOAEL to a chronic NOAEL) [5]. Since the original verified RfD for mixed cresols and the new verified RfD's for the individual isomers are the same value, the chronic toxicity reference levels also remain unchanged. These chronic toxicity reference levels of 2 mg/L are calculated using the new verified RfD's of 0.05 mg/kg/day and body weight and consumption values of 70 kg and 2 L water per day, respectively.

Comment Summary: In response to the June 13, 1986, TC proposal, three comments were received that pointed out that EPA was proposing regulatory levels for the cresol isomers, despite admitting that the existing data were insufficient for establishing RfD's [51 FR 21665]. The commenters disagreed with the Agency's decision to set regulatory levels for these constituents using preliminary testing data, and they questioned the basis of the chronic toxicity reference levels.

Agency Response. In the June 13, 1986, TC proposal, EPA apparently was not sufficiently clear in its explanation [51 FR 21665] of what kind of preliminary data it used to establish the RfD's for m-cresol, o-cresol, and p-cresol. At that time, the Agency already had a verified RfD of 0.05 mg/kg/day for mixed cresols. EPA also had the preliminary results of the above-mentioned subchronic toxicity studies; the "in-life" portions of these studies terminated (e.g., the final sacrifices occurred) in December 1985 and January 1986. The data from these studies supported the choice of the RfD of 0.05 mg/kg/day as well. However, the Agency felt it would be prudent to consider the RfD's "interim", in case the results of the ongoing neurotoxicity studies indicated otherwise. The subchronic and neurotoxicity studies and the IRIS chemical files for the cresol isomers are available for review in the RCRA Docket.

Acrylonitrile

Chronic Toxicity Reference Level: EPA is revising the chronic toxicity reference level for acrylonitrile from 0.002 to 0.0007 mg/L because the original level was derived from inhalation slope factor rather than an oral slope factor. The inhalation slope factor, 0.24 $(mg/kg/day)^{-1}$, was based on an epidemiological study (O'Berg, 1980) of textile workers exposed to acrylonitrile [6]. However, on March 17, 1987, the Agency's Carcinogen Risk Assessment Verification Endeavor (CRAVE) Workgroup verified an oral slope factor of 0.54 $(mg/kg/day)^{-1}$ for acrylonitrile [7]. This quantitative potency estimate was calculated using the results of three chronic drinking-water studies in either Sprague-Dawley or Fischer 344 rats (Biodynamics, 1980; Biodynamics 1980; Quast, 1980). In each study, an increased incidence of brain and spinal cord astrocytomas, Zymbal gland carcinomas, and stomach papillomas and carcinomas was observed in the rats. (A brief summary of the dose-response data reported for these three studies is presented in the IRIS chemical file for acrylonitrile; a copy of the IRIS file is located in the RCRA Docket for review.) The CRAVE Workgroup classified acrylonitrile as a probable human (Group B1) carcinogen based on the observation of a statistically significant increase in incidence of lung cancers in exposed workers and the observation of tumors, generally astrocytomas in the brain, in studies of two rat strains exposed by various routes, e.g., drinking water, gavage, and inhalation [7].

Thus, using a 10^{-5} risk level as proposed for group B carcinogens in the June 13, 1986, TC notice [51 FR 21666], an RSD of 1.9×10^{-5} mg/kg/day is derived from the new oral slope factor of 0.54 $(mg/kg/day)^{-1}$. The revised chronic toxicity reference level for acrylonitrile, 0.0007 mg/L, is subsequently calculated using the RSD of 1.9×10^{-5} mg/kg/day, and body weight and consumption values of 70 kg and 2 L water per day, respectively.

Chlordane

Chronic Toxicity Reference Level: EPA is revising the chronic toxicity reference level for chlordane from 0.002 to 0.0003 mg/L because the underlying oral slope factor has been revised, as well as the weight of evidence classification. The original slope factor, 1.61 $(mg/kg/day)^{-1}$, was based on a long-term feeding study (International Research and Development Corporation, 1973) in which a significant dose-related increase in hepatocellular carcinomas was seen in both male and female CD-1 mice [8]. Chlordane was also classified as a Group C carcinogen, so the chronic toxicity reference level proposed in the June 13, 1986, TC notice was based on a 10^{-4} risk level [51 FR 21666]. On April 1, 1987, the Agency's CRAVE Workgroup verified a new oral slope factor of 1.3 $(mg/kg/day)^{-1}$ for chlordane [9]. This quantitative potency estimate was calculated using the results from the above-mentioned IRDC study, and an NCI (1977) study in which male and female B6C3F1 mice were fed chlordane for 80 weeks. A significant increase in hepatocellular carcinomas in both sexes was also observed in this study. (A brief summary of the dose-response data reported for these two studies is presented in the IRIS chemical file for chlordane; a copy of the IRIS file is located in the RCRA Docket for review.) The CRAVE Workgroup classified chlordane as a probable human (Group B2) carcinogen based on sufficient evidence of liver tumor induction in four strains of mice of both sexes and in F344 male rats, and inadequate evidence in humans [9].

Thus, using a 10^{-5} risk level as proposed for Group B carcinogens in the June 13, 1986, TC notice [51 FR 21666], an RSD of 7.8×10^{-6} mg/kg/day is derived from the new oral slope factor of 1.3 $(mg/kg/day)^{-1}$. The revised chronic toxicity reference level for chlordane, 0.0003 mg/L, is subsequently calculated using the RSD of 7.8×10^{-6} mg/kg/day, and body weight and consumption values of 70 kg and 2 L water per day, respectively.

Chloroform

Chronic Toxicity Reference Level: EPA is modifying the chronic toxicity reference level for chloroform from 0.005 to 0.06 mg/L because the underlying slope factor has been revised. The original oral slope factor, 7×10^{-2} $(mg/kg/day)^{-1}$, was based on two chronic oral studies (NCI, 1976; Roe et al., 1979) in which statistically significant increases of hepatocellular carcinomas in male and female B6C3F1 mice, renal epithelial tumors in male Osborne-Mendel rats, and renal tumors in male ICI mice were observed [10]. On August 26, 1987, the Agency's CRAVE Workgroup verified a new oral slope factor of 6.1×10^{-3} $(mg/kg/day)^{-1}$ for chloroform [11]. This quantitative potency estimate was calculated using the results of 2-year oral study (Jorgenson et al., 1985) in which chloroform was administered in drinking water to male Osborne-Mendel rats and female B6C3F1 mice. A significant increase in renal tumors in male rats

was observed; the liver tumor incidence in female mice was not significantly increased. (A brief summary of the dose-response data reported for this study is presented in the IRIS chemical file for chloroform; a copy of the IRIS file is located in the RCRA Docket for review.) The CRAVE Workgroup classified chloroform as a probable human (Group B2) carcinogen based on increased incidence of several tumor types in rats and mice, and inadequate data in humans [11].

Thus, using a 10^{-5} risk level as proposed for Group B carcinogens in the June 1986 TC notice [51 FR 21666], an RSD of 1.6×10^{-3} mg/kg/day is derived from the verified oral slope factor of 6.1×10^{-3} $(mg/kg/day)^{-1}$. The revised chronic toxicity reference level for chloroform, 0.06 mg/L, is subsequently calculated using the RSD of 1.6×10^{-3} mg/kg/day, and body weight and consumption values of 70 kg and 2 L water per day, respectively.

Comment Summary: In response to the June 13, 1986, TC proposal, one comment was received that criticized EPA for using the NCI study as the basis for deriving the original RSD (e.g., its slope factor). The commenter asserted that (1) the gavage route of administration produces a bolus dose of material, which may alter absorption and metabolism of a given test substance; (2) the use of vegetable oil as the gavage vehicle may also alter absorption and metabolism; and (3) vegetable oil acts independently as a tumor promotor. The commenter urged EPA to use the Jorgenson et al. drinking-water study, pointing out that it is not subject to the scientific deficiencies of the corn oil gavage data.

Agency Response: The Agency agrees with the commenter that the Jorgenson et al. study is the more appropriate choice for use in deriving the oral slope factor for chloroform and is thus revising the proposed chronic toxicity reference level based on that study.

Heptachlor

Chronic Toxicity Reference Level: EPA is modifying the chronic toxicity reference level for heptachlor from 0.0001 to 0.00008 mg/L because the underlying slope factor was revised. The original slope factor, 3.37 $(mg/kg/day)^{-1}$, was based on a chronic feeding study (NCI, 1977) in which a statistically significant increase of hepatocellular carcinomas was observed for both male and female B6C3F1 mice [8]. On April 1, 1987, the Agency's CRAVE Workgroup verified a new oral slope factor of 4.5 $(mg/kg/day)^{-1}$ for heptachlor [12]. This quantitative potency estimate was calculated using the results of the above-mentioned NCI study, and a 2-year feeding study (Davis, 1965) using male and female C3H mice. In the Davis study, a two-fold increase in benign liver lesions over the controls was reported. After a histological reevaluation, Reuber (1977) diagnosed a statistically significant increase in liver carcinomas in the treated male and female groups by comparison to controls. (A brief summary of the dose-response data reported for these two studies is presented in the IRIS chemical file for heptachlor; a copy of the IRIS file is located in the RCRA Docket for review.) The CRAVE Workgroup classified heptachlor as a probable human (Group B2) carcinogen based on inadequate evidence in humans, and sufficient evidence of liver carcinoma induction in two strains of mice of both genders [12].

Thus, using a 10^{-5} risk level as proposed for Group B carcinogens in the June 13, 1986, TC notice [51 FR 21666], an RSD of 2.2×10^{-6} mg/kg/day is derived from the new slope factor of 4.5 $(mg/kg/day)^{-1}$. The revised chronic toxicity reference level for heptachlor, 0.00008 mg/L, is subsequently calculated using the RSD of 2.2×10^{-6} mg/kg/day, and body weight and consumption values of 70 kg and 2 L water per day, respectively.

Methylene Chloride

Chronic Toxicity Reference Level: EPA is revising the chronic toxicity reference level for methylene chloride from 0.6 to 0.05 mg/L because the underlying slope factor has been revised. The original slope factor, 6.3×10^{-4} $(mg/kg/day)^{-1}$ by the oral route, was based on a chronic inhalation study (Dow Chemical Co., 1980) in which a statistically significant increase in salivary gland sarcomas was observed in male rats [13]. On December 4, 1986, the Agency's CRAVE Workgroup verified an oral slope factor of 7.5×10^{-3} $(mg/kg/day)^{-1}$ for methylene chloride [14]. This quantitative potency estimate was calculated using the results of two chronic studies in F344 rats and B6C3F1 mice. In a 2-year NTP (1986) inhalation study, treated mice of both sexes had increased incidences of hepatocellular adenomas and carcinomas, as well as highly significant increases in alveolar/bronchiolar adenomas and carcinomas. In a 2-year drinking-water study (National Coffee Association, 1983), treated male mice had elevated incidences of hepatocellular carcinomas or adenomas in comparison to controls; however, this increase was not statistically significant. The CRAVE Workgroup, taking into account methylene chloride's rapid absorption following either inhalation or ingestion, decided that the use of inhalation data for calculation of the new oral slope factor is justified if the lung tumor data are excluded [14]. (A brief summary of the dose-response data reported for these two studies is presented in the IRIS chemical file for methylene chloride; a copy of the IRIS file is located in the RCRA Docket for review.) The CRAVE Workgroup classified methylene chloride as a probable human (Group B2) carcinogen based on increased cancer incidence in rats and mice and inadequate data in humans [14].

Thus, using a 10^{-5} risk level as proposed for Group B carcinogens in the June 13, 1986, TC notice [51 FR 21666], an RSD of 1.3×10^{-3} mg/kg/day is derived from the new verified oral slope factor of 7.5×10^{-3} $(mg/kg/day)^{-1}$. The revised chronic toxicity reference level for methylene chloride, 0.05 mg/L, is subsequently calculated using the RSD of 1.3×10^{-3} mg/kg/day, and body weight and consumption values of 70 kg and 2 L water per day, respectively.

Comment Summary: In response to the June 13, 1986, TC proposal, three comments were received that suggested that methylene chloride should be classified as a Group C (possible human) carcinogen and not a Group B (probable human) carcinogen. Two of these commenters specifically stated that the experimental evidence is inadequate for the Agency to make the determination that methylene chloride is, in fact, a probable human carcinogen. Two of the commenters also stated that the evidence from animal testing indicates that methylene chloride, like other chlorinated solvents, may be a promoter but not a carcinogen.

They suggested that methylene chloride would be more appropriately characterized as a Group C carcinogen until EPA develops a separate risk assessment procedure for promoters.

Agency Response: EPA disagrees with the commenters on the weight of evidence for methylene chloride's carcinogenicity and on the appropriate characterization of chlorinated solvents as promoters. The CRAVE Workgroup has classified methylene chloride as a Group B2 carcinogen on the basis of the above-mentioned NTP inhalation study. EPA does not believe the experimental evidence is sufficiently persuasive to demonstrate either that chlorinated solvents are promoters or that methylene chloride, in particular, is a promoter. Even if it were established that methylene chloride is a promoter, there is no established risk assessment procedure for utilizing this information.

Until EPA develops a separate risk assessment procedure for promoters, it will continue to assess promoters and initiators in a like manner.

Comments on this notice must be received by the EPA on or before July 5, 1988, to ensure consideration. It should be noted that the Agency is reopening the comment period for only those issues/revisions discussed in this notice.

Date: April 15, 1988.

J.W. McGraw,

Acting Assistant Administrator for Solid Waste and Emergency Response.

III. References

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May 19, 1988

Part III

Department of the Interior

Minerals Management Service

Outer Continental Shelf Operations; Gulf of Mexico; Lease sale; Call for Information and Nominations; Notice

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Central Gulf Lease Sale 123
Western Gulf Lease Sale 125
Call for Information and Nominations
and
Notice of Intent to Prepare an Environmental Impact Statement

CALL FOR INFORMATION AND NOMINATIONS

Purpose of Call

The purpose of the Call is to gather information for Outer Continental Shelf (OCS) Lease Sale 123 in the Central Gulf of Mexico (CGOM) Planning Area, tentatively scheduled for March 1990, and OCS Lease Sale 125 in the Western Gulf of Mexico (WGOM) Planning Area, tentatively scheduled for August 1990.

Information and nominations on leasing, exploration, and development and production within the CGOM and WGOM Planning Areas are sought from all interested parties. This initial information-gathering step is important for ensuring that all interests and concerns are communicated to the Department of the Interior for future decisions in the leasing process pursuant to the OCS Lands Act, as amended (43 U.S.C. 1331-1356), and regulations at 30 CFR 256. This Call does not indicate a preliminary decision to lease in the area described below.

Description of Area

The general area of this Call covers the entire central and western portions of the Gulf of Mexico between approximately 88° W. longitude on the east and approximately 97° W. longitude on the west and extends from the Federal-State boundaries seaward to the provisional maritime boundary between the United States and Mexico. The entire Call area is offshore the States of Texas, Louisiana, Mississippi, and Alabama. This area is divided into two planning areas.

The CGOM Planning Area is bounded on the east by approximately 88° W. longitude. Its western boundary begins at the offshore boundary between Texas and Louisiana and proceeds southeasterly to approximately 28° N. latitude, then east to approximately 92° W. longitude, then south to the provisional maritime boundary with Mexico which constitutes the southern boundary of the area. The northern part of the area is bounded by the

Federal-State boundary offshore Louisiana, Mississippi, and Alabama. The area available for nominations and comments at this time consists of approximately 9,093 blocks on 47,742,847 acres and is outlined on the attached map.

The WGOM Planning Area is bounded on the west and north by the Federal-State boundary and on the east by the CGOM Planning Area. The area extends south to the provisional maritime boundary with Mexico. The entire area is offshore Texas. The area available for nominations and comments at this time consists of approximately 6,514 blocks on 35,903,896 acres and is outlined on the attached map.

A standard large-scale Call for Information Map showing boundaries on a block-by-block basis is available without charge from:

Minerals Management Service
Public Information Unit
1201 Elmwood Park Boulevard
New Orleans, Louisiana 70123-2394
Telephone: (504) 736-2519

Areas Deferred from this Call

High Island Area, East Addition, South Extension, (Flower Gardens), Block A-375 and Block A-398 (WGOM).

Instructions on Call

Indications of interest and comments must be received no later than 45 days following publication of this document in the Federal Register in envelopes labeled "Nominations for Proposed 1990 Lease Sales in the Gulf of Mexico" or "Comments on the Call for Information and Nominations for Proposed 1990 Lease Sales in the Gulf of Mexico." The standard Call for Information Map and indications of interest and/or comments must be submitted to the Regional Supervisor, Leasing and Environment, Gulf of Mexico OCS Region, at the address stated above.

The standard Call for Information Map delineates the Call area all of which has been identified by the Minerals Management Service (MMS) as having potential for the discovery of accumulations of oil and gas. Respondents are requested to indicate interest in and comment on any or all of the Federal acreage within the boundaries of the Call area that they wish to have included in proposed OCS Lease Sales 123 and 125.

Although individual indications of interest are considered to be privileged and proprietary information, the names of persons or entities indicating interest or submitting comments will be of

public record. Those indicating such interest are required to do so on the standard Call for Information Map by outlining the areas of interest along block lines.

Respondents should rank areas in which they have expressed interest according to priority of their interest (e.g., priority 1 [high], 2 [medium], or 3 [low]. We encourage respondents to be specific in indicating blocks by priority, as blanket nominations on large areas are not useful in the analysis of industry interest.

Respondents may also submit a detailed list of blocks nominated (by Official Protraction Diagram and Leasing Map designations) to ensure correct interpretation of their nominations. Specific questions may be directed to the Chief, Leasing and Adjudication Section at (504) 736-2765. Official Protraction Diagrams and Leasing Maps can be purchased from the Public Information Unit referred to above.

Comments are sought from all interested parties about particular geological, environmental, biological, archaeological and socioeconomic conditions or conflicts, or other information which might bear upon the potential leasing and development of particular areas. Comments are also sought on possible conflicts between future OCS oil and gas activities that may result from the proposed sales and State Coastal Management Programs (CMP's). If possible, these comments should identify specific CMP policies of concern, the nature of the conflict foreseen, and steps that the MMS could take to avoid or mitigate the potential conflict. Comments may either be in terms of broad areas or restricted to particular blocks of concern. Those submitting comments are requested to list block numbers or outline the subject area on the standard Call for Information Map.

Use of Information from Call

Information submitted in response to this Call will be used for several purposes. First, responses will be used to identify the areas of potential for oil and gas development. Second, comments on possible environmental effects and potential-use conflicts will be used in the analysis of environmental conditions in and near the Call area. This information will be used to make a preliminary determination of the potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. A third purpose for this Call is to use the comments collected to initiate the scoping process for the Environmental Impact Statement (EIS) and analyze alternatives to the proposed action. Fourth, comments may be used in developing lease terms and conditions to ensure safe offshore

operations. Fifth, comments may be used to point out potential conflicts between offshore oil and gas activities and a State CMP.

Existing Information

An extensive environmental studies program has been underway in this area since 1973. The emphasis, including continuing studies, has been on environmental characterization of biologically sensitive habitats, physical oceanography, ocean-circulation modeling, and ecological effects of oil and gas activities. A complete listing of available study reports and information for ordering copies can be obtained from the Public Information Unit referenced above. The reports may also be ordered, for a fee, directly from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 487-4650.

In addition, a program status report for continuing studies in this area can be obtained from the Chief, Environmental Studies Section, Gulf of Mexico OCS Region (see address under "Description of Area") or by telephone at (504) 736-1896.

Summary Reports and Indices and technical and geological reports are available for review at the MMS, Gulf of Mexico OCS Region (see address under "Description of Area"). Copies of the Gulf of Mexico OCS Regional Summary Reports may also be obtained from the OCS Information Program, Office of Offshore Information and Publications, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

Tentative Schedule

Final delineation of the areas for possible leasing will be made at a later date only after compliance with established departmental procedures, all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the OCS Lands Act, as amended.

The following is a list of tentative milestone dates preceding these sales:

	CGOM Sale 123	WGOM Sale 125
Comments due on the Call	June 1988	June 1988
Notice Of Intent Comments Due (Scoping)	June 1988	June 1988
Area Identification	August 1988	August 1988

Draft EIS published	March 1989	March 1989
Public Hearings held on Draft EIS	April 1989	April 1989
Final EIS published	August 1989	August 1989
Proposed Notice of Sale announced	September 1989	February 1990
Governor's comments due on Proposed Notice	November 1989	April 1990
Final Notice of Sale published	January 1990	June 1990
Sale Date	March 1990	August 1990

NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT

Purpose of Notice of Intent

Pursuant to the regulations (40 CFR 1501.7) implementing the procedural provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.), the MMS is announcing its intent to prepare an EIS on the oil and gas leasing proposals known as Sale 123 in the CGOM, and Sale 125 in the WGOM, off the States of Texas, Louisiana, Mississippi, and Alabama. The Notice of Intent also serves to announce the scoping process that will be followed for this EIS. Throughout the scoping process, Federal, State, and local governments and other interested parties have the opportunity to aid the MMS in determining the significant issues and alternatives to be analyzed in the EIS.

The EIS analysis will focus on the potential environmental effects of leasing, exploration, and development of the blocks included in the areas defined in the Area Identification procedure as the proposed areas of the Federal actions. Alternatives to the proposal which may be considered for each sale are to delay the sale, cancel the sale, or modify the sale.

Instructions on Notice of Intent

Federal, State, and local governments and other interested parties are requested to send their written comments on the scope of the EIS, significant issues which should be addressed, and alternatives that should be considered to the Regional Supervisor, Leasing and Environment, Gulf of Mexico OCS Region, at the address stated under "Description of Area." Comments

should be enclosed in an envelope labeled "Comments on the Notice of Intent to Prepare an EIS on the proposed 1990 Lease Sales in the Gulf of Mexico." Comments are due no later than 45 days from publication of this Notice. Scoping meetings will be held in appropriate locations to obtain additional comments and information regarding the scope of the EIS.

Carolita Kallaur

Acting Director, Minerals Management Service

Approved:

Carolita Kallaur

Assistant Secretary - Land and Minerals Management

J. Steven Griles

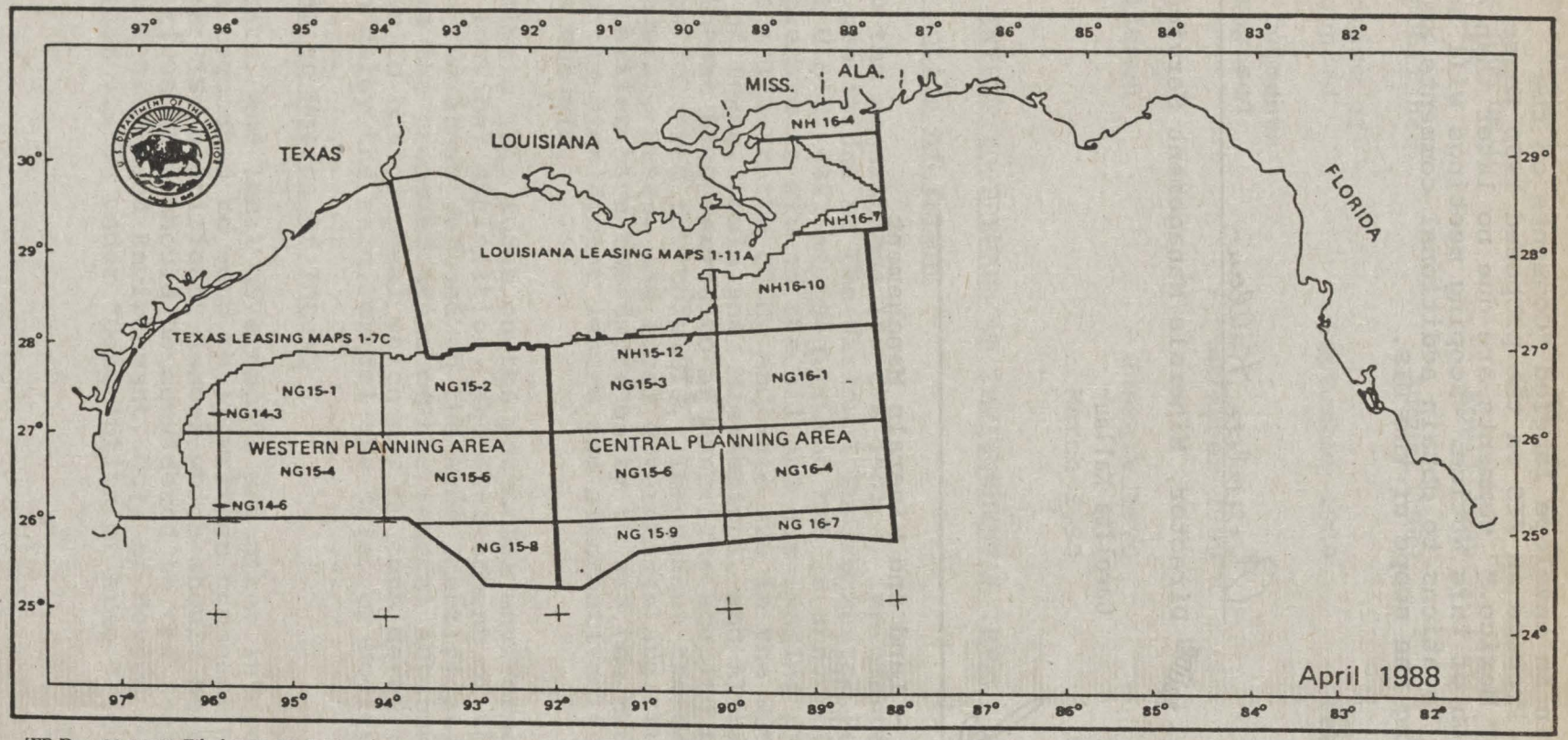
MAY 13 1988

Date

1990 Proposed Lease Sales

Call for Information and Nominations

Notice of Intent to Prepare an Environmental Impact Statement



[FR Doc. 88–11284 Filed 5–18–88; 8:45 am]

BILLING CODE 4310-MR-C

Federal Register

Thursday
May 19, 1988

Part IV

Department of Transportation

Federal Highway Administration

49 CFR Part 390, etc.

Federal Motor Carrier Safety Regulations; General; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 390, 391, 392, 393, 394, 395, 396, and 397

[FHWA Docket No. MC-114]

Federal Motor Carrier Safety Regulations; General

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is revising Part 390, General, of the Federal Motor Carrier Safety Regulations (FMCSRs). The revision: (1) incorporates definitions from the Motor Carrier Safety Act of 1984; (2) consolidates the definitions of many general items currently located in other sections of the FMCSR's; (3) clarifies and updates certain regulations; (4) eliminates redundancy; (5) eliminates or modifies certain regulatory exemptions; and (6) institutes a new rule that requires certain motor carriers to mark their self-propelled commercial motor vehicles in a specific manner. The revisions have been made in response to section 206 of the Motor Carrier Safety Act of 1984 and to comments received to a notice of proposed rulemaking (NPRM) published in the **Federal Register** on July 13, 1987 (52 FR 26278). Also, conforming amendments to Parts 391–397 are being made.

EFFECTIVE DATE: November 15, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366–2981, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366–1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The Motor Carrier Safety Act of 1984 (the Act), 49 U.S.C. app. 2501–2520 (Supp III 1985), was signed into law by the President on October 30, 1984.

On January 23, 1985, the FHWA published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** (50 FR 2998) seeking public comment concerning possible revisions to the FMCSRs. Approximately 25 comments were received concerning changes to Part 390 of the FMCSRs. An NPRM was published in the **Federal Register** (52 FR 26278) on July 13, 1987. Twenty-seven commenters submitted comments in response to this NPRM. Comments were received from: 17 associations representing motor carriers, shippers, truck leasing companies, intermodal interests, and traffic safety interests; 2 motor carriers; 1 leasing company; 2 labor unions; and 5 governmental entities. Most of the comments addressed the following issues:

(1) Application of the regulations to school bus operations;

(2) Lightweight vehicle operations, including those involving 15-passenger vans;

(3) The rescission of exempt intracity operations;

(4) A "grandfather clause" for those drivers who currently operate wholly within an intracity zone;

(5) The exemption of the highway transportation operations of governmental entities; and

(6) The marking of self-propelled commercial motor vehicles, by certain motor carriers, in a specific manner.

Background

Section 206 of the Act directs the Secretary of Transportation (Secretary) to issue regulations pertaining to commercial motor vehicle safety. Due to the complexity of reissuing the FMCSRs, a separate rulemaking action was established for each part that is being addressed. The goals of the Act are to promote the safe operation of commercial motor vehicles, minimize dangers to the health of operators of commercial motor vehicles and other employees whose employment directly affects motor carrier safety, and assure increased compliance with the rules issued pursuant to the Act. The FHWA's motor carrier safety program goals are to reduce commercial motor vehicle accidents and thereby decrease fatalities, injuries, and property losses.

Section 206 of the Act specifically authorizes the Secretary to waive application of the regulations to any person or class of persons if the Secretary determines that such waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles. It is not the intention of the FHWA to enter into a large scale program of exemptions. Safety on the public highways is an area that should not and must not be compromised. The FHWA has historically exempted some segments of transportation, however, and plans to continue such exemptions unless evidence supports a change in policy.

School bus operations, lightweight vehicles, exempt intracity operations, transportation performed by governmental entities, and the marking of motor vehicles are discussed in separate sections of this preamble. Other miscellaneous issues which the FHWA believes are minor are discussed in the section captioned "Other Issues." The FHWA's disposition of the comments received on each issue in response to the NPRM is included.

School Bus Operations

Section 206(f) of the Act expressly directs the Secretary to waive application of the regulations issued under section 206 with respect to school buses, unless the Secretary determines that making such regulations applicable to school buses is necessary for public safety taking into account all Federal and State laws applicable to school buses. The Act refers to school buses as defined in section 102(14) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391(14)).

The vast majority of school bus operations may be categorized by one or more of the following types of operations:

1. The motor carrier is an agency of the Federal, State, or local Government;

2. The motor carrier is a private carrier of passengers; or

3. The operations are not in interstate commerce.

Under the current rules, none of these operations are subject to the FMCSRs. However, some school bus operations are currently subject to the FMCSRs (e.g., a non government, for-hire motor carrier of passengers transporting school children from one State to another).

The FHWA proposed in the NPRM to exempt school bus operations involving interstate operations when the school bus is used to transport only school children and/or school personnel from home to school and from school to home. Any for-hire transportation of school children and/or school personnel to other geographical points in interstate commerce would be covered by the proposed regulations. School bus operations conducted wholly in intrastate commerce are not subject to the safety jurisdiction of the FHWA.

Three commenters addressed the proposed school bus exemption. Two commenters supported the exemption as proposed. A third commenter, the National School Transportation Association (NSTA), contended that the exemption does not go far enough. "Unless the definition [of school bus operation] is revised to incorporate all bona fide school transportation operations, the FHWA's proposed exemption will have little appreciable practical effect and most privately-owned buses will remain subject to the FMCSR," stated the NSTA. It proposed that the definition of "school bus operation" be amended to include

"events or activities that are an ordinary and integral part of the school program sponsored and supervised by school authorities and considered an official school function."

The American Bus Association (ABA), on the other hand, contended that a school bus being used to take a group of students, parents, and teachers to a distant place across State boundaries should be regulated as would any other interstate bus operation. The ABA believes that school children should be fully protected on such long interstate trips regardless of who is operating the bus.

We recognize that school bus operations are distinguished from other types of commercial motor vehicle operations because of their highly restricted type of service. For the most part, the operation of school buses entails the transportation of school children and/or school personnel from home to school and from school to home. This type of transportation, most generally, involves the regularly scheduled operation of school buses into and through residential, rural, and business areas, which collectively encompass a relatively small geographic area within the confines of a single State. The routes are, in most instances, predetermined and of a "stop and go" nature during specific morning and afternoon hours. The other users of the highways have generally come to expect and accept the "stop and go" operations of school buses during those specific hours of operation.

The operation of school buses to transport children, school personnel, and/or parents, in other than school-home trips, utilizes the same highways, many of which are high speed arteries, as do all other commercial motor vehicles. The speeds that are maintained are considerably greater than those attained in "stop and go" pickup operations. The actual time spent driving is generally greater as is the possibility of fatigue.

The Commercial Motor Vehicle Safety Act of 1986 (CMVSA), 49 U.S.C. app. 2701 *et seq.*, requires all drivers who operate a vehicle designed to transport more than 15 passengers, including the driver, to obtain a commercial driver's license (CDL). In order to obtain a CDL, a driver must pass a knowledge test and driving skills test for the type of vehicle the individual intends to operate. The CMVSA also required that commercial motor vehicle operators have a single driver's license, one record of their driving violations, and that there be uniform disqualification penalties for drivers who commit certain serious criminal or traffic violations while operating a commercial motor vehicle. The CMVSA has established minimum qualification requirements for most school bus drivers, even those operating intrastate.

Currently, 48 States have some type of periodic, mandatory school bus inspection program. Twenty States, including the District of Columbia, also have special driver qualification requirements for school bus operators. Some local jurisdictions and/or school systems impose additional requirements on those who transport school children. Most States have programs to review the qualifications of school bus operators and school bus vehicles involved in home to school and school to home movements. The FHWA believes that the States have established and enforce comparable requirements for movements of school children and school personnel from home to school and from school to home. The FHWA believes that the transportation of school children and school personnel from home to school and back again involves problems which are common to the States, and which, in accordance with the President's Executive Order on Federalism (Executive Order 12612, October 26, 1987), can best be left to the individual States to effectively deal with them.

No data was submitted to the docket that indicates what detailed State reviews are applied to other interstate movements of school buses. For example, no data was submitted to the docket that indicated what the various States require concerning driver qualification, hours-of-service, or inspection, repair, and maintenance for after school movements. Absent this data, we must make sure that such drivers and vehicles meet the FHWA's minimal requirements if they are to operate in interstate commerce. Commercial motor vehicle operators engaged in the transportation of passengers in interstate commerce must comply with the applicable provisions of Parts 383, 390, 391, 392, 393, 394, 395, and 396 of the FMCSRs. The FHWA believes that to require less of a motor carrier of passengers transporting school children in interstate commerce, other than from home to school and from school to home, would be inappropriate. Allowing any motor carrier of passengers to meet less stringent requirements than those minimal requirements of the FMCSRs must be considered as compromising the safety of those passengers and that of the general public.

The FHWA believes that Federal regulation of the interstate movement of school buses by for-hire motor carriers, other than those involving the transportation of school children and/or school personnel from home to school and from school to home, is necessary to enhance public safety. Therefore, in view of the foregoing, the FMCSRs will apply to the interstate operation of school buses, by for-hire motor carriers, when those buses are being operated for purposes other than to transport school children and/or school personnel from home to school and from school to home.

Interstate school bus operations which involve events sanctioned by school officials (e.g., transporting school teams or clubs) will be subject to the FMCSRs if the operation involves a for-hire motor carrier. School buses owned or operated by the school, regardless of the type of operation involved, will not be subject to the FMCSRs, since this transportation involves either private transportation of passengers or transportation by a governmental entity (see discussion below).

Lightweight Vehicle Exemption

Section 204 of the Act, defines a "commercial motor vehicle" as one having a gross vehicle weight rating (GVWR) of 10,001 pounds or more; designed to transport more than 15 passengers, including the driver; or transporting hazardous materials in quantities requiring the vehicle to be placarded. The Senate Committee on Commerce, Science and Transportation, in a report which accompanied the Motor Carrier Safety Act of 1984, stated: "The 10,000-pound limit, which is in the current BMCS [FHWA] regulations, is proposed to focus enforcement efforts and because small vans and pickup trucks are more analogous to automobiles than to medium and heavy commercial vehicles, and can best be regulated under State automobile licensing, inspection, and traffic surveillance procedures." S. Rep. No. 424, 98th Cong., 2d Sess. 6–7 (1984).

The FHWA proposed to exempt from the FMCSRs those vehicles not meeting the definition of a "commercial motor vehicle" in the 1984 Act. Five commenters addressed the proposed lightweight vehicle exemption. One commenter, the American Truck Dealers division of the National Automobile Dealers Association, generally supported the exemption as proposed. Four commenters opposed the exemption.

The Metropolitan Police Department, City of St. Louis, Missouri, believes that the definition of "commercial motor vehicle" should include any vehicle used for commercial purposes or in the furtherance of a business. It cites an

instance where a lightweight vehicle carrying seven cylinders of acetylene need not be placarded and, therefore, is not subject to the FMCSRs, while a vehicle weighing more than 10,000 pounds, carrying the same seven cylinders of acetylene, is subject to the FMCSRs. They see no reduced safety hazard by transporting the hazardous materials in a lightweight vehicle. The Metropolitan Police Department also agrees with the United Parcel Service comment that "OMCS should not give any motor vehicle any exemptions that would permit unsafe vehicles or unqualified drivers to operate on the public highways."

Vehicles laden with hazardous materials in a quantity requiring placarding do present an additional safety risk by the nature of the cargo being transported. The transportation of hazardous materials has been of great concern to the Department for many years. The DOT has placed special emphasis on regulating and enforcing safety rules when hazardous materials are being transported. The FHWA has reviewed its position and believes there is no need to regulate lightweight cargo carrying vehicles laden with nonhazardous property or small quantities of hazardous materials which do not require the vehicle to be placarded. In view of the foregoing, motor vehicles, transporting nonhazardous property or quantities of hazardous materials which do not require placarding, having a GVWR or gross combination weight rating of 10,000 pounds or less will not be subject to Federal safety regulation.

The American Bus Association (ABA) opposes removing 15-passenger vans from the purview of Federal safety regulations. It contends "there is nothing in the statutory language or the legislative history to suggest that this was a Congressional direction to FHWA to remove 15-passenger vans from regulation. There is a reference to 'small vans and pickup trucks' being more analogous to 'automobiles than to medium and heavy vehicles . . . ', but this legislative language clearly refers to the motor vehicles of property affected by the 10,000-pound limit. We seriously question whether Congress or any other authority would define a 15-passenger van as a 'small van.' "

The GVWR of the Dodge and Ford 15-passenger vans are approximately 8,510 pounds and 9,100 pounds, respectively. The GVWR of the 12-passenger vans manufactured by the Chevrolet Division of the General Motors Corporation (GMC), the Dodge Division of the Chrysler Corporation, the Ford Motor Company, or GMC Truck and Coach Division of the General Motors Corporation range from 6,500 pounds to 8,500 pounds.

The FHWA has historically regulated all commercial motor vehicles engaged in interstate commerce, although specific lightweight vehicle exemptions have been allowed. Most vehicles having a GVWR of 10,000 pounds or less have operating characteristics similar to a large automobile and generally pose no greater safety risk than other vehicles of similar or lesser weight when used on the highway. Thus, the FHWA has long focused its activities on larger vehicles.

In enacting the Motor Carrier Safety Act of 1984, the Congress defined "commercial motor vehicle" to more clearly focus the Federal resources devoted to motor carrier safety on medium and heavy weight motor vehicles. It specifically addressed the transportation of passengers and hazardous materials, and chose to limit application of the authority granted to the agency to issue safety regulations. Accordingly, the Act authorizes the issuance of safety regulations applicable to vehicles designed to transport more than 15 passengers, including the driver.

Similarly, when the Congress recently enacted the Commercial Motor Vehicle Safety Act of 1986, to require implementation of a single, classified commercial driver's license program, it defined the commercial motor vehicles to which the program would apply to include motor vehicles designed to transport more than 15 passengers, including the driver. This too, then, reveals the Congressional policy of applying available Federal motor carrier safety resources to larger vehicles.

The FHWA believes that the Congress has clearly indicated its policy in this area. Although the FHWA retains its authority to regulate lighter weight vehicles in the interest of safety (49 U.S.C. 3102), the FHWA does not believe that such Federal regulation is warranted at this time. Existing accident data do not reveal that passenger vans used to transport 15 or fewer passengers in interstate commerce require the application of the FMCSRs to enhance the safety of their operation. Nor do these data or other considerations reflect a need for Federal enforcement of safety rules which are applicable to these operations. The FHWA believes that the safety regulation of these vehicles and their drivers can best be left to the States and local governments.

For the reasons set forth above, the FHWA has decided to limit the application of the FMCSRs to "commercial motor vehicles" as defined in section 204 of the Act and as proposed in the NPRM. Thus, the FMCSRs, will not apply to motor vehicles which have gross vehicle weight ratings of 10,000 pounds or less, unless they are designed to transport more than 15 passengers, including the driver, or are used to transport hazardous materials in quantities requiring placarding.

Exempt Intracity Operation

A commercial zone is an area surrounding a city or municipality. The commercial zones were originally defined by the Interstate Commerce Commission (ICC) for the purpose of exempting from economic regulations those motor carriers operating wholly within a single city or municipality. An intracity exempt zone is defined by the FHWA as those commercial zones established by the ICC as of October 1, 1975. The size and number of intracity exempt zones has not been increased by the FHWA since October 1975, even though the ICC has expanded the commercial zones. The interstate operations in these intracity exempt zones are exempt from most of the requirements contained in the FMCSRs. Carriers in these zones must only comply with the accident reporting and driver's hours-of-service requirements of the FMCSRs. The commercial zone exemption has been in place since 1938. The original reason given by the ICC for this exemption was that intracity operations were adequately regulated by city and State ordinances. Also, at that time intracity travel was primarily at slower speeds. However, the ICC also recognized in 1938 that there was a need to regulate the driver's hours-of-service and to collect accident data for these operations. Generally, drivers and vehicles used to transport hazardous materials in quantities which require a placard are not exempt. The FHWA proposed to rescind this exemption and to provide for a 2-year "grandfathering" period for affected drivers. A total of 21 commenters addressed this issue. Nine commenters supported the rescission as proposed. Seven commenters conditionally supported the rescission. Five commenters opposed the proposed rescission.

Comments Favoring Rescission

Claims were made by a number of the commenters that the zones have been used as a "dumping ground" for vehicles that no longer meet the standards set forth in the FMCSRs and drivers that are not qualified to operate outside the exempt zone. Those supporting the

rescission generally felt that such action was long overdue and that there was no justification for continuing the exemption. The seven commenters that conditionally favored the rescission strongly expressed their opposition to conditioning the exemption upon compatible State regulation. These commenters asserted that the proposal to condition the rescission on current State requirements would be confusing and would prove to be unworkable and ineffective. They further argued that this proposal would exacerbate the lack of uniformity in applicable motor carrier safety regulations, increase administrative costs, and make enforcement more difficult.

Comments Opposing the Rescission

The National Solid Waste Management Association (NSWMA) believes that some vehicles may not be able to be retrofitted to comply with certain requirements of the FMCSRs, especially the rear end protection requirements of § 393.86. The NSWMA recommends that the FHWA maintain the exemption for certain types of carriers, such as trash haulers and service vehicles, which by the nature of their operations are found in municipal areas operating at slow speeds.

The National Association of Wholesaler-Distributors (NAW) believes Congress had no intention in the 1984 Act of intruding into the area of intrastate commerce or vehicles operated in an exempt intracity zone. Further, it states "current State regulations are wholly sufficient to assure these vehicles are not only safe, but are operated in a safe manner." The NAW urges the FHWA to withhold action on this rulemaking until the DOT has completed and forwarded to Congress the section 218 study and attendant recommendations required under the 1984 Act.

The Rio Grande Valley Trucking Coalition (RGV) favors retention of the existing exemption, but is willing to accept the FHWA proposal provided that Mexican carriers operating within the Rio Grande Valley commercial zone may readily operate under general roadworthiness standards or under the Texas vehicle inspection law. The RGV further states that the exempt intracity zones that its members operate in are sparsely populated for the most part and that transportation is performed on many secondary roads that are used by low volume traffic.

The Local Cartage Association, Inc., of Greater St. Louis states its opposition to the elimination of the partial exemption for commercial zone operations. It concludes that the Department should withhold action and initiate a study to develop new or modified rules which would be tailored for commercial zone operations.

Discussion

The NSWMA expressed concern about approximately 15,000 vehicles that would have to be retrofitted to meet the requirements of § 393.86, Rear end protection, if the intracity zone exemption is rescinded. The FHWA believes that many motor vehicles are constructed and maintained so that the body, chassis, or other parts of the vehicle afford the rear end protection contemplated and thus may already be in compliance with the rear end protection requirement. Generally, the FHWA believes that every commercial motor vehicle should meet all applicable safety requirements. However, should motor carriers, operating a particular class of motor vehicle, be required to expend substantial sums to bring those vehicles into compliance and the motor carriers believe the costs involved exceed the benefits to be derived, those motor carriers may petition the agency for relief.

Previously, it was stated that the RGV favors retention of the existing exemption, but is willing to accept the FHWA's proposal of rescission provided that Mexican carriers operating within the RGV commercial zone may readily operate under general roadworthiness standards or under the Texas vehicle inspection law. The Texas Department of Public Safety recently adopted the FMCSRs. In its adoption, the agency did not adopt the intracity zone exemption. Therefore, effective January 1, 1988, all commercial motor vehicles operated in, into, or through the State of Texas must comply with its regulations. A similar response must be made to the concerns of the Local Cartage Association, Inc., of Greater St. Louis. The Metropolitan Police Department of the City of St. Louis has adopted and is actively enforcing the FMCSRs within that municipality.

Federalism Assessment

In the NPRM, the FHWA proposed to rescind the current intracity zone exemption for those zones where a State has not adopted and enforced State laws and regulations which are compatible with the FMCSRs. Many of the commenters who supported rescission of this exemption opposed the conditioning of the rescission on current State requirements.

The FHWA has carefully reviewed its proposal in light of the purposes of the Act and the President's Executive Order on Federalism (Executive Order 12612, October 26, 1987). In enacting the Motor Carrier Safety Act of 1984, the Congress found that it is in the public interest to enhance commercial motor vehicle safety and that, "improved, more uniform commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries and the level of property damage related to commercial motor vehicle operations * * *." 49 U.S.C. app. 2502. While identifying commercial motor vehicle safety as a matter of national importance, the Congress also found that, "interested State governments can provide valuable assistance to the Federal Government in assuring that commercial motor vehicle operations are conducted safely and healthfully." *Id.* In his Executive Order on Federalism, the President has ordered Executive Departments and agencies to be guided by certain fundamental federalism principals in formulating and implementing policies that have federalism implications. The FHWA recognizes that its proposed rescission of the intracity zone exemption has federalism implications.

The Act provides the Secretary with clear statutory authority to regulate commercial motor vehicle safety as defined in the Act. This means the operation of commercial motor vehicles in interstate commerce, including that portion of the interstate movement which occurs in the intracity zone. It should also be noted that the Secretary also has the authority to regulate motor carrier safety in interstate commerce under what was formerly Part II of the Interstate Commerce Act, now codified in part at 49 U.S.C. Chapters 5 and 31 (1982 & Supp. III 1985). Neither of these statutory authorities limits the Secretary's authority to regulate interstate commerce in "intracity zones."

The exemption for intracity zone operations was originally adopted by the Interstate Commerce Commission (ICC) in 1938. In proposing to rescind the exemption, the FHWA recognized that interstate transportation in these zones has dramatically changed in character over the past 50 years. The risk to public safety now posed by the operation of commercial motor vehicles in these zones is no less than the risk presented by the operation of these same vehicles outside the zones. Rescission of the intracity zone exemption means that motor carriers, drivers, and their vehicles engaged in interstate commerce would be required to comply with the FMCSRs, even if they never leave the zone. Many of the commenters on this proposal believe that rescission of the

exemption is warranted and, in fact, long overdue.

Information available to the FHWA indicates that 13 States currently regulate commercial motor vehicle safety in the zones which are located in those States. Through the Motor Carrier Safety Assistance Program (MCSAP), the FHWA is providing Federal funds to States to adopt and enforce State motor carrier safety regulations which are compatible with Federal regulations. However, many States have also adopted the intracity zone exemption. Thus, interstate transportation in many of these areas has been subject to neither Federal nor State safety regulation.

Under the FHWA's proposed contingent rescission of the exemption, interstate operations in the zones would be subject to either Federal or State regulations. This means that if a State has compatible regulations and is enforcing those regulations in those zones, there would be no Federal intrusion in this area.

The safety regulations adopted by the FHWA under either section 206 of the Act or 49 U.S.C. 3102 are minimum standards. States may continue to adopt and enforce regulations applicable to interstate motor vehicle operations which occur within the State. As now is the case outside the zones, interstate motor vehicle operations would be required to comply with the Federal requirements and State requirements which are not inconsistent with the Federal regulations.

The Congress addressed the issue of non-uniformity in motor carrier safety regulations applicable to interstate motor carrier operations as a result of this dual Federal/State jurisdiction in sections 207–209 of the Act. These provisions established a Commercial Motor Vehicle Safety Regulatory Review Panel (Safety Panel) to review all State laws and regulations applicable to interstate commercial motor vehicle safety. Relying on recommendations from the Safety Panel, the Act directs the Secretary, through notice and comment rulemaking, to preempt less stringent State safety regulations and more stringent ones as well if they produce no safety benefit; regulations incompatible with the Federal regulations; or regulations which impose an undue burden on interstate commerce. *See* 49 U.S.C. app. 2506–2508. This review is underway and is being conducted in close consultation with each of the States. Meanwhile, dual Federal/State coverage of these operations will enable the Federal Government and the States to cooperate in assuring that commercial motor vehicle operations are conducted safely as intended by Congress. The MCSAP fosters this cooperation while promoting increased compatibility between the Federal and State safety regulations.

Accordingly, the FHWA has concluded that, in order to achieve the purposes of the Act while adhering to the principles of Executive Order 12612, the FHWA will condition its rescission of the intracity zone exemption, as proposed, upon State regulatory action. This action imposes no additional costs or burdens on the States, nor will it affect the States' ability to discharge traditional State governmental functions or other aspects of State sovereignty.

Exempt Intercity Operation Drivers

In the July 13, 1987 NPRM, the FHWA proposed that those drivers operating wholly within the exempt intercity zone would be required to be medically qualified every 2 years to operate a commercial vehicle in accordance with Part 391, Subpart E, of the FMCSRs. The FHWA also proposed, however, that drivers, who would otherwise qualify to operate except for failing to meet the age or at least one of four medical requirements, would be excepted (grandfathered) for 2 years in meeting those requirements. The grandfather provision was intended to allow drivers and their employers affected by the new age and medical standards an opportunity to adjust to these new requirements. The exceptions relate to minimum age (§ 391.11(b)(1)); diabetes mellitus currently requiring insulin for control (§ 391.41(b)(3)); the clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle (§ 391.41(b)(8)); and vision and hearing standards (§ 391.41(b)(10) and (11)). The FHWA intended that drivers found not qualified under § 391.41(b)(1) or (2) (loss or impairment of extremities) would be afforded the opportunity to obtain waivers pursuant to § 391.49, Waiver of certain physical defects.

In order for a driver to take advantage of the grandfather exceptions, the FHWA proposed that the driver must (1) have been a regularly employed driver (as defined in § 390.5) for a particular motor carrier as of a certain date; (2) continue to be a regularly employed driver for a motor carrier; (3) be used wholly within what had been the exempt intracity zone (as defined in § 390.5); and (4) not operate a vehicle used in the transportation of hazardous materials in a quantity requiring placarding. These conditions were proposed in order to restrict the operations of these drivers, and, thus, not increase the risk to the public of these drivers operating in interstate commerce.

The commenters who supported rescission of the intracity operation exemption also generally supported a provision which would grandfather current drivers who would otherwise not be qualified to operate commercial motor vehicles in interstate commerce. The International Brotherhood of Teamster (IBT) opposed a 2-year limitation of this grandfather right. It stated that the limitation is grossly unfair and unreasonable. It believes the grandfather clause should be permanent. The IBT recommends all medical provisions be grandfathered for an indefinite period of time as did the State of Michigan. The American Trucking Associations (ATA) believes the 2-year limitation is needlessly stringent. It contends that a driver's continued service should be based on the driver's safe performance as evidenced by 12 months free of conviction for a safety-related moving violation prior to the effective date of the rule, and maintenance of a good record thereafter. Most commenters agreed that the proviso that a driver "continue to be regularly employed by a single motor carrier" is unduly rigid and should be deleted or modified to embrace operations of "other motor carriers."

Discussion

The FHWA believes that all interstate and foreign commerce drivers should meet the qualification requirements contained in Part 391. The FHWA proposed the 2-year grandfather exception for drivers currently driving in intercity exempt zones subject to the FMCSRs in order to minimize the short-term effect on such drivers and their employers. As previously mentioned, the commenters to the docket supported a grandfather provision of greater duration than the 2-year period.

The safety implications of allowing drivers who are not medically qualified under the applicable provisions of the FMCSRs for an indefinite period must also be considered. In order to mitigate the potential adverse effects of permitting drivers who do not meet the minimum Federal physical qualification requirements to continue to drive, the FHWA is including in this final rule a 2-year grandfather provision, as proposed in the NPRM, which commences on the effective date of this rule. Intracity drivers meeting the requirements set forth in this rule will be permitted to operate until the drive is disqualified under the provisions of § 391.15, operates a commercial motor vehicle

beyond the exempt intracity zone, or until 2 years from the effective date of this rule, whichever comes first. At such time, the provisions of § 390.3(g) will no longer be effective and all those drivers will have to meet the requirements of § 391.11(b)(1) and § 391.41(b)(3), (8), (10), and (11) in addition to the other applicable requirements of the FMCSRs. As discussed below, the grandfather provision will be "conditional" in order to limit the risk associated with those drivers.

In proposing the grandfather provision, the FHWA intended that a driver with insulin controlled diabetes or with an established medical history or a current clinical diagnosis of epilepsy or any other condition likely to cause loss of consciousness be allowed to drive under the limited exceptions. However, in reassessing this position, the FHWA recognizes that a person's medical condition in these areas can deteriorate for a number of underlying reasons to the point where the driver presents an increased and unacceptable risk to the public if allowed to continue operating a commercial vehicle. The FHWA does not believe that a person should then be allowed to drive. In order to control such a situation, the FHWA has required in the final rule that a qualified physician must first make a determination of the driver's capability to operate a commercial motor vehicle. The determination must be based on the facts available to the physician and the physican's medical expertise. The FHWA has revised § 390.3(g) to indicate that a driver, who does not meet the requirements of § 391.41(b)(3) or (8), may continue to drive only in the intracity zone if a qualified physician makes an individual determination that the driver's condition is not likely to interfere with the driver's ability to control and drive a commercial motor vehicle safely.

When proposing the limited vision exception (§ 391.41(b)(10)), the FHWA intended to allow drivers with impaired vision or monocular drivers to continue driving in the intracity zone. As with the insulin-using diabetics, it was not the FHWA's intent to waive this requirement totally if a person's condition deteriorated. Since vision deteriorates with age or because of injury or disease, the FHWA believes it prudent to require a periodic reassessment of a driver's ability to operate under this grandfather provision. This reassessment should preclude the imposition of a safety risk on the general public greater than that which exists today. Therefore, in the new § 390.3(g)(2)(iii), the FHWA has included the current vision standards (distinct visual acuity, field of vision, and color recognition), but has indicated that only one eye has to meet these requirements. Under the final rule, a driver who does not meet the vision requirements in § 391.41(b)(10) may continue to drive in the exempt intracity zone, if a qualified physician or optometrist certifies that the driver meets the vision requirements prescribed in § 390.3(g)(2)(iii).

The limited hearing exception presented a similar concern. The FHWA did not intend to allow persons with no hearing capability to drive. Hearing loss can occur at any time and be caused by a variety of things. The FHWA believes it to be in the best interests of safety to require a periodic examination and reassessment of this medical condition. Therefore, in the final rule, a driver who does not meet the hearing requirements in § 391.41(b)(11) may continue to drive in the exempt intracity zone, if a qualified physician makes an individual determination that the driver's hearing loss is not likely to interfere with the driver's ability to control and drive a commercial motor vehicle safely.

There is currently a total prohibition against the use of drugs (§ 391.41(b)(12)) and drivers cannot consume any type of intoxicating beverage while driving (§ 392.5) or have a current clinical diagnosis of alcoholism (§ 391.41(b)(13)). The FHWA has not and will not entertain any relaxation of those prohibitions for drivers in the intracity zone.

Therefore, in an effort to minimize the potential safety risk to which the general public would be exposed and to allow as many drivers as possible to continue driving, the FHWA is permitting temporary relief to those exempt intracity zone drivers having a clinical diagnosis of diabetes mellitus treated with insulin, epilepsy, or an inability to meet the visual or auditory requirements of 49 CFR 391.41. The FHWA will require these drivers to meet all the current medical standards applicable to all interstate or foreign drivers, but will allow the examining physician to make an individual determination regarding the driver's condition. That is, the standard will permit the certification of a driver, for at most a 2-year period, if the examining physician determines that the condition is not likely to interfere with the driver's ability to control and drive a commercial motor vehicle safely. The physician's determination must be based on accepted medical practices and the type of motor vehicle operation a driver experiences in an intracity zone operation. In each of the four cases, a specialist trained in the treatment of the specific medical condition must recommend a decision based on the medical history, medical records, diagnostic tests, and a job task description (including operational parameters).

As indicated, the grandfather provision can be for no more than a 2-year period beginning on the effective date of the final rule. The FHWA also believes that the grandfather exception should not apply to persons operating outside the intracity zone or to operating commercial vehicles carrying hazardous materials in quantities sufficient to require a placard. In an accident, vehicles laden with hazardous materials in placardable quantities present an increased risk to public safety. The commenters to the docket did not object to the conditions proposed, except for the proposal that drivers must continue driving for the motor carrier they worked for on January 1, 1988. In response to the arguments raised by the commenters, the FHWA has included in this final rule the conditions proposed in the NPRM. The second condition set forth below has been revised to allow drivers to change employers. Those drivers currently operating a commercial motor vehicle wholly within an intracity zone must:

1. Be a regularly employed driver for a motor carrier as of May 19, 1988.

2. Continue to be regularly employed by a motor carrier.

3. Meet all physical requirements other than those relating to age, insulin controlled diabetes, epilepsy, visual acuity, and hearing.

4. Operate a commercial motor vehicle wholly within a currently exempt intracity zone.

5. Operate no commercial motor vehicle containing placardable amounts of hazardous materials.

The FHWA has also added an additional condition that the driver not be disqualified under § 391.15. This condition is included to prevent persons who are disqualified because of a conviction of a serious offense, such as driving under the influence of alcohol, from claiming they have a right to operate in the exempt intracity zone. In addition, the FHWA has included a provision which would invalidate the grandfather exception for any driver who violated the requirement that they drive solely within the zone. That condition would help enforce the FHWA's policy to not increase the risk to public safety associated with the grandfather exception.

Motor carriers who utilize the services of these drivers will be required to obtain the physical examination certificate required by § 391.43(d). The following statement must appear on the medical examiner's certificate: "medically unqualified unless driving within an exempt intracity zone." Any driver who operates a commercial motor vehicle outside the exempt intracity or operates a hazardous materials laden commercial motor vehicle requiring placarding will no longer be able to take advantage of the relief that is afforded by this rulemaking. Motor carriers who allow unqualified drivers to operate commercial motor vehicles in intracity zones will be in violation of the rules and will be subject to possible prosecution.

The American Diabetes Association (ADA) petition to allow waivers on a case-by-case basis for insulin-using diabetics and similar reviews addressing individual medical determinations should be completed within the next 2½ years (before the grandfather provision ends). The results of those reviews could potentially provide additional relief for drivers who cannot now be qualified under the existing physical qualification requirements.

Small Business Impact

The U.S. Small Business Administration (SBA) in its comments contends that the elimination of the exempt intracity zone exemption would subject tens of thousands of small businesses to Federal driver qualification, driving, parts and accessories, and inspection, repair and maintenance requirements. The SBA encourages the FHWA to reconsider the necessity of subjecting drivers of smaller single body vehicles to the driver requirements of Part 391. The SBA states that "The difference between a tractor trailer and a single body truck is significant with regard to the expertise needed to drive them. A single body truck handles more like an automobile than a tractor trailer and does not require the same special expertise as driving a tractor with a separate trailer.

"The commercial zone exemption has, for over 50 years, exempted vehicles traveling within a limited area, such as local pick up and delivery vehicles, from Federal regulations. . . . The proposal would arbitrarily apply all federal safety regulations to all vehicles operating within a commercial zone without examining the need for the application of each type of regulation to each type of vehicle.

"The Federal Motor Carrier Safety Regulations were written primarily for long-haul over-the-road trucks—large, heavy tractor trailers which travel several hundred miles a day." The SBA continues by stating that "The proposed rule could eliminate many part-time and temporary drivers under the age of 21 and would unreasonably burden small companies by requiring the maintenance of driver records." Therefore, the SBA asks the FHWA to consider (1) exempting smaller vehicles within commercial zones from driver qualification requirements and (2) requiring vehicle inspections within commercial zones every 1,000 miles rather than daily. It believes that the certification contained in the NPRM that the proposed rule will not have a significant impact on a substantial number of small entities is inaccurate. For the above reasons, it urges the FHWA to conduct an initial regulatory flexibility analysis (IRFA) which assesses the effect of alternatives to the proposed rule and to republish the NPRM along with the IRFA.

From September 9, 1982, to May 18, 1984, the FHWA was involved in a rulemaking action that addressed motor vehicles having a GVWR of between 10,001 and 15,000 pounds. (See BMCS Docket No. MC–103) During that rulemaking action, the FHWA contracted with the University of Michigan's Transportation Research Institute (UMTRI) to investigate the contention of the petitioner, American Bakers Association, that vehicles having a GVWR of 10,001 to 15,000 pounds have handling and operational characteristics similar to vehicles having a GVWR of 10,000 pounds or less. (See Gillespie, T.D.; Ervin, R.D., "Comparative Study of Vehicle Roll Stability, FH–11–9577, University of Michigan Transportation Research Institute, Ann Arbor, Michigan.) The UMTRI's findings showed that the rollover threshold of the utility vans (15,000 pounds GVWR) is actually closer to that of some combination vehicles (tractor-trailers) than it is to passenger cars. More importantly, the research showed that the vehicles in these weight classes have handling characteristics more like larger vehicles than passenger cars.

Federal safety standards for vehicles and drivers operating in interstate commerce have been in effect since 1936. The commercial zone exemption has been in effect since 1938. Motor carriers using drivers and vehicles wholly within a commercial zone were partially exempt from the FMCSRs. Those motor carriers have always been subject to the accident reporting requirements of Part 394 and the hours-of-service requirements of Part 395.

The FMCSRs, from their inception, applied to all motor vehicles with a GVWR of more than 10,000 pounds and the drivers of those vehicles when operated in interstate commerce. Rescission of the intracity zone exemption would not apply all Federal safety regulations to *all* vehicles operating within those zones. All vehicles having a GVWR of 10,000 pounds or less and the drivers operating those vehicles would not be subject to the FMCSRs, unless the vehicle was transporting hazardous materials in a quantity that requires placarding.

Vehicles and drivers which operate in interstate commerce but solely within an ICC commercial zone may already be subject to the FMCSRs and, therefore, are not affected by the rescission of the exemption. This is because the geographic bounds of the intracity zone have not changed since 1975, whereas, the ICC's "commercial zones" have generally increased in size. Drivers and motor carriers should not be confused with the ICC commercial zone, which concerns economic regulation, and the intracity zone which concerns motor carrier safety. Additionally, those drivers under the age of 21 that are currently operating commercial motor vehicles in the intracity zone will be able to continue if they can meet the criteria set forth in this final rule.

It is evident that those opposing rescission of the exemption are concerned about being required to comply with the provisions of Part 391 of the FMCSRs. In particular, concern has been expressed about the procedures and records that go into the creation and maintenance of a "Driver's Qualification File." The hiring and certification process is one of the most important, if not the most important, steps in ensuring safety of operation. In most instances, drivers, not motor vehicles, cause accidents. Statistics developed over the years by the FHWA, the insurance industry, and the trucking industry indicate that more than 50 percent, and in some studies more than 75 percent, of all motor vehicle accidents involve driver error. That is, action by the driver could have prevented the accident. Investigation of an applicant's previous work history, accident, and driving record is a very important part of the hiring process. Elimination of any of these aspects of the hiring process could potentially create an additional safety risk. One 1979 study, entitled "Prior Violation Records of 1,447 Drivers Involved in Fatal Crashes" by Leon S. Robertson and Susan P. Baker, showed

that drivers with four or more convictions or violations prior to the fatal crash were more than nine times as likely to be involved in fatal crashes as those with no such violations. Another study, entitled "The Statistical Association Between Past and Future Accidents and Violations," prepared by J. Richard Stewart and B. J. Campbell, reveals that drivers with no violations had an average accident frequency of .10 while drivers with 6 violations had an average frequency of .42.

Two other requirements must be addressed regarding paperwork reduction burdens for businesses affected by this rule. The requirement of § 395.8 that a driver prepare a daily record of duty status does not now apply to a driver who drives wholly within an intracity zone if the employing motor carrier maintains other required records and the driver does not violate the hours-of-service rules of § 395.3 and works no more than 12 consecutive hours. Also, under § 396.11 a driver is now required to file, in writing, at the completion of each day's work, a vehicle inspection report listing any defect or deficiency discovered or reported to the driver which would affect the safety of operation of the motor vehicle or result in its mechanical breakdown. If no defect or deficiency is discovered by or reported to the driver, the report must so indicate. Since exposure to potential accidents is greater in urban areas than anywhere else, it is incumbent upon the drivers of those vehicles to assure themselves that their vehicles are always in good mechanical repair. The other users of the highways within urban areas deserve the same degree of care as is required for the users of suburban or rural highways.

Currently, there are 189,908 motor carriers of record in the DOT motor carrier census file. There are 145,009 (76.3 percent) who operate a single motor vehicle. An additional 25,253 (13.3 percent) motor carriers operate between two and six motor vehicles. The FMCSRs have been applied uniformly to small entities operating outside the exempt intracity zones since 1936. The FHWA is unaware of any unique attribute of small entities operating as motor carriers within an exempt intracity zone that would make them more likely to suffer adverse effects than small entities operating outside those zones. The FHWA continues to believe that our certification that the rule will not have a significant impact on a substantial number of small entities is accurate.

Government Transportation Operations

Motor vehicles operated by agencies of the Federal or the various State governments and/or their political subdivisions, in furtherance of their governmental or civic duties, have been administratively exempted from the safety regulations. However, the FHWA has encouraged their compliance with the FMCSRs.

The FHWA proposed to continue the exemption for Federal, State, and local governments. Comments were requested on this proposal as well as on what additional steps the FHWA might take to foster compliance with the regulations by governments. Seven commenters addressed this issue. It is noted by the FHWA that none of the commenters on this issue were from a governmental entity. Six commenters opposed the proposed exemption and one favored it. The ATA stated that it does not believe "that DOT can effectively promote such compliance on one hand while on the other hand, it tells the government agencies that they don't have to comply." The commenters opposing the exemption generally believe that where government fleet operations are similar in nature to normal commercial vehicle operations, they should meet the same safety standards. The ABA believes that the Congress has clearly indicated its intent that these groups should be governed by Federal safety regulations when performing interstate operations.

The FHWA believes that Congress intended that the safety regulations of governmental operations be left to the State and local authorities. In the Motor Carrier Safety Act of 1984, Congress defined "employer" and "employee" to exclude the United States, any State, or any political subdivision of a State. [Section 204]. This definition is different from that used in the Commercial Motor Vehicle Safety Act of 1986 for the employers of drivers of commercial motor vehicles which included Federal, State, and local governments in the definition of employers. The 1984 Act and the 1986 Act address separate and district issues regarding commercial motor vehicle operations. The 1984 Act requires the Secretary to issue regulations pertaining to commercial motor vehicle safety involved in interstate commerce. The 1986 Act requires the Secretary to issue rules pertaining to the issuance of commercial driver's licenses to all drivers operating large commercial motor vehicles in interstate and intrastate commerce. Thus, the final rule follows the 1984 Act and governmental entities are being excluded from coverage by the FMCSRs.

In considering this issue, the FHWA has considered the President's Executive Order on "Federalism" issued on October 26, 1987. The purpose of the Executive Order is to restore the division of governmental responsibilities between the national government and the States. "Federal action limiting the policy-making discretion of the States should be taken only where constitutional authority for the action is clear and certain and the national activity is necessitated by the presence of a problem of national scope." (Section (3)(b).) When undertaking to formulate and implement policies that have Federalism implications, Executive departments and agencies are required to "refrain, to the maximum extent possible, from establishing uniform, national standards for programs and, when possible, defer to the States to establish standards." (Section (3)(d)(2).) Where a Federal statute does not preempt State law, "Executive departments and agencies shall construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rulemaking only when the statute expressly authorizes issuance of preemptive regulations or there is some other firm and palpable evidence compelling the conclusion that the Congress intended to delegate the department or agency the authority to issue regulations preempting State law." (Section (4)(b).)

In light of these considerations, the FHWA will continue to exempt the transportation operations conducted by agencies of the Federal Government, a State, or any political subdivision of a State. This exemption will also include mass transit agencies established under a compact between States that has been approved by the Congress of the United States. This action is consistent with the Executive Order. The FHWA will periodically review the safety performance of these operations. If it appears that these operations, or a segment of them, pose an unacceptable risk to public safety, the FHWA will propose appropriate, necessary safety measures to improve these operations. To this end, the FHWA will continue to require governmental entities engaging in interstate charter transportation of passengers to comply with the accident reporting requirements of Part 394 of the FMCSRs.

In addition, the FHWA is exempting, from the requirements of 49 CFR 390 through 399, all emergency vehicles (i.e., ambulances, fire trucks, and rescue vehicles) while engaged in emergency operations. This exemption is applicable to nongovernment vehicles. As noted

earlier, drivers of such vehicles are subject to the provisions of the CMVSA as promulgated in 49 CFR Part 383. This exemption reflects an interpretation of the FMCSRs regarding ambulances and makes it applicable to other emergency vehicles. The FHWA believes that the safety regulation of emergency vehicles is best left to State and local governments.

Marking of Motor Vehicles (§ 390.21)

The FHWA, in its NPRM of July 13, 1987, proposed to require the motor carrier's census number to be marked on every self-propelled commercial motor vehicle operated by an interstate motor carrier of migrant workers and a private motor carrier which transports property in interstate commerce. The agency also proposed that the motor carrier's name or trade name, and the name of the city or community and State abbreviation where its principal place of business is maintained be included as part of the marking requirement.

Ten commenters offered views on this issue. Four favored the requirement as proposed. Private motor carrier commenters oppose the requirement to display the name or trade name and the city and State in which the carrier maintains its principal place of business. They cite several reasons for their opposition (e.g., do not want to encourage the theft of high-value freight; do not want to advertise the fact that a manufacturer makes and delivers its products to its competitors).

Private motor carriers operating commercial motor vehicles in interstate commerce and laden with hazardous materials requiring placarding are required to identify each vehicle by displaying (1) the name or trade name of the private carrier, and (2) the city or community and State abbreviation in which the carrier maintains its principal place of business or in which the vehicles are customarily based. (*See* 49 CFR 397.21.) For-hire motor carriers operating commercial motor vehicles in interstate commerce under authority issued by the ICC must similarly identify their vehicles. (*See* 49 CFR Part 1058.)

There are now more motor vehicles on the Nation's highways than ever before. There are continuing reports made to Federal, State, and local governments that the owners or operators of commercial motor vehicles involved in motor vehicle accidents are difficult to identify. Sideswipe accidents and hit and run accidents have been cited as two problem areas. License plates and names on trailers often cannot be used to identify the operator of a specific vehicle. Verification of ownership by law enforcement officers is often impeded because the vehicle being operated is licensed to someone other than the operator of the vehicle. Generally, those motor carriers who would be affected by the proposed marking rule have no requirement to carry identification of any sort on the vehicle other than State requirements for vehicle registration. Also, many of these motor carriers have the same or similar names which tend to negate quick and positive identification.

This marking requirement would assist Federal and State enforcement personnel in properly identifying motor carriers during roadside vehicle inspections, thus assuring the submission of accurate inspection results and other data into a management information system. Also, the general public will be able to identify and report to the motor carrier or an enforcement agency any operations being conducted in a reckless manner by the operator of a commercial motor vehicle.

There is a segment of the motor carrier industry that neither the DOT nor the ICC has the authority to regulate insofar as vehicle identification and marking is concerned. That segment is known as "exempt carriers." "Exempt carriers" are for-hire motor carriers that have been exempted from economic regulation. This group of for-hire motor carriers is currently subject to Federal safety regulations, but will not be required to mark their vehicles. The ATA urges the DOT to seek additional legislative authority to regulate the marking of this group of motor carriers.

In view of the above, the FHWA will require every self-propelled commercial motor vehicle operated by a private motor carrier of property in interstate commerce, and every motor vehicle operated by an interstate motor carrier of migrant workers to be marked with an identification number, if a number has been assigned to the motor carrier by the FHWA, the name or trade name of the private carrier or migrant worker carrier, and the city or community and State abbreviation in which the carrier maintains its principal place of business.

The statutory authority for this requirement is clear. [*See* 49 U.S.C. 3104.] The FHWA believes that the benefits derived from a uniform requirement for marking interstate commercial motor vehicles requires Federal action in this instance.

Motor carrier identification numbers are assigned by computer when the identity of a motor carrier is entered into the FHWA's Office of Motor Carriers Management Information System. All motor carriers are assigned a number, including carriers certificated by the ICC. A portion of this number appears in the upper right of the letter notifying the carrier of its assigned safety rating. No effort has heretofore been made to notify motor carriers of their assigned numbers since it was only used by the FHWA to distinguish between carriers that have the same or similar names and trade names. It is now also used for data processing purposes. The FHWA will notify all currently registered motor carriers by mail of their motor carrier identification number. A motor carrier that does not receive notification by mail may obtain its identification number by providing the FHWA with the motor carrier name, principal office address, and, if applicable, the ICC assigned docket number. Written requests shall be addressed to the Office of Motor Carrier Information Management and Analysis, HIA–1, Federal Highway Administration, 400 Seventh Street SW., Washington, DC, 20590. Motor carriers *should not* display a number without receiving mailed notification of the correct number from the FHWA.

Motor carriers that have not been assigned an identification number may obtain one by filing Form MCS–150, Motor Carrier Identification Report, with the FHWA. Form MCS–150 may be obtained from any of the FHWA region or division motor carrier safety offices. The location of the Regional Motor Carrier Safety Offices are listed in § 390.40.

The Truck Rental and Leasing Association (TRALA) supports the requirement for private motor carriers and carriers of migrant workers to display the proposed information. The TRALA proposes that commercial rental vehicles (i.e., those vehicles rented or leased to private carriers for less than 1 year) be allowed to use the rental company's name and address for census identification purposes and that a DOT census number be assigned to the truck rental company for use on its rental vehicles. Rental vehicles are generally used by private motor carriers to temporarily supplement or replace permanently owned-leased vehicles for periods of a few days or a few weeks. "It would be impractical," TRALA states, "to require that these temporary vehicles be permanently marked with the lessee's identification or to require an expensive removable identification device be prepared each time a commercial customer wishes to rent a truck." Those motor carriers now required to mark their vehicles in a specific manner lease motor vehicles from leasing companies for periods of less than one year whenever such

vehicles are needed. Such a practice has been ongoing for many years. There has been little or no resistance to the current marking requirements by those motor carriers. Further, the FHWA has no authority to require non-motor carriers to mark vehicles.

Private Carriage of Passengers

Section 204(1) of the Act defines the term "commercial motor vehicle," in part, as "any self-propelled or towed vehicle used on highways in interstate commerce to transport passengers or property * * * ." This definition includes the private carriage of passengers.

The ABA commented at length concerning the definition of a "commercial motor vehicle" as it appears in Section 204 of the Act. The ABA called for the immediate inclusion of private motor carriers of passengers under the applicability section of the FMCSRs.

The FHWA recognizes that the Congress provided the Secretary with the authority to regulate the safety of the private carriage of passengers. Since this segment of the motor carrier population has never been subject to Federal safety regulations, however, it was decided that this issue should be addressed in a separate rulemaking action. The FHWA has contracted with a research firm, ASW Associates of Silver Spring, Maryland, to prepare a regulatory evaluation and regulatory flexibility analysis for the inclusion of private motor carriers of passengers under the provisions of the FMCSRs. The FHWA intends to publish a NPRM in the near future to seek public comment on this subject.

Other Issues

Aiding or Abetting Violations (§ 390.13)

The aiding or abetting prohibition previously found at 49 CFR 391.7 is incorporated in § 390.13. The IBT was the sole commenter to this issue and endorsed the proposal made in the NPRM. The IBT recommended that the requirement be made more explicit by adding the word "driver" after the term "motor carrier." We believe that this recommendation clarifies the existing rule and we have decided to incorporate it, with modification, by adding the word "employee" which we believe is more encompassing and consistent with the intent of the rule. The term, "this subchapter," has been replaced with the term, "this chapter." This is being done to include Part 325, Compliance with interstate motor carrier noise emission standards.

This provision gives notice that any person who knowingly and willfully conspires with a motor carrier or an employee of a motor carrier to violate the rules of Chapter III, Title 49, Code of Federal Regulations, may be subject to prosecution under Title 18 of the United States Code. See 18 U.S.C. 371 (1982).

Intermittent, Casual or Occasional Driver

The FHWA proposed to move all definitions appearing in more than one part of the FMCSRs to a centralized location, entitled "Definitions," in Part 390. Further, comments were sought concerning the clarity and application of the definitions contained in the proposed § 390.5.

For the sake of clarity, the ATA recommended adding the following sentence to the definition of "intermittent, casual or occasional driver":

> The qualification of such a driver shall be determined and recorded in accordance with the provisions of Sections 391.63 or 391.65 of this subchapter, as applicable.

The recommended language does clarify the proposed definition. For this reason, the FHWA has added the recommended language to the definition of "intermittent, casual or occasional driver."

State and Local Laws, Effect on (§ 390.9)

The FHWA proposed to redesignate § 390.30, State and local laws, effect on, as § 390.9. In its proposal, the FHWA recognized that the work of the Commercial Motor Vehicle Safety Regulatory Review Panel (Safety Panel), established under section 209 of the Act, might require a revision to this section. It is the FHWA's intention to retain § 390.9, however, until the Safety Panel has completed its work.

The ATA proposed that the various States be specifically prohibited from promulgating truck safety regulations in such areas as qualifications of drivers, special driving rules for trucks, equipment requirements, hours-of-service requirements, and inspection and maintenance, which are inconsistent with the FMCSRs. Section 208 of the Act directs the Secretary to conduct a rulemaking proceeding to determine whether a particular State motor carrier safety law or regulation may remain in effect and enforced with respect to commercial motor vehicles. The Safety Panel has been established to provide recommendations to the Secretary. The Safety Panel is in the process of reviewing and analyzing the laws and regulations of each State in accordance with Section 208. The FHWA believes that any preemption of State laws and regulations pertaining to commercial motor vehicle safety should occur only after the Safety Panel's recommendations have been received, and only in accordance with the procedures set forth in Section 208 of the Act.

Relief from Hours-of-Service Regulations—Disasters (§ 390.23)

At the present time, § 395.12 provides that relief may be granted from the hours-of-service regulations if a motor carrier has been requested to transport passengers or property to or from any section of the country to provide relief, such as in the case of earthquake, flood, drought, or other disasters. The FHWA has proposed that the relief provisions of § 395.12 be brought to Part 390 and be designated as § 390.23, Relief from hours-of-service regulations—disasters. It was further proposed that motor carriers apply for such relief in accordance with procedures used by the FHWA since 1977. These proposals were made to assist potential users in locating the relief provision in the FMCSRs and to provide information as to the conditions which must exist and the procedures which must be followed in order to obtain temporary relief. The ATA opposed the proposal. It believes the proposed rule is unnecessary, unworkable, and will unnecessarily hamper the efforts of motor carriers to provide disaster relief.

In the past, motor carriers who were asked to perform a transportation service in connection with some type of disaster have sought the assistance of the agency's field staff. Details concerning what constituted a disaster and what relief from the hours-of-service regulations was available were sought by the motor carriers. Many of the motor carriers seeking assistance had overlooked § 395.12 or were unaware of its existence. There were enough requests for assistance from motor carriers that the agency, in February of 1977, developed a procedure for assisting these motor carriers. The procedure has saved many motor carriers time while en route to a specific emergency (i.e., being able to produce a letter of authorization to a State law enforcement officer at the time the driver was stopped). Further, violations of the hours-of-service rules could be readily explained during a subsequent Compliance Review performed by either Federal or State personnel by presentation of the letter issued by the appropriate Regional Director of Motor Carrier Safety.

Currently, any motor carrier seeking relief from the hours-of-service regulations because it is providing or is going to provide some type of disaster relief must follow an administrative procedure which, in substance, is the same as the proposed rule. The FHWA believes that by specifying the procedure in this final rule motor carriers and drivers will be better informed of the procedures to be followed.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this rule to all individuals will be minimal. A regulatory evaluation and flexibility analysis has been prepared and is available for review in the public docket.

For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

This final regulation principally amends Parts 390 of the FMCSRs pertaining to the scope and applicability of the FMCSRs to interstate transportation by motor carriers. Nothing in this document directly preempts any State law or regulation. The FMCSRs establish minimum safety regulations which, at the current time, may be supplemented by the States, except for the adoption of inconsistent regulations. The statutory basis for Federal regulation of interstate commerce has been outlined above. Several issues addressed in this final rule, however, involve policies that have federalism implications. These issues have been addressed separately above. (See specifically the discussion of school buses, intracity zone exemption, government vehicles and other emergency vehicles, and marking of vehicles.) This final rule limits the policymaking discretion of the States only in narrow ways, and does so only to achieve the national purposes of the Act. Accordingly, it is certified that the policies contained in this document have been assessed in light of the principles, criteria, and requirements of the Federalism Executive Order.

List of Subjects in 49 CFR Parts 390, 391, 392, 393, 394, 395, 396, and 397.

Highway safety, Highways and roads, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements, Motor vehicle safety.

(Catalog of Federal Domestic Assistance Program Number 20.217, motor carrier safety)

Issued on May 12, 1988.

Robert E. Farris,

Deputy Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending Title 49, Code of Federal Regulations, Subtitle B, Chapter III, as follows:

1. Part 390 is revised to read as follows:

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

Subpart A—General Applicability and Definitions

Sec.

Subpart B—General Requirements and Information

Authority: 49 U.S.C. app . 2503 and 2505; 49 U.S.C. 3102 and 3104; 49 CFR 1.48.

Subpart A—General Applicability and Definitions

§ 390.1 Purpose.

This part establishes general applicability, definitions, general requirements and information as they pertain to persons subject to this chapter.

§ 390.3 General applicability.

(a) The rules in Subchapter B of this chapter are applicable to all employers, employees, and commercial motor vehicles, which transport property or passengers in interstate commerce.

(b) The rules in Part 383, Commercial Driver's License Standards; Requirements and Penalties, are applicable to every person who operates a commercial motor vehicle, as defined in § 383.5 of this subchapter, in interstate or intrastate commerce and to all employers of such persons.

(c) The rules in Part 387, Minimum levels of financial responsibility for motor carriers, are applicable to motor carriers as provided in §§ 387.3 or 387.27 of this subchapter.

(d) Additional requirements. Nothing in subchapter B of this chapter shall be construed to prohibit an employer from requring and enforcing more stringent requirements relating to safety of operation and employee safety and health.

(e) Knowledge of and compliance with the regulations.

(1) Every employer shall be knowledgeable of and comply with all regulations contained in this subchapter which are applicable to that motor carrier's operations.

(2) Every driver and employee shall be instructed regarding, and shall comply with, all applicable regulations contained in this subchapter.

(3) All motor vehicle equipment and accessories required by this subchapter shall be maintained in compliance with all applicable performance and design criteria set forth in this subchapter.

(f) Exceptions. Unless otherwise specifically provided, the rules in this subchapter do not apply to—

(1) All school bus operations as defined in § 390.5;

(2) Transportation performed by the Federal government, a State, or any political subdivision of a State, or an agency established under a compact between States that has been approved by the Congress of the United States. The accident reporting requirements of Part 394 of this subchapter remain applicable to the entities identified in this paragraph when engaged in the interstate charter transportation of passengers.

(3) The occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise;

(4) The transportation of human corpses or sick and injured persons;

(5) The operation of fire trucks and rescue vehicles while involved in emergency and related operations;

(6) Any "exempt intracity zone" operation, as defined in § 390.5, if a State has adopted and enforces State laws and regulations, compatible with the rules in this subchapter, applicable to such intracity zone operation;

(7) The private transportation of passengers.

(g) Limited exceptions. The provisions of § 391.11(b)(1) (relating to minimum

age), and the provisions of §§ 391.41(b)(3) (pertaining to insulin controlled diabetes), (b)(8) (pertaining to epilepsy, (b)(10) (pertaining to visual acuity), and (b)(11) (relating to hearing), do not apply to a person who:

(1) Was a regularly employed driver (as defined in § 390.5) for a motor carrier as of May 19, 1988;

(2) Meets all the other requirements of § 391.41(b); and

(i) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control that is likely to interfere with the driver's ability to control and drive a commercial motor vehicle safely.

(ii) Has no established medical history or clinical diagnosis or epilepsy or any other loss of consciousness condition that is likely to interfere with the driver's ability to control and drive a commercial motor vehicle safely.

(iii) Has distant visual acuity of at least 20/40 (Snellen) in one eye without corrective lenses or visual acuity corrected to 20/40 (Snellen) or better with corrective lenses. Has a field of vision of at least 70° in the horizontal Meridian in one eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and yellow.

(iv) Has no current clinical diagnosis of hearing loss, with or without a hearing aid, which is likely to interfere with the driver's ability to control and drive a commercial motor vehicle safely.

(3) Has been certified in accordance with § 391.43(e)(3);

(4) Continues to be a regularly employed driver for a motor carrier;

(5) Operates wholly within the exempt intracity zone (as defined in § 390.5); and

(6) Does not operate a vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under the Hazardous Materials Transportation Act (49 U.S.C. App. 1801–1813).

(h) The limited exceptions provided in paragraph (g) of this section shall be effective until—

(1) The driver is disqualified under the provisions of § 391.15 of this subchapter;

(2) The driver operates a commercial motor vehicle beyond the exempt intracity zone; or

(3) November 15, 1990, whichever comes first.

§ 390.5 Definitions.

In this subchapter:

"Bus" means any motor vehicle designed, constructed, and or used for the transportation of passengers, including taxicabs.

"Business district" means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

"Charter transportation of passengers" means transportation, using a bus, of a group of persons who pursuant to a common purpose, under a single contract, at a fixed charge for the vehicle, have acquired the exclusive use of the vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin.

"Commercial motor vehicle" means any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property when:

(a) The vehicle has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds; or

(b) The vehicle is designed to transport more than 15 passengers, including the driver; or

(c) The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under the Hazardous Materials Transportation Act (49 U.S.C. App. 1801–1813).

"Driveaway-towaway operation" means any operation in which a motor vehicle constitutes the commodity being transported and one or more set of wheels of the vehicle being transported are on the surface of the roadway during transportation.

"Driver" means any person who operates any commercial motor vehicle.

"Employee" means:

(a) A driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle);

(b) A mechanic;

(c) A freight handler; and

(d) Any individual, other than an employee, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, any political subdivision of a State, or any agency established under a compact between States and approved by the Congress of the United States who is acting within the course of such employment.

"Employer" means any person engaged in a business affecting interstate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such terms does not include the United States, any State, any political subdivision of a State, or an agency established under a compact between States approved by the Congress of the United States.

"Exempt intracity zone" means a municipality or the commercial zone of that municipality as defined by the ICC in 49 CFR Part 1048, revised as of October 1, 1975. The definitions are printed in Appendix F to Subchapter B of this Chapter. The term "exempt intracity zone" does not include any municipality or commercial zone in the State of Hawaii.

"Exempt motor carrier" means a person engaged in transportation exempt from economic regulation by the Interstate Commerce Commission (ICC) under 49 U.S.C. 10526. "Exempt motor carriers" are subject to the safety regulations set forth in this subchapter.

"Farm-to-market agricultural transportation" means the operation of a motor vehicle controlled and operated by a farmer who:

(a) Is a private motor carrier of property;

(b) Is using the vehicle to transport agricultural products from a farm owned by the farmer, or to transport farm machinery or farm supplies to or from a farm owned by the farmer; and

(c) Is not using the vehicle to transport hazardous materials of a type or quantity that require the vehicle to be placarded in accordance with § 177.823 of this subtitle.

"Farm vehicle driver" means a person who drives only a motor vehicle that is—

(a) Controlled and operated by a farmer as a private motor carrier of property;

(b) Being used to transport either—

(1) Agricultural products, or

(2) Farm machinery, farm supplies, or both, to or from a farm;

(c) Not being used in the operation of a for-hire motor carrier;

(d) Not carrying hazardous materials of a type or quantity that requires the vehicle to be placarded in accordance with § 177.823 of this subtitle; and

(e) Being used within 150 air-miles of the farmer's farm.

"Farmer" means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which—

(a) Are owned by that person; or

(b) Are under the direct control of that person.

"Federal Highway Administrator" means the chief executive of the Federal Highway Administration, an agency within the Department of Transportation.

"For-hire motor carrier" means a person engaged in the transportation of goods or passengers for compensation.

"Gross combination weight rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

"Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single vehicle.

"Hazardous material" means a substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.

"Hazardous substance" means a material, and its mixtures or solutions, that is identified in the Appendix to § 172.101, List of Hazardous Substances and Reportable Quantities, of this title 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 mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in § 171.8 of this title, based on the reportable quantity (RQ) specified for the materials listed in the Appendix to § 172.101.

"Hazardous waste" means any material that is subject to the hazardous waste manifest requirements of the EPA specified in 40 CFR Part 262 or would be subject to these requirements absent an interim authorization to a State under 40 CFR Part 123, Subpart F.

"Intermittent, casual, or occasional driver" means a driver who in any period of 7 consecutive days is employed or used as a driver by more than a single motor carrier. The qualification of such a driver shall be determined and recorded in accordance with the provisions of §§ 391.63 or 391.65 of this subchapter, as applicable.

"Interestate commerce" means trade, traffic, or transportation in the United States which is between a place in a State and a place outside of such State (including a place outside of the United States) or is between two places in a State through another State or a place outside of the United States.

"Intrastate commerce" means any trade, traffic, or transportation in any State which is not described in the term "interstate commerce."

"Motor carrier" means a for-hire motor carrier or a private motor carrier of property. The term "motor carrier" includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of Subchapter B, the definition of *"motor carrier"* includes the terms *"employer"* and *"exempt motor carrier."*

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Highway Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

"Operator" — See driver.

"Other terms" — Any other term used in this subchapter is used in its commonly accepted meaning, except where such other term has been defined elsewhere in this subchapter. In that event, the definition therein given shall apply.

"Person" means any individual, partnership, association, corporation, business trust, or any other organized group of individuals.

"Principal place of business" means a single location designated by the motor carrier, normally its headquarters, where records required by Parts 387, 391, 394, 395, and 396 of this subchapter will be maintained. Provisions in this subchapter are made for maintaining certain records at locations other than the principal place of business.

"Private motor carrier of passengers" means a person who is engaged in an enterprise other than transportation, and provides transportation of passengers, by motor vehicle, that is within the scope of, and in the furtherance of that enterprise.

"Private motor carrier of property" means a person who transports, by motor vehicle, property of which that person is the owner, lessee or bailee; such transportation being for the purpose of sale, lease, rent, bailment, or in the furtherance of any commerical enterprise other than transportation.

"Regional Director" means the Regional Director, Office of Motor Carrier Safety, for a given geographical region of the United States.

"Regularly employed driver" means a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier.

"Residential district" means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences.

"School bus" means a passenger motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likely to be significantly used for the purpose of transporting preprimary, primary, or secondary school students to such schools from home or from such schools to home.

"School bus operation" means the use of a school bus to transport only school children and/or school personnel from home to school and from school to home.

"Secretary" means the Secretary of Transportation.

"Special agent" See Appendix B to Subchapter B — Special agents.

"*State*" means a State of the United States and the District of Columbia and includes a political subdivision of a State.

"*Taxicab*" means a passenger-carrying vehicle, usually a motor vehicle designed to seat five or seven persons, with or without a taximeter, available as a common carrier for hire by hailing on public thoroughfares or at public stations or stands, but not operated on a schedule. Taxicabs do not include vehicles that are only available by radio or telephone dispatch, but may include vehicles that are dispatched by radio or telephone if those vehicles are also available for hire by hailing on public thoroughfares or at stations or stands.

"*Trailer*" includes:

(a) *Full trailer* means any motor vehicle other than a pole trailer which is designed to be drawn by another motor vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing unit. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer.

(b) *Pole trailer* means any motor vehicle which is designed to be drawn

by another motor vehicle and attached to the towing vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections.

(c) *Semitrailer* means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-propelled towing vehicle.

"*Truck*" means any self-propelled motor vehicle except a truck tractor, designed and/or used for the transportation of property.

"*Truck tractor*" means a self-propelled motor vehicle designed and/or used primarily for drawing other vehicles.

"*United States*" means the 50 States and the District of Columbia.

§ 390.7 Rules of construction.

(a) In Part 325 of Subchapter A and in this subchapter, unless the context requires otherwise:

(1) Words imparting the singular include the plural;

(2) Words imparting the plural include the singular;

(3) Words imparting the masculine gender include the feminine; and

(4) Words imparting the present tense include the future tense.

(b) In this subchapter the word—

(1) "*Officer*" includes any person authorized by law to perform the duties of the office;

(2) "*Writing*" includes printing and typewriting;

(3) "*Shall*" is used in an imperative sense;

(4) "*Must*" is used in an imperative sense;

(5) "*Should*" is used in a recommendatory sense;

(6) "*May*" is used in a permissive sense; and

(7) "*Includes*" is used as a word of inclusion, not limitation.

Subpart B—General Requirements and Information

§ 390.9 State and local laws, effect on.

Except as otherwise specifically indicated, Subchapter B of this chapter is not intended to preclude States or subdivisions thereof from establishing or enforcing State or local laws relating to safety, the compliance with which would not prevent full compliance with these regulations by the person subject thereto.

§ 390.11 Motor carrier to require observance of driver regulations.

Whenever in Part 325 of Subchapter A or in this subchapter a duty is prescribed for a driver or a prohibition is imposed upon the driver, it shall be the duty of the motor carrier to require observance of such duty or prohibition. If the motor carrier is a driver, the driver shall likewise be bound.

§ 390.13 Aiding or abetting violations.

No person shall aid, abet, encourage, or require a motor carrier or its employees to violate the rules of this chapter.

§§ 390.15—390.17 [Reserved]

§ 390.19 Additional equipment and accessories.

Nothing in this subchapter shall be construed to prohibit the use of additional equipment and accessories, not inconsistent with or prohibited by this subchapter, provided such equipment and accessories do not decrease the safety of operation of the motor vehicles on which they are used.

§ 390.21 Marking of motor vehicles.

(a) *General.* Every self-propelled commercial motor vehicle operated by a private motor carrier of property in interstate commerce, and every self-propelled motor vehicle operated by an interstate motor carrier of migrant workers, must be marked as specified in paragraphs (b) and (c) of this section.

(b) *Nature of marking.* The marking must display the following information:

(1) The name or trade name of the motor carrier operating the self-propelled motor vehicle.

(2) The city or community and State [name abbreviated], in which the carrier maintains its principal place of business.

(3) The motor carrier identification number, if issued by the FHWA, preceded by the letters "USDOT".

(4) If the name of any person other than the operating carrier appears on the motor vehicle operated under its own power, either alone or in combination, the name of the operating carrier shall be followed by the information required by paragraphs (b)(1) and (2) of this section, and be preceded by the words "*operated by.*"

(5) Other identifying information may be displayed on the vehicle if it is not inconsistent with the information required by this paragraph.

(c) *Size, shape, location, and color of marking.* The marking must—

(1) Appear on both sides of the self-propelled vehicle;

(2) Be in letters that contrast sharply in color with the background on which the letters are placed;

(3) Be readily legible, during daylight hours, from a distance of 50 feet while the vehicle is stationary; and

(4) Be kept and maintained in a manner that retains the legibility required by paragraph (c)(3) of this section.

(d) *Construction and durability.* The marking may be painted on the motor vehicle or may consist of a removable device, if that device meets the identification and legibility requirements of this section, and such marking shall be maintained in such a manner as to remain legible as required by this section.

§ 390.23 Relief from hours-of-service regulations—disasters.

(a) Any motor carrier which has been requested to provide relief services due to disasters such as floods, earthquakes, or pestilence, or governmentally declared emergencies, may request relief from § 395.3(b) of Part 395 regarding maximum driving and on-duty time. The relief shall apply only to those situations where a motor carrier is directly engaged in or supporting relief operations.

(b) Any motor carrier seeking relief from § 395.3(b) shall contact the Regional Director for Motor Carrier Safety in the region in which the motor carrier's principal place of business is located, by telephone, giving full details of the disaster or emergency situation. If it is determined that relief from § 395.3(b) is necessary to enhance the motor carrier's ability to provide vital service to the public, relief shall be granted along with any restrictions which may be considered necessary.

(c) Within 24 hours after any relief from § 395.3(b) has been granted by telephone communication, a formal written request shall be submitted to the Regional Director. The request shall give full details of the relief operation, the regulatory relief sought, and the period of time for which the relief is requested. All approvals for relief may be subject to special conditions.

§ 390.25 [Reserved]

§ 390.27 Locations of regional motor carrier safety offices.

Region No.	Territory included	Location of regional office
1	Connecticut, Maine, Massachusetts, New Jersey, New Hampshire, New York, Rhode Island, Vermont, Puerto Rico, and the Virgin Islands. That part of Canada east of Highways 19 and 8 from Port Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury, and thence due north to the Canadian border.	Leo W. O'Brien, Federal Office Building, Room 729, Albany, NY 12207.
3	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia	31 Hopkins Plaza, Federal Building, Room 1643, Baltimore, MD 21201.
4	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.	1720 Peachtree Rd., NW., Suite 200, Atlanta, GA 30309.
5	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. That part of Canada west of Highways 19 and 8 from Port Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury, and thence due north to the Canadian border, and east of the boundary between the Provinces of Ontario and Manitoba to Hudson Bay and thence a straight line north to the Canadian border.	18209 Dixie Highway, Homewood, IL 60430.
6	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. All of Mexico, except the States of Baja California and Sonora and the Territory of Baja California Sur., Mexico. All nations south of Mexico.	Room 8A00, Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.
7	Iowa, Kansas, Missouri, and Nebraska	6301 Rockhill Rd., P.O. Box 19715, Kansas City, MO 64141.
8	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming. That part of Canada west of the boundary between the Provinces of Ontario and Manitoba to Hudson Bay and thence a straight line due north to the Canadian border, and east of Highway 95 from Kingsgate to Blaeberry and thence a straight line due north to the Canadian border.	555 Zang Street, Room 400, Lakewood, CO 80228.
9	Arizona, California, Hawaii, Nevada, Guam, American Samoa, and Mariana Islands. The States of Baja California and Sonora, Mexico, and the Territory of Baja California Sur., Mexico.	211 Main Street, Room 1108, San Francisco, CA 94105.
10	Alaska, Idaho, Oregon, and Washington. That part of Canada west of Highway 95 Kingsgate to Blaeberry and thence a straight line due north to the Canadian border, and all the Province of British Columbia.	Mohawk Building, Room 414, 708 SW., Third Ave., Portland, OR 97204.

§ 390.29 [Reserved]

§ 390.31 Copies of records or documents.

(a) All records and documents required to be maintained under this subchapter must be preserved in their original form for the periods specified, unless the records and documents are suitably photographed and the microfilm is retained in lieu of the original record for the required retention period.

(b) To be acceptable in lieu of original records, photographic copies of records must meet the following minimum requirements:

(1) Photographic copies shall be no less readily accessible than the original record or document as normally filed or preserved would be and suitable means or facilities shall be available to locate, identify, read, and reproduce such photographic copies.

(2) Any significant characteristic, feature or other attribute of the original record or document, which photography in black and white will not preserve, shall be clearly indicated before the photograph is made.

(3) The reverse side of printed forms need not be copied if nothing has been added to the printed matter common to all such forms, but an identified specimen of each form shall be on the film for reference.

(4) Film used for photographing copies shall be of permanent record-type meeting in all respects the minimum specifications of the National Bureau of Standards, and all processes recommended by the manufacturer shall be observed to protect it from deterioration or accidental destruction.

(5) Each roll of film shall include a microfilm of a certificate or certificates stating that the photographs are direct or facsimile reproductions of the original records. Such certificate(s) shall be executed by a person or persons having personal knowledge of the material covered thereby.

(c) All records and documents required to be maintained under this subchapter may be destroyed after they have been suitably photographed for preservation.

(d) *Exception.* All records except those requiring a signature may be maintained through the use of computer technology provided the motor carrier can produce, upon demand, a computer printout of the required data.

§ 390.33 Vehicles used for purposes other than defined.

Whenever a motor vehicle of one type is used to perform the functions normally performed by a motor vehicle of another type, the requirements of this subchapter and Part 325 of Subchapter A shall apply to the motor vehicle and to its operation in the same manner as though the motor vehicle were actually a motor vehicle of the latter type.

Example: If a motor vehicle other than a bus is used to perform the functions normally performed by a bus, the regulations pertaining to buses and to the transportation of passengers shall apply to that motor vehicle.

§ 390.35 Certificates, reports, and records: falsification, reproduction, or alteration.

No motor carrier, its agents, officers, representatives, or employees shall make or cause to make—

(a) A fraudulent or intentionally false statement on any application, certificate, report, or record required by Part 325 of subchapter A or this subchapter;

(b) A fraudulent or intentionally false entry on any application, certificate, report, or record required to be used, completed, or retained, to comply with any requirement of this subchapter or Part 325 of Subchapter A; or

(c) A reproduction, for fraudulent purposes, of any application, certificate, report, or record required by this subchapter or Part 325 of Subchapter A.

§ 390.37 Violation and penalty.

Any person who violates the rules set forth in this subchapter or Part 325 of Subchapter A may be subject to civil or criminal penalties.

Technical Amendments

Due to the revision of 48 CFR Part 390, the following technical amendments are necessary to correct citations found in other parts of title 49 CFR and are set forth below.

PART 391—[AMENDED]

2. The authority citation for Part 391 is revised to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 504 and 3102; 49 CFR 1.48.

§ 391.1 [Amended]

3. In § 391.1, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

§ 391.2 [Amended]

4. In § 391.2, paragraphs (a), (b), (c), and (f) are removed; paragraph (d) is redesignated as paragraph (a); and paragraph (e) is redesignated as paragraph (b).

§§ 391.3, 391.5, and 391.7 [Removed]

5. Sections 391.3, 391.5, and 391.7 are removed.

§ 391.15 [Amended]

6. In § 391.15, paragraph (c)(2)(i), the reference to § 390.40 in footnote 1 is revised to read § 390.27, and the words "Bureau of Motor Carrier Safety" in footnote 1 are revised to read "Office of Motor Carrier Standards."

§ 391.35 [Amended]

7. In § 391.35, paragraph (e), the reference to § 390.40 in footnote 1 is revised to read § 390.27, and the words "Bureau of Motor Carrier Safety" in footnote 1 are revised to read "Office of Motor Carrier Standards."

§ 391.41 [Amended]

8. In § 391.41, paragraph (b)(12), the reference to § 390 in footnote 1 is revised to read § 390.27, and the words "Bureau of Motor Carrier Safety" in footnote 1 are revised to read "Office of Motor Carrier Standards."

9. Section 391.43, paragraph (e), is amended by redesignating the concluding text as paragaphs (e)(1), (2), and (3) and revising it to read as follows:

§ 391.43 Medical examination; certificate of physical examination.

* * * * *

(e) * * *

(1) If the driver is qualified only when wearing a hearing aid, the following statement must appear on the medical examiner's certificate: "Qualified only when wearing a hearing aid."

(2) If a medical examiner determines a waiver is necessary under § 391.49, the following statement shall appear on the medical examiner's certificate: "Medically unqualified unless accompanied by a waiver."

(3) If a medical examiner determines the driver is qualified to drive only in an exempt intracity zone, the following statement shall appear on the medical examiner's certificate: "Medically unqualified unless driving within an exempt intracity zone."

§ 391.51 [Amended]

10. In § 391.51, paragraph (g), the reference to "§ 390.40" is revised to read as "§ 390.27".

§ 391.61 [Amended]

11. In § 391.61, the reference to "§ 395.2(f)" is revised to read as "§ 390.5".

§ 391.62 [Removed and reserved]

12. Section 391.62 is removed and reserved.

§ 391.63 [Amended]

13. In § 391.63, paragraph (a), the reference to "§ 395.2(f)" is revised to read as "§ 390.5".

14. In § 391.65, paragraph (a)(2)(iii) is revised to read as follows:

§ 391.65 Drivers furnished by other motor carriers.

(a) * * *

(2) * * *

(iii) Certifies that the driver has been regularly employed as defined in § 390.5; * * * * *

§ 391.67 [Amended]

15. In § 391.67, in the introductory text, the reference to "§ 391.3(d)" is revised to read "§ 390.5".

§ 391.69 [Amended]

16. In § 391.69, paragraph (b), the reference to "§ 395.2(f)" is revised to read "§ 390.5".

§ 391.71 [Amended]

17. In § 391.71, paragraphs (a) and (b), the references to "§ 395.2(f)" are revised to read "§ 390.5"; in paragraph (b)(1) the reference to "§ 390.4" is revised to read "§ 390.5".

PART 392—[AMENDED]

18. The authority citation for Part 392 is revised to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 3102; 49 CFR 1.48.

19. Section 392.1 is revised to read as follows:

§ 392.1 Scope of the rules in this part.

Every motor carrier, its officers, agents, representatives, and employees responsible for the management, maintenance, operation, or driving of motor vehicles, or the hiring, supervising, training, assigning, or dispatching of drivers, shall be instructed in and comply with the rules in this part.

§ 392.4 [Amended]

20. In §392.4, paragraph (a)(1), the reference in footnote 1 to "§ 390.40" is revised to read "§ 390.27", and the words "Bureau of Motor Carrier Safety" in footnote 1 are revised to read "Office of Motor Carrier Standards."

PART 393—[AMENDED]

21. The authority citation for Part 393 is revised to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 3102; 49 CFR 1.48.

22. Section 393.1 is revised to read as follows:

§ 393.1 Scope of the rules of this part.

Every employer and employee shall comply and be conversant with the requirements and specifications of this part. No employer shall operate a commercial motor vehicle, or cause or permit it to be operated, unless it is equipped in accordance with the requirements and specifications of this part.

§ 393.2 [Removed and reserved]

23. Section 393.2 is removed and reserved.

24. In § 393.75, paragraph (f)(1) is revised to read as follows:

§ 393.75 Tires.

(f) * * *

(1) *Front wheels—General rule.* No motor vehicle shall be operated with tires on the front wheels which carry a greater weight than that specified for the tires in any of the publications of the standardizing bodies listed in FMVSS No. 119 (49 CFR 571.119) and marked on the sidewall of the tire. *Exception: Provided*, that the load does not exceed rated capacity, tires not marked in accordance with FMVSS No. 119 may be used on the front axles of single-unit property-carrying vehicles.

PART 394—[AMENDED]

25. The authority citation for Part 394 is revised to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 504 and 3102; 49 CFR 1.48.

26. In § 394.1, paragraph (c) is revised to read as follows:

§ 394.1 Scope of the rules in this part.

* * * * *

(c) *Exemptions.* The rules in this part do not apply to farm-to-market agricultural transportation as defined in § 390.5.

* * * * *

§ 394.3 [Amended]

27. In § 394.3, paragraph (b)(3), the reference to "§ 394.5" is revised to read "§ 390.5".

§ 394.5 [Removed and reserved]

28. Section 394.5 is removed and reserved.

§ 394.7 [Amended]

29. In § 394.7, paragraph (a), the reference to "§ 390.40" is revised to read "§ 390.27".

§ 394.9 [Amended]

30. In section 394.9, paragraphs (a) and (d), the references to "§ 390.40" are revised to read "§ 390.27", and the words "Regional Director, Motor Carrier Safety" in paragraph (d) are revised to read "Regional Director, Office of Motor Carrier Safety."

PART 395—[AMENDED]

31. The authority citation for Part 395 is revised to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 504 and 3102; 49 CFR 1.48.

§ 395.1 [Removed and reserved]

32. Part 395 is amended by removing and reserving § 395.1.

§ 395.2 [Amended]

33. In § 395.2, paragraphs (f) and (j) are removed, and paragraphs (g), (h), and (i) are redesignated as paragraphs (f), (g) and (h), respectively.

§ 395.3 [Amended]

34. In § 395.3, paragraph (a)(3), the reference to "§ 395.2(g)" is revised to read "§ 395.2(f)".

§ 395.8 [Amended]

35. In § 395.8, in paragraphs (f)(11) and (h)(2), the references to "§ 395.2(g)" are revised to read as "§ 395.2(f)"; in paragraph (k)(2), the words "Regional Director, Motor Carrier Safety" are revised to read "Regional Director, Office of Motor Carrier Safety"; the reference to "§ 390.40" is revised to read as "§ 390.27"; paragraph (l)(2) is removed; and paragraph (l)(3) is redesignated as (l)(2).

§ 395.13 [Amended]

36. In § 395.13, paragraph (c)(2), the words "Regional Director, Motor Carrier Safety" are revised to read "Regional Director, Office of Motor Carrier Safety,".

PART 396—[AMENDED]

37. The authority citation for Part 396 is revised to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 504 and 3102; 49 CFR 1.48.

§ 396.1 [Amended]

38. In § 396.1, paragraph (b) is removed and the paragraph designation (a) is removed.

§ 396.3 [Amended]

39. In § 396.3, paragraph (c) is removed and paragraph (d) is redesignated as (c).

40. In § 396.11, paragraph (d) is revised to read as follows:

§ 396.11 Driver vehicle inspection report(s).

* * * * *

(d) *Exemption.* The rules in this section shall not apply to driveaway-towaway operations as specified in § 396.15, or to any motor carrier operating only one (1) motor vehicle.

PART 397—[AMENDED]

41. The authority citation for Part 397 is revised to read as follows:

Authority: 49 U.S.C. App. §§ 1801–1813 (1982 and Supp. III 1985); 49 CFR 1.48.

§ 397.1 [Amended]

42. In § 397.1, paragraph (c) is removed.

§ 397.19 [Amended]

43. In § 397.19, paragraph (b), the reference to § 390.40 is revised to read § 390.27.

§ 397.21 [Removed]

44. Section 397.21 is removed.

45. Appendix F to Subchapter B is added to read as follows:

Appendix F to Subchapter B—Commercial Zones

Note.—The text of these definitions is identical to the text of 49 CFR Part 1048, revised as of October 1, 1975, which is no longer in print.

Commercial Zones

Sec.

Section 1 New York, N.Y.

(a) The application of § 1048.101 Commercial Zones determined generally, with exceptions, is hereby extended to New York, N.Y.

(b) The exemption provided by section 203(b)(8) of the Interstate Commerce Act, of transportation by motor vehicle, in interstate or foreign commerce, performed wholly within the zone the limits of which are defined in paragraph (a) of this section, is hereby removed as to all such transportation except:

(1) Transportation which is performed wholly within the following territory: The area within the corporate limits of the cities of New York, Yonkers, Mount Vernon, North Pelham, Pelham, Pelham Manor, Great Neck Estates, Floral Park, and Valley Stream, N.Y., and Englewood, N.J.; the area within the borough limits of Alpine, Tenafly, Englewood Cliffs, Leonia, Fort Lee, Edgewater, Cliffside Park, Fairview, Palisades Park, and Ridgefield, Bergen County, N.J.; and that part of Hudson County, N.J., east of Newark Bay and the Hackensack River;

(2) Transportation which is performed in respect of a shipment which has had a prior, or will have a subsequent movement by water carrier, and which is performed wholly between points named in subparagraph (1) of this paragraph, on the one hand, and, on the other, those points in Newark and Elizabeth, N.J., identified as follows: All points in that area within the corporate limits of the cities of Newark and Elizabeth, N.J., west of Newark Bay and bounded on the south by the main line of the Central Railroad of New Jersey, on the west by the Newark & Elizabeth Branch of the Central Railroad Company

of New Jersey, and on the north by the property line of the Penn Central Transportation Company.

(3) Transportation which is performed in respect of a shipment by rail carrier, and which is performed wholly between points named in subparagraph (1) of this paragraph, on the one hand, and, on the other,

(a) Those portions of Kearny, N.J., within an area bounded on the north by the main line of the Jersey City Branch of the Penn Central Transportation Co., on the south and east by Fish House Road and Pennsylvania Avenue, and on the west by the property line of the Penn Central Transportation Co. Truck-Train Terminal.

(b)(i) That portion of Newark, N.J., within an area bounded on the north by South Street and Delancey Street, on the east by Doremus Avenue, on the south by the freight right-of-way of the Penn Central Transportation Co. (Waverly Yard, Newark, N.J., to Greenville Piers, Jersey City, N.J., line), and on the west by the Penn Central Transportation Co.'s Hunter Street produce yard, and (ii) that portion of Newark, N.J., within an area bounded on the north by Poinier Street, on the east by Broad Steet, on the south by the passenger right-of-way of the Penn Central Transportation Co.'s main line and on the west by Frelinghuysen Avenue.

(c) That portion of Port Reading, N.J., within an area bounded on the east by the Arthur Kill, on the south by the right-of-way of the Reading Co., on the west by Cliff Road, and on the north by Woodbridge-Carteret Road, and

(d) That portion of Elizabeth, N.J., within an area bounded by a line extending from Newark Bay westward along Trumbull Street to its intersection with Division Street; thence northward along Trumbull Street to its intersection with East North Avenue; thence eastward along East North Avenue to its intersection with the New Jersey Turnpike, thence along the New Jersey Turnpike to the Elizabeth Channel; thence easterly along the Elizabeth Channel to Newark Bay; thence along the western shore of Newark Bay to the point of beginning.

Sec. 2 Chicago, Ill.

The zone adjacent to and commercially a part of Chicago, Ill., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points as follows:

The area within the corporate limits of Chicago, Evanston, Oak Park, Cicero, Berwyn, River Forest, Willow Springs, Bridgeview, Hickory Hills, Worth, Homewood, and Lansing, Ill.; the area within the township limits of Niles, Maine, Leyden, Norwood Park, Proviso, Lyons, Riverside, Stickeny, Worth, Calumet, Bremen, and Thornton Townships, Cook County, Ill.; the area comprised of that part of Lemont Township, Cook County, and that part of Downers Grove Township, Du Page County, Ill., bounded by a line beginning at the intersection of Archer Avenue and the southern corporate limits of Willow Springs, Ill., and extending in a southwesterly direction along Archer Avenue to its junction with Chicago Joliet Road (Sag Lemont Highway), thence in a westerly direction over Chicago Joliet Road to its junction with Walker Road, thence directly north along an imaginary line to the southern shoreline of the Chicago Sanitary and Ship Canal, thence in a northeasterly direction along said shoreline to the corporate limits of Willow Springs, including points on the indicated portions of the highways specified; the area within Burr Ridge, Du Page County, bounded by a line beginning at the intersection of County Line Road and Frontage Road, thence southwesterly along Frontage Road to its intersection with Garfield Street, thence northerly along Garfield Street to its junction with 74th Street, thence westerly along an imaginary line to the junction of 74th Street and Grant Street, thence southerly along Grant Street to its junction with 75th Street, thence westerly along 75th Street to its junction with Brush Hill Road, thence southerly along Brush Hill Road to its junction with Frontage Road, thence northeasterly along Frontage Road to its junction with County Line Road; and the area within the corporate limits of Hammond, Whiting, East Chicago, and Gary, Ind.

Sec. 3 St. Louis, Mo.-East St. Louis, Ill.

(a) The zone adjacent to and commercially a part of St. Louis, Mo.-East St. Louis, Ill, within which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management or arrangement for a continuous carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points as follows:

(1) All points within the corporate limits of St. Louis, Mo.;

(2) All points in St. Louis County, Mo., within a line drawn 0.5 mile south, west, and north of the following line:—Beginning at the Jefferson Barracks Bridge across the Mississippi River and extending westerly along Missouri Highway 77 to its junction with U.S. Highway 61 Bypass, thence along U.S. Highway 61 Bypass to its junction with U.S. Highway 66, thence westerly along U.S. Highway 66 to its junction with Bowles Avenue, thence northerly along Bowles Avenue, actual or projected, to the Meramec River, thence easterly along the south bank of the Meramec River to a point directly south of the western boundary of Kirkwood, thence across the Meramec River to and along the western boundary of Kirkwood to Marshall Road, thence westerly along Marshall Road to its junction with Treecourt Avenue, thence northerly along Treecourt Avenue to its junction with Big Bend Road, thence easterly along Big Bend Road to the western boundry of Kirkwood, thence northerly along the western boundary of Kirkwood to its junction with Dougherty Ferry Road, thence westerly along Dougherty Ferry Road to its junction with Interstate Highway 244, thence northerly along Interstate Highway 244 to its junction with Manchester Road, thence easterly along Manchester Road to its junction with the northwest corner of Kirkwood, thence along the western and northern boundaries of Kirkwood to the western boundary of Huntleigh, Mo., thence along the western and northern boundaries of Huntleigh to its junction with Lindbergh Boulevard, thence northerly along Lindbergh Boulevard to its junction with Lackland Avenue, thence in a westerly direction along Lackland Avenue to its junction with the right-of-way of the proposed Circumferential Expressway (Interstate Highway 244), thence in a northerly direction along said right-of-way to its junction with the right-of-way of the Chicago, Rock Island and Pacific Railroad, thence in an easterly direction along said right-of-way to its junction with Dorsett Road, thence in an easterly direction along Dorsett Road to its junction with Lindbergh Boulevard, thence in a northerly direction along Lindbergh Boulevard to its junction with St. Charles Rock Road, thence westerly along St. Charles Rock Road to its function with the Missouri River, thence northerly along the east shore of the Missouri River to its junction with the Norfolk and Western Railway Co. right-of-way, thence easterly along the southern boundary of the Norfolk and Western Railway Co. right-of-way to Lindbergh Boulevard, thence in an easterly direction along Lindbergh Boulevard to the western boundary of St. Ferdinand (Florissant), Mo., thence along the western, northern, and eastern boundaries of St. Ferdinand to junction Insterstate Highway 270, and thence along Interstate Highway 270 to the corporate limits of St. Louis (near Chain of Rocks Bridge); and

(3) All points within the corporate limits of East St. Louis, Belleville, Granite City, Madison, Venice, Brooklyn, National City, Fairmont City, Washington Park, and Sauget, Ill.; that part of the village of Cahokia, Ill., bounded by Illinois Highway 3 on the east, First Avenue and Red House (Cargill) Road on the south and southwest, the east line of the right-of-way of the Alton and Southern Railroad on the west, and the corporate limits of Sauget, Ill., on the northwest and north; that part of Centerville, Ill., bounded by a line beginning at the junction of 26th Street and the corporate limit of East St. Louis, Ill., and extending northeasterly along 26th Street to its junction with Bond Avenue, thence southeasterly along Bond Avenue to its

junction with Owen Street, thence southwesterly along Owen Street to its junction with Church Road, thence southeasterly along Church Road to its junction with Illinois Avenue, thence southwesterly along Illinois Avenue to the southwesterly side of the right-of-way of the Illinois Central Railroad Co., thence along the southwesterly side of the right-of-way of the Illinois Central Railroad Co. to the corporate limits of East St. Louis, Ill, thence along the corporate limits of East St. Louis, Ill., to the point of beginning; and that area bounded by a line commencing at the intersection of the right-of-way of the Alton and Southern Railroad and the Madison, Ill., corporate limits near 19th Street, and extending east and south along said right-of-way to its intersection with the right-of-way of Illinois Terminal Railroad Co., thence southwesterly along the Illinois Terminal Railroad Co. right-of-way to its intersection with Illinois Highway 203, thence northwesterly along said highway to its intersection with the Madison, Ill., corporate boundary near McCambridge Avenue, thence northerly along the Madison, Ill., corporate boundary to the point of beginning.

(b) The exemption provided by section 203(b)(8) of the Interstate Commerce Act in respect of transportation by motor vehicle, in interstate or foreign commerce, between Belleville, Ill., on the one hand, and, on the other, any other point in the commercial zone, the limits of which are defined in paragraph (a) of this section, is hereby removed, and the said transportation is hereby subjected to all applicable provisions of the Interstate Commerce Act.

Sec. 4 Washington, DC.

The zone adjacent to and commercially a part of Washington, DC, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.A. 303(b)(8)) includes and it is comprised of all as follows:

Beginning at the intersection of MacArthur Boulevard and Falls Road (Maryland Highway 189) and extending northeasterly along Falls Road to its junction with Scott Drive, thence west on Scott Drive to its junction with Viers Drive, thence west on Viers Drive to its junction with Glen Mill Road, thence northeast on Glen Mill Road to its junction with Maryland Highway 28, thence west on Maryland Highway 28 to its junction with Shady Grove Road, thence northeast on Shady Grove Road approximately 2.7 miles to Crabbs Branch, thence southeasterly along the course of Crabbs Branch to Rock Creek, thence southerly along the course of Rock Creek to Viers Mill Road (Maryland Highway 586), thence southeasterly along Viers Mill Road approximately 0.3 mile to its junction with Aspen Hill Road, thence northeasterly along Aspen Hill Road to its junction with Brookeville Road (Maryland Highway 97), thence southeasterly along Brookeville Road to its junction with Maryland Highway 183, thence northeasterly along Maryland Highway 183 to Colesville, Md., thence southeasterly along Beltsville Road to its junction with Powder Mill Road (Maryland Highway 212), thence easterly over Powder Mill Road to its junction with Montgomery Road, thence northeasterly along Montgomery Road, approximately 0.2 mile, to its junction with an unnumbered highway extending northeasterly to the north of Ammendale Normal Institute, thence along such unnumbered highway for a distance of about 2.2 miles to its junction somewhat north of Virginia Manor, Md., with an unnumbered highway extending easterly through Muirkirk, Md., thence along such unnumbered highway through Muirkirk to its junction, approximately 1.8 miles east of the Baltimore and Ohio Railroad, with an unnumbered highway, thence southwesterly along such unnumbered highway for a distance of about 0.5 mile to its junction with an unnumbered highway, thence southeasterly along such unnumbered highway through Springfield and Hillmeade, Md., to its junction with Defense Highway (U.S. Highway 50), thence southwesterly along Defense Highway approximately 0.8 mile to its junction with Enterprise Road (Maryland Highway 556), thence southerly over Enterprise Road to its junction with Central Avenue (Maryland Highway 214), thence westerly over Central Avenue about 0.5 mile to its crossing of Western Branch, thence southerly down the course of Western Branch to Maryland Highway 202, thence westerly approximately 0.3 mile along Maryland Highway 202 to its junction with White House Road, thence southwesterly along White House Road to its junction with Maryland Highway 221, thence southeasterly along Maryland Highway 221 to its junction with Maryland Highway 4, thence westerly along Maryland Highway 4 to the boundary of Andrews Air Force Base, thence south and west along said boundary to Brandywine Road (Maryland Highway 5), thence northwesterly along Maryland Highway 5 to its junction with Maryland Highway 337, thence southwesterly along Maryland Highway 337 to its junction with Maryland Highway 224, thence southerly along Maryland Highway 224 to a point opposite the mouth of Broad Creek, thence due west across the Potomac River to the west bank thereof, thence southerly along the west bank of the Potomac River to Gunston Cove, thence up the course of Gunston Cove to Pohick Creek, thence up the course of Pohick Creek to Virginia Highway 611, thence southwesterly along Virginia Highway 611 to the Fairfax-Prince William County line, thence along said county line to Virginia Highway 123, thence northerly along Virginia Highway 123 to its junction with Virginia Highway 636, thence northeasterly along Virginia Highway 636 to its junction with Virginia Highway 638, thence northwesterly along Virginia Highway 638 to its junction with Virginia Highway 620, thence westerly along Virginia Highway 620 to its junction with Virginia Highway 655, thence northeasterly along Virginia Highway 655 to its junction with U.S. Highway 211, thence westerly along U.S. Highway 211 to its junction with Virginia Highway 608, thence northerly along Virginia Highway 608 to its junction with U.S. Highway 50, thence westerly along U.S. Highway 50 to the Fairfax-Loudoun County line, thence northeasterly along said county line to its intersection with Dulles International Airport, thence along the southern, western, and northern boundaries of said airport to the Fairfax-Loudoun County line (at or near Dulles Airport Access Road), thence northeasterly along said county line to its junction with Virginia Highway 7, thence southeasterly along Virginia Highway 7 to its junction with Virginia Highway 193, thence along Virginia Highway 193 to its junction with Scott Run Creek, thence northerly down the course of Scott Run Creek to the Potomac River, thence due north across the river to MacArthur Boulevard to its junction with Maryland Highway 189, the point of beginning.

Sec. 5 Los Angeles, Calif., and contiguous and adjacent municipalities.

(a) The exemption provided by section 203(b)(8) of Part II of the Interstate Commerce Act to the extent it affects transportation by motor vehicle, in interstate or foreign commerce, performed wholly within Los Angeles, Calif., or wholly within any municipalitiy contiguous or adjacent to Los Angeles, Calif., or wholly a part of Los Angeles, as defined in paragraph (b) of this section, or wholly within the zone adjacent to and commercially a part of the San Pedro, Wilmington, and Terminal Island Districts of Los Angeles and Long Beach, as defined in paragraph (c) of this section, or wholly within the zone of any independent municipality contiguous or adjacent to Los Angeles, as determined under § 1048.101, or otherwise, between any point in Los Angeles County, Calif., north of the line described below, on the one hand, and, on the other, any point in Los Angeles County, Calif., south thereof is hereby removed and the said transportation is hereby subjected to all the applicable provisions of the Interstate Commerce Act:

Beginning at the Pacific Ocean, and extending easterly along the northern and eastern corporate limits of Manhattan Beach to the northern corporate limits of Redondo Beach, thence along the northern and eastern corporate limits of Redondo Beach to the intersection of Inglewood Avenue and Redondo Beach Boulevard, thence along Redondo Beach Boulevard to the corporate limits of Torrance, thence along the northwestern and eastern corporate limits of Torrance to 182d Street, thence along 182d Street, Walnut, and Main Streets to Alondra

Boulevard, thence along Alondra Boulevard to its intersection with Dwight Avenue, thence southerly along Dwight Avenue and an imaginary straight line extending southward to Greenleaf Boulevard, thence eastward along Greenleaf Boulevard to the northwestern corner of the corporate limits of Long Beach, thence along the northern and eastern corporate limits of Long Beach to Artesia Boulevard, thence east on Artesia Boulevard to the Los Angeles-Orange County line.

(b) For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Los Angeles and contiguous municipalities (except the San Pedro, Wilmington, and Terminal Island districts of Los Angeles and Long Beach, Calif.), in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt from regulation under section 203(b)(8) of the act, is hereby defined to include the area of a line extending in a generally northwesterly and northerly direction from the intersection of Inglewood Avenue and Redondo Beach Boulevard along the eastern and northern corporate limits of Redondo Beach, Calif., to the eastern corporate limits of Manhattan Beach, Calif., thence along the eastern and northern corporate limits of Manhattan Beach to the Pacific Ocean, thence along the shoreline of the Pacific Ocean to the western corporate limits of Los Angeles at a point east of Topanga Canyon, and thence along the western corporate limits of Los Angeles to a point near Santa Susana Pass; south of a line extending in a generally easterly direction from a point near Santa Susana Pass along the northern corporate limits of Los Angeles to the eastern corporate limits of Burbank, Calif., thence along the eastern corporate limits of Burbank to the northern corporate limits of Glendale, Calif., and thence along the northern corporate limits of Glendale and Pasadena, Calif., to the northeastern corner of Pasadena; west of a line extending in a generally southerly and southwesterly direction from the northeastern corner of Pasadena along the eastern and a portion of the southern corporate limits of Pasadena to the eastern corporate limits of San Marino, Calif., thence along the eastern corporate limits of San Marino and the eastern and a portion of the southern corporate limits of Alhambra, Calif., to the western corporate limits of Monterey Park, Calif., and the western corporate limits of Montebello, Calif., thence along the western corporate limits of Montebello, Calif., to the Rio Hondo, and the Los Angeles River to the northern corporate limits of Long Beach; and north of a line extending in a generally westerly direction from the Los Angeles River along the northern corporate limits of Long Beach and thence along Greenleaf Boulevard to its intersection with an imaginary straight line extending southward from Dwight Avenue, thence north on the imaginary straight line extending southward from Dwight Avenue, and thence northerly along Dwight Avenue to Alondra Boulevard, thence west along Alondra Boulevard, Main, Walnut, and 182d Streets to the eastern corporate limits of Torrance, thence along a portion of the eastern and the northwestern corporate limits of Torrance to Redondo Beach Boulevard, and thence along Redondo Beach Boulevard to Inglewood Avenue.

(c) For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of the San Pedro, Wilmington, and Terminal Island districts of Los Angeles and Long Beach in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt from regulation under section 203(b)(8) of the act, is hereby defined to include the area east of a line extending in a generally northerly and northwesterly direction from the Pacific Ocean along the western corporate limits of Los Angeles to 258th Street, thence along 258th Street to the eastern corporate limits of Torrance, and thence along a portion of the eastern, and along the southern and western, corporate limits of Torrance to the northwestern corner of Torrance, south of a line extending in a generally easterly direction from the northwestern corner of Torrance along the northwestern and a portion of the eastern corporate limits of Torrance to 182d Street, thence along 182d, Walnut, Main, and Alondra Boulevard to its intersection with Dwight Avenue, thence southerly along Dwight Avenue and an imaginary straight line extending southward from Dwight Avenue to Greenleaf Boulevard and thence along Greenleaf Boulevard and the northern corporate limits of Long Beach to the northeastern corner of Long Beach; west of the eastern corporate limits of Long Beach; and north of the southern corporate limits of Long Beach and Los Angeles.

Sec. 6 Philadelphia, Pa.

The zone adjacent to and commercially a part of Philadelphia, Pa., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The area within Pennsylvania included within the corporate limits of Philadelphia and Bensalem and Lower Southampton Townships in Bucks County; Conshohocken and West Conshohocken, Pa., and Lower Moreland, Abington, Cheltenham, Springfield, Whitemarsh, and Lower Merion Townships in Montgomery County; an area in Upper Dublin Township, Montgomery County, bounded by a line beginning at the intersection of Pennsylvania Avenue and Fort Washington Avenue and extending northeast along Fort Washington Avenue to its junction with Susquehanna Road, thence southeast along Susquehanna Road to its junction with the right-of-way of the Pennsylvania Railroad Company, thence southwest along the right-of-way of the Pennsylvania Railroad Company to Pennsylvania Avenue, thence northwest along Pennsylvania Avenue to its junction with Fort Washington Avenue, the point of beginning; Haverford Township in Delaware County; and an area in Delaware County south and east of a line extending southward from the intersection of the western and northern boundaries of Upper Darby Township along Darby Creek to Bishop Avenue, thence south along Bishop Avenue to Baltimore Pike, thence west along Baltimore Pike to Pennsylvania Highway 320, thence south along Pennsylvania Highway 320 to the corporate limits of Chester, thence along the northern corporate limit of Chester in a westerly direction to the eastern boundary of Upper Chichester Township, thence south to the southern boundary of said township along the eastern boundary thereof, and thence west along the southern boundary of said township to the Delaware State line, and thence south along the Delaware State line to the Delaware River, and

(b) The area in New Jersey included in the corporate limits of Camden, Gloucester City, Woodlynne, Merchantville, and Palmyra Boroughs, and the area included in Pennsauken Township in Camden County.

Sec. 7 Cincinnati, Ohio.

The zone adjacent to and commercially a part of Cincinnati, Ohio, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuing carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49

U.S.C. 203(b)(8)), includes and is comprised of all points as follows:

Addyston, Ohio.	North Bend, Ohio.
Cheviot, Ohio.	Norwood, Ohio.
Cincinnati, Ohio.	St. Bernard, Ohio.
Cleves, Ohio.	Covington, Ky.
Elmwood Place, Ohio.	Newport, Ky.
Fairfax, Ohio.	Cold Spring, Ky.
Mariemont, Ohio.	

That part of Ohio bounded by a line commencing at the intersection of the Colerain-Springfield Township line and corporate limits of Cincinnati, Ohio, and extending along said township line in a northerly direction to its intersection with the Butler-Hamilton County line, thence in an easterly direction along said county line to its intersection with Ohio Highway 4, thence in a northerly direction along Ohio Highway 4 to its intersection with Seward Road, thence in a northerly direction along said road to its intersection with Port Union Road, thence east along Port Union Road to the Fairfield Township-Union Township line, thence northward along said township line to its intersection with the right-of-way of the Pennsylvania Railroad Co., thence southeasterly along the right-of-way of the Pennsylvania Railroad Co. to its intersection with Princeton-Glendale Road (Ohio Highway 747), thence southward along said road to its intersection with Mulhauser Road, thence in an easterly direction along said road to the terminus thereof west of the tracks of the Pennsylvania Railroad Co., thence continue in an easterly direction in a straight line to Allen Road, thence along the latter to the junction thereof with Cincinnati-Dayton Road, thence in a southerly direction along Cincinnati-Dayton Road, to the Butler, Hamilton County line, thence along said county line to the Warren-Hamilton County line in an easterly direction to the Symmes-Sycamore Township line, thence in a southerly direction along the Symmes-Sycamore Township line to its intersection with the Columbia Township line, thence in a westerly direction along Sycamore-Columbia Township line to Madeira Township, thence in a clockwise direction around the boundary of Madeira Township to the Sycamore-Columbia Township line, thence in a westerly direction along said township line to Silverton Township, thence in a southerly direction along said corporate limits to junction with Redbank Road, thence in a southerly direction over Redbank Road to the Cincinnati Corporate limits.

That part of Kenton County, Ky., lying on and north of a line commencing at the intersection of the Kenton-Boone County line and Dixie Highway (U.S. Highways 25 and 42), and extending over said highway to the corporate limits of Covington, Ky., including communities on the described line.

That part of Campbell County, Ky., lying on and north of a line commencing at the southern corporate limits of Newport, Ky., and extending along Licking Pike (Kentucky Highway 9) to junction with Johns Hill Road, thence along Johns Hill Road to junction with Alexandria Pike (U.S. Highway 27), thence northward along Alexandria Pike to junction with River Road (Kentucky Highway 445), thence over the latter to the Ohio River, including communities on the described line.

That part of Boone County, Ky., bounded by a line beginning at the Boone-Kenton County line west of Erlanger, Ky., and extending in a northwesterly direction along Donaldson Highway to its intersection with Zig-Zag Road, thence along Zig-Zag Road to its intersection with Kentucky Highway 18, thence along Kentucky Highway 18 to its intersection with Kentucky Highway 237, thence along Kentucky Highway 237 to its intersection with Kentucky Highway 20, and thence easterly along Kentucky Highway 20 to the Boone-Kenton County line.

That part of Boone and Kenton Counties, Ky., bounded by a line commencing at the intersection of the Boone-Kenton County line and U.S. Highway 42, and extending in a southwesterly direction along U.S. Highway 42 to its junction with Gunpowder Road, thence southerly along Gunpowder Road to its junction with Sunnybrook Road, thence easterly along Sunnybrook Road to its junction with Interstate Highway 75, thence in a straight line in a northeasterly direction to Richardson Road, thence in an easterly direction over Richardson Road to its junction with Kentucky State Route 1303, thence in a northerly direction over Kentucky State Route 1303 to the southern boundary of Edgewood, Kenton County, Ky.

Sec. 8 Kansas City, Mo.-Kansas City, Kans.

The zone adjacent to and commercially a part of Kansas City, Mo.-Kansas City, Kans., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuing carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points as follows:

Beginning on the north side of the Missouri River at the western boundary line of Parkville, Mo., thence along the western and northern boundaries of Parkville to the Kansas City, Mo., corporate limits, thence along the western, northern, and eastern corporate limits of Kansas City, Mo., to its junction with U.S. Bypass 71 (near Liberty, Mo.), thence along U.S. Bypass 71 to Liberty, thence along the northern and eastern boundaries of Liberty to its junction with U.S. Bypass 71 south of Liberty, thence south along U.S. Bypass 71 to its junction with the Independence, Mo., corporate limits, thence along the eastern Independence, Mo., corporate limits to its junction with Interstate Highway 70, thence along Interstate Highway 70 to its junction with the Blue Springs, Mo., corporate limits, thence along the western, northern, and eastern corporate limits of Blue Springs, Mo., to its junction with U.S. Highway 40, thence east along U.S. Highway 40 to its junction with Brizen-Dine Road, thence south along the southerly extension of Brizen-Dine Road to its junction with Missouri Highway AA, thence along Missouri Highway AA to its junction with the Blue Springs, Mo., corporate limits, thence along the southern and western corporate limits of Blue Springs, Mo., to its junction with U.S. Highway 40, thence west along U.S. Highway 40 to its junction with the Lee's Summit, Mo., corporate limits.

Thence along the eastern Lee's Summit corporate limits to the Jackson-Cass County line, thence west along Jackson-Cass County line to the eastern corporate limits of Belton, Mo., thence along the eastern, southern, and western corporate limits of Belton to the western boundary of Richards-Gebaur Air Force Base, thence along the western boundary of said Air Force Base to Missouri Highway 150, thence west along Missouri Highway 150 to the Kansas-Missouri State line, thence north along the Kansas-Missouri State line, to 110th Street, thence west along 110th Street to its junction with U.S. Highway 69, thence north along U.S. Highway 69 to its junction with 103d Street, thence west along 103d Street to its junction with Quivera Road (the corporate boundary of Lenexa, Kans.), thence along the eastern and southern boundaries of Lenexa to Black Bob Road, thence south along Black Bob Road to 119th Street, thence east along 119th Street to the corporate limits of Olathe, Kans., thence south and east along the Olathe corporate limits to Schlagel Road, thence south along Schlagel Road to Olathe Morse Road, thence west along Olathe Morse Road to the northeast corner of Johnson County Airport, thence south, west, and north along the boundaries of said airport to Pflumm Road, thence north along Pflumm Road to its junction with Olathe Martin City Road, thence west along Olathe Martin City Road to its junction with Murden Road, thence south along Murden Road to its junction with Olathe Morse Road (the corporate boundary of Olathe, Kans.), thence west and north along said corporate boundary to its intersection with U.S. Highway 56, thence southwest along U.S. Highway 56 to its junction with 159th Street.

Thence west along 159th Street to its junction with the Johnson County Industrial Airport, thence south, west, north and east along the boundaries of said airport to the point of beginning, on 159th Street, thence, east along 159th Street to its junction with U.S. Highway 56, thence northeast along U.S. Highway 56 to its junction with Parker Road, thence north along Parker Road to the northern boundary of Olathe, thence east and north along the northern corporate limits of Olathe to Pickering Road, thence north along Pickering Road to 107th Street (the corporate boundary of Lenexa, Kans.), thence along the western and northern boundaries of Lenexa to Pflumm Road, thence north along Pflumm Road to its junction with Kansas Highway 10, thence along Kansas Highway 10 to its junction with Kansas Highway 7, thence along an imaginary line due west across the Kansas River to the Wyandotte County-Leavenworth County line (142d Street) at Loring, Kans., thence westerly along County

Route No. 82, a distance of three-fourths of a mile to the entrance of the facilities at Mid-Continent Underground Storage, Loring, thence from Loring in a northerly direction along Loring Lane and Lindwood Avenue to the southern boundary of Bonner Springs, Kans.

Thence along the southern, western, and northern boundaries of Bonner Springs to its intersection with Kansas Highway 7, thence southeast along Kansas Highway 7 to its junction with Kansas Highway 32, thence east on Kansas Highway 32 to the corporate boundary of Kansas City, Kans., thence north, west, and east along the corporate boundaries of Kansas City, Kans., to its junction with Cernech Road and Pomeroy Drive, thence northwesterly along Pomeroy Drive to its junction with 79th Street, thence along 79th Street to its junction with Walcotte Drive at Pomeroy, Kans., thence due west 1.3 miles to its junction with an unnamed road, thence north along such unnamed road to the entrance of Powell Port facility, thence due north to the southern bank of the Missouri River, thence east along the southern bank of Missouri River to a point directly across from the western boundary of Parkville, Mo., thence across the Missouri River to the point of beginning.

Sec. 9 Boston, Mass.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Boston, Mass., and contiguous municipalities in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act from regulation, is hereby defined to include the following:

Boston, Mass.; Winthrop, Mass.; Chelsea, Mass.; Revere, Mass.; Everett, Mass.; Malden, Mass.; Medford, Mass.; Somerville, Mass.; Cambridge, Mass.; Watertown, Mass.; Brookline, Mass.; Newton, Mass.; Needham, Mass.; Dedham, Mass.; Milton, Mass.; Quincy, Mass.

Sec. 10 Davenport, Iowa; Rock Island and Moline, Ill.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zones adjacent to and commercially a part of Davenport, Iowa, Rock Island and Moline, Ill., in which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such municipalities or zones, will be partially exempt from regulation under section 203(b)(8) of the act (49 U.S.C. 303(b)(8) are hereby determined to be coextensive and to include and to be comprised of the following:

(a) All points within the corporate limits of the city of Davenport and the city of Bettendorf, and in Davenport Township, Iowa.

(b) All points north of Davenport Township within that portion of Sheridan Township, Iowa, bounded by a line as follows: Beginning at the points where U.S. Highway 61 crosses the Davenport-Sheridan Township line and extending northward along U.S. Highway 61 to the right-of-way of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., thence northwesterly along said right-of-way to its junction with the first east-west unnumbered highway, thence westerly approximately 0.25 mile to its junction with a north-south unnumbered highway, thence southerly along such unnumbered highway to the northeast corner of Mount Joy Airport, thence along the northern and western boundaries of said airport to the southwestern corner thereof, and thence south in a straight line to the northern boundary of Davenport Township.

(c)(1) That part of Iowa lying west of the municipal limits of Davenport south of Iowa Highway 22, north of the Mississippi River and east of the present western boundary of the Dewey Portland Cement Co., at Linwood, including points on such boundaries, and (2) that part of Iowa east of the municipal limits of Bettendorf, south of U.S. Highway 67, west of a private road running between U.S. Highway 67 and Riverside Power Plant of the Iowa-Illinois Gas & Electric Co., and north of the Mississippi River, including points on such boundaries.

(d) The municipalities of Carbon Cliff, Silvis, East Moline, Moline, Rock Island, and Milan, Ill., and that part of Illinois lying south or east of such municipalities, within a line as follows: Beginning at a point where Illinois Highway 84 crosses the southern municipal limits of Carbon Cliff and extending southerly along such highway to its junction with Colona Road, thence westerly along Colona Road to Bowlesburg Road, thence southerly on Bowlesburg Road to the southern boundary of Hampton Township, thence along the southern boundaries of Hampton and South Moline Townships to U.S. Highway 150, thence southerly along U.S. Highway 150 to the southern boundary of the Moline Airport, thence along the southern and western boundaries of the Moline Airport to Illinois Highway 92, and thence along Illinois Highway 92 to the corporate limits of Milan.

(e) All points in Illinois within one-half mile on each side of Rock Island County State Aid Route No. 9 extending southwesterly from the corporate limits of Milan for a distance of 1 mile, including points on such highway.

Sec. 11 Commercial zones of municipalities in New Jersey within 5 miles of New York, N.Y.

(a) The application of § 1048.101 is hereby extended to each municipality in New Jersey, any part of which is within 5 miles of the corporate limits of New York, N.Y.

(b) The exemption provided by section 203(b)(8) of the Interstate Commerce Act, of transportation by motor vehicle, in interstate or foreign commerce, performed wholly within any commercial zone, the limits of which are defined in paragraph (a) of this section, is hereby removed as to all such transportation except (1) transportation which is performed wholly between any two points in New Jersey, or (2) transportation which is performed wholly between points in New Jersey named in § 1048.1(b)(1), on the one hand, and, on the other, points in New York named in § 1048.1(b)(1).

Sec. 12 Commercial zones of municipalities in Westchester and Nassau Counties, N.Y.

(a) The application of § 1048.101 is hereby extended to each municipality in Westchester or Nassau Counties, N.Y.

(b) The exemption provided by section 203(b)(8) of the Interstate Commerce Act, of transportation by motor vehicle, in interstate or foreign commerce, performed wholly within any commercial zone, the limits of which are defined in paragraph (a) of this section, is hereby removed as to all such transportation except (1) transportation which is performed wholly between points in New York neither of which is New York City, NY, or (2) transportation which is performed wholly between points in Westchester or Nassau County named in § 1048.1(b)(1), on the one hand, and, on the other, New York City, N.Y., or points in New Jersey named in § 1048.1(b)(1).

Sec. 13 Tucson, Ariz.

That zone adjacent to and commercially a part of Tucson, Ariz., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) from regulation, includes, and is comprised of, all points as follows:

(a) The municipality of Tucson, Ariz., itself.

(b) All points within a line drawn 5 miles beyond the corporate limits of Tucson, Ariz.

(c) All points in that area south of the line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section, intersects Wilmot Road, thence south along Wilmot Road to junction Nogales Old Vail Connection, thence west along Nogales Old Vail Connection, actual or extended, to the Santa Cruz River, thence north along the eas* bank of the Santa Cruz River to its joinder

with the line described in paragraph (b) of this section.

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section.

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Tucson or by any municipality included under the terms of paragraph (d) of this section.

Sec. 14 Albuquerque, N. Mex.

The zone adjacent to and commercially a part of Albuquerque, N. Mex., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), from regulation, includes, and is comprised of, all points as follows:

(a) The municipality of Albuqerque, N. Mex., itself.

(b) All points within a line drawn 5 miles beyond the corporate limits of Albuquerque, N. Mex.

(c) All points in that area north of the line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the intersection of the line described in paragraph (b) of this section and New Mexico Highway 528, extending in a northeasterly direction along New Mexico Highway 528 to its intersection with New Mexico Highway 44, thence easterly along New Mexico Highway 44 to its intersection with New Mexico Highway 422, thence southerly along New Mexico Highway 422 to its intersection with the line described in paragraph (b) of this section.

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section;

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Albuquerque, N. Mex., or by any municipality included under the terms of paragraph (b) of this section.

Sec. 18 Ravenswood, W. Va.

That zone adjacent to and commercially a part of Ravenswood, W. Va., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), from regulation, includes, and is comprised of, all points as follows:

(a) The municipality of Ravenswood, W. Va., itself.

(b) All points within a line drawn 3 miles beyond the corporate limits of Ravenswood, W. Va., and

(c) All points in West Virginia in that area south and southwest of those described in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the Ohio River meets the line described in paragraph (b) of this section southwest of Ravenswood, thence southerly along the east bank of the Ohio River to the point where the mouth of the Lick Run River empties into the Ohio River; thence in a northeasterly direction along the northern bank of the Lick Run River to the point where it crosses West Virginia Highway 2 south of Ripley Landing, W. Va.; thence in a northerly direction along West Virginia Highway 2 to its intersection with the line described in paragraph (b) of this section west of Pleasant View, W. Va.

Sec. 19 Lake Charles, La.

That zone adjacent to and commercially a part of Lake Charles, La., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), from regulation, includes, and is comprised of, all points as follows:

(a) The municipality of Lake Charles La., itself;

(b) All points within a line drawn 4 miles beyond the corporate limits of Lake Charles, La.;

(c) All points in that area south and west of the line described in paragraph (b) of this section, bounded by a line, as follows: beginning at the point where the line described in paragraph (b) of this section intersects Louisiana Highway 385; thence south along Louisiana Highway 385 to its intersection with the Calcasieu-Cameron Parish line; thence west along the Calcasieu-Cameron Parish line to its intersection with Louisiana Highway 27; thence northerly along Louisiana Highway 27 to a point thereon 2 miles south of U.S. Highway 90; thence east along a line parallel to U.S. Highway 90 to Louisiana Highway 108; thence north along Louisiana Highway 108 to junction U.S. Highway 90; thence east along U.S. Highway 90 to the intersection thereof with the line described in paragraph (b) of this section;

(d) All of the municipality any part of which is within the limits of the combined areas in paragraphs (b) and (c) of this section; and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the City of Lake Charles or by any municipality included under the terms of paragraph (d) of this section.

Sec. 20 Syracuse, N.Y.

The zone adjacent to and commercially a part of Syracuse, N.Y., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuing carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points as follows:

(a) The municipality of Syracuse, NY., itself;

(b) All other municipalities and unincorporated areas within 5 miles of the corporate limits of Syracuse, N.Y., and all of any other municipality any part of which lies within 5 miles of such corporate limits;

(c) Those points in the town of Geddes, Onondaga County, N.Y., which are not within 5 miles of the corporate limits of Syracuse, N.Y.;

(d) Those points in the towns of Van Buren and Lysander, Onondaga County, N.Y., not within 5 miles of the corporate limits of Syracuse, N.Y., and within an area bounded by a line beginning at the intersection of Van Buren Road with the line described in (b) above, thence northwesterly along Van Buren Road to its intersection with the cleared right-of-way of Niagara Mohawk Power Company, thence northwesterly and north along said right-of-way to its intersection between Church Road and Emerick Road, with the cleared right-of-way of New York State Power Authority, thence easterly along said cleared right-of-way to its intersection with the Seneca River, thence south along the Seneca River to its intersection, near Gaskin Road, with the cleared right-of-way of Niagara Mohawk Power Company, thence southwesterly along said cleared right-of-way to its intersection with the eastern limits of the Village of Baldwinsville, thence south along such Village limits to their intersection with a line of railroad presently operated by the Erie-Lackawanna Railroad Company, thence southeasterly along said line of railroad to its intersection with the Van-Buren Lysander Town line, thence southeasterly along the Van-Buren Lysander Town line to its intersection with the Van-Buren Geddes Town line, thence southeasterly along the Van-Buren Geddes Town line to the line described in (b) above.

Sec. 21 Baltimore, Md.

The zone adjacent to and commercially a part of Baltimore, Md., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and it is comprised of all as follows:

(a) The municipality of Baltimore itself;

(b) All points within a line drawn 5 miles beyond the boundaries of Baltimore;

(c) All points in that area east of the line described in paragraph (b) of this section bounded by a line as follows: Beginning at

the point where the line described in paragraph (b) of this section crosses Dark Head Creek and extending in a southeasterly direction along the center of Dark Head Creek and beyond to a point off Wilson Point, thence in a northeasterly direction to and along the center of Frog Mortar Creek to Stevens Road, thence northerly along Stevens Road to Eastern Avenue, thence easterly along Eastern Avenue to Bengies Road, thence northwesterly along Bengies Road, to the right-of-way of the Penn Central Transportation Co., thence westerly along such right-of-way to the junction thereof with the line described in paragraph (b) of this section;

(d) All points in that area south of the line described in paragraph (b) of this section, bounded on the west by the right-of-way of the line of the Penn Central Transportation Co., extending between Stony Run and Severn, Md., and on the south by that part of Maryland Highway 176, extending easterly from the said railroad to its junction with the line described in paragraph (b) of this section;

(e) All points in that area southwest of the line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section crosses the Baltimore-Washington Expressway and extending in a southwesterly direction along the Baltimore-Washington Expressway to its intersection with Maryland Highway 176, thence westerly along Maryland Highway 176 to its intersection with the Howard-Anne Arundel County line, thence southwesterly along said county line to its intersection with Maryland Highway 32, thence northwesterly along Maryland Highway 32 to its intersection with the Little Patuxent River, thence northerly along the Little Patuxent River to the intersection of its north fork and its east fork located approximately 1 mile north of the intersection of Maryland Highway 32 and Berger Road, thence easterly along the east fork of the Little Patuxent River to its intersection with Broken Land Parkway, thence southerly along Broken Land Parkway to its intersection with Snowden River Parkway, thence easterly along Snowden River Parkway, to its intersection with relocated Maryland Highway 175, thence southeasterly along relocated Maryland Highway 175, to its intersection with Lark Brown Road, thence northeasterly along Lark Brown Road to its intersection with Maryland Highway 175, thence southerly along Maryland Highway 175 to its intersection with Interstate Highway 95, thence northeasterly along Interstate Highway 95 to its intersection with the line described in paragraph (b) of this section;

(f) All points in that area north of the line described in paragraph (b) of this section bounded by a line as follows: Beginning at the junction of the line described in paragraph (b) of this section and the Baltimore-Harrisburg Expressway (Interstate Highway 83), thence northerly along Interstate Highway 83 to its junction with Shawan Road, thence easterly along Shawan Road to its junction with York Road (Maryland Highway 45) and continuing to a point 1,500 feet east of Maryland Highway 45, thence southerly along a line 1,500 feet east of the parallel to Maryland Highway 45 to its junction with the line described in paragraph (b) of this section;

(g) All points in that area west of the line described in paragraph (b) of this section bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section intersects U.S. Highway 40 west of Baltimore, Md., and extending in a westerly direction along U.S. Highway 40 to its intersection with St. John's Lane, thence southerly along St. John's Lane to its intersection with Maryland Highway 144, thence easterly along Maryland Highway 144 to its intersection with the line in paragraph (b) of this section;

(h) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b), (c), (d), (e), (f), and (g) of this section;

(i) All of any municipality wholly surrounded, or surrounded except for a water boundary, by the city of Baltimore or by any municipality included under the terms of (h) above.

Sec. 22 Cleveland, Ohio

The zone adjacent to and commercially a part of Cleveland, Ohio, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and it is comprised of all as follows:

(a) All points in Cuyahoga County, Ohio, and

(b) All points in Wickliffe, Willoughby Hills, Waite Hill, Willoughby, Willowick, Eastlake, Lakeline, Timberlake, and Mentor, Lake County, Ohio.

Sec. 23 Detroit, Mich.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Detroit, Mich., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)) from regulation, is hereby determined to include, and to be comprised of, all that area within a line as follows:

Beginning at a point on Lake St. Clair opposite the intersection of Fifteen Mile Road and Michigan Highway 29 and extending south and southwest along the shore of Lake St. Clair, to the Detroit River, thence along such River (east of Belle Isle) and Trenton Channel to a point opposite Sibley Road, thence west to and along Sibley Road to Waltz Road, thence north along Waltz Road to Wick Road, thence west along Wick Road to Cogswell Road, thence north along Cogswell Road to Van Born Road, thence east along Van Born Road to Newburgh Road, thence north along Newburgh Road to its junction with Halsted Road, thence north along Halsted Road to West Maple Road, thence east along West Maple Road to Telegraph Road, thence north along Telegraph Road to Sixteen Mile Road, thence east along Sixteen Mile Road to Utica Road, thence southeasterly along Utica Road to Fifteen Mile Road (also called East Maple Road), thence along Fifteen Mile Road and across Michigan Highway 29 to Lake St. Clair, the point of beginning.

Sec. 24 Seattle, Wash.

The zone adjacent to and commercially a part of Seattle, Wash., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for continuous carriage or shipments to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Seattle itself.

(b) All points within a line drawn 5 miles beyond the municipal limits of Seattle, except points on Bainbridge Island, Vashon Island, and Blake Island.

(c) All points more than 5 miles beyond the municipal limits of Seattle (1) within a line as follows: Beginning at that point south of Seattle where the eastern shore of Puget Sound intersects the line described in paragraph (b) of this section, thence southerly along the eastern shore of Puget Sound to Southwest 192d Street, thence easterly along Southwest 192d Street to the point where it again intersects the line described in paragraph (b) of this section; and (2) within a line as follows: Beginning at the junction of the southern corporate limits of Kent, Wash., and Washington Highway 181, and extending south along Washington Highway 181 to the northern corporate limits of Auburn, Wash., thence along the western, southern, and eastern corporate limits of Auburn to the junction of the northern corporate limits of Auburn and Washington Highway 167, thence northerly along Washington Highway 167 to its junction with the southern corporate limits of Kent, Wash., including all points on the highways named.

(d) All points more than 5 miles beyond the municipal limits of Seattle within a line as follows: Beginning at the junction of the northern corporate limits of Lynwood, Wash., and U.S. Highway 99, thence north along U.S. Highway 99 to its junction with Washington Highway 525, thence along Washington Highway 525 to its junction with West Casino Road, thence east along West Casino Road to the western boundary of the Everett facilities of the Boeing Co. at or near 4th Avenue West, thence along the western, northern and

eastern boundaries of the facilities of the Boeing Co. to West Casino Road, thence east along West Casino Road to its junction with U.S. Highway 99, thence south along U.S. Highway 99 to 112th Street, thence easterly along 112th Street to its junction with Interstate Highway 5, thence southerly along Interstate Highway 5 to its intersection with the present zone limits, including all points on the named routes.

(e) All of any municipality any part of which is within the limits set forth in (b) above.

(f) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Seattle or by any municipality included under the terms of (b) above.

Sec. 25 Albany, N.Y.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Albany, N.Y., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)) from regulations, is hereby determined to include, and to be comprised of, the following:

(a) The municipality of Albany itself,

(b) All points within a line drawn 5 miles beyond the municipal limits of Albany,

(c) All points in that area more than 5 miles beyond the municipal limits of Albany bounded by a line as follows: Beginning at that point on Swatling Road (in the Town of Colonie) where it crosses the line described in (b) above and extending northerly along such road to the municipal limits of Cohoes, thence along the western and northern boundary of Cohoes to the Mohawk River, thence along such river to the northern boundary of the Town of Waterford, thence along the northern and eastern boundaries of the Town of Waterford to the northern boundary of the City of Troy (all of which city is included under the next following provision),

(d) All of any municipality any part of which is within the limits of the combined areas defined in (b) and (c) above, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of Albany or by any other municipality included under the terms of (d) above.

Sec. 26 Minneapolis-St. Paul, Minn.

The zone adjacent to and commercially a part of Minneapolis-St. Paul, Minn, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and it is comprised of all as follows:

Beginning at the intersection of Minnesota Highway 36 and the Minnesota River and extending along the Minnesota River to the southwest corner of the city of Bloomington, thence north along the western boundaries of the city of Bloomington and the village of Edina to the southern boundary of the city of Hopkins, thence along the southern, western, and northern boundaries of the city of Hopkins to the western boundary of the city of St. Louis Park, thence north along the western boundaries of the city of St. Louis Park and the village of Golden Valley to the southeast corner of the village of Plymouth, thence west along the southern boundary of Plymouth to Interstate Highway 494, thence north along Interstate Highway 494 to Minnesota Highway 55, thence southeast along Minnesota Highway 55 to the western boundary of the village of Golden Valley, thence north along the western boundaries of the villages of Golden Valley and New Hope to the northwestern corner of the village of New Hope, thence east along the northern boundary of the village of New Hope and the city of Crystal to the western boundary of the village of Brooklyn Center, thence north along the western boundary of the village of Brooklyn Center to its northern boundary, thence east along such northern boundary to the Hennepin County-Anoka County line, thence north along such county line to the northwestern corner of the village of Spring Lake Park in Anoka County, thence east along the northern boundary of the village of Spring Lake Park to the northwest corner of Mounds View Township in Ramsey County, thence east and south along the northern and eastern boundaries of Mounds View Township to the northwestern corner of the village of Little Canada, thence east and south along the northern and eastern boundaries of Little Canada to the northwest corner of the village of Maplewood, thence east and south along the northern and eastern boundaries of the village of Maplewood to the northeastern corner of the village of North St. Paul, thence south along the eastern boundary of the village of North St. Paul to the southeast corner of such village, thence south along the eastern boundary of the village of Maplewood to the northeastern corner of the village of Newport, thence south and west along the eastern and southern boundaries of the village of Newport to U.S. Highway 61, thence southeasterly along U.S. Highway 61, to the eastern boundary of the village of St. Paul Park, thence along the eastern, southern, and western boundaries of the village of St. Paul Park to a point on the Mississippi River opposite the southeast corner of the original village of Inver Grove, thence westerly across the river and along the southern and western boundaries of the original village of Inver Grove to the northwest corner of such village, thence due north to the southern boundary of South St. Paul, thence north and west along the western and southern boundaries of South St. Paul to the southeastern corner of West St. Paul, thence west along the southern boundary of West St. Paul to County Highway 63, thence south along County Highway 63 to its junction with County Highway 63A, thence west along County Highway 63A to its junction with Minnesota Highway 49, thence north along Minnesota Highway 49 to its junction with County Highway 28, thence west along County Highway 28 to its junction with Minnesota Highway 13, thence southwest along Minnesota Highway 13 to its junction with Minnesota Highway 36, thence north and northwest along Minnesota Highway 36 to the Minnesota River, the point of beginning

Sec. 27 New Orleans, La.

The zone adjacent to and commercially a part of New Orleans, La., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points in the area bounded as follows:

Commencing at a point on the shore of Lake Pontchartrain where it is crossed by the Jefferson Parish-Orleans Parish line; thence easterly along the shore of Lake Pontchartrain to the Rigolets; thence through the Rigolets in an easterly direction to Lake Borgne; thence southwesterly along the shore of Lake Borgne to the Bayou Bienvenue; thence in a general westerly direction along the Bayou Bienvenue (which also constitutes the Orleans Parish-St. Bernard Parish line) to Paris Road; thence in a southerly direction along Paris Road to the Back Protection Levee; thence in a southeasterly direction along the Back Protection Levee (across Lake Borgne Canal) to a point 1 mile north of Louisiana Highway 46; thence in an easterly direction 1 mile north of Louisiana Highway 46 to longitude 89°50′ W.; thence south along longitude line 89°50′ W. (crossing Louisiana Highway 46 approximately three-eighths of a mile east of Toca) to Forty Arpent Canal; thence westerly, northwesterly, and southerly along Forty Arpent Canal to Scarsdale Canal; thence northwesterly along Scarsdale Canal and beyond it in the same direction to the middle of the Mississippi River; thence southerly along the middle of the Mississippi River to the Augusta Canal; thence in a westerly direction along the Augusta Canal to the Gulf Intracoastal Waterway; thence in a northerly direction along the middle of the Gulf Intracoastal Waterway (Harvey Canal) to the point where Lapalco Boulevard runs perpendicular to the Gulf Intracoastal Waterway (Harvey Canal); thence in a westerly direction along Lapalco Boulevard to its junction with Barataria Boulevard; thence north on Barartaria Boulevard to a point approximately 2 miles south of the Mississippi River where a high tension transmission line crosses Barataria Boulevard; thence in a westerly direction following such transmission line to the intersection thereof with U.S. Highway 90; thence westerly along U.S. Highway 90 to the Jefferson Parish-St. Charles Parish line;

thence north along such parish line to the middle of the Mississippi River; thence westerly along the middle of the Mississippi River to a point south of Almedia Road; thence north to Almedia Road; thence in a northerly direction along Almedia Road to its junction with Highway 61; thence north to the shore of Lake Pontchartrain; thence along the shore of Lake Pontchartrain in an easterly direction to the Jefferson Parish-Orleans Parish line, the point of beginning.

Sec. 28 Pittsburgh, Pa.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Pittsburgh, Pa., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)) from regulation, is hereby determined to include, and to be comprised of, the following:

(a) All points in Allegheny County, Pa., except Forward, Elizabeth, South Versailles, Marshall (including the Borough of Bradford Woods), Pine Richland, West Deer and Fawn Townships and that part of Frazer Township north of a line made by extending easterly in a straight line the southern boundary of West Deer Township.

(b) Borough of Trafford situated in both Alleghency and Westmoreland Counties;

(c) Borough of Ambridge and Harmony Township located in Beaver County; and

(d) The City of New Kensington and Borough of Arnold in Westmoreland County.

Sec. 29 Portland, Oreg.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Portland, Oreg., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)) from regulation, is hereby determined to include, and to be comprised of, the following:

(a) The municipality itself.

(b) All points in Oregon within a line drawn 5 miles beyond the corporate limits of Portland.

(c) All of any municipality any part of which is within the line described in (b) above.

(d) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Portland or by any municipality included under the terms of (c) above.

Sec. 30 Vancouver, Wash.

For the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Vancouver, Wash., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act (49 U.S.C. 303(b)(8)) from regulation, is hereby determined to include, and to be comprised of, the following:

(a) The municipality itself.

(b) All points in Washington within a line drawn 4 miles beyond the corporate limits of Vancouver.

(c) All of any municipality any part of which is within the line described in (b) above.

(d) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the City of Vancouver or by any municipality included under the terms of (c) above.

Sec. 31 Charleston, S.C.

The zone adjacent to and commercially a part of Charleston, S.C., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), from regulation, includes and is comprised of, all points and places as follows:

(a) The municipality of Charleston itself.

(b) All points within a line drawn 4 miles beyond the boundaries of Charleston.

(c) All points in that area north of the line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section crosses Cooper River and extending in a northerly direction along the center of Cooper River to Goose Creek; thence north and west along the center of Goose Creek to the dam of the reservoir of the Charleston waterworks; thence northwesterly along the west bank of the Charleston waterworks reservoir for approximately one mile to an unnamed creek; thence westerly along the center of this unnamed creek for approximately one mile to U.S. Highway 52; thence northerly along U.S. Highway 52 to junction South Carolina Highway S–10–75; thence westerly along South Carolina Highway S–10–75 approximately one and one half miles to a point one quarter mile west of the track of the Southern Railway Company; thence southeasterly along a line one quarter of a mile west of, and parallel to, the track of the Southern Railway Company to the junction thereof with the line described in paragraph (b) of this section.

(d) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b) and (c) of this section.

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Charleston or by any municipality included under the terms of paragraph (d) of this section.

Sec. 32 Charleston, W. Va.

That zone adjacent to and commercially a part of Charleston, W. Va., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), from regulation, includes, and is comprised of, all points and places as follows:

(a) The municipality of Charleston, W. Va., itself.

(b) All points within a line drawn 4 miles beyond the corporate limits of Charleston, W. Va.

(c) All points in that area northwest of those described in (b) above, bounded by a line as follows: Beginning at a point on the line described in (b) above, one-half mile south of U.S. Highway 60 west of Charleston, thence westerly along a line one-half mile south of and parallel to U.S. Highway 60 to a point one-half mile south of the junction of U.S. Highway 60 with West Virginia Highway 17 near 2¾ Mile Creek, thence westerly along a line one-half mile south of and parallel to West Virginia Highway 17 to the Coal River, thence north along the center of the Coal River to West Virginia Highway 17, thence northerly along West Virginia Highway 17 to Scary Creek, near Scary, W. Va., thence east along Scary Creek to the center of the Kanawha River, thence northerly along the center of the Kanawha River to a point opposite the mouth of Blake Creek (between Nitro and Poca, W. Va.), thence easterly along a straight line drawn through the junction of U.S. Highway 35 and West Virginia Highway 25 to a point one-half mile beyond said junction, thence southerly along a line one-half mile northeast of and parallel to West Virginia Highway 25 to the junction of the line described in (b) above.

(d) All points in that area southeast of those described in (b) above, bounded by a line as follows: Beginning at a point on the line described in (b) above one-half mile south of the Kanawha River, thence easterly along a line one-half mile south of, and parallel to, the Kanawha River to junction with a straight line intersecting the highway bridge at Chelyan, W. Va., thence northerly along said straight line across the Kanawha River to a point one-half mile north of the Kanawha River, thence westerly along a line one-half mile north of and parallel to the

Kanawha River to the junction of the line described in (b) above.

(e) All of any municipality any part of which is within the limits of the combined areas defined in (b), (c), and (d) above.

Sec. 33 Memphis, Tenn.

That zone adjacent to and commercially a part of Memphis, Tenn., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) from regulation, includes, and is comprised of, all points as follows:

(a) The municipality of Memphis, Tenn., itself.

(b) All points within a line drawn 5 miles beyond the corporate limits of Memphis, Tenn.

(c) All points in that part of Shelby County, Tenn., north of the line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the intersection of the line described in paragraph (b) of this section and U.S. Highway 51 north of Memphis, thence northeasterly along U.S. Highway 51 for approximately 3 miles to its intersection with Lucy Road, thence easterly along Lucy Road for approximately 1.4 miles to its intersection with Chase Road, thence northerly along Chase Road for approximately 0.6 mile to its intersection with Lucy Road thence easterly along Lucy Road for approximately 0.8 mile to its intersection with Main Road, thence southereasterly along Main Road approximately 0.3 mile to its intersection with Amherst Road, thence southerly and easterly along Amherst Road for approximately 0.8 mile to its intersection with Raleigh-Millington Road, thence southerly along Raleigh-Millington Road for approximately 2 miles to its intersection with the line described in paragraph (b) of this section north of Memphis;

(d) All of any municipality any part of which is within the limits of the combined areas described in paragraphs (b) and (c) of this section.

Sec. 34 Houston, Tex.

The zone adjacent to, and commercially a part of Houston, Tex., and contiguous municipalities in which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203(b)(8) of the act from regulation, is hereby defined to include the area which would result by application of the general formula promulgated in § 1048.101, and in addition thereto, the municipalities of Baytown, La Porte and Lomax, Tex.

Sec. 35 Pueblo, Colo.

The zone adjacent to and commercially a part of Pueblo, Colo., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points as follows:

(a) The municipality of Pueblo, Colo., itself;

(b) All points within a line drawn 4 miles beyond the corporate limits of Pueblo, Colo.;

(c) All of the area known as the Pueblo Memorial Airport, consisting of about 3,500 acres, not within 4 miles of the corporate limits of Pueblo, Colo., and within an area located on the East of Pueblo, the nearest point being about 3.80 miles from the city limits of Pueblo, and bounded on the south by the tracks of the Santa Fe Railroad and the Missouri Pacific Railroad, and a public highway known as Baxter Road and designated as U.S. Highway 50 Bypass and Colorado Highway 96, with such property extending north, west, and east of the described southern base line.

Sec. 36 Warren, Ohio.

The zone adjacent to and commercially a part of Warren, Ohio, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt, under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) from regulation includes, and is comprised of, all points as follows:

(a) The municipality of Warren, Ohio, itself.

(b) All points within a line drawn 4 miles beyond the corporate limits of Warren, Ohio.

(c) All points in that area, south of the line in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section intersects Ellsworth-Baily Road, thence south along Ellsworth-Baily Road to the Ohio Turnpike, thence southeast along the Ohio Turnpike to New Hallock-Young Road, thence northeast along New Hallock-Young Road to Hallock-Young Road, thence east along Hallock-Young Road to junction Ohio Highway 45 (Salem-Warren Road), thence north along Ohio Highway 45 (Salem-Warren Road) to its intersection with the line described in paragraph (b) of this section.

Sec. 37 Louisville, Ky.

The zone adjacent to and commercially a part of Louisville, Ky., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The municipality of Louisville, Ky., itself;

(b) All other municipalities and unincorporated areas within 5 miles of the corporate limits of Louisville, Ky., and all of any municipality any part of which lies within 5 miles of such corporate limits; and

(c) Those points not within 5 miles of the corporate limits of Louisville, Ky., and within an area bounded by a line beginning at the junction of Kentucky Highway 146 (LaGrange Road) and Kentucky Highway 1447 (Westport Road), thence over Kentucky Highway 146 to the junction of Kentucky Highway 146 and Kentucky Highway 841 (Jefferson Freeway), thence over Kentucky Highway 841 to the junction of Kentucky Highway 841 and Kentucky Highway 1447, thence over Kentucky Highway 1447 to junction Kentucky Highway 1447 and Kentucky Highway 146, the point of beginning, all within Jefferson County, Ky.

Sec. 38 Sioux City, Iowa.

The zone adjacent to and commercially a part of Sioux City, Iowa, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The area which would result by application of the general formula promulgated in § 1048.101; and, in addition thereto,

(b) That area bounded by a line beginning at the intersection of Interstate Highway 29 and the line described in paragraph (a) of this section, and extending southeasterly along Interstate Highway 29 to its intersection with the Liberty-Lakeport Township, Iowa, line, thence westerly along the Liberty-Lakeport Township, Iowa, line to the Missouri River, thence northerly along the east bank of the Missouri River to its intersection with the line described in paragraph (a) of this section, thence along the line described in paragraph (a) of this section, to the point of beginning.

Sec. 39 Beaumont, Tex.

The zone adjacent to and commercially a part of Beaumont, Tex., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a

continuous carriage or shipment to or from a point beyond such zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The areas which would result by application of the general formula promulgated in § 1048.101 for Beaumont, Tex.; and in addition thereto,

(b) That area bounded by a line beginning at that point where the west bank of Hillebrandt Bayou intersects the line described in paragraph (a) of this section; thence along the west bank of Hillebrandt Bayou to its confluence with Taylors Bayou; thence in a southeasterly direction along the west and south banks of Taylors Bayou to its confluence with the Intracoastal Waterway; thence along the west and north banks of the Intra-coastal Waterway to its confluence with Sabine River and Sabine Lake at a point immediately east of Groves; thence in a northeasterly direction along the north and west banks of Sabine Lake and Sabine River to the Orange-Newton County line; thence westerly along said county line to the west right-of-way line of State Highway 87; thence southerly along the west right-of-way line of State Highway 87 to the north right-of-way line of Interstate Highway 10; thence westerly along the north right-of-way line of Interstate Highway 10 to intersection with the line described in paragraph (a) of this section; thence along the line described in paragraph (a) of this section, to the point of beginning.

Sec. 40 Metropolitian Government of Nashville and Davidson County, Tenn.

The zone adjacent to and commercially a part of the Metropolitan Government of Nashville and Davidson County, Tenn, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) The Metropolitan Government of Nashville and Davidson County itself.

(b) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the Metropolitan Government of Nashville and Davidson County.

Sec. 41 Consolidated City of Indianapolis, Ind.

The zone adjacent to and commercially a part of the Consolidated City of Indianapolis, Ind., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8) includes and is comprised of all points as follows:

(a) The Consolidated City of Indianapolis, Ind., itself.

(b) All of any municipality wholly surrounded or so surrounded except for a water boundary, by the Consolidated City of Indianapolis.

Sec. 42 Lexington-Fayette Urban County, Ky.

The zone adjacent to and commercially a part of Lexington-Fayette Urban County, Ky., within which transporation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and is comprised of all points as follows:

(a) Lexington-Fayette Urban County, Ky., itself.

(b) All other municipalities and unincorporated areas within 5 miles of the intersection of U.S. Highway 27 (Nicholasville Road) with the corporate boundary line between Jessamine County, Ky., and Lexington-Fayette Urban County, Ky.

Sec. 43 Definitions.

For the purposes of this part, the following terms are defined:

(a) "Municipality" means any city, town, village, or borough which has been created by special legislative act or which has been, otherwise, individually incorporated or chartered pursuant to general State laws, or which is recognized as such, under the Constitution or by the laws of the State in which located, and which has a local government. It does not include a town of the township or New England type.

(b) "Contiguous municipalities" means municipalities, as defined in paragraph (a) of this section, which have at some point a common municipal or corporate boundary.

(c) "Unincorporated area" means any area not within the corporate or municipal boundaries of any municipality as defined in paragraph (a) of this section.

Sec. 44 Commercial zones determined generally, with exceptions.

The commercial zone of each municipality in the United States, with the exceptions indicated in the note at the end of this section, within which the transportation of passengers or property, in interstate or foreign commerce, when not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone, is exempt from all provisions of Part II, Interstate Commerce Act, except the provisions of section 204 relative to the qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be deemed to consist of:

(a) The municipality itself, hereinafter called the base municipality;

(b) All municipalities which are contiguous to the base municipality;

(c) All other municipalities and all unincorporated area within the United States which are adjacent to the base municipality as follows:

(1) When the base municipality has a population less than 2,500 all unincorporated areas within two miles of its corporate limits and all of any other municipality any part of which is within two miles of the corporate limits of the base municipality,

(2) When the base municipality has a population of 2,500 but less than 25,000, all unincorporated areas within 3 miles of its corporate limits and all of any other municipality any part of which is within 3 miles of the corporate limits of the base municipality,

(3) When the base municipality has a population of 25,000 but less than 100,000, all unincorporated areas within 4 miles of its corporate limits and all of any other municipality any part of which is within 4 miles of the corporate limits of the base municipality, and

(4) When the base municipality has a population of 100,000 or more, all unincorporated areas within 5 miles of its corporate limits and all of any other municipality any part of which is within 5 miles of the corporate limits of the base municipality, and

(d) All municipalities wholly surrounded, or so surrounded except for a water boundary, by the base municipality, by any municipality contiguous thereto, or by any

municipality adjacent thereto which is included in the commercial zone of such base municipality under the provisions of paragraph (c) of this section.

Note: Except: Municipalities the commercial zones of which have been or are hereafter individually or specially determined.

Sec. 45 Controlling distances and population data.

In the application of § 1048.101:

(a) Air-line distances or mileages about corporate limits of municipalities shall be used.

(b) The population of any municipality shall be deemed to be the highest figure shown for that municipality in any decennial census since (and including) the 1940 decennial census.

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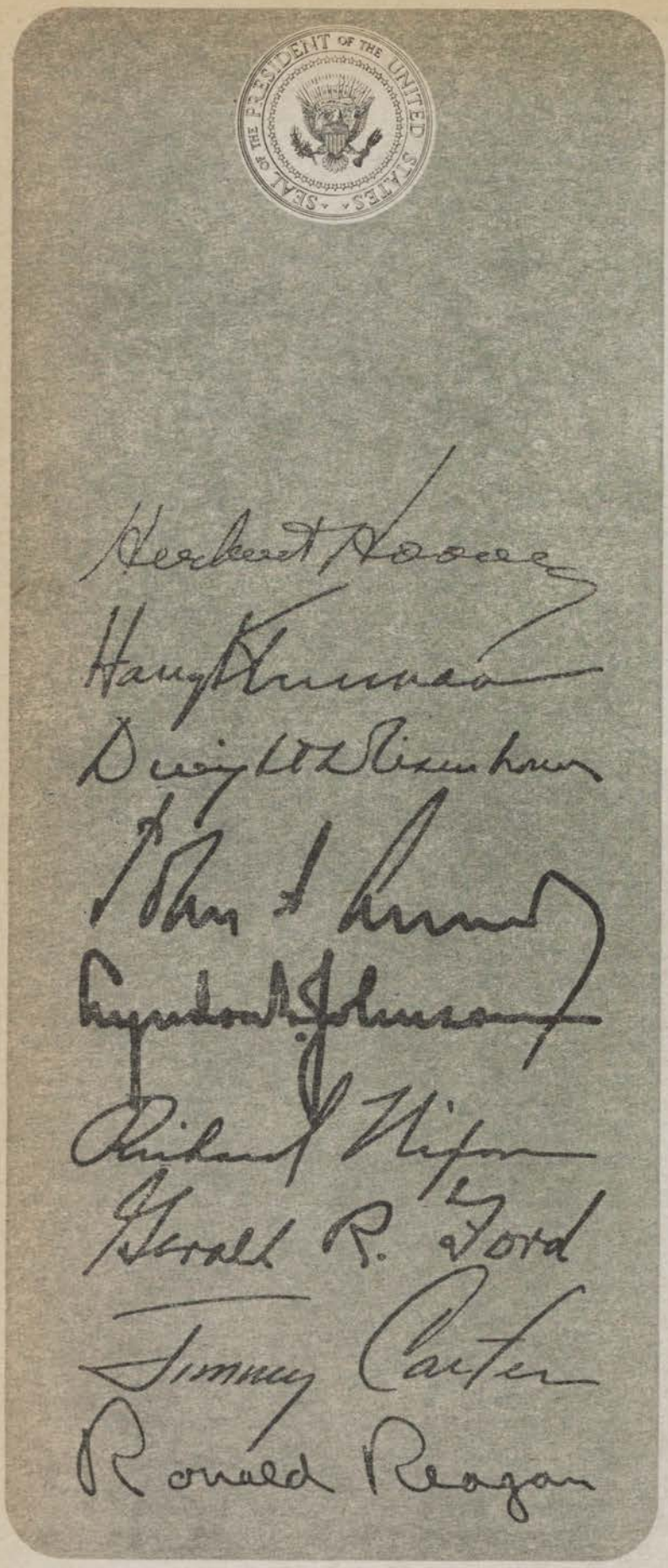

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