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Tuesday
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 967

[FV-89-062FR]

Final Handling Regulation for Celery Grown in Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of Florida celery which handlers may ship to fresh markets during the 1989–90 marketing season at 6,789,738 crates or 100 percent of producers' base quantities. This final rule is intended to lend stability to the industry and, thus, help to provide consumers with an adequate supply of the product. As in past marketing seasons, the limitation on the quantity of Florida celery handled for fresh shipment is not expected to restrict the quantity of Florida celery actually produced or shipped to fresh markets, since production and shipments are anticipated to be less than the allotment. This action was recommended by the Florida Celery Committee (Committee), which is responsible for local administration of the order.

EFFECTIVE DATE: September 12, 1989.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Divison, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 967 (7 CFR part 967), both as amended, regulating the handling of celery grown in Florida. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statues have small entity orientation and compatibility.

There are approximately seven handlers of celery grown in Florida subject to regulation under the celery marketing order and approximately 13 producers of celery in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of celery handlers and producers may be classified as small entities.

This final rule is based upon the recommendation of and information submitted by the Committee and upon other available information. The Committee met on May 24, 1989, and recommended a marketable quantity of 6,789,738 crates of fresh celery for the 1989–90 marketing season beginning August 1, 1989. Additionally, a uniform percentage of 100 percent was recommended which would allow each producer registered pursuant to § 967.37(f) of the order to market 100 percent of such producer's base quantity. These recommendations were based on an appraisal of expected 1989–90 supplies and prospective demand.

As required by § 967.37(d)(1) of the order, a reserve of 6 percent (407,384 crates) of the 1988–89 total base quantities is authorized for new producers and for increases by existing producers.

The final rule will limit the quantity of Florida celery which handlers may purchase from producers and ship to fresh markets during the 1989–90 marketing season to 6,789,738 crates. This marketable quantity is identical to the 1988–89 marketable quantity and is about 20 percent more than the average number of crates marketed fresh during the 1982–83 through 1986–87 seasons. It is expected that the 6,789,738-crate marketable quantity will be above actual shipments for the 1989–90 season. Thus, the 6,789,738-crate marketable quantity is not expected to restrict the amount of Florida celery which growers produce or the amount of celery which handlers ship. For these reasons, the final rule will lend stability to the industry and, thus, help to provide consumers with an adequate supply of the product.

Based on available information, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

This action was proposed in the August 2, 1989, issue of the **Federal Register** (54 FR 31845). Comments on the proposed rule were invited from interested persons until August 14, 1989. No comments were received.

After consideration of the information and recommendations submitted by the Committee and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is hereby found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action applies to all Florida celery handled by handlers during the 1989–90 crop year, which began August 1, 1989, and (2) handlers are aware of this action, which was recommended by the Committee at a public meeting, and need no additional time to comply with the requirements.

List of Subjects in 7 CFR Part 967

Celery, Florida, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR part 967 is revised as follows:

PART 967—CELERY GROWN IN FLORIDA

1. The authority citation for 7 CFR part 967 continues to read as follows:

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

Subpart—Administrative Rules and Regulations

2. A new § 967.325 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 967.325 Handling regulation, marketable quantity, and uniform percentage for the 1989–90 season beginning August 1, 1989.

(a) The marketable quantity established under § 967.36(a) is 6,789,738 crates of celery.

(b) As provided in § 967.38(a), the uniform percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the marketable allotment of a producer who has a base quantity and such producer authorizes the first handler thereof to handle it.

(d) As required by § 967.37(d)(1), a reserve of six percent of the total base quantities is hereby authorized for:

(1) New producers and

(2) Increases for existing base quantity holders.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

Dated: September 6, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–21396 Filed 9–11–89; 8:45 am]

BILLING CODE 3410–02–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

RIN 3245–AB76

Minority Small Business and Capital Ownership Development Program; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; correction.

SUMMARY: The Small Business Administration (SBA) is correcting a typographical error in the effective dates of the Minority Small Business and Capital Ownership Development Program regulations which appeared in the **Federal Register** on August 21, 1989. (54 FR 34692.)

FOR FURTHER INFORMATION CONTACT: Associate Administrator for Minority Small Business and Capital Ownership Development (202) 653–6407, Jane P. Butler, (202) 653–6813, or Rodney A. Lewis, (202) 653–6549.

SUPPLEMENTARY INFORMATION: On August 21, 1989 SBA published in the **Federal Register** a final rule to amend the Minority Small Business and Capital Ownership Development Program. (54 FR 34692.) A typographical error in the effective dates was discovered which SBA is now correcting. The October 1, 1989 effective date applies to §§ 124.306 and 124.311 respectively, not §§ 124.311 and 124.312 as published.

The following corrections are made to part 124 of title 13, Code of Federal Regulations, Minority Small Business and Capital Ownership Development Program, published in the **Federal Register** on August 21, 1989 (54 FR 34692):

In the first column, following the caption **EFFECTIVE DATES** in the first sentence, "Except for §§ 124.311 and 124.312," should read "Except for §§ 124.306 and 124.311," and in the second sentence, "Sections 124.311 and 124.312" should read "Sections 124.306 and 124.311".

Dated: August 31, 1989.

Susan Engeleiter,

Administrator.

[FR Doc. 89–21356 Filed 9–11–89; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 21, 23, 25, 27, 29, 31, 33, 35, 36, 43, 45, 47, 61, 63, 65, 71, 91, 93, 99, 103, 121, 125, 127, 133, 135, 137, and 141

[Docket No. 18334; Amdts. No. 1–36, 21–66, 23–37, 25–68, 27–24, 29–27, 31–5, 33–13, 35–6, 36–18, 43–31, 45–18, 47–24, 61–84, 63–27, 65–34, 71–13, 91–211, 93–56, 99–15, 103–3, 121–206, 125–12, 127–43, 133–10, 135–32, 137–12, 141–2]

Revision of General Operating and Flight Rules; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: In the August 18, 1989, issue of the **Federal Register** (54 FR 34284) the FAA published a final rule reorganizing and realigning the general operating and flight rules to make them more understandable and easier to use. Also, several changes were made to provide more flexibility for certain operations.

FAA is correcting editorial errors that appeared in the listing of amendment numbers and in the preamble. Amendment number "99–11" should read "99–15" and amendment number "141–11" should read "141–2".

On page 34287, second column, first complete paragraph, fifth line: The repeated "91.165" should read "91.169".

On page 34288, first column, second complete paragraph, sixth line: "91.91.90(c)(1)" should read "91.90(c)(1)".

Additional corrections to this document are published elsewhere in the Corrections Section of this issue.

FOR FURTHER INFORMATION CONTACT: William T. Cook (202) 267–3840.

Issued in Washington, DC, on September 5, 1989.

Clara Thieling,

Editor, Program Management Staff, Office of the Chief Counsel.

[FR Doc. 89–21249 Filed 9–11–89; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is authorizing certain option contracts traded on the London International Financial Futures Exchange ("LIFFE") to be offered or sold to persons located in the United States. This order is issued pursuant to Commission Rule 30.3(a), 17 CFR 30.3(a) (1988), which makes it unlawful for any person to engage in the offer or sale of a foreign option product until the Commission, by order, authorizes such foreign option to be offered in the United States.[1]

EFFECTIVE DATE: October 12, 1989.

FOR FURTHER INFORMATION CONTACT: Jane C. Kang, Esq. or Victoria R. Hartke, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW.,

[1] *See* 52 FR 28980, 28998 (August 5, 1987). Notwithstanding the prohibition in Commission Rule 30.3(a), non-domestic exchange-traded options which are traded pursuant to the trade option exemption in Commission Rule 32.4(a), 17 CFR 32.4(a) (1988), may continue to be offered or sold.

Washington, DC 20581.[2] Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

United States of America Before the Commodity Futures Trading Commission

Order Under CFTC Rule 30.3(a) Permitting Option Contracts Traded on the London International Financial Futures Exchange To Be Offered or Sold in the United States Thirty Days After Notice to the Commission and Publication in the **Federal Register** *of the Option Contracts To Be Traded*

On July 23, 1987, the Commission adopted final rules governing the domestic offer or sale of commodity futures and option contracts traded on or subject to the rules of a foreign board of trade. 52 FR 28980 (August 5, 1987). These rules, which became effective on February 1, 1988, establish, among other things, a regulatory framework for the offer or sale of foreign options to persons located in the United States.[3] Specifically, Rule 30.3(a) provides that:

> [N]otwithstanding any other provisions of this part, it shall be unlawful for any person to engage in the offer or sale of any foreign option until the Commission, by order, authorizes such foreign option to be offered in the United States. * * * 52 FR 28988.

In view of the history of abuses in the options markets prior to the imposition of the options ban,[4] the Commission determined to phase in foreign options on a market-by-market basis through particularized review of applications submitted by individual markets and issuance of an authorization order, as appropriate, by the Commission. In adopting the final rules which implement that procedure, the Commission stated that notwithstanding Part 30, which provides a regulatory framework to govern transactions in both foreign futures *and* foreign options, and which has been the subject of extensive notice and comment, it would be unlawful for any person to engage in the offer or sale of a particular foreign option product until the Commission specifically authorizes such foreign option to be offered or sold in the United States.[5] As a consequence, Rule 30.3(a) permits the Commission, as stated in the release accompanying the proposed rules, to consider, among other things, its ability to determine whether or not a particular trade has been transmitted to and executed on a foreign exchange as part of its decision to authorize transactions in specific foreign exchange-traded options.[6]

By letter dated May 24, 1989, the London International Financial Futures Exchange ("LIFFE"), a recognized investment exchange ("RIE") which is subject to regulatory oversight by the United Kingdom Securities and Investments Board ("SIB"), requested that the Commission authorize the offer or sale of option contracts traded on LIFFE to persons located in the United States under Commission Rule 30.3(a).

In issuing this Order, the Commission has considered: (1) The existence of information sharing arrangements relevant to preventing abuses in the trading of option contracts on LIFFE; [7] (2) the arrangements in place for assuring that sales practice abuses in such options do not occur, including that sales practice compliance audits commensurate with those which apply to domestic products will be conducted with respect to firms engaged in the offer or sale of its foreign option products in the United States; (3) the arrangements for United States customers to redress grievances with respect to matters directly pertaining to the conduct of trading or other activities relevant to the offer or sale of such products occurring within the jurisdiction where the option is traded; and (4) the regulatory environment in which such foreign options are traded, including, among other things, the determination by the Commission under Rule 30.10, 17 CFR 30.10 (1988), to exempt specified firms in the United Kingdom from the application of certain of the Commission's rules governing foreign futures and option transactions based on the existence of a generally comparable regulatory system in effect in the United Kingdom.[8]

In determining that LIFFE's showing with respect to the foregoing matters is sufficient to warrant the issuance of the Order herein, the Commission notes that as it acquires further experience it may determine that other considerations are also relevant. To this end, the Commission expects to continue to monitor the offer or sale of the products subject to this Order.[9]

Based upon the representations of LIFFE contained in its letter dated May 24, 1989, as supplemented, SIB's letter dated July 28, 1989 in which SIB confirms that it monitors LIFFE for compliance with its obligations as an RIE,[10] the existence of information sharing arrangements with SIB and other relevant United Kingdom authorities,[11] the determination of the

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[2] In considering requests under Rule 30.3(a), the Commission notes that it has received a significant number of comments that the offer or sale of foreign options should be permitted. *See* advance notice of proposed rulemaking, 49 FR (July 25, 1984), proposed rules, 51 FR 12104 (April 8, 1986) and final rules, 52 FR 28980 (August 5, 1987). The Commission continues to welcome comments on this process. On July 20, 1988, the Commission issued orders authorizing certain option contracts traded on the Montreal Exchange, the Singapore International Monetary Exchange and the Sydney Futures Exchange to be offered or sold in the United States.

[3] Rule 30.1(b), 17 CFR 30.1(b) (1988), defines a foreign option as any transaction or agreement which is or is held out to be of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "put," "call," "advance guaranty" or "decline guaranty," made or to be made on or subject to the rules of a foreign board of trade.

[4] Although the statutory prohibition on the offer or sale of foreign options formerly contained in section 4c(c) of the Commodity Exchange Act ("Act") has been removed, *see* Futures Trading Act of 1986, Pub. L. No. 99-641, section 102, 100 Stat. 3556 (1986), the regulatory prohibition in Commission Rule 32.11, 17 CFR 32.11 (1988), adopted pursuant to section 4c(b) of the Act, remains in effect.

[5] 52 FR 28980, 28988.

[6] 51 FR 12104, 12105.

[7] *See* 51 FR 12104, 12105 (April 8, 1986). The pattern of abuses that was characteristic of option sales practices in the past, and which contributed to the Commission's decision to suspend all option sales in 1978, included the unavailability of data necessary to permit a determination whether orders for options had in fact been executed. *See* 43 FR 10155 (April 17, 1978).

[8] *See* Orders of the Commission dated May 15, 1989 granting Rule 30.10 relief to the Securities and Investments Board, the Association of Futures Brokers and Dealers, The Securities Association and the Investment Management Regulatory Organisation. 54 FR 21599 (May 19, 1989). In issuing such Orders, the Commission determined that the requirements in Appendix A to Part 30, "Interpretative Statement with Respect to the Commission's Exemptive Authority Under § 30.10 of its Rules," which sets forth the elements the Commission will evaluate in determining whether a particular regulatory program may be found to be comparable for purposes of exemptive relief pursuant to Rule 30.10, had generally been satisfied. *Id.*

[9] The Commission has not sought to analyze the individual option contracts under the requirements which apply to the designation of an option contract proposed to be traded on a United States contract market. In particular, the Commission has not analyzed whether these instruments would meet the Commission's economic purpose test, 17 CFR § 33.4(a)(5)(i) (1988), or other criteria relating to the specific terms and conditions of such foreign option contract. *See* 17 CFR 33.4. The Commission, however, has plenary authority with respect to option products. *See* section 4c of the Act.

[10] *See* letter from M.B. Gittins, SIB, to Andrea M. Corcoran, Commission, dated July 28, 1989.

[11] *See, e.g.*, "Memorandum of Understanding on Exchange of Information between the United States Securities and Exchange Commission and the United Kingdom Department of Trade and Industry in Matters Relating to Securities and Between the United States Commody Futures Trading Commission and the United Kingdom Department of Trade and Industry in Matters Relating to Futures" signed on September 23, 1986, as supplemented by

Continued

Commission to grant Rule 30.10 relief to specified firms in the United Kingdom by Orders dated May 15, 1989, the memorandum from the Division of Trading and Markets to the Commission dated August 30, 1989 ("Staff Memorandum") recommending the approval of the Order herein, and pursuant to Commission Rule 30.3(a), the Commission hereby authorizes the offer or sale in the United States of options traded on LIFFE subject to the following conditions:

(1) Except as otherwise permitted under the Commodity Exchange Act and regulations thereunder, that no offer or sale of any LIFFE option product in the United States shall be made until thirty days after publication in the **Federal Register** of notice specifying the particular option(s) to be offered or sold pursuant to this Order;

(2) That SIB and LIFFE represent that LIFFE is an RIF under the Financial Services Act and, as such, is subject to regulatory obligations under that Act, that transactions on LIFFE in the LIFFE option(s) referenced in such notice [12] will be subject to the rules of LIFFE and that SIB and/or LIFFE provide the Commission with information as to all material changes thereto promptly;

(3) That options on futures on stock indices [13] and options on futures on foreign government debt securities [14] will not be permitted to be offered or sold hereunder absent certain additional procedures;

(4) That options trade pursuant to this Order may only be offset on LIFFE or another market with respect to which the Commission has issued an order under Commission Rule 30.3(a) authorizing its option products to be offered or sold in the United States;

(5) That options traded pursuant to the Order herein may only be offered or sold by persons registered in the appropriate capacity under the Commodity Exchange Act or by persons who have been granted an exemption from registration under Rule 30.10 based on comparability of regulation, provided such persons also provide customers resident in the United States with the options risk disclosure statement in Commission Rule 33.7, 17 CFR 33.7 (1988), and, if the persons elect not to collect the full premium for the contract as margin from the customer at the time of purchase, the Addendum thereto attached hereto as Exhibit B, but may not be offered or sold by persons doing business in the United States pursuant to interim relief granted and extended by the Commission (*See* 53 FR 3338 (February 5, 1988) and subsequent orders and letters of the Commission); and

(6) If experience demonstrates that the continued effectiveness of this Order would be contrary to public policy or the public interest or that the operation or execution of the systems and arrangements in place for the trading of the option products subject hereto, or the exchange of information with respect to such products, do not warrant continuation of the authorization granted herein, the Commission may modify, suspend, terminate or otherwise restrict the authorization granted in this Order, as appropriate, on its own motion. In such event, appropriate arrangements to service existing positions will be made.

This Order is issued based on the information provided to the Commission and its staff as set forth herein and in the Staff Memorandum. Any changes or material omissions might require the Commission to reconsider the autorization granted in this Order.

Issued in Washington, DC on September 5, 1989.

Jean A. Webb,

Secretary of the Commission.

Exhibit A

Options on Futures—Interest Rate

[Option on Long Gilt Future]

Unit of Trading	1 Long Gilt futures contract.
Delivery/Expiry Months.	March, June, September, December.
Delivery Day/ Exercise Day/ Expiry Day.	Exercise by 17.00 on any business day, extended to 18.00 on last trading day. Delivery on the first business day after the exercise day. Expiry at 18.00 on the last trading day.
Last Trading Day	16.15. Six business days prior to the first delivery day of the Long Gilt Futures contract.
Quotation	Multiples of 1/64.
Minimum Price Movement.	1/64.
(Tick size & value)	(£7.8125).
Initial Margin (Straddle Margin).	See footnotes.
Trading Hours	09.02–16.15.

Note.—Option on Long Gilt Future:

Contract Standard: Assignment of 1 Long Gilt futures contract for the delivery month at the exercise price.

Exercise Price Intervals: £1 e.g. £96–00, £97–00 etc.]

Introduction of New Exercise Prices: 13 exercise prices will be listed for new series. Additional prices will be introduced on the business day after the Long Gilt futures contract settlement price is within £16/32 of the sixth highest or lowest existing exercise price.

Initial Margin: Initial margin charged by clearing house for long and short options positions is calculated with reference to daily published risk factors and the level of initial margin for the related futures contract which it cannot exceed. Initial margin is reduced for all options and option-futures combinations which include offsetting positions.

Option Price: The contract price is payable by the buyer to the seller on exercise or expiry of the option, not at the time of purchase. Positions are marked to market daily.

Options on Futures—Interest Rate

[Option on US Treasury Bond Future]

Unit of Trading	1 US Treasury Bond futures contract.
Delivery/Expiry Months.	March, June, September, December.
Delivery Day/ Exercise Day/ Expiry Day.	Exercise by 17.00 on any business day; extended to 20.30 on last trading day. Delivery on the first business day after the exercise day. Expiry at 20.30 on the last trading day.
Last Trading Day	16.10 First Friday preceding by at least six CBOT working days the first delivery day of the US Treasruy Bond futures contract.
Quotation	Multiples of 1/64.
Minimum Price Movement.	1/64.
(Tick size & value)	($15.625).
Initial Margin (Straddle Margin).	See footnotes.
Trading Hours	08.17–16.10.

Note.—Option on U.S Treasury Bond Future:

Contract Standard: Assignment of 1 US Treasury Bond futures contract for the delivery month at the exercise price.

Exercise Price Intervals: $1 e.g. 86–00, 87–00 etc.

Introduction of New Exercise Prices: 13 exercise prices will be listed for new series. Additional prices will be introduced on the business day after the U.S. Treasury Bond futures contract settlement price is within $16/32 of the sixth highest or lowest existing price.

Initial Margin: Initial margin charged by clearing house for long and short options positions is calculated with reference to darily published risk factors and the level of initial margin for the related futures contract which it cannot exceed. Initial margin is reduced for all options and option-futures combinations which include offsetting positions.

Option Price: The contract price is payable by the buyer to the seller on exercise or expiry of the option, not on purchase. Positions are marked to market daily.

Last Trading Day: The last trading day is defined to coincide with the last trading day for the Chicago Board of Trade Option on US Treasury Bond futures, where this is a UFFE trading day.

Options on Futures—Interest Rate

[Option on German Government Bond (Bund) Future]

Unit of Trading	1 Bond futures contract.
Delivery Months	March, June, September, December.
Delivery Day/ Exercise Day/ Expiry Day.	Exercise by 17.00 on any business day, extended to 18.00 on last trading day. Delivery on the first business day after the exercise day. Expiry at 18.00 on the last trading day.
Last Trading Day	16.00 Six business days prior to the first day of the delivery month.
Quotation	Multiples of DM 0.01.
Minimum Price Movement.	DM 0.01.
(Tick size and value).	(DM 25).

"Memorandum Relating to UK/US MOU" signed on November 22, 1988 adding the SIB as a signatory to the MOU (hereinafter collectively referred to as "UK/US MOU"), and the "Side Letter Relating to UK/US MOU" signed on May 15, 1989.

[12] The option contracts which will initially be offered or sold pursuant to this Order, the terms and conditions for which are attached hereto as Exhibit A, are options on Long Gilt, U.S. Treasury Bond, German Government Bond, Three-Month Sterling Interest Rate and Three-Month Eurodollar Interest Rate contracts and on Sterling Currency and Dollar-Mark Currency.

[13] *See* 52 FR 28980, 29692 n.8 and section 2a(1) of the Act.

[14] *See* section 2a(1) of the Act, section 3(a)(12) of the Securities Exchange Act of 1934 and Rule 3a12–8 promulgated thereunder. The Securities and Exchange Commission has designated the government debt securities issued by the United Kingdom and West Germany as exempted securities. *See* Securities Exchange Act Release No. 20708, March 2, 1984, and 53 FR 43860 (October 31, 1988).

Exhibit A—Continued

Options on Futures—Interest Rate—Continued

[Option on German Government Bond (Bund) Future]

Initial Margin (Straddle Margin).	See footnotes.
Trading Hours	08.07–16.00 London time.

Note.—Option on German Government Bond Future:

Contract Standard: Assignment of 1 Bond futures contract for the delivery month at the exercise price.

Exercise Price Intervals: DM 0.05, e.g. 94.00, 95.50, etc.

Introduction of New Exercise Prices: 9 exercise prices will be listed for new series. Additional prices will be introduced on the business day after the Bond futures contract settlement price is within DM 0.25 of the fourth highest or lowest existing price.

Initial Margin: Initial margin charged by the clearing house for long and short options positions is calculated with reference to daily published risk factors and the level of initial margin for the related futures contract which it cannot exceed. Initial margin is reduced for all options and options futures combinations which include offsetting positions.

Option Price: The contract price is payable by the buyer to the seller on exercise or expiry of the option, not at the time of purchase. Positions are marked to market daily.

Options on Futures—Interest Rate

[Option on Three Month Sterling Interest Rate Future]

Unit of Trading	1 Three Month Sterling futures contract.
Delivery/Expiry Months.	March, June, September, December.
Delivery Day/ Exercise Day/ Expiry Day.	Exercise by 17.00 on any business day. Delivery on the first business day after the exercise day. Expiry at 17.00 on last trading day. Fully automatic exercise of in-the-money options on last trading day.
Last Trading Day	11.00 Last trading day of Three Months Sterling futures contract.
Quotation	Multiples of 0.01 (i.e. 0.01%).
Minimum Price Movement.	0.01.
(Tick size & value)	(£12.50).
Initial Margin (Straddle Margin).	See footnotes.
Trading Hours	08.22–16.02.

Note.—Option on Three Month Sterling Interest Rate Future:

Contract Standard: Assignment of 1 Three Month Sterling futures contract for the delivery month at the exercise price.

Exercise Price Intervals: 0.25 (i.e. 0.25%) e.g. 90.50, 90.75, 91.00 etc.

Introduction of New Exercise Prices: 13 exercise prices will be listed for new series. Additional prices will be introduced on the business day after the Three Month Sterling futures contract settlement price is within 0.12 of the sixth highest or lowest existing exercise price.

Initial Margin: Initial margin charged by the clearing house for long and short options positions is calculated with reference to daily published risk factors and the level of initial margin for the related futures contract which it cannot exceed. Initial margin is reduced for all options and options-futures combinations which include offsetting positions.

Option Price: The contract price is payable by the buyer to the seller on exercise or expiry of the option, not at the time of purchase. Positions are marked to market daily.

Options on Futures—Interest Rate

[Option on Three Month Eurodollar Interest Rate Future]

Unit of Trading	1 Eurodollar futures contract.
Delivery/Expiry Months.	March, June, September, December.
Delivery Day/ Exercise Day/ Expiry Day.	Exercise by 17.00 on any business day. Delivery on the first business day after the exercise day. Expiry at 17.00 on last trading day. Automatic exercise of in-the-money options on last trading day.
Last Trading Day	11.00 Last trading day of Eurodollar futures contract.
Quotation	Multiples of 0.01 (i.e. 0.01%).
Minimum Price Movement.	0.01.
(Tick size & value)	($25.00).
Initial Margin (Straddle Margin).	See footnotes.
Trading Hours	08.32–16.00.

Note.—Option on Three Month Eurodollar Interest Rate Future:

Contract Standard: Assignment of 1 Eurodollar futures contract for the delivery month at the exercise price.

Exercise Price Intervals: 0.25 (i.e. 0.25%) e.g. 89.50, 89.75, 90.00.

Introduction of New Exercise Prices: 13 exercise prices will be listed for new series. Additional prices will be introduced on the business day after the Eurodollar futures contract settlement price is within 0.12 of the third highest or lowest existing exercise price.

Initial Margin: Initial margin charged by the clearing house for long and short options positions is calculated with reference to daily published risk factors and the level of initial margin for the related futures contract which it cannot exceed. Initial margin is reduced for all options and options-futures combinations which include offsetting positions.

Option Price: The contract price is payable by the buyer to the seller on exercise or expiry of the option, not at the time of purchase. Positions are marked to market daily.

Options on Cash

[Option on Sterling Currency]

Unit of Trading	£25,000 traded against US$.
Delivery/Expiry Months.	March, June, September, December with three nearby months (See footnotes).
Delivery Day/ Exercise Day/ Expiry Day.	Exercise by 17.00 on any business day. Delivery on the third business day after the exercise day. Expiry at 17.00 on last trading day.
Last Trading Day	16.02 Three business days before third Wednesday of expiry month.
Quotation	US cents per £.
Minimum Price Movement.	0.01 cents per £.
(Tick size & value)	($2.50).
Initial Margin (Straddle Margin).	See Footnotes.
Trading Hours	08.34–16.02.

Note.—Option on Sterling Currency:

Expiry Months: For example, in early November the following expiry months would be available for trading: November, December, January plus other months on the Mar/Jun/Sep/Dec cycle.

Contract Standard: Delivery of the currency at the exercise price.

Exercise Price Intervals: 5 cents per £ e.g. $1.15, $1.20, $1.25 per £.

Introduction of New Exercise Prices: At least 5 exercise prices will be listed for new series. Additional prices will be introduced on the business day after the Sterling Currency futures contract settlement price, spot sterling exchange rate (at 16.02) or sterling-dollar forward price (at 16.02) is within 2.5 cents of the second highest or lowest exercise price.

Initial Margin: Initial margin charged by the clearing house for long and short options positions is calculated with reference to daily published risk factors and the level of initial margin for the related futures contract which it cannot exceed. Initial margin is reduced for all options and options-futures combinations which include offsetting positions.

Option Price: The contract price is payable by the buyer to the seller on exercise or expiry of the option, not at the time of purchase. Positions are marked to market daily.

Options on Cash

[Option on Dollar-Mark Currency]

Unit of Trading	$50,000 traded against DM.
Delivery/Expiry Months.	March, June, September, December with three nearby months (See footnotes).
Delivery Day/ Exercise Day/ Expiry Day.	Exercise by 17.00 on any business day up to Expiry Day; by 10.00 on Expiry Day. Delivery on third business day after exercise, except for options exercised on Expiry Day, for which delivery is on second business day after exercise. Expiry at 10.00 two business days before third Wednesday of expiry month.
Last Trading Day	16.04 Three business days before third Wednesday of expiry month.
Quotation	pfennigs per $US.
Minimum Price Movement.	0.01 pfennigs per $US.
(Tick size & value)	(DM 5.00).
Initial Margin (Straddle Margin).	See footnotes.
Trading Hours	08.36–16.04.

Note.—Option on Dollar-Mark Currency:

Expiry Months: For example, in early November the following expiry months would be available for trading: November, December, January plus other months on the Mar/Jun/Sep/Dec cycle.

Contract Standard: Delivery of the currency at the exercise price.

Exercise Price Intervals: 5 pfennigs per $US eg DM 2.45, DM 2.50, DM 2.55.

Introduction of New Exercise Prices: At least 5 exercise prices will be listed for new series. Additional prices will be introduced on the business day after the Dollar-Mark futures contract settlement price, spot dollar-mark exchange rate (at 16.04) or dollar-mark forward price (at 16.04) is within 2.5 pfennigs of the second highest or lowest existing price.

Initial Margin: Initial margin charged by the clearing house for long and short options positions is calculated with reference to daily published risk factors and the level of initial margin for the related futures contract which it cannot exceed. Initial margin is reduced for all options-futures combinations which include offsetting positions.

Option Price: The contract price is payable by the buyer to the seller on exercise or expiry of the option, not at the time of purchase. Positions are marked to market daily.

Exhibit B—Addendum to CFTC Options Disclosure Statement

(CFTC Rule 33.7)

The CFTC "Options Disclosure Statement," a copy of which is attached,

is modified as set forth below to reflect some particular futures of LIFFE options:

(i) LIFFE is a board of trade (exchange) located *outside* the United States on which certain options are authorized by the CFTC for sale in the United States;

(ii) LIFFE option contracts have provision for deferred payment of the option premium, are marked-to-market and are subject to initial margin requirements. Consequently, the futures commission merchant ("FCM") or a firm granted an exemption from the FCM registration requirement might not require the purchaser of a LIFFE option to put up the full premium at purchase.

Although there is provision for deferred payment of premium, the purchaser of an option is still subject to the risk of losing the entire purchase price of the option, that is, the option premium plus all tansaction costs. Consequently, before purchasing an option, an individual should fully understand the applicable margin requirements, and particularly should be aware of the obligation to pay variation margin in the case of adverse market movement. Although the purchaser may receive some accruing profit during the life of the option, he should be aware that in order to realize and retain any value from the option, it will be necessary either to offset the option position or to exercise the option.

August 30, 1989.

Memorandum

To: The Commission.

From: The Division of Trading and Markets.

Subject: Order Under Commission Rule 30.3(a) Permitting Certain Option Contracts Traded on the London International Financial Futures Exchange to be Offered or Sold in the United States.

Recommendation: That the Commission publish in the **Federal Register** this memorandum and approve and publish the attached order permitting option contracts traded on the London International Financial Futures Exchange to be offered or sold in the United States upon thirty days notice.

Other Divisions and Offices Consulted: Division of Economic Analysis, Division of Enforcement, Office of the Executive Director, Office of the General Counsel.

I. Introduction

On July 23, 1987, the Commission adopted final rules governing the domestic offer or sale of commodity futures and option contracts traded on or subject to the rules of a foreign board of trade. 52 FR 28980 (August 5, 1987). These rules, which became effective on February 1, 1988, establish, among other things, a regulatory framework for the offer or sale of foreign option products to persons located in the United States.[1] Specifically, Rule 30.3(a) provides that:

> [N]otwithstanding any other provision of this part, it shall be unlawful for any person to engage in the offer or sale of any foreign option until the Commission, by order, authorizes such foreign option to be offered in the United States. * * * 52 FR 28988.

In this regard, in view of the history of abuses in the options markets prior to the imposition of the options ban,[2] the Commission determined to phase in foreign options on a market-by-market basis through particularized review of applications submitted by individual markets and issuance of an authorization order, as appropriate, by the Commission.[3] In adopting the final rules which implement that procedure, the Commission stated that notwithstanding Part 30, which provides a regulatory framework to govern transactions in both foreign futures *and* foreign options, and which has been the subject of extensive notice and comment, it would be unlawful for any person to engage in the offer or sale of a particular foreign option product to a customer resident in the United States until the Commission specifically authorizes such foreign option to be offered or sold in the United States.[4] As a consequence, Rule 30.3(a) permits the Commission, as stated in the release accompanying the proposed rules, to consider, among other things, its ability to determine whether or not a particular trade has been transmitted to and executed on a foreign exchange in determining whether to authorize transactions in specific foreign exchange-traded options.[5]

By letter dated May 24, 1989, the London International Financial Futures Exchange ("LIFFE"), a recognized investment exchange ("RIE") which is subject to regulatory oversight by the United Kingdom Securities and Investments Board ("SIB"),[6] requested that the Commission authorize the offer or sale of option contracts traded on LIFFE to persons located in the United States.

II. Recommendation

The Division of Trading and Markets ("Division") has carefully reviewed and considered the application of LIFFE to offer or sell option products traded on LIFFE in the United States, in particular addressing: (1) The availability of certain information relevant to preventing abuses in the trading of such contracts; (2) the arrangements in place for monitoring compliance with sales practice obligations; (3) the ability of United States customers to redress grievances with respect to the conduct of trading and other offshore activities relevant to the offer or sale of LIFFE option products; and (4) the regulatory environment in which such options are traded. In particular, the review of LIFFE's petition under Commission Rule 30.3(a) has been facilitated by the Commission's determination by Orders issued on May 15, 1989, under Rule 30.10, 17 CFR 30.10 (1988), to exempt specified firms in the United Kingdom from the application of certain of the Commission's rules governing foreign futures and option transactions based on the existence of a generally comparable regulatory system in effect in the United Kingdom. Specifically, on May 15, 1989, the Commission granted the Rule 30.10 petitions of the SIB and of certain self-regulating organizations ("SROs"), *i.e.*, the Association of Futures Brokers and Dealers ("AFBD"), The Securities Association ("TSA") and the

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[1] Rule 30.1(b), 17 CFR 30.1(b) (1988), defines a foreign option as any transaction or agreement which is or is held out to be of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "put," "call," "advance guaranty" or "decline guaranty," made or to be made on or subject to the rules of a foreign board of trade.

[2] *See* 51 FR 12104, 12105 (April 8, 1986). The pattern of abuses that was characteristic of option sales practices in the past, and which contributed to the Commission's decision to suspend all option sales in 1978, included the unavailability of data necessary to permit a determination whether orders for options had in fact been executed. *See* 43 FR 16155 (April 17, 1978).

[3] Although the statutory prohibition on the offer or sale of foreign options formerly contained in section 4c(c) of the Commodity Exchange Act ("Act") has been removed, *see* Futures Trading Act of 1986, Pub. L. No. 99-641, section 102, 100 Stat. 3556 (1987), the regulatory prohibition in Commission Rule 32.11, 17 CFR 32.11 (1988), adopted pursuant to section 4c(b) of the Act, remains in effect.

[4] 52 FR 28980, 28998. Notwithstanding the prohibition in Commission Rule 30.3(a), non-domestic exchange-traded options which are traded pursuant to the trade option exemption in Commission Rule 32.4(a), 17 CFR 32.4(a) (1988), may continue to be offered or sold.

[5] 51 FR 12104, 12105.

[6] *See* Section 37 of the Financial Services Act ("FSA") and Order of SIB dated April 25, 1988 declaring LIFFE to be an RIE attached as Appendix 6 to the May 24, 1989 Petition of LIFFE.

SIB has confirmed that it monitors all RIEs, including LIFFE, for compliance with their obligations as RIEs. *See* letter from M.B. Gittins, SIB, to Andrea M. Corcoran, Commission, dated July 28, 1989.

Investment Management Regulatory Organisation ("IMRO"), which are responsible for regulating the investment business activities of firms which they designate. In granting such petitions, the Commission determined that the requirements in Appendix A to Part 30, "Interpretative Statement with Respect to the Commission's Exemptive Authority Under § 30.10 of its Rules," [7] generally had been satisfied and that compliance with the rules of the SIB and/or the equivalent rules of the relevant SRO may be substituted, subject to certain conditions, for compliance with specified sections of the Commodity Exchange Act.

As discussed more fully below, based upon its determinations with respect to the foregoing matters, and subject to the terms and conditions specified herein, the Division recommends that the Commission publish in the **Federal Register** this memorandum and approve and publish the attached Order permitting certain option contracts traded on LIFFE to be offered or sold in the United States. [8]

III. Discussion

Information Sharing

Prior to the imposition of the options ban in 1978, the ability of the Commission to address problems which occurred with respect to the offer or sale of certain ostensibly foreign options in the United States was impeded by the inaccessibility of information from their purported jurisdiction of origin. As a consequence, in determining to lift the options ban with respect to foreign products, the Commission indicated that a primary consideration would be the availability of transaction information. [9]

Information sharing arrangements have been the subject of extensive discussion between the Commission and the United Kingdom regulatory bodies in connection with the execution of the "Memorandum of Understanding between the United States Securities and Exchange Commission and the United Kingdom Department of Trade and Industry in matters relating to Securities and between the United States Commodity Futures Trading Commission and the United Kingdom Department of Trade and Industry in matters related to Futures" signed on September 23, 1986, as supplemented by the "Memorandum Relating to UK/US MOU" signed on November 22, 1988 adding the SIB as a signatory to that document, (hereinafter collectively referred to as "UK/US MOU") and the Side Letter Relating to UK/US MOU ("Side Letter") entered into on May 15, 1989 by the SIB and the Commission. In particular, the Side Letter provides for information sharing necessary to monitor compliance with applicable Part 30 rules and the terms and conditions of any order issued by the Commission under Part 30, including any foreign option order issued pursuant to Commission Rule 30.3(a). In addition, the Financial Information Sharing Memorandum of Understanding ("FISMOU") entered into on September 1, 1988 by, among others, the SIB, the Commission and United Kingdom and United States SROs and the Addendum to the FISMOU signed on May 15, 1989 provides for routine and "as needed" information sharing in connection with the financial condition of firms which are exempt from compliance with certain financial requirements pursuant to the FISMOU and the Addendum thereto.

Further, in its May 24, 1989 Petition, LIFFE has represented that it is committed to cooperating with United Kingdom regulatory authorities by sharing information with such authorities and that, as an RIE, LIFFE is obligated to do so under the FSA. [10]

Sales Practice Audits

In developing its pilot program for domestic exchange-traded options, the Commission specifically required as a condition of designation that the contract market seeking approval of an option adequately provide for the monitoring and detection of sales practice abuses. [11] As such abuses ultimately contributed to the banning of options trading altogether in 1978, the Commission has indicated that any options offered in the United States must be subject to an adequate sales practice audit program. [12] In this connection, LIFFE represents that under the FSA, SIB or the SRO to which a specific firm belongs is responsible for establishing sales practice rules and monitoring compliance with such rules. Specifically, LIFFE represents, and the Commission staff determined in connection with its review of the relevant Rule 30.10 petitions, that SIB, AFBD, TSA and IMRO each has sales practice rules which address, without limitation, customer complaints, supervision of employees and accounts, solicitation, notification of disciplinary actions, risk disclosure, contents of customer accounts, discretionary accounts and misleading advertising. [13] Further, SIB and the SROs have rules relating to "best execution." These rules are intended to prevent a firm from taking advantage of a customer's order, whether for its own account or for that of another customer. For example, SIB Conduct of Business Rule 5.15 establishes the priorities to be given to customers' orders in instances where a firm also is trading for its own account.

Additionally, the SIB and United Kingdom SROs have procedures for conducting sales practice audits of firms in the United Kingdom selling LIFFE options into the United States. [14] In particular, under Part 15 of SIB's Conduct of Business Rules, firms are required to establish and maintain written rules and compliance procedures to ensure compliance with the requirements of the FSA and the rules or regulations made by SIB under the FSA. SIB has established a direct regulation division to maintain continuous oversight with respect to firms which it has authorized. As a condition of recognition by SIB as an SRO, the SRO must demonstrate to SIB that it has rules relating to, among other things, protection of investors, the monitoring and enforcement of compliance with its rules and the promotion and maintenance of high standards of integrity and fair dealing which provide protection to investors "at least equivalent" to that provided by SIB under its rules. Also, the National Futures Association ("NFA") has confirmed by letter dated August 16, 1989 that the sales practices of firms located in the United States engaged in such activities will be audited. [15]

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[7] Appendix A sets forth the elements the Commission will evaluate in determining whether a particular regulatory program may be found to be comparable for purposes of exemptive relief pursuant to Rule 30.10.

[8] *See* Exhibit A of the Order recommended herein which contains the list of option contracts and their terms and conditions. Additional LIFFE option contracts may be offered or sold thirty days after publication of the terms and conditions of the specific option contract in the **Federal Register**. The Division believes that review of the individual foreign option contracts should be limited at this time to the regulatory issues discussed above and should not include an analysis of whether these foreign option contracts would meet the Commission's economic purpose test, 17 CFR 33.4(a)(5)(i) (1988), or other criteria relating to the specific terms and conditions of the option contract. *See* 17 CFR 33.4.

[9] 52 FR 28980, 28988.

[10] *See* FSA, Schedule 4, paragraph 5 and Appendix 6 to May 24, 1989 Petition of LIFFE, to which is attached a Memorandum of Understanding between SIB and LIFFE.

[11] *See* 46 FR 54500 (November 3, 1981).

[12] *Id.*

[13] *See* Rules of SIB, AFBD, TSA and IMRO as discussed in Staff Memoranda dated May 5, 1989 recommending that the Commission grant the Rule 30.10 petition of the above-referenced entities.

[14] *Id.*

[15] On January 14, 1988, the Commission approved amendments to NFA's Bylaws and the adoption of

Continued

In conjunction with the SROs' sales practice programs, LIFFE's Market Supervision Department ("MSD") conducts surveillance on a daily basis to monitor members' compliance with LIFFE rules and to ensure that an orderly and secure market is maintained.[16] LIFFE has represented that MSD's surveillance function encompasses:

(i) *Trading Surveillance*—MSD works with the [LIFFE's] Floor Trading Department of approximately 30 pit observers * * * * [During normal market conditions, the pit observer] report[s] [all] bid, offer, and traded price levels for input to the price reporting system, and * * * ensure[s] compliance with floor trading procedures and maintain[s] an orderly market within the pit * * *. The surveillance of the market floor has been enhanced by the introduction of video recording of all futures and option pits [which assists in] * * * the reconstruction of a sequence of events in the pit for both dispute resolution and disciplinary purposes.

* * * * *

[LIFFE also has a real-time matching system and a requirement that all telephone lines onto the LIFFE floor be audio logged]. The real-time matching system is designed to ensure that transaction details are input, matched and processed promptly throughout the trading day and forms an integral part of LIFFE's Trade Registration System ("TRS"). MSD has real-time enquiry access to TRS during the trading day. This facility enables MSD to closely monitor trading activity; enquiry selection parameters used include trader, member, contract month, price and counterparty.

The audio logging of telephone lines to the market floor has been utilized by many brokers for several years. [LIFFE represents that its] [m]embers find that this facility often enables them to resolve amicably occasional disputes with their clients * * *.

(ii) *Market Surveillance*—MSD monitors the trades and positions of all Exchange members to detect the possible buildup of large positions or unusual trading activity. MSD has the right to require members to disclose for whom they are dealing [and] * * * also monitors the relationship between futures, options and cash market prices, their convergence at expiry, and the determination of [LIFFE] Delivery Settlement Prices.

On a daily basis, MSD is in close liaison with the clearing house [the International Commodities Clearing House, Ltd. ("ICCH")]. On a regular basis, MSD review[s] initial margin levels in conjunction with [ICCH] and, in response to a significant price movement or increase in volatility, MSD or [ICCH] may initiate an intraday margin call. Similarly, [ICCH] may apply differential margin requirements to specific clearing members in certain circumstances; perhaps where a single member holds a high percentage of open positions in a particular contract.

(iii) *Financial Surveillance*—MSD is responsible for ensuring members' compliance with [LIFFE's] net worth and financial requirements. These net worth requirements are independent from, although not inconsistent with, those of [ICCH] (for LIFFE clearing members) and of the various SRO's * * *.

Generally, MSD is authorized to investigate any suspected or alleged breach of LIFFE rules or trading procedures. Such an investigation may involve the interviewing of member staff, correspondence with the member, and analysis of documents and trading data. MSD has authority to visit the offices of LIFFE members and examine any records relating to their LIFFE business. Where sufficient evidence of an alleged breach of the rules is found, disciplinary proceedings will be initiated.[17]

Dispute Resolution

The availability of a forum to address complaints with respect to trade execution is relevant to any determination to lift the ban on foreign option products. This is because the provision of such a forum evidences the relevant foreign jurisdiction's intention to afford practical mechanisms to address complaints originating with customers not located in that jurisdiction and to assure a fair trading environment.

In recommending that the Commission grant the Rule 30.10 petition of SIB, AFBD, TSA and IMRO, the Staff Memoranda dated May 5, 1989 noted that SIB and each of the United Kingdom SROs have procedures for dispute resolution to redress customer complaints. However, to facilitate a customer's access to a dispute resolution forum, the Commission granted Rule 30.10 relief subject to the condition that each United Kingdom firm consent to participate in NFA's expanded arbitration program to cover disputes between United States customers and non-NFA member foreign firms in connection with transactions subject to part 30. Such consent, however, is subject to NFA's stated policy to reject any request for arbitration involving a claim arising primarily out of delivery, clearing, settlement or floor practices on any foreign exchange. Further, United Kingdom firms may require their United States customers to first exhaust certain mediation or conciliation procedures made available in the United Kingdom prior to initiating an NFA arbitration proceeding.[18]

Section 6 of LIFFE's Rules had required the compulsory referral of disputes arising out of any LIFFE contract to arbitration. In this regard, LIFFE has represented that its Board has approved amendments to section 6 of its Rules, the effects of which, according to LIFFE, will be as follows: [19]

(a) LIFFE will retain jurisdiction where the dispute arises primarily out of delivery, clearing, settlement or floor practices;

(b) In other areas of dispute, LIFFE will be able to decline jurisdiction if arbitration by some other body (*e.g.*, NFA and AFBD) seems more appropriate; and

(c) In the case of a United States customer, in disputes involving those matters referred to in paragraph (b) above, the customer may elect the forum in which he desires to arbitrate, NFA or United Kingdom arbitration.[20]

LIFFEs arbitration program is fully available to United States customers of LIFFE members. The rules envisage that the parties to the dispute may not be located in the United Kingdom and generally provide for written submissions by the parties. Although rule 6.8 provides for the possibility of a *viva voce* (that is, oral) hearing, paragraph (a) of rule 6.8 gives the arbitrators discretion to refuse such a hearing and to decide the case on the basis of written submissions. LIFFE generally would expect arbitrators to take into account the practicality and cost of attendance at a *viva voce* hearing by a party not located in the United Kingdom in deciding how to exercise their discretion in this regard.[21] In any event, a party need not appear at the hearing in person but may be represented by any agent engaged in the business of finance. *See* LIFFE rule 6.8(d).

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new Bylaws to provide for the regulation of the foreign futures and option activities of NFA members and associates. By letter dated August 16, 1989, from Daniel A. Driscoll, Vice-President of NFA, to Andrea M. Corcoran, Commission, NFA confirmed that arrangements have been made to provide sales practice audits of firms in the United States selling LIFFE options.

[16] *See* Appendix 8 to May 24, 1989 Petition of LIFFE.

[17] *Id.*

[18] The United Kingdom mediation/conciliation and arbitration programs were examined in connection with the issuance of the Commission's Rule 30.10 Orders, and NFA's new international arbitration program was reviewed in connection with the Commission's approval of amendments to NFA's rules which became effective on June 12, 1989.

[19] *See* letters from J.L. Foyle and Nick Carew Hunt, LIFFE, to Andrea M. Corcoran and Jane C. Kang, Commission, dated June 26 and August 30, 1989.

[20] *See* letters from J.L. Foyle and Nick Carew Hunt, LIFFE, to Andrea M. Corcoran and Jane C. Kang, Commission, dated June 28 and August 30, 1989.

[21] *Id.*

Further, in an August 10, 1989 supplement to its May 24, 1989 Petition, LIFFE stated that its Board has approved further revisions to LIFFE's arbitration rules which clarify that *viva voce* hearings would, in the normal course of events, be held only if the arbitrators considered it necessary to avoid injustice or if, in the light of a request by one of the parties for a *viva voce* hearing, the arbitrators considered such a hearing necessary.[22]

Failure by a LIFFE member to refer or to participate in the reference of a dispute to arbitration or to comply with an award made against him is a disciplinary offense which may result in such member's suspension or expulsion from LIFFE. *See* LIFFE rule 6.13. The party obtaining an award in his favor may obtain a judgment in any court of competent jurisdiction to enforce the award. The decision of the arbitrators will be final, but a party may refer an issue to the High Court in England with the Court's leave on a point of law, on the grounds that the arbitrators engaged in improper conduct during the proceedings, the award was improperly procured or on certain other bases.

Regulatory Environment

When options were originally banned in the United States, they had not been subjected to a full regulatory program. It is appropriate, therefore, to inquire as to whether the market which proposes to offer option products in the United States has a regulatory structure which addresses market integrity and the sales practices of firms doing options business with United States firms or customers.[23] This review is for the purpose of establishing the existence of a supervised marketplace and does not constitute a comparability analysis of the nature required under Rule 30.10 for certain other relief the Commission may accord under its foreign futures and option rules.[24] The United Kingdom regulatory system under the Financial Services Act, however, was the subject of detailed scrutiny during the Commission's consideration of the petitions submitted by SIB, AFBD, TSA and IMRO on behalf of designated firms for relief from the application of certain Commission rules under Commission Rule 30.10. In reviewing such petitions, the Commission's staff examined, among other things, the regulation of United Kingdom RIEs, including LIFFE. In addition, in connection with this petition, SIB has confirmed that:

In issuing any Order pursuant to section 37 of the Financial Services Act 1986 declaring an exchange to be a recognized investment exchange ("RIE"), the Securities and Investments Board ("SIB") must determine, among other things, that such an exchange has adequate arrrangments and resources for the effective monitoring and enforcement of compliance with its rules.

In connection with the foregoing, as the United Kingdom authority with supervisory responsibilities over RIEs, the SIB confirms to the Commodity Futures Trading Commission that it monitors all RIEs for compliance with their obligations as RIEs.[25]

Further, Commission staff analyzed the rules of SIB, AFBD, TSA and IMRO as they related to fitness review of qualifications of persons, minimum financial requirements, protection of customer funds, recordkeeping and reporting requirements and sales practice and compliance standards. The Staff Memoranda dated May 5, 1989 concluded that subject to the terms and conditions recommended therein, the systems and rules in effect in the United Kingdom afforded protections comparable to those in effect in the United States.

The only matter of note in connection with LIFFE's petition under Rule 30.3(a) which was not considered in the context of the Commission's consideration of the Rule 30.10 petitions of the SIB, AFBD, TSA and IMRO relates to the requirement that any firm which offers or sells any such LIFFE option product must provide the Commission's options risk disclosure statement in Rule 33.7.

The Commission stated in granting the Rule 30.10 petitions of SIB, AFBD, TSA and IMRO that in considering any petition requesting that United Kingdom option products subject to Part 30 be approved for offer or sale to customers resident in the United States, the Commission would assess the degree to which the United Kingdom's options risk disclosure statement addresses the same matters as those set forth in the Commission's options risk disclosure statement in determining whether the United Kingdom's statement may be substituted for the language in Commission Rule 33.7. The Division has reviewed the general risk disclosure statements required to be provided under the rules of SIB and the United Kingdom SROs [26] and believes that the risks addressed in such disclosure statements in connection with option transactions are not as comprehensive as the risk disclosures contained in Commission Rule 33.7. Accordingly, the Division recommends that the Commission require as a condition of granting LIFFE's petition that any firm, including a firm in the United Kingdom granted relief under Rule 30.10, provide customers resident in the United States with the options risk disclosure statement required by Rule 33.7.

However, all option contracts traded on LIFFE are designed with a provision for deferred payment (on exercise or expiry) of the option premium rather than payment at purchase.[27] In this connection, LIFFE has represented that in order to maintain prudent cover against the risk of loss in option positions, a system of margining supports the form of contract. This system is similar in principle and practice to that used for futures contracts, and involves three elements:

(i) Daily revaluation of positions (marking-to-market) resulting in positive or negative variation margin;

(ii) Initial margin calculated to provide protection against short term position risk;

(iii) Full integration with the margining of related futures contracts.

The form of the option contract and associated margining do not affect the "traditional" characteristic of purchased options in that the maximum potential loss is limited to the price of the option (*i.e.* premium).

In its June 28, 1989 supplement to its May 24, 1989 Petition, LIFFE has represented that the main benefits of LIFFE's option margining system may be summarized as follows:

—Improved utilization of funds and cash flow.

As for futures contracts, the buyer of the option contracts does not need to pay the full

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[22] *See* letters from J.L. Foyle and Nick Carew Hunt, LIFFE, to Andrea M. Corcoran and Jane C. Kang, Commission, dated August 10, 16 and 30, 1989.

[23] Although the Commission has not indicated an intention to review the terms and conditions of foreign option products, *see* S. Rep. No. 384, 97th Cong., 2d Sess. 45–46 (1982), the Commission's authority with respect to options is plenary.

[24] 52 FR 28380, 29001.

[25] *See* letter from M.B. Cittins, SIB, to Andrea M. Corcoran, Commission, dated July 28, 1989.

[26] *See* SIB Conduct of Business Rules 4.15(3)(a) and 4.16(3) and AFBD Rules 5.45.1 and 5.45.4. In a supplemental filing dated June 28, 1989, LIFFE has represented that it is currently drafting the necessary changes to LIFFE Rules and a General Notice which will require LIFFE members to incorporate the Commission Rule 33.7 options risk disclosure statement into their customer agreements with customers resident in the United States. *See* letter from J.L. Foyle, LIFFE, to Andrea M. Corcoran, Commission, dated June 28, 1989.

[27] By letters dated July 11 and 27, 1989, the Chicago Board of Trade and the Chicago Mercantile Exchange, respectively, petitioned the Commission for repal of Commission Regulation 33.4(a)(2), 17 CFR 33.4(a)(2) (1988), which requires the full payment of the premium in connection with the purchase of a domestic-exchange traded option. On March 14, 1989, the Commission published a Notice of Petition for Rulemaking and a Request for Comments to delete Commission Regulation 33.4(a)(2) in order to permit the development of "futures-style margining" of commodity options. 54 FR 11233 (March 17, 1989).

price at the time of purchase, and the daily variation margin results in improved cash flow.

—Profits made available *without* the need for early exercise.

Cash-flow problems are reduced where options are used in hedging strategies, in conjunction with futures or other options. By making available profits through daily variation margin, there is less likely to be a need to liquidate a position for reasons of cash flow rather than risk—an important advantage at times of major market movements, such as occurred in October 1987.

—Encouragement of risk-management.

Major users have commented that daily variation margin assists them in monitoring profit and loss, and LIFFE believes that this has proved to be a significant benefit. This is consistent with what happens with futures contracts and builds on that experience.

—Appreciation by users of the risks involved in option trading.

A positive feature is that option margining discourages the naked writing of options * * * as the seller is prevented from using options to generate immediate cash in order to avoid problems elsewhere.

In connection with the foregoing, in order to ensure that customers in the United States solicited to trade a LIFFE option contract understand that LIFFE permits the deferred payment of premium on such product, the Division further recommends that the Commission require as a condition of issuing the Order attached hereto that firms provide the Addendum attached to that Order as Exhibit B if they elect not to collect the full premium as margin from customers at the time of purchase.

IV. Conclusion

Based upon the foregoing, the representations of LIFFE contained in its letter dated May 24, 1989, as supplemented, SIB's letter dated July 28, 1989 confirming tha tit monitors LIFFE for compliance with its obligations as an RIE, the issuance by the Commission of Rule 30.10 petitions to SIB, AFBD, TSA and IMRO on May 15, 1989, the existence of, among other things, information sharing arrangements as discussed above and pursuant to Commission Rule 30.3(a) the Division recommends that the Commission publish in the **Federal Register** this memorandum and approve and publish the attached order authorizing the offer or sale in the United States of options traded on LIFFE subject to the following terms and conditions:

(1) except as otherwise permitted under the Commodity Exchange Act and regulations thereunder, that no offer or sale of any LIFFE option product in the United States will be made until thirty days after publication in the **Federal Register** of notice specifying the particular option(s) to be offered or sold pursuant to the order;

(2) that SIB and LIFFE represent that LIFFE is an RIE under the FSA and, as such, is subject to regulatory obligations under that Act, that transactions on LIFFE in the LIFFE option(s) referenced in such notice will be subject to the rules of LIFFE and that SIB and/or LIFFE will provide the Commission with information as to all material changes thereto promptly;

(3) that options on futures on stock indices [28] and options on futures on foreign government debt securities [29] will not be permitted to be offered or sold absent certain additional procedures;

(4) that options traded pursuant to the Order may only be offset on LIFFE or another market with respect to which the Commission has issued an order under Commission Rule 30.3(a) authorizing its option products to be offered or sold in the United States;

(5) that options traded pursuant to the Order may only be offered or sold by persons registered in the appropriate capacity under the Commodity Exchange Act or by persons who have been granted an exemption from registration under Rule 30.10 based on comparability of regulation, provided such persons also provide customers resident in the United States with the options risk disclosure statement in Commission Rule 33.7 and, if the persons elect not to collect the full premium for the contract as margin from the customer at the time of purchase, the Addendum thereto attached to the Order as Exhibit B, but may not be offered or sold by persons doing business in the United States pursuant to interim relief granted and extended by the Commission (*see* 53 FR 3338 (Feb. 5, 1988) and subsequent orders and letters of the Commission); and

(6) if experience demonstrates that the continued effectiveness of the order would be contrary to public policy or the public interest or that the operation or execution of the systems and arrangements in place for the trading of the option products subject thereto, or the exchange of information with respect to such products, do not warrant continuation of the authorization granted therein, the Commission may modify, suspend, terminate or otherwise restrict the authorization granted in the order, as appropriate, on its own motion.

LIFFE has specified that the following option contracts, the terms and conditions for which are attached hereto, will initially be offered or sold in the United States: Options on Long Gilt, United States Treasury Bond, German Government Bond, Three-month Sterling Interest Rate and Three-month Eurodollar Interest Rate contracts and on Sterling Currency and Dollar-Mark Currency.[30] As noted in condition (6) above, the Division recommends that the Commission retain the authority to terminate the order granting authorization to offer or sell LIFFE options in the United States or to take such other steps as may be appropriate in light of the circumstances. In that connection, if the order is approved by the Commission, the Division intends to monitor the offer or sale of LIFFE options to persons in the United States pursuant to the terms of the recommended order and to make recommendations for further action to the Commission, as appropriate, in light of the operation of that program.

List of Subjects in 17 CFR Part 30:

Commodity futures.

Accordingly, 17 CFR Part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTION TRANSACTIONS

1. The authority citation for Part 30 continues to read as follows:

Authority: Secs. 2(a)(1)(A), 4, 4c and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c and 12a (1982).

2. Appendix B to Part 30 is amended by adding the following entry alphabetically:

APPENDIX B—OPTION CONTRACTS PERMITTED TO BE OFFERED AND SOLD IN THE U.S. PURSUANT TO § 30.3(a)

Exchange	Type of contract	FR date and citation
London Int'l Financial Futures Exchange.	Options on Long Gilt, U.S. Treasury Bond, German Government Bond, 3-month Sterling Interest Rate and 3-Month Eurodollar Interest Rate contracts and on Sterling Currency and Dollar-Mark Currency.	September 12, 1989; 54 FR———.
*	* * * *	*

[FR Doc. 89-21223 Filed 9-11-89; 8:45 am]

BILLING CODE 8351-01-M

[28] *See* 52 FR 28980, 28982 n.6 and section 2a(1) of the Act.

[29] *See* section 2a(1) of the Act, section 3(a)(12) of the Securities Exchange Act of 1934 and Rule 3a12-8 promulgated thereunder.

[30] The Securities and Exchange Commission under section 3(a)(12) of the Securities Exchange Act of 1934 and Rule 3a12-8 promulgated thereunder has designated the government debt securities issued by the United Kingdom and West Germany as exempted securities. *See* Securities Exchange Act Release No. 20708, March 2, 1984, and 53 FR 43860 (October 31, 1988).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 8

[Docket No. R-89-528; FR-770]

Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development

AGENCY: Office of the Secretary, HUD.

ACTION: Technical amendment.

SUMMARY: The Department of Housing and Urban Development's regulations, as implemented by section 504 of the Rehabilitation Act of 1973, as amended, assure against nondiscrimination based on handicap in programs and activities receiving Federal financial assistance from the Department. Certain sections of the Department's regulations contain information collection requirements and were submitted for approval to the Office of Management and Budget (OMB), in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511). The purpose of this document is to amend those regulations to include OMB control numbers at the places where current information collection requirements are described.

EFFECTIVE DATE: September 12, 1989.

FOR FURTHER INFORMATION CONTACT: Waite Madison, Acting section 504 Program Manager, Office of Fair Housing and Equal Opportunity, (202) 755-5404. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory sections listed below were approved by the Office of Management and Budget on August 8, 1988, under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and assigned the control number listed. The approval expires on January 31, 1991.

List of Subjects in 24 CFR Part 8

Administrative practice and procedure, Handicapped, Civil rights, Reporting and recordkeeping requirements, Equal employment opportunity, Loan programs: housing and community development, Grant programs: housing and community development.

Text of the Amendment

Accordingly, part 8 of title 24 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 8 continues to read as follows:

Authority: Sec. 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); sec. 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309); sec. 7(d) of the Housing and Community Development Act (42 U.S.C. 3535(d)).

§§ 8.21, 8.24, 8.25, 8.51, 8.55 [Amended]

2. Sections 8.21, 8.24, 8.25, 8.51, and 8.55 are amended by adding at the end of each section, the following statement:

(Approved by the Office of Management and Budget under OMB Control Number 2529-0034)

Dated: September 6, 1989.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 89-21364 Filed 9-11-89; 8:45 am]

BILLING CODE 4210-32-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL-3644-7]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Wisconsin

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of final rulemaking.

SUMMARY: In a June 29, 1988 (53 FR 24454), notice, USEPA proposed to disapprove a request from the State of Wisconsin to revise the attainment status designation, at 40 Code of Federal Regulations (CFR) 81.350, for a sub-city area in the City of Kenosha, Kenosha County, Wisconsin, from secondary nonattainment to attainment relative to the former total suspended particulates (TSP) National Ambient Air Quality Standards (NAAQS). Under the Clean Air Act (CAA) and USEPA's transitional particulate matter policy (July 1, 1987, 52 FR 24682), TSP designations can continue to be changed if sufficient data are available to warrant such a change. USEPA continues to process TSP redesignation requests, because various regulatory provisions remain tied to the TSP attainment status.

USEPA is disapproving Wisconsin's redesignation request because the Wisconsin Department of Natural Resources (WDNR) failed to provide sufficient evidence that (1) the monitoring data were representative of worst-case ambient concentrations, (2) emission reductions must be federally approved, permanent, and resulted in the decrease in ambient concentrations, (3) dispersion techniques were not responsible for the improvement in air quality. These redesignation criteria are contained in an April 21, 1983, memorandum entitled "Section 107 Designation Policy Summary" from Sheldon Meyers, then Director, Office of Air Quality Planning and Standards (OAQPS), and a September 30, 1985, memorandum entitled "Total Suspended Particulate (TSP) Redesignations" from Gerald A. Emison, Director, OAQPS.

EFFECTIVE DATE: This final rulemaking becomes effective October 12, 1989.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604.

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 886-6031.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the CAA, the Administrator of USEPA has promulgated the NAAQS attainment status for all areas within each State. For Wisconsin, see 43 FR 8962 (March 3, 1978), 43 FR 45993 (October 5, 1978), and 40 CFR 81.350. These area designations are subject to revision whenever sufficient data become available to warrant a redesignation. A sub-city area of Kenosha, Wisconsin, was designated as not attaining the secondary TSP standard. On July 23, 1987, pursuant to section 107(d)(5) of the CAA, the WDNR requested that the sub-city nonattainment area of Kenosha[1] be redesignated to attainment of the TSP NAAQS.

For areas designated nonattainment for TSP, a TSP State Implementation Plan (SIP) was required which satisfied the requirements of section 110(a) and Part D of the CAA, including assuring the attainment and maintenance of the TSP NAAQS. USEPA revised the particulate matter standard on July 1, 1987, (52 FR 24634) and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with nominal diameter of 10 micrometers or less

[1] The Kenosha sub-city secondary TSP nonattainment area is defined as follows:

North: 52nd Street east from 39th Avenue to Lake Michigan.

West: 39th Avenue south from 52nd Street to 67th Street.

South: 67th from 39th Avenue to Lake Avenue.

East: Lake Michigan.

(PM_{10}). USEPA will continue to process redesignations of areas from nonattainment to attainment for TSP in keeping with past policy, because various regulatory provisions such as new source review and prevention of significant deterioration are keyed to the attainment status of areas. The July 1, 1987, notice (page 24682, column 1) described USEPA's transition policy, TSP redesignation requests are to be reviewed for compliance with USEPA's redesignation policies issued in memoranda on April 21, 1983, and September 30, 1985. These are: (1) The monitoring data must be representative of worst-case ambient concentrations, (2) emission reductions must be federally approved, must be permanent, and must have resulted in the decrease in ambient concentrations, (3) dispersion techniques must not be responsible for the improvement in air quality.

USEPA proposed to disapprove Wisconsin's redesignation request on June 29, 1988. Comments on this notice of proposed rulemaking were received from WDNR. Comments and USEPA's responses are provided below:

The WDNR comments addressed three basic points: (1) Applicable requirements for approvable TSP redesignations, (2) the implementation of Reasonably Available Control Technology (RACT) for TSP in 1983, and (3) a request to act promptly on the Wisconsin PM_{10} SIP. A discussion of each item follows.

Applicable Requirements—As technical support for Wisconsin's redesignation requests, WDNR only submitted the Kenosha County monitoring data. WDNR believed that the monitoring data were all that were necessary based on their understanding of a July 1987 conference call between USEPA Region V and the Region V States. However, other requirements do apply. The PM_{10} regulations published on July 1, 1987 (52 FR 24682) clearly state that "[redesignation] requests will continue to be reviewed during the transition period for compliance with USEPA's redesignation policies as issued in memoranda from the Director of the Office of Air Quality Planning and Standards, April 21, 1983, and September 30, 1985."

Implementation of RACT—According to WDNR, the requirement for a USEPA control strategy which has been fully implemented is fulfilled by the Wisconsin TSP RACT rules as approved by USEPA in 1983. USEPA disagrees because the RACT rules apply only in primary nonattainment areas. In the March 9, 1983, **Federal Register** notice (48 FR 9860), USEPA took no action on the RACT rules for secondary nonattainment areas in Brown (Green Bay), Dane (Madison), Douglas, Kenosha (Kenosha), Manitowoc (Manitowoc), Marathon, Racine, Winnebago, and Wood Counties, because WDNR did not submit a plan for the RACT rules for secondary nonattainment areas in Brown (Green Bay), Dane (Madison), Douglas, Kenosha (Kenosha), Manitowoc (Manitowoc), Marathon, Racine, Winnebago, and Wood Counties, because WDNR did not submit a plan for attainment and maintenance of the TSP NAAQS in these areas. The WDNR would have had to state specifically that all sources are in compliance with the 1972 SIP and note those specific federally enforceable emission decreases from mid-1970 emission levels which resulted in the change to attainment.

Wisconsin PM_{10} Committal SIP—WDNR urged prompt action on their PM_{10} committal SIP. An approved commital SIP would allow the redesignation of Kenosha without the information currently required under the transition policy. This is because the transition policy applies to areas which are in transition from TSP to PM_{10} regulations. Once the committal SIP is approved, the PM_{10} Group Three Areas, of which Kenosha is a part, are no longer in transition. WDNR submitted their PM_{10} committal SIP on April 30, 1988. USEPA is proceeding with rulemaking. WDNR may formally request that USEPA redesignate Kenosha (and other Group Three Areas) concurrent with approval of the committal SIP.

Conclusion

USEPA is disapproving the redesignation request for a sub-city nonattainment area of Kenosha, Wisconsin, because the WDNR did not demonstrate that (1) the monitors indicating attainment were placed at the points of expected maximum TSP impact, (2) an USEPA-approved control strategy had been implemented, (3) emission reductions and the improvement in air quality were not merely the result of economic downturn or temporary, and (4) dispersion techniques were not responsible for the improvement in air quality.

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 November 13, 1989. This action may not be challenged later in the proceedings to enforce its requirements. (See 307(b)(2).)

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

List of Subjects in 40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7642.

Dated: August 30, 1989.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 89–21409 Filed 9–11–89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[FRL–3644–6]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Wisconsin

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of final rulemaking.

SUMMARY: In a June 29, 1988 (53 FR 24454), notice, USEPA proposed to disapprove a request from the State of Wisconsin to revise the attainment status designation, at 40 Code of Federal Regulations (CFR) 81.350, for a sub-city area in the City of Manitowoc, Manitowoc County, Wisconsin, from secondary nonattainment to attainment relative to the former total suspended particulates (TSP) National Ambient Air Quality Standards (NAAQS). Under the Clean Air Act (CAA) and USEPA's transitional particulate matter policy (July 1, 1987, 52 FR 24682), TSP designations can continue to be changed if sufficient data are available to warrant such a change. USEPA continues to process TSP redesignation requests, because various regulatory provisions remain tied to the TSP attainment status.

USEPA is disapproving Wisconsin's redesignation request because the Wisconsin Department of Natural Resources (WDNR) failed to provide sufficient evidence that (1) the monitoring data were representative of worst-case ambient concentrations, (2) emission reductions were federally approved, were permanent, and resulted in the decrease in ambient concentrations, (3) dispersion techniques were not responsible for the improvement in air quality. These redesignation criteria are contained in an April 21, 1983, memorandum entitled "Section 107 Designation Policy Summary" from Sheldon Meyers, then Director, Office of Air Quality Planning and Standards (OAQPS), and a

September 30, 1985, memorandum entitled "Total Suspended Particulate (TSP) Redesignations" from Gerald A. Emison, Director, OAQPS.

EFFECTIVE DATE: This final rulemaking becomes effective October 12, 1989.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 886–6031.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the CAA, the Administrator of USEPA has promulgated the NAAQS attainment status for all areas within each State. For Wisconsin, see 43 FR 8962 (March 3, 1978), 43 FR 45993 (October 5, 1978), and 40 CFR 81.350. These area designations are subject to revision whenever sufficient data become available to warrant a redesignation. A sub-city area of Manitowoc, Wisconsin, was designated as not attaining the secondary TSP standard. On July 23, 1987, pursuant to section 107(d)(5) of the CAA, the WDNR requested that the sub-city nonattainment area of Manitowoc [1] be redesignated to attainment of the TSP NAAQS.

For areas designated nonattainment for TSP, a TSP State Implementation Plan (SIP) was required which satisfied the requirements of section 110(a) and part D of the CAA, including assuring the attainment and maintenance of the TSP NAAQS. USEPA revised the particulate matter standard on July 1, 1987 (52 FR 24634), and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with nominal diameter of 10 micrometers or less (PM_{10}). USEPA will continue to process redesignations of areas from nonattainment to attainment for TSP in keeping with past policy, because various regulatory provisions such as new source review and prevention of significant deterioration are keyed to the attainment status of areas. The July 1, 1987, notice (page 24682, column 1) described USEPA's transition policy regarding TSP redesignations. According to USEPA's transition policy, TSP redesignation requests are to be reviewed for compliance with USEPA's redesignation policies issued in memoranda on April 21, 1983, and September 30, 1985. These are: (1) The monitoring data must be representative of worst-case ambient concentrations, (2) emission reductions must be federally approved, must be permanent, and must have resulted in the decrease in ambient concentrations, (3) dispersion techniques must not be responsible for the improvement in air quality.

USEPA proposed to disapprove Wisconsin's redesignation request on June 29, 1988. Comments on this notice of proposed rulemaking were received from WDNR. Comments and USEPA's responses are provided below:

The WDNR comments addressed three basic points: (1) Applicable requirements for approvable TSP redesignations, (2) the implementation of Reasonably Available Control Technology (RACT) for TSP in 1983, and (3) a request to act promptly on the Wisconsin PM_{10} SIP. A discussion of each item follows.

Applicable Requirements—As technical support for Wisconsin's redesignation requests, WDNR only submitted the Manitowoc County monitoring data. WDNR believed that the monitoring data were all that were necessary based on their understanding of a July 1987 conference call between USEPA Region V and the Region V States. However, other requirements do apply. The PM_{10} regulations published on July 1, 1987 (52 FR 24682) clearly state that "[redesignation] requests will continue to be reviewed during the transition period for compliance with USEPA's redesignation policies as issued in memoranda from the Director of the Office of Air Quality Planning and Standards, April 21, 1983, and September 30, 1985."

Implementation of RACT—According to WDNR, the requirement for a USEPA control strategy which has been fully implemented is fulfilled by the Wisconsin TSP RACT rules as approved by USEPA in 1983. USEPA disagrees because the RACT rules apply only in primary nonattainment areas. In the March 9, 1983, **Federal Register** notice (48 FR 9860), USEPA took no action on the RACT rules for secondary nonattainment areas in Brown (Green Bay), Dane (Madison), Douglas, Kenosha (Kenosha), Manitowoc (Manitowoc), Marathon, Racine, Winnebago, and Wood Counties, because WDNR did not submit a plan for attainment and maintenance of the TSP NAAQS in these areas. The WDNR would have had to state specifically that all sources are in compliance with the 1972 SIP and note those specific federally enforceable emission decreases from mid-1970 emission levels which resulted in the change to attainment.

Wisconsin PM_{10} Committal SIP—WDNR urged prompt action on their PM_{10} committal SIP. An approved committal SIP would allow the redesignation of Manitowoc without the information currently required under the transition policy. This is because the transition policy applies to areas which are in transition from TSP to PM_{10} regulations. Once the committal SIP is approved, the PM_{10} Group Three Areas, of which Manitowoc is a part, are longer in transition. WDNR submitted their PM_{10} committal SIP on April 30, 1988. USEPA is proceeding with rulemaking. WDNR may formally request that USEPA redesignate Manitowoc (and other Group Three Areas) concurrent with approval of the committal SIP.

Conclusion

USEPA is disapproving the redesignation request for a sub-city nonattainment area of Manitowoc, Wisconsin, because the WDNR did not submit sufficient documentation to demonstrate that (1) the monitoring data were representative of worst-case ambient concentrations, (2) emission reductions were federally approved, were permanent, and resulted in the decrease in ambient concentrations, and (3) dispersion techniques were not responsible for the improvement in air quality.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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 November 13, 1989. This action may not be challenged later in the proceedings to enforce its requirements. (See 307(b)(2).)

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

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[1] The Manitowoc sub-city secondary TSP nonattainment area is defined as follows:

North: East from Manitowoc River to York St. to Lake Michigan.

West: 14th St. south from Wollmer St. to Hamilton St.

South: Hamilton St. east from 14th St. to Lake Michigan.

East: Lake Michigan.

List of Subjects in 40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7642.

Dated: August 31, 1989.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 89–21410 Filed 9–11–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 81

[FRL–3644–4]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Wisconsin

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of Final Rulemaking.

SUMMARY: In a June 29, 1988 (53 FR 24454), notice, USEPA proposed to disapprove a request from the State of Wisconsin to revise the attainment status designation, at 40 Code of Federal Regulations (CFR) 81.350, for a sub-city area in the City of Madison, Dane County, Wisconsin, from secondary nonattainment to attainment relative to the former total suspended particulates (TSP) National Ambient Air Quality Standards (NAAQS). Under the Clean Air Act (CAA) and USEPA's transitional particulate matter policy (July 1, 1987, 52 FR 24682), TSP designations can continue to be changed if sufficient data are available to warrant such a change. USEPA will continue to process TSP redesignation requests, because various regulatory provisions remain tied to the TSP attainment status.

USEPA is disapproving Wisconsin's redesignation request because the Wisconsin Department of Natural Resources (WDNR) failed to demonstrate that (1) an USEPA-approved control strategy had been implemented, (2) emission reductions and the improvement in air quality were not merely the result of economic downturn or temporary, and (3) dispersion techniques were not responsible for the improvement in air quality. In addition, although WDNR did submit eight consecutive quarters of quality-assured data, they failed to demonstrate that the monitors indicating attainment were placed at the points of expected maximum TSP impact. These redesignation criteria are contained in an April 21, 1983, memorandum entitled "Section 107 Designation Policy Summary" from Sheldon Meyers, then Director, Office of Air Quality Planning and Standards (OAQPS), and a September 30, 1985, memorandum entitled "Total Suspended Particulate (TSP) Redesignations" from Gerald A. Emison, Director, OAQPS.

EFFECTIVE DATE: This final rulemaking becomes effective October 12, 1989.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 886–6031.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the CAA, the Administrator of USEPA has promulgated the NAAQS attainment status for all areas within each State. For Wisconsin, see 43 FR 8962 (March 3, 1978), 43 FR 45993 (October 5, 1978), and 40 CFR 81.350. These area designations are subject to revision whenever sufficient data become available to warrant a redesignation. A sub-city area of Madison, Wisconsin, was designated as not attaining the secondary TSP standard. On July 23, 1987, pursuant to section 107(d)(5) of the CAA, the WDNR requested that the sub-city nonattainment area of Madison [1] be redesignated to attainment of the TSP NAAQS.

For areas designated nonattainment for TSP, a TSP State Implementation Plan (SIP) was required which satisfied the requirements of section 110(a) and Part D of the CAA, including assuring the attainment and maintenance of the TSP NAAQS. USEPA revised the particulate matter standard on July 1, 1987, (52 FR 24634) and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with nominal diameter of 10 micrometers or less (PM_{10}). USEPA will continue to process redesignations of areas from nonattainment to attainment for TSP in keeping with past policy, because various regulatory provisions such as new source review and prevention of significant deterioration are keyed to the attainment status of areas. The July 1, 1987, notice (page 24682, column 1) described USEPA's transition policy regarding TSP redesignations. According to USEPA's transition policy, TSP redesignation requests are to be reviewed for compliance with USEPA's redesignation policies issued in memoranda on April 21, 1983, and September 30, 1985. These are: (1) The monitoring data must be representative of worst-case ambient concentrations, (2) emission reductions must be federally approved, must be permanent, and must have resulted in the decrease in ambient concentrations, (3) dispersion techniques must not be responsible for the improvement in air quality.

Based on these criteria, USEPA proposed to disapprove Wisconsin's redesignation request on June 29, 1988 (53 FR 24454). Comments on this notice of proposed rulemaking were received from WDNR. Comments and USEPA's responses are provided below:

The WDNR comments addressed three basic points: (1) Applicable requirements for approvable TSP redesignations, (2) the implementation of Reasonably Available Control Technology (RACT) for TSP in 1983, and (3) a request to act promptly on the Wisconsin PM_{10} SIP. A discussion of each item follows.

Applicable Requirements—As technical support for Wisconsin's redesignation requests, WDNR only submitted the Dane County monitoring data. WDNR believed that the monitoring data were all that were necessary based on this understanding of a July 1987 conference call between the USEPA Region V and the Region V States. However, other requirements do apply. The PM_{10} regulations published on July 1, 1987, (52 FR 24682) clearly state that "[redesignation] requests will continue to be reviewed during the transition period for compliance with USEPA's redesignation policies as issued in memoranda from the Director of the Office of Air Quality Planning and Standards, April 21, 1983, and September 30, 1985."

Implementation of RACT—According to WDNR, the requirement for a USEPA control strategy which has been fully implemented is fulfilled by the

[1] The Madison sub-city secondary TSP nonattainment area is defined as follows:

North: Corner of Schlimgen Ave. and Padkers Ave. west to Lakewook Elvd.

Northwest: Corner of Lakewook Blvd. and Del Mar Drive south to Lake Mendota, continue along eastern shoreline of Lake Mendota to Charter Street.

West: Charter St. north from Vilas St. to Lake Mendota.

South Southeast: Vilas St. east from Charter St. to west Washington Ave., continue southeast to Lake Monona, continue along west shoreline of Lake Monona northeast to Starkweather Creek.

North Northeast: Western branch of Starkweather Creek northeast to Fair Oak Ave. then north along Bryan St. to Milwaukee St. continue west to Oak St. then north to Abreg Ave., continue northwest to Packers Ave., then North to Schlimgen Ave.

Remainder of Dane County: Better than national standard.

Wisconsin TSP RACT rules as approved by USEPA in 1983. USEPA disagrees because the RACT rules apply only in primary nonattainment areas. In the March 9, 1983, **Federal Register** notice (48 FR 9860), USEPA took no action on the RACT rules for secondary nonattainment areas in Brown (Green Day), Dane (Madison), Douglas, Kenosha (Kenosha), Manitowoc (Manitowoc), Marathon, Racine, Winnebago, and Wood Counties, because WDNR did not submit a plan for attainment and maintenance of the TSP NAAQS in these areas. The WDNR would have had to state specifically that all sources are in compliance with the 1972 SIP and note those specific federally enforceable emission decreases from mid-1970 emission levels which resulted in the change to attainment.

Wisconsin PM $_{10}$ Committal SIP—WDNR urged prompt action on their PM $_{10}$ commital SIP. An approved commital SIP would allow the redesignation of Madison without the information currently required under the transition policy. This is because the transition policy applies to areas which are in transition from TSP to PM $_{10}$ regulations. Once the committal SIP is approved, the PM $_{10}$ Group Three Areas, of which Madison is a part, are no longer in transition. WDNR submitted their PM $_{10}$ committal SIP on April 30, 1988. USEPA is proceeding with rulemaking. WDNR may formally request that USEPA redesignate Madison (and other Group Three Areas) concurrent with approval of the committal SIP.

Conclusion

USEPA is disapproving the redesignation request for a sub-city nonattainment area of Madison, Wisconsin, because the WDNR did not demonstrate that (1) the monitors indicating attainment were placed at the points of expected maximum TSP impact, (2) an USEPA-approved control strategy had been implemented, (3) emission reductions and the improvement in air quality were not merely the result of economic downturn or temporary, and (4) dispersion techniques were not responsible for the improvement in air quality.

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 November 13, 1989. This action may not be challenged later in the proceedings to enforce its requirements. (See 307(b)(2).)

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

List of Subjects in 40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7642.

Date. August 31, 1989.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 89–21411 Filed 9–11–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 272

[FRL–3643–7]

Hazardous Waste Management Program Codification of Approved State Hazardous Waste Program for Illinois

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule and request for comments.

SUMMARY: The Resource Conservation and Recovery Act of 1976 as amended (RCRA) authorizes the United States Environmental Protection Agency (EPA) to grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. 40 CFR Part 272 codifies EPA's prior authorization of State programs and incorporates by reference those provisions of the State statutes and regulations that EPA will enforce under RCRA Section 3008. Thus, EPA is codifying the Illinois authorized State program in Part 272.

DATES: The codification of Illinois' authorized hazardous waste program shall be effective November 13, 1989 unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Illinois' codification must be received by the close of business October 12, 1989. The incorporation of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 13, 1989.

ADDRESSES: Written comments should be sent to Gary Westefer, Illinois Regulatory Specialist, Office of RCRA, U.S. EPA Region V, 230 South Dearborn Street, 5HR–JCK–13, Chicago, Illinois 60604, (312) 886–7450, (FTS: 8–886–7450).

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Illinois Regulatory Specialist, Office of RCRA, U.S. EPA Region V, 230 South Dearborn Street, 5HR–JCK–13, Chicago, Illinois, 60604, (312) 886–7450, (FTS: 8–886–7450).

SUPPLEMENTARY INFORMATION:

Background

Section 3006 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA) 42 U.S.C. 6926 *et seq.*, allows the U.S. Environmental Protection Agency (EPA) to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. The purpose of today's **Federal Register** notice is to codify EPA's approval of Illinois' base hazardous waste management program and its revisions to that program.

On January 30, 1986, EPA published a **Federal Register** notice announcing its decision to grant final authorization to Illinois (see 51 FR 3778, January 30, 1986). On January 5, 1988, EPA published a **Federal Register** notice announcing its decision to grant Illinois final authorization for program revisions to its hazardous waste management program (see 53 FR 126, January 5, 1988).

The January 5, 1988, **Federal Register** announced EPA's approval of Illinois equivalent rules for the following Federal hazardous waste regulatory amendments:

- Warfarin and Zinc Phosphide (49 FR 19923, May 10, 1984);
- Lime Stabilized Pickle Liquor Sludge (49 FR 23287, June 5, 1984);
- Exclusion of Household Waste (49 FR 44980, November 13, 1984);
- Interim Status Standards Applicability (49 FR 46095, November 21, 1984);
- Corrections to the Test Methods Manual (49 FR 47391, December 4, 1984);
- Satellite Accumulation (49 FR 47391, December 20, 1984);
- Redefinition of Solid Waste (50 FR 614, January 4, 1985);
- Dioxin Waste Listing and Management Standards (50 FR 1978, January 14, 1985);
- Interim Status Standards for Landfill Cover (50 FR 16044, April 23, 1985);
- Design Standards (50 FR 16044, April 23, 1985);
- Availability of Information (RCRA Section 3006(f)).

Illinois submitted an application requesting approval of these rule changes on August 7, 1986. That application contained a description of the rule changes, a revised Memorandum of Agreement, an Attorney General's Statement certifying the equivalence of the State rules and a copy of the rules. EPA approved of the

rule changes and the State application in the January 5, 1988, Federal Register. The final authorization for this program revision became effective on March 5, 1988.

EPA has decided to codify its approval of State programs in Part 272 of Title 40, Code of Federal Regulations (CFR) and to incorporate by reference therein the State statutes and regulations that EPA will enforce under section 3008 of RCRA. The codification reflects the State program that was in effect when EPA granted Illinois final authorization under Section 3006(b) for its revised hazardous waste program (see 53 FR 126, January 5, 1988).

This effort will provide clearer notice to the public of the scope of the authorized program in each State. Such notice is particularly important in light of the Hazardous and Solid Waste Act Amendments of 1984 (HSWA), Pub. L. 98–616. Revisions to State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. Because HSWA extensively amended RCRA, State programs must be modified to reflect those amendments. By codifying the authorized Illinois program and by amending the Code of Federal Regulations whenever a new or different set of requirements is authorized in Illinois, the status of Federally approved requirements of the Illinois program will be readily discernible.

The Agency will only codify for enforcement purposes those provisions of the Illinois hazardous waste management program for which authorization approval has been granted by EPA. Concerning HSWA, some State requirements may be similar to HSWA requirements that are in effect under Federal statutory authority in that State. However, a State's HSWA-type requirements are not authorized and will not be codified into the CFR until the Regional Administrator publishes his final decision to authorize the State for specific HSWA requirements. Until such time, EPA will enforce the HSWA requirements and not the State analogues.

To codify Illinois' authorized hazardous waste program, EPA will add Subpart O to Part 272 of Title 40 of the CFR. Subpart O has previously been reserved for Illinois. Sections 272.701(a)(1)–(2), and 272.701(b)–(d) intend to codify for enforcement purposes, the State statutes and regulations, the Memorandum of Agreement, the Attorney General's Statements, and the Program Descriptions, which are authorized and made part of the hazardous waste management program under Subtitle C of RCRA.

The Agency retains the authority under Sections 3007, 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized States. With respect to such enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and the Federal Administrative Procedure Act rather than the authorized State analogues to these requirements. Therefore, the Agency does not intend to codify for purposes of enforcement such particular, authorized Illinois enforcement authorities. Section 272.701(a)(2) lists those authorized Illinois authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions are not part of the RCRA Subtitle C program because they are "broader in scope" than RCRA Subtitle C (see 40 CFR 271.1(i)). As a result, State provisions which are "broader in scope" than the Federal program are not codified for purposes of enforcement in part 272. Section 272.701(a)(3) of the intended codification simply lists for reference and clarity the Illinois statutory and regulatory provisions which are "broader in scope" than the Federal program and which are not, therefore, part of the authorized program being codified. "Broader in scope" provisions will not be enforced by EPA; the State, however, will continue to enforce such provisions.

As noted above, the Agency is not amending Part 272 to include HSWA requirements and prohibitions that are immediately effective in Illinois and other States. Section 3003(g) of RCRA provides that any requirement or prohibition of HSWA (including implementing regulations) takes effect in authorized States at the same time that it takes effect in non-authorized States. Thus, EPA has immediate authority to implement a HSWA requirement or prohibition once it is effective. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (See 50 FR 28702, July 15, 1985).

Because of the vast number of HSWA statutory and regulatory requirements taking effect over the next few years, EPA expects that many previously authorized and codified State provisions will be affected. The States are required to revise their programs to adopt the HSWA requirements and prohibitions by the deadlines set forth in 40 CFR 271.21, and then to seek authorization for those revisions pursuant to Part 271. EPA expects that the States will be modifying their programs substantially and repeatedly. Instead of amending the Part 272 codification every time a new HSWA provision takes effect under the authority of RCRA 3006(g), EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's Part 272 codification. In the interim, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

The codification of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. This will be particularly true as more State program revisions to adopt HSWA provisions are authorized.

Certification Under The Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. It intends to codify the decisions already made to authorize Illinois's program and has no separate effect on handlers of hazardous waste in the State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

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

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: July 21, 1989.

Robert Springer,

Acting Regional Administrator.

For the reasons set forth in the preamble, 40 CFR Part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for Part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. 40 CFR part 272, Subpart O is amended by adding §§ 272.700 and 272.701 and by reserving §§ 272.702 through 272.749 to read as follows:

§ 272.700 State authorization.

(a) The State of Illinois is authorized to administer and enforce a hazardous waste management program in lieu of the Federal program under Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6921 *et seq.*, subject to the Hazardous and Solid Waste Amendments of 1984 (HSWA), (Pub. L. 98–616, Nov. 8, 1984), 42 U.S.C. 6926(c) and (g). The Federal program for which a State may receive authorization is defined in 40 CFR Part 71. The State's base program and revisions to that program, as administered by the Illinois Environmental Protection Agency, were approved by EPA pursuant to 42 U.S.C. 6926(b) and Part 271 of this Chapter. EPA's approval of Illinois' base program was effective on January 31, 1986 (51 FR 3778, January 30, 1986). EPA's approval of revisions to Illinois' base program was effective on March 5, 1988 (53 FR 126, January 5, 1988).

(b) Illinois is authorized to implement certain HSWA requirements in lieu of EPA. EPA has explicitly indicated its intent to allow such action in a **Federal Register** notice granting Illinois authorization on January 5, 1988 (see FR 126, January 5, 1988).

(c) Illinois has primary responsibility for enforcing its hazardous waste program. However, EPA retains the authority to exercise its enforcement authorities under Sections 3007, 3008, 3013, and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, and 6973, as well as under other Federal laws and regulations.

(d) Illinois must revise its approved program to adopt new changes to the Federal Subtitle C program in accordance with Section 3006(b) of RCRA and 40 CFR Part 271, Subpart A. Illinois must seek final authorization for all program revisions pursuant to Section 30069b) of RCRA but, on a temporary basis, may seek interim authorization for revisions required by HSWA pursuant to section 3006(g) of RCRA, 42 U.S.C. 6926(g). If Illinois obtains final authorization for the revised requirements pursuant to Section 3006(g), the newly authorized provisions will be listed in § 272.701 of this Subpart. If Illinois obtains interim authorization for the revised requirements pursuant to Section 3006(g), the newly authorized provisions will be listed in § 272.702.

Section 272.701 State-Administered Program: Final Authorization, Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Illinois has final authorization for the following elements submitted to EPA in Illinois' base program and its revision application for final authorization approved by EPA effective on January 31, 1986, and March 5, 1988, respectively.

(a) *State Regulations.* (1) The following Illinois regulations are incorporated by reference and codified as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.:* Illinois Administrative Code, Title 35, Part 702, Sections 702.101–702.104, 702.110–720.187; Part 703, Sections 703.100–703.246, Part 709, Sections 709.102–709.603; Part 720, Sections 720.101–720.122, Appendix A; Part 721, Sections 721.101–721.133, Appendices A, B, C, G, H, I; Part 722, Sections 722.110–722.151; Part 723, Sections 723.110–723.131; Part 724, Sections 724.101–724.451, Appendices A, D, E; Part 725, Sections 725.101–725.530, Appendices A, D, E; and Part 729, Sections 729.100–729.321 (January 1, 1985, as amended January 1, 1986). This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a). Copies of the Illinois regulations that are incorporated by reference in this paragraph are available from the Office of the Secretary of State, Index Division, 111 East Monroe Street, Springfield, Illinois 62756.

(2) The following statutes and regulations concerning State enforcement and procedures, although not codified herein, are part of the authorized State program:

(i) Illinois Revised Statutes, Chapter 111½, sections 1–5.1, sections 7–7.1, sections 20–22, sections 22.3–22.6, sections 30–34, and section 39, subsections a, d, g, k; Chapter 116, sections 201–211; and Chapter 127, sections 1001–1021 (1986).

(ii) Illinois Administrative Code, Title 35 Part 700, sections 700.101–700.504; Part 702, sections 702.105–702.109; Part 705, sections 705.101–705.212 (January 1, 1985, as amended January 1, 1986). The following statutory and regulatory provisions of the Illinois Administrative Code are broader in scope than the Federal program, are not part of the authorized program, and are not codified herein for enforcement purposes.

(A) Illinois Revised Statutes, chapter 111½, sections 22.01–22.2, section 22.8, section 39, subsections h and i, and section 39.2 (1986).

(B) Illinois Administrative Code, Title 35, Part 700, sections 700.601–700.605; Part 704, sections 704.201–704.240; Part 730, sections 730.101–730.152; and Part 731, sections 731.101–731.901.

(b) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region V and the Illinois Environmental Protection Agency, signed by the EPA Regional Administrator on January 21, 1986, is codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921, *et seq.*

(c) *Statements of Legal Authority.* The Illinois Attorney General's Statements for final authorization signed by the Attorney General of Illinois on June 4, 1985, and July 15, 1986, are codified as part of the authorized hazardous waste management program under Subtitle C of RCRA 42 U.S.C. 6921 *et seq.*

(d) *Program Description.* Program Descriptions dated July 26, 1985, and August 7, 1986, and any other materials submitted as part of, or as supplements to, the original application or revision applications are codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[FR Doc. 89–21269 Filed 9–11–89; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101

[FPMR Amdt. A–46]

Regulation System

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation deletes some outdated references and revises some references to reflect the current Federal Property Management Regulations (FPMR) system. This regulation also establishes a more flexible policy for

granting deviations from the requirements of the FPMR.

EFFECTIVE DATE: September 12, 1989.

FOR FURTHER INFORMATION CONTACT: Rodney P. Lantier, Directives and Correspondence Management Branch, 202–566–0666.

SUPPLEMENTARY INFORMATION: The proposed rule for the deviations granting process was published in the Federal Register on August 1, 1988 (53 FR 28895).

GSA has determined that this rule is not a major rule for the purpose of Executive Order 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. GSA 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 and has maximized the net benefits; and has chosen the alternate approach involving the least net cost to society.

List of Subjects in 41 CFR 101–1

Government property management.

Title 41 Part 101–1 of the Code of Federal Regulations is amended as follows:

PART 101–1—INTRODUCTION

1. The authority citation for 41 CFR Part 101–1 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

Subpart 101–1.1—Regulation System

2. Section 101–1.101 is revised to read as follows:

§ 101–1.101 Federal Property Management Regulations System.

The Federal Property Management Regulations System described in this subpart is established and shall be used by General Services Administration (GSA) officials and, as provided in this subpart, by other executive agency officials, in prescribing regulations, policies, procedures, and delegations of authority pertaining to the management of property, and other programs and activities of the type administered by GSA, except procurement and contract matters contained in the Federal Acquisition Regulations (FAR).

3. Section 101–1.103 is revised to read as follows:

§ 101–1.103 FPMR temporary regulations.

(a) FPMR temporary regulations are authorized for publication when time or exceptional circumstances will not permit promulgation of an amendment to the Code of Federal Regulations and if the regulation will be effective for a period of 12 months or less except as provided in § 101–1.103(b), below. These temporary regulations will be codified before the designated expiration date or their effective date will be extended if it is determined that conversion to permanent form cannot be accomplished within the specified timeframe.

(b) FPMR temporary regulations may have an effective period of up to 2 years when codification is not anticipated or is not considered practical.

4. Section 101–1.108 is revised to read as follows:

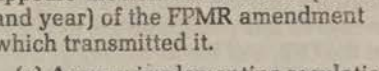
§ 101–1.108 Agency implementation and supplementation of FPMR.

Chapters 102 through 150 of this title are available for agency implementation and supplementation of FPMR contained in Chapter 101 of this title. Supplementation pertains to agency regulations in the subject matter of FPMR but not yet issued in Chapter 101.

5. Section 101–1.109 is revised to read as follows:

§ 101–1.109 Numbering in FPMR system.

(a) In the numbering system, all FPMR material is preceded by the digits 101–. This means that it is Chapter 101 in Title 41 of the Code of Federal Regulations. It has no other significance. The digit(s) before the decimal point indicates the part; the digits after the decimal point indicate, without separation, the subpart and section. For example:



(b) At the bottom of each page appears the number and date (month and year) of the FPMR amendment which transmitted it.

(c) Agency implementing regulations should conform to the FPMR section numbers, except for the substitution of the chapter designation of the agency. Agency supplementing regulations should be numbered "50" or higher for section, subpart, or part as may be involved.

6. Section 101–1.110 is revised to read as follows:

§ 101–1.110 Deviation.

(a) In the interest of establishing and maintaining uniformity to the greatest extent feasible, deviations; i.e., the use of any policy or procedure in any manner that is inconsistent with a policy or procedure prescribed in the Federal Property Management Regulations, are prohibited unless such deviations have been requested from the approved by the Administrator of General Services or his authorized designee. Deviations may be authorized by the Administrator of General Services or his authorized designee when so doing will be in the best interest of the Government. Request for deviations shall clearly state the nature of the deviation and the reasons for such special action.

(b) Requests for deviations from the FPMR shall be sent to the General Services Administration for consideration in accordance with the following:

(1) For onetime (individual) deviations, requests shall be sent to the address provided in the applicable regulation. Lacking such direction, requests shall be sent to the Administrator of General Services, Washington, DC 20405.

(2) For class deviations, requests shall be sent to only the Administrator of General Services.

7. Section 101–1.112 is revised to read as follows:

§ 101–1.112 Change lines.

(a) Single-column format: Vertical lines in the right margin of a page indicate material changed, deleted, or added by the FPMR amendment cited at the bottom of that page. Where insertion of new material results in shifting of unchanged material on following pages, no vertical lines will appear on such pages but the FPMR amendment transmitting such new pages will be cited at the bottom of each page.

(b) Double-column format: Arrows printed in the margin of a page indicated material changed, deleted, or added by the FPMR amendment cited at the bottom of that page.

Dated: June 28, 1989.

Richard G. Austin,

Acting Administrator of General Services

[FR Doc. 89–21371 Filed 9–11–89; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 69

[CGD 87–015b]

RIN 2115–AC67

Tonnage Measurement of Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This action revises the Coast Guard's vessel tonnage measurement regulations. This revision incorporates the system of measurement established under the International Convention on Tonnage Measurement of Ships, 1969, and provides a framework for phasing in the Convention Measurement System as the method of measuring ships domestically to establish uniformity in vessel measurement. The availability of the alternate domestic measurement systems is continued for regulatory purposes so that the application of the laws of the United States are preserved in order that vessels engaged in domestic and international commerce are not adversely affected.

This revision is necessary to implement the statutory mandate calling for these changes. In the process of incorporating these changes into the regulations, the Coast Guard rearranged and renumbered the regulations in a more current and readable format.

This revision should carry out the intent of Congress, while facilitating the use of these complex regulations by the maritime industry.

EFFECTIVE DATE: This rule is effective on October 12, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis A. Lamont, Tonnage Survey Branch, (202) 267–2992.

SUPPLEMENTARY INFORMATION: On April 26, 1989, a notice of proposed rulemaking (NPRM), entitled "Tonnage Measurement of Vessels", was published in the **Federal Register** (54 FR 17968). On May 12, 1989, the Office of the Federal Register published a notice correcting its misprint of the telephone number under "**FOR FURTHER INFORMATION CONTACT**" in the NPRM to read "(202) 267–2992" instead of "(202) 267–2292". The Coast Guard received seven letters commenting on the proposed rulemaking. A public hearing was not requested and one was not held.

Drafting Information

The principal persons involved in drafting this document are Mr. Dennis A. Lamont, Project Manager, and Mr. Stephen H. Barber, Project Counsel, Office of Chief Counsel.

Background

Public Law 99–509 (the Omnibus Budget Reconciliation Act of 1986) made major revisions to the vessel tonnage measurement laws and consolidated them into a new part J of 46 U.S.C. subtitle II. Part J authorized the Secretary of Transportation (Coast Guard) to promulgate regulations—

(a) For phasing in the system of measurement under the International Convention on Tonnage Measurement of Ships, 1969, (Convention) as the method for measuring ships domestically in order to establish uniformity in measurement; and

(b) For retaining the existing domestic systems (i.e. the standard, Dual, and Simplified Measurement Systems) as alternative systems for use in applying domestic laws based on tonnage, in order that the vessels engaged in domestic activities will not be adversely affected.

These regulations—

(a) Implement the Convention Measurement System and other tonnage measurement requirements of Public Law 99–509; and

(b) Reorganize and clarify the regulations in part 69 of title 46 of the Code of Federal Regulations (46 CFR part 69) concerning the Standard, Dual, and Simplified Measurement Systems, without substantive change not called for under Public Law 99–509.

Discussion of Comments and Changes to the Regulation

1. One comment endorsed the proposed regulations and recommended that the Coast Guard retain the language and content of the Convention Measurement System as set forth in the proposed rule.

2. Two comments proposed that a study of the possibility of entirely eliminating regulatory tonnage be performed and addressed in the preamble to the final rule.

Such a study is not within the scope of this regulatory project. However, as provided for in Public Law 99–509, a Congressionally mandated study of this type is presently being performed by the Coast Guard. Public input to this study was solicited by a notice in the **Federal Register** (54 FR 30625; July 21, 1989).

3. One comment emphasized the importance of regulatory tonnage for determining future domestic fees and assessments. It suggested that the rule specify that, when a vessel is measured under the Convention Measurement System and also under a regulatory measurement system, the tonnage certificate issued for the vessel must recite the regulatory tonnages of the vessel, as well as its Convention tonnages.

As in the past, this rule does not require a vessel that is not operating internationally to carry any tonnage certificate. However, as in the past, the owner of a vessel assigned regulatory tonnages may, at the owner's request, obtain a copy of the vessel's tonnage certificate used internally by the Coast Guard for documentation purposes. This certificate will be similar to the present "Certificate of Admeasurement", recite all tonnages that are assigned to the vessel, and indicate for what purpose each tonnage is to be used.

4. One comment suggested that the term, "Convention Measurement System", be changed to "International Measurement System", and the term, "Standard, Dual, and Simplified Measurement Systems", be changed to "U.S. Traditional Measurement System" throughout the regulations.

The word, "Convention", is used throughout these regulations to align them with the terminology used in Public Law 99–509, the legislation which this rule implements. The word, "International", is avoided because it tends to suggest that the only vessels required to be measured under the Convention System are those that are engaged on an international voyage. The word, "Traditional", is not used because it is time-related and would begin to lose its suggested meaning as the Convention System becomes more and more the "tranditional" system.

5. One comment suggested that the definition in § 69.9 of the word, "tonnage", as calculated under the Convention Measurement System, be change to read "enclosed volume in cubic meters modified by a logarithmic function", instead of "tons of 100 cubic feet modified by a logarithmic function".

The definition of "tonnage" in § 69.9 of "subpart A—General", is intended to indicate the basic differences between the methods used to calculate tonnages under each measurement system. The terms, "gross tonnage" and "net tonnage" as calculated under the Convention Measurement System, are more completely defined in "subpart B—Convention Measurement System" at §§ 69.53, 69.57, and 69.63.

6. Two comments questioned why proposed § 69.11 would require barges 79 feet or more in overall length not engaged on a foreign voyage to be measured under the Convention Measurement System. The comments point out that such a requirement deviates from the existing Coast Guard regulations in 46 CFR 69.05–1(a)(2) that allows barges to be measured under the Simplified Measurement System. The comments contend that Simplified measurement is less costly than Convention measurement and, therefore, is favored by domestic barge owners.

Though the proposed rule differs from the existing Coast Guard regulation in 46 CFR 69.05–1(a)(2), the difference results from Congressional mandate in Public Law 99–509 (46 U.S.C. 14301),

rather than from Coast Guard discretion. Therefore, the existing Coast Guard applicability regulations are being amended by this rulemaking to conform them to the requirements of the Public Law.

In preparing the response to these comments, it was noted that two other classes of vessels permitted under Public Law 99–509 to be Simplified measured were omitted inadvertently from proposed § 69.11(d) on applicability of the Simplified Measurement System. Therefore, these two classes (i.e. vessels that are non-self-propelled and operated only on the Great Lakes and vessels that are operated only for pleasure and operated only on the Great Lakes) have been added, as permitted under Public Law 99–509, to § 69.11(d) in this final rule.

7. One comment suggested that §§ 69.11(a)(2)(iii) and 69.11(a)(2)(iv) indicate the date upon which "a change that the Commandant finds substantially affects the vessel's gross tonnage" is effective.

The deadline in 46 U.S.C. 14301(b)(4), "on or after January 1, 1986", has been inserted in § 69.11(a)(2)(iii) in the final rule. The deadline in 46 U.S.C. 14301(d), "on or after July 18, 1982", has been inserted in § 69.11(a)(2)(iv) in the final rule.

8. One comment suggested that a definition of "existing vessel" as used in proposed § 69.11(a)(2)(iv) be included in the regulations.

The definition of "existing vessel" in 46 U.S.C. 14101(2), that is, "a vessel the keel of which was laid or that was at a similar stage of construction before July 18, 1982", has been inserted in § 69.11(a)(2)(iv) in the final rule.

9. One comment stated that § 69.13(b) prohibited a vessel measured under subpart C, D, or E from being remeasured interchangeably under subpart C, D, and E, even though the provisions of the separate systems are not combined.

Section 69.13(b) is not an applicability section and does not specify the subpart under which a vessel is required to be measured or remeasured. It is intended only to assure that the measurement of a vessel under one system complies with the requirements for that system and that requirements under other systems are not used in the process of measuring that vessel.

10. One comment questioned why proposed § 69.27 continues in force a 1988 amendment that would authorize delegation of authority to foreign classification societies to perform tonnage measurement of U.S. vessels. The comment contends that this program is wasteful and should be rescinded.

Section 69.27 does not differ from the existing Coast Guard regulation in 46 CFR 69.01–20 and conforms with Public Law 99–509 (46 U.S.C. 14301). The provisions of this section were thoroughly considered when the amendment was promulgated (53 FR 20619; June 6, 1988). Although no foreign classification society has qualified under these provisions, the Coast Guard considers it appropriate to have the requirements in the regulations for the benefit of future applicants.

11. One comment stated that linear measurements in proposed subpart B (Convention) are in fact foot-inch units, while the formulas for calculating gross and net tonnages in proposed §§ 69.57 and 69.63 call for volumes expressed in cubic meters. The comment recommended that both foot-inch and metric units be specified throughout the regulations, as is done in the text of the Convention.

The metric equivalents of foot-inch units stated in the Convention are not precise. For example, there is more than a three inch difference between the critical applicability dimensions of 79 feet and Convention's equivalent of 24 meters. The Coast Guard selected a single system in its regulations for the purpose of preciseness. The foot-inch system was chosen because it is used throughout 46 CFR part 69 for each of the measurement systems. However, application information, such as drawings and calculations that are required to be submitted by the owner under subpart B, will be accepted even if metric units are used.

Though foot-inch dimensions are used throughout the regulatory text in the existing and proposed regulations, there are two exceptions in subpart B. As noted in the comment, §§ 69.57 and 69.63 on the formulas for calculating gross tonnage and net tonnage, respectively, call for volume in cubic meters. As the Convention sets forth these formulas only in cubic meters, rather than both in cubic feet and cubic meters, the Coast Guard decided to restate the formulas as they appear in the Convention to avoid confusion.

12. One comment suggested that proposed § 69.65(b) on the methods for calculating the volume of the hull below the upper deck be expanded to add "any acceptable method or combinations of methods".

Existing regulations for the Standard Measurement System and the Dual Measurement System require that Simpson's first rule be used when calculating hull tonnages. Because this method is commonly used by naval architects, it was selected by the Coast Guard in 1983 as the method for calculating hull tonnages under the Convention Measurement System. Both Coast Guard and American Bureau of Shipping computer programs that are used to calculate hull tonnages require input information in this format. Although other methods may produce equally accurate hull volumes, our research indicates that most vessels are designed about an equal number of equally-spaced increments to which Simpson's first rule is easily applied. Although information furnished under other formats is acceptable, it will have to be converted to the computer-acceptable format by the organization calculating the vessel tonnage.

13. One comment questioned the definition of "double bottom" in proposed § 69.103. The comment points out that this definition deviates from the existing Coast Guard definition in 46 CFR 69.13–41 that allows a double bottom to include tanks for other than water ballast.

Though the proposed definition of "double bottom" differs from the existing definition, the method of determining depth measurements to double bottoms and bottom framing is not changed. The existing procedure is to terminate depths on a double bottom only when that double bottom meets the definition in the proposed rule. This procedure is not subject to the discretion of the Coast Guard but is required in 46 U.S.C. 14512(a), which provides for tonnages comparable to tonnages formerly assigned under section 4153 of the Revised Statutes. (See former 46 U.S.C. 77.)

14. One comment stated that the term, "registered length", as defined in § 69.103 appears to serve no useful purpose and is extremely difficult to measure on smaller craft, where drawings usually are not available. The comment suggested that the registered length be taken as the molded length on the upper deck to the hull.

Section 69.103 defines "registered length" using the same definition as used for vessels measured under the Convention Measurement System (§ 69.53). This allows vessels assigned tonnages under both the Convention Measurement System and the Standard or Dual Measurement Systems to be assigned one length. Most smaller vessels (i.e. vessels of less than 79' in overall length) are assigned a registered length based on the vessel's overall length.

15. One comment stated that § 69.117(f)(4) appears to require a water ballast justification when a ballast

exemption exceeds 30% of the vessel's gross tonnage after the water ballast exemption. The comment suggests that "the vessel's gross tonnage (excluding the water ballast spaces)" be changed to "the vessel's gross tonnage (exclusive of the water ballast spaces)".

For clarity, the proposed wording has been changed in the final rule to read "the vessel's gross tonnage (as calculated under this subpart without any allowance for water ballast)".

16. One comment suggested that proposed subpart E (Simplified Measurement System) be changed to permit a metric alternative for furnishing vessel dimensions to be used in calculating tonnages under the Simplified Measurement System.

Section 69.207 requires measurements in feet and inches or in feet and tenths of a foot because the Coast Guard computer program used to calculate tonnages from the applicant's information requires a foot-inch or foot-tenths unit input. The actual formula coefficients that are indicated in foot-inch units are not required to be used by the owner. If the owner submits vessel dimensions in metric measurements, the dimensions will require conversion to foot-inch units by the Coast Guard and possibly delay application processing.

17. One comment asked that § 69.207 specify dimension accuracy.

As suggested, § 69.207(a) has been changed to specify dimension accuracy. Dimensions must be expressed in feet and inches "to the nearest half inch" or in feet and tenths of a foot "to the nearest .05 of a foot".

Derivation and Distribution Tables

The material in part 69 is entirely rearranged and renumbered using the current regulatory format. The following tables should assist the reader in locating the source of or Congressional authority for the material in this rulemaking.

Derivation Table

New section	Old section
69.1	69.01-1.
69.3	69.01-3(a).
69.5	69.01-3(a), 69.01-5.
69.7	69.01-3(b), 69.01-9(a).
69.9	69.01-7.
69.11	69.01-9, 69.05-1.
69.13	69.01-9(b).
69.15	69.01-3(c), 69.01-11.
69.17	69.01-13.
69.19	69.01-15, 69.05-9.
69.21	69.01-17.
69.23	69.01-19.
69.25	New—46 U.S.C. chapter 147.
69.27	69.01-20.
69.29	69.01-21.

Derivation Table—Continued

New section	Old section
69.51-69.75	New—46 U.S.C. chapter 143.
69.101	69.01-1.
69.103	69.03-11, 13, 15, 17, 19, 25, 29 and subparts 69.09 and 69.11.
69.105	69.01-13.
69.107	69.01-07.
69.109	69.03-11, 21, 25, 27, 29, 31, 33, 35, 37, 39, 41, 45, 47, 51, 53, 73.
69.111	69.03-55.
69.113	69.03-57.
69.115	69.03-59.
69.117	69.03-63, 65, 67, 69, 71.
69.119	69.03-75, 77, 78 and subpart 69.11.
69.121	69.03-79, 81, 83, 85, 87, 89, 91, 93, 95.
69.123	69.07-1.
69.151	69.15-17.
69.153	NVIC 3-66.
69.155	69.15-5.
69.157	69.15-1, 35.
69.159	69.15-39.
69.161	69.15-13, 15.
69.163	69.15-7.
69.165	69.15-9.
69.167	69.15-11.
69.169	69.15-3.
69.171	69.15-19 (e) and (f).
69.173	69.15-17.
69.175	69.15-17.
69.177	69.15-19, 21, 23, 25, 27, 29, 31, 33, 37.
69.179	69.15-41.
69.181	69.15-25, 29 figure 57.
69.183	69.15-19 figure 54, 55, 56.
69.201	69.05-1.
69.203	69.05-3.
69.205	69.05-5.
69.207	69.05-5.
69.209	69.05-7.

Distribution Table

Old section	New section
69.01-01	69.1.
69.01-03(a)	69.3.
69.01-03(b)	69.7.
69.01-03(c)	69.15(d).
69.01-05	69.5.
69.01-07	69.9.
69.01-09 (a)-(a)(4)	69.11.
69.01-09 (a)(5)-(a)(6)	69.7.
69.01-09(b)	69.13(b).
69.01-09(c)	Unnecessary.
69.01-09(d)	Unnecessary—all new vessels are measured under the Convention Measurement System.
69.01-11	69.15.
69.01-13	69.17, 69.105.
69.01-15	69.19.
69.01-17	69.21.
69.01-19	69.23.
69.01-20	69.27.
69.01-21	69.29.
69.03-1	Unnecessary.
69.03-3	Unnecessary.
69.03-5	Unnecessary.
69.03-7	Unnecessary.
69.03-9	Unnecessary.
69.03-11	69.103, 69.109(j).

Distribution Table—Continued

Old section	New section
69.03-13	Unnecessary—the Convention Measurement System registered length in 69.53 and 69.103 is the only length required to be recorded.
69.03-15	Unnecessary—the Convention Measurement System registered breadth in 69.53 and 69.103 is the only breadth required to be recorded.
69.03-17	Unnecessary—the Convention Measurement System molded depth in 69.53 and 69.103 is the only breadth required to be recorded.
69.03-19	69.103, 69.109(d).
69.03-21	69.109(d).
69.03-23	Unnecessary.
69.03-25	Redundant—69.103 and 69.109(h)(1) are adequate.
69.03-27	Redundant—69.103 and 69.109(h)(1) are adequate.
69.03-29(a)	69.103 and 69.109(c).
69.03-29(b)	69.103 and 69.109(e).
69.03-29(c)	69.109(d).
69.03-31	69.109(f).
69.03-33(a)	69.109(h).
69.03-33(b)	Redundant—69.103 and 69.109(j) are adequate.
69.03-33(c)	69.109(j).
69.03-33 (d)-(f)	69.109 (h) (2)-(3).
69.03-35	69.109(h)(4).
69.03-37	69.109(i).
69.03-39	69.109(f).
69.03-41	69.109(g).
69.03-43	Unnecessary.
69.03-45(a)	69.109(k).
69.03-45(b)	69.109(l).
69.03-47	69.109(m).
69.03-49	Unnecessary.
69.03-51	69.109(n)—the procedures and mathematical formula indicated for a particular shaped shaft tunnel is not considered necessary.
69.03-53	69.109(f)(2).
69.03-55	69.111.
69.03-57	69.113.
69.03-59	69.115.
69.03-61	Unnecessary—this information is no longer required to be listed on vessel document.
69.03-63 (a)-(f)	69.117 (a)-(b).
69.03-63(g)	69.117(f).
69.03-63(h)	69.117(b)(9).
69.03-63(i)	69.117(b)(9).
69.03-65	69.117(c).
69.03-67	69.117(d).
69.03-69	69.117(e).
69.03-71	69.117(d)(5).
69.03-73	69.109(o).
69.03-75(a)	69.119(a).
69.03-75(b)	69.119(b).
69.03-75(c)	69.119(p).
69.03-75(d)	69.119(g).
69.03-75(e)	69.119(e).
69.03-75(f)	69.119(h).
69.03-75 (g)-(i)	69.119(q).
69.03-77(a)	69.119(b)(c)(j).
69.03-77(b)	69.119(c).
69.03-77(c)	69.119(d).
69.03-77(d)	69.119(e).

Distribution Table—Continued

Old section	New section
69.03-77(e)	69.119(f).
69.03-77(f)	69.119(k).
69.03-77(g)	69.119(l).
69.03-77(h)	69.119(i).
69.03-77(i)	69.119(m).
69.03-78	69.119(n).
69.03-79	69.121 (a)-(b)(1).
69.03-81	69.121(b)(2).
69.03-83	69.121(b) (3)-(5).
69.03-85	Redundant—69.121(b) (1)-(3) is adequate.
69.03-87	Redundant—69.121(b) (1)-(4) is adequate.
69.03-89	69.121(b) (6)-(12).
69.03-91	Incorporated in 69.121(b) (1)-(12).
69.03-93	69.121(e).
69.03-95 (a)-(c)	69.121(d).
69.03-95(d)	Unnecessary example.
69.03-97(a)	Unnecessary.
69.03-97(b)	Obsolete.
69.05-1	69.11(d) and 69.201.
69.05-3	69.203.
69.05-5(a)	69.205 and 69.207(b).
69.05-5(b)	69.207(a).
69.05-5(c)	Unnecessary—indicated on application.
69.05-5(d)	69.207(c).
69.05-7	69.209.
69.05-9(a)	69.19(a).
69.05-9(b)	69.11(d)
69.05-11	Unnecessary.
69.07-1	69.123—obsolete and unnecessary figures are deleted.
69.07-3	Unnecessary.
69.07-5	Unnecessary.
69.07-7	Unnecessary.
69.07-9	Unnecessary.
69.07-11	Unnecessary.
69.09-1 through 69.09-21.	69.103—obsolete and unnecessary definitions are deleted.
69.11-1 through 69.11-15.	Incorporated in 69.119(b)—unnecessary definitions are deleted.
69.13-1 through 69.13-157.	Unnecessary—although structural terms are used in the new section, a separate definition section is not necessary.
69.15-1	69.157.
69.15-3	69.169.
69.15-5	69.155.
69.15-7	69.163.
69.15-9	69.165.
69.15-11	69.167.
69.15-13	69.161(a)(4).
69.15-15	69.161.
69.15-17(a)	69.173.
69.15-17 (b) and (c)	69.175.
69.15-19 (a)-(d)	69.177.
69.15-19 (e)-(f)	69.171.
69.15-19-figure	69.185(a).
69.15-21	69.177(a)(4).
69.15-23	69.177(a) (5)-(6).
69.15-23-figures	69.185 (b)-(c).
69.15-25	69.181(b).
69.15-27	69.157(b) and 69.181(a).
69.15-29	69.177(a)(5).
69.15-31	69.177(a)(5).
69.15-33	69.177(d).
69.15-35	69.177(c).
69.15-37	69.177(a).
69.15-39	69.17 and 69.159.
69.15-41	69.179.

E.O. 12291 and DOT Regulatory Policies and Procedures

This rule is considered to be non-major under Executive Order 12291 and nonsignificant under Department of Transportation (DOT) regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this rule has been found to be so minimal that further evaluation is unnecessary.

As required by Public Law 99-509, this rule changes the measurement system under which some vessels are measured and is administrative in nature. This rule affects barges and recreational vessels of 79 feet or more in length by eliminating the option of having these vessels measured under the Simplified Measurement System. However, measurement of these vessels, if they will not engage on a foreign voyage, is and will continue to be at the owner's option. Measurement is usually a one-time expenditure that is insignificant in terms of the overall cost of owning and operating the vessel. Further, it is noted that this rule will not affect vessels presently measured and documented under laws of the United States until those vessels are altered.

The potential impacts that this rule might have on States and local governments with laws or regulations based on federally-assigned tonnage result from statutory mandate, as discussed under "Federalism Implications" in this preamble.

Regulatory Flexibility Act

The economic impact of this rule is expected to be minimal. This rule will affect the measurement requirements for certain larger vessels and will limit the option of measurement under the Simplified Measurement System to smaller vessels. No new application costs, burdens, or procedures are imposed and the larger vessels previously required to be measured under two systems will be required to be measured under only one system.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rulemaking contains no new information collection or recordkeeping requirements. However, several previous provisions already assigned Office of Management and Budget (OMB) control numbers are restated in this rulemaking. As discussed in the preamble to the NPRM, the Coast Guard requested that OMB consolidate all of the Control Numbers assigned to the restated provisions into a single Control Number. OMB has approved this request and assigned OMB Control Number 2115-0086 to §§69.17, 69.19, 69.21, 69.27, 69.55, 69.105, 69.121(d), 69.159, 69.179, and 69.205.

One comment was received on the "Paperwork Reduction Act" section in the preamble to the NPRM. The comment questioned the adequacy of the quantity "34" in the sentence that states: "This proposal might cause an estimated 34 additional vessels per year to be measured under the Convention, Standard, or Dual Measurement Systems, rather than under the Simplified Measurement System". The comment believes the figure to be low on average because of the abnormally low levels of barge construction since 1982.

The Coast Guard agrees that construction levels have been low and recognizes that they may increase. However, regardless of the number of barges that will be constructed in future years, two things remain unchanged. One is that domestic barges not engaged on a foreign voyage are not required to be documented and, therefore, not required to be measured under any system. The second is that when the owner of a barge that is 79 feet on more in length and not operated only on the Great Lakes elects to have the barge measured, Public Law 99-509 prevents its measurement under the less costly Simplified measurement procedure.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The regulations will have a minimal effect on State or local laws and regulations based on federally-assigned tonnages by requiring or permitting vessels presently eligible to be measured under one system to be measured under another system. Measurement under another system would produce a different tonnage. However, this rule and its resulting effect on the States and local governments is due to specific statutory mandate under Public Law 99-509 and not to discretionary action by the Coast Guard. Any effect on State or local governments most likely will be temporary because they can amend their laws or regulations as necessary to maintain the status quo.

The NPRM specifically requested public comment on federalism implications and no comments were received.

Environmental Assessment

The Coast Guard has considered the environmental impact of the regulations and concluded that, under section 2.B.2.1. of Commandant Instruction M16475.1B, the regulations are categorically excluded from further environmental documentation. The regulations are administrative and procedural in nature and concern the procedures for measuring vessels. They clearly have no environmental impact.

List of Subjects in 46 CFR Part 69

Measurement standards, Reporting and recordkeeping requirements, Vessels.

For the reasons set out in the preamble, 46 CFR (chapter I is amended by revising part 69 to read as follows:

PART 69—MEASUREMENT OF VESSELS

Subpart A—General

Sec.
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69.3 Applicability.
69.5 Vessels required or eligible to be measured.
69.7 Vessels transiting the Panama and Suez Canals.
69.9 Definitions.
69.11 Determining the measurement system or systems for a particular vessel.
69.13 Deviating from the provisions of a measurement system.
69.15 Organizations authorized to measure vessels.
69.17 Application for measurement services.
69.19 Remeasurement and adjustment of tonnage.
69.21 Appeals.
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69.27 Delegation of authority to measure vessels.
69.29 OMB control numbers assigned under the Paperwork Reduction Act.

Subpart B—Convention Measurement System

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69.53 Definitions.
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69.57 Gross tonnage.
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69.161 Gross and net tonnages.
69.163 Under-deck tonnage.
69.165 Between-deck tonnage.
69.167 Superstructure tonnage.
69.169 Spaces exempt from inclusion in gross tonnage.
69.171 When the tonnage mark is considered submerged.
69.173 Tonnage assignments for vessels with only one deck.
69.175 Tonnage assignments for vessels with a second deck.
69.177 Markings.
69.179 Certification of markings.
69.181 Locating the line of the second deck.
69.183 Figures.

Subpart E—Simplified Measurement System

69.201 Purpose.
69.203 Definitions.
69.205 Application for measurement services.
69.207 Measurements.
69.209 Calculation of tonnages.

Authority: 46 U.S.C. 14102, 14103; 49 CFR 1.46. Sec. 69.27 issued under 44 U.S.C. 3507; 49 CFR 1.45.

Subpart A—General

§ 69.1 Purpose.

This part implements legislation concerning the measurement of vessels to determine their tonnage (part J of 46 U.S.C. subtitle II). Tonnages are required before a vessel may be documented as a vessel of the United States. Also, tonnages are used to apply commercial vessel safety regulations based on tonnage, to meet the requirements of the International Convention on Tonnage Measurement of Ships, 1969, and to determine Federal and State regulatory fees and private operational charges based on tonnage. Tonnages are determined by the physical measurement of a vessel (Convention, Standard, and Dual Measurement Systems) or by application of a formula based on the vessel's dimensions provided by the owner (Simplified Measurement System). This part indicates the particular measurement system or systems under which the vessel is required or eligible to be measured, describes the application and measurement procedures for each system, identifies the organizations authorized to measure vessels under this part, and provides for the appeal of measurement organizations' decisions.

§ 69.3 Applicability.

This part applies to vessels of the United States over five net tons (as that tonnage is determined under this part) which are required or eligible to be measured under this part, a Federal law, or an international agreement or which are subject to a Federal law or international agreement based on the vessel's tonnage.

§ 69.5 Vessels required or eligible to be measured.

(a) The following vessels (including public vessels) are required to be measured under this part:

(1) Vessels that are to be documented as a vessel of the United States.

(2) Vessels of 79 feet or more in overall length that engage on a foreign voyage.

(3) Vessels subject to a Federal law or regulation based on vessel tonnage.

(4) Vessels determined by the Commandment to require measurement under this part.

(b) The following vessels are not required to be measured under this part but are eligible to be measured, if the owner requests:

(1) Public vessels that are not to be documented and will not engage on a foreign voyage.

(2) Vessels of war.

§ 69.7 Vessels transiting the Panama and Suez Canals.

(a) All vessels intending to transit the Panama Canal, other than vessels of war, must be measured and certificated under the system prescribed in 35 CFR part 135.

(b) All vessels intending to transit the Suez Canal must be measured and certificated under the Arab Republic of Egypt Suez Canal Authority Rules of Navigation, Part IV.

(c) Panama Canal and Suez Canal tonnage certificates are in addition to tonnage certificates issued under this part.

(d) Tonnage measurement services for Panama Canal and Suez Canal certificates are provided by measurement organizations authorized by the respective canal authority.

§ 69.9 Definitions.

As used in this part—

Commandant means Commandant of the Coast Guard at the following address: Commandant (G–MVI), U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593–0001.

Convention means the International Convention on Tonnage Measurement of Ships, 1969.

Convention Measurement System means the system under subpart B of this part.

Dual Measurement System means the system under subpart D of this part.

Great Lakes means the Great Lakes of North America and the St. Lawrence River west of a rhumb line drawn from Cap des Rosiers to West Point, Anticosti Island, and, on the north side of Anticosti Island, the meridian of longitude 63 degrees west.

Gross tonnage means a vessel's approximate volume. Under the Convention Measurement System, it means the total volume of all enclosed spaces modified by a coefficient. Under the Standard and Dual Measurement System, it means the total volume of all enclosed spaces less certain exempt spaces. Under the Simplified Measurement System, it means the product of a vessel's length, depth, and breadth modified by a coefficient.

Net tonnage means a measure of a vessel's earning capacity. Under the Convention Measurement System, it means the volume of the actual cargo and passenger spaces modified by a formula based on the vessel's volume. Under the Standard and Dual Measurement Systems, it means the gross tonnage less certain deducted spaces. Under the Simplified Measurement System, it means the gross tonnage modified by a coefficient.

Overall length means the horizontal distance between the foremost part of a vessel's stem to the aftermost part of its stern, excluding fittings and attachments.

Simplified Measurement System means the system under subpart E of this part.

Standard Measurement System means the system under subpart C of this part.

Tonnage means the volume of a vessel's enclosed spaces as calculated under a measurement system in this part. Tonnage calculated under the Standard, Dual, or Simplified Measurement System is based on tons of 100 cubic feet each. Tonnage calculated under the Convention Measurement System is based on tons of 100 cubic feed modified by a logarithmic function.

Vessel engaged on a foreign voyage means a vessel—

(a) Arriving at a place under the jurisdiction of the United States from a place in a foreign country;

(b) Making a voyage between places outside of the United States;

(c) Departing from a place under the jurisdiction of the United States for a place in a foreign country; or

(d) Making a voyage between a place within a territory or possession of the United States and another place under the jurisdiction of the United States not within that territory or possession.

Vessel of war means "vessel of war" as defined in 46 U.S.C. 2101.

§ 69.11 Determining the measurement system or systems for a particular vessel.

(a) *Convention Measurement System (subpart B).* (1) Except as otherwise provided in this section, this system applies to a vessel documented or to be documented under part 67 of this chapter and to a vessel engaged on a foreign voyage.

(2) This system does not apply to the following vessels:

(i) A vessel of less than 79 feet in overall length.

(ii) A vessel operating only on the Great Lakes, unless the owner requests measurement under this system.

(iii) A vessel that is not engaged on a foreign voyage and that had its keel laid or was at a similar stage of construction before January 1, 1986, unless the owner requests measurement under the Convention Measurement System or unless, on or after January 1, 1986, the vessel undergoes a change that the Commandant finds substantially affects the vessel's gross tonnage.

(iv) Before July 19, 1994, a vessel the keel of which was laid or that was at a similar stage of construction before July 18, 1982, unless the owner requests or unless, on or after July 18, 1982, the vessel undergoes a change that the Commandant finds substantially affects the vessel's gross tonnage.

(v) A vessel of war.

(3) A vessel made subject to this system at the request of the owner may be remeasured only under this system.

(4) For the purpose of vessel documentation, a vessel measured under this system is not required to be measured under another system.

(5) After July 18, 1994, a vessel the keel of which was laid or that was at a similar stage of construction before July 18, 1982, (except vessel measured under this system at the request of the owner or because of a change that substantially affects the vessel's gross tonnage) may retain its tonnage in effect on July 18, 1994, for the application of relevant requirements under an international agreement (except the Convention) or other laws of the United States. However, if the vessel undergoes a change after July 18, 1994, that the Commandant finds substantially affects the vessel's gross tonnage, the vessel must be remeasured only under this system.

(6) A tonnage assignment under this system does not affect the applicability to the vessel of international agreements to which the United States Government is a party that are not in conflict with the Convention or with the application of International Maritime Organization (IMO) Resolutions A.494(XII) of November 19, 1981, A.540(XIII) of November 17, 1983, and A.541(XIII) of November 17, 1983. When applicable to the vessel, these Resolutions provide interim schemes for using the vessel's existing gross tonnage, instead of the gross tonnage under the Convention Measurement System, for applying the International Convention for the Safety of Life at Sea (SOLAS), the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, (STCW), and the International Convention for the Prevention of Pollution from Ships, 1973, (MARPOL), respectively.

(b) *Standard Measurement System (subpart C).* This system applies to a vessel not required to be measured under the Convention Measurement System if the vessel is to be documented or if the application of a law of the United States to the vessel depends on the vessel's tonnage. Upon request of the owner, this system also applies to a documented vessel measured under the Convention Measurement System when Standard Measurement System tonnages are to be used in applying the provisions of a law under 46 U.S.C. 14305.

(c) *Dual Measurement System (subpart D).* This system may be applied, at the owner's option, instead of the Standard Measurement System, to a vessel eligible or required to be measured under the Standard Measurement System.

(d) *Simplified Measurement System (subpart E).* This system may be applied, at the owner's option, instead of the Standard Measurement System to the following vessels:

(1) A vessel that is under 79 feet in overall length.

(2) A vessel that is non-self-propelled and operated only on the Great Lakes.

(3) A vessel that is operated only for pleasure and operated only on the Great Lakes.

§ 69.13 Deviating from the provisions of a measurement system.

(a) In measuring a vessel under a measurement system in this part, all provisions of that system applicable to the vessel must be observed.

(b) The provisions of more than one measurement system may not be applied interchangeably or combined.

§ 69.15 Organizations authorized to measure vessels.

(a) Except as under paragraphs (c) and (d) of this section, all U.S. vessels to be measured or remeasured under the Convention, Standard, or Dual Measurement Systems must be measured by the American Bureau of Shipping (ABS). Applications for measurement must be directed to the American Bureau of Shipping, P.O. Box 910 (45 Eisenhower Drive), Paramus, New Jersey 07653–0910, (201) 712–5092.

(b) All vessels to be measured or remeasured under the Simplified Measurement System must be measured by the Coast Guard. Applications for measurement under the Simplified Measurement System are obtainable from any Coast Guard documentation office.

(c) All U.S. Coast Guard vessels and all U.S. Navy vessels of war to be measured or remeasured under any measurement system must be measured by the Coast Guard.

(d) At the option of the Commandant, the Coast Guard may measure any vessel to determine its tonnage.

(e) The appropriate certificate of measurement is issued by the measuring organization as evidence of the vessel's measurement under this part.

§ 69.17 Application for measurement services.

(a) Applications for measurement are available from and, once completed, are submitted to the measurement organization listed in § 69.15 that will perform the service. The contents of the application are described in this part under the requirements for each system.

(b) Applications for measurement under more than one system may be combined.

(c) For vessels under construction, the application must be submitted before the vessel is advanced in construction. Usually, this means as soon as the decks are laid, holds cleared of encumbrances, engine and boilers installed, and accommodations partitioned.

§ 69.19 Remeasurement and adjustment of tonnage.

(a) If a vessel that is already measured is to undergo a structural alteration or if the use of a space within that vessel is to be changed, a remeasurement may be required. Vessel owners shall report immediately to a measurement organization listed in § 69.15 any intent to structurally alter the vessel or to change the use of a space within the vessel. The organization advises the owner if remeasurement is necessary. Spaces not affected by the alteration or change need not be remeasured.

(b) When there is a perceived error in the application of a regulation or in the tonnage calculations, the vessel owner should contact the responsible measurement organization. If the error is verified, the tonnage is adjusted as necessary.

(c) If a remeasurement or adjustment of tonnage is required, the organization will issue a new tonnage certificate. If the vessel is documented, the vessel's owner must surrender the Certificate of Documentation as required under part 67, subpart 67.25, of this chapter.

(d) A vessel of less than 79 feet in overall length measured under the Standard or Dual Measurement Systems may be remeasured at the owner's request under the Simplified Measurement System.

§ 69.21 Appeals.

(a) The Commandant determines the appropriate application and interpretation of U.S. laws and regulations and international agreements as they are applied to vessels under this part.

(b) Appeals of decisions made by a measurement organization listed in § 69.15 must be submitted in writing with all supporting data to the measurement organization. The measurement organization then forwards the submittals to the Commandant for consideration of the appeal.

(c) While an appeal is in progress, the decision upon which the appeal is based remains in effect. The decision of the Commandant is final agency action.

§ 69.23 Fees.

Organizations listed in § 69.15(a) are authorized to charge a fee for measurement services. Information on fees is available directly from the organizations.

§ 69.25 Penalties.

(a) *General violation.* The owner, charterer, managing operator, agent, master, and individual in charge of a vessel in violation of a regulation in this part are each liable to the United States Government for a civil penalty of not more than $20,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

(b) *False Statements.* A person knowingly making a false statement or representation in a matter in which a statement or representation is required by this part is liable to the United States Government for a civil penalty of not more than $20,000 for each false statement or representation. The vessel also is liable in rem for the penalty.

§ 69.27 Delegation of authority to measure vessels.

(a) Under 46 U.S.C. 14103 and 49 CFR 1.46, the Coast Guard is authorized to delegate to a "qualified person" the authority to measure vessels and to issue appropriate certificates of measurement for U.S. vessels that are required or eligible to be measured as vessels of the United States.

(b) Authority to measure and certify U.S. vessels under the Convention, Standard, and Dual Measurement Systems may be delegated to an organization that—

(1) Is a full member of the International Association of Classification Societies (IACS);

(2) Is incorporated under the laws of the United States, a State of the United States, or the District of Columbia;

(3) Is capable of providing all measurement services under the Convention, Standard, and Dual Measurement Systems for vessels domestically and internationally;

(4) Maintains a tonnage measurement staff that has practical experience in measuring U.S. vessels under the Convention, Standard, and Dual Measurement Systems; and

(5) Enters into a Memorandum of Agreement, as described in paragraph (d) of this section.

(c) Applications for delegation of authority under this section must be forwarded to the Commandant and include the following information on the organization:

(1) Its name and address.

(2) Its organizational rules and structure.

(3) The location of its offices that are available to provide measurement services under the Convention, Standard, and Dual Measurement Systems.

(4) The name, qualifications, experience, and job title of each full-time or part-time employee or independent contractor specifically designated by the organization to provide measurement services under the Convention, Standard, or Dual Measurement Systems.

(5) Its tonnage measurement training procedures.

(d) If, after reviewing the application, the Coast Guard determines that the organization is qualified to measure and certify U.S. vessels on behalf of the Coast Guard, the organization must enter into a Memorandum of Agreement with the Coast Guard which—

(1) Defines the procedures for administering and implementing the tonnage measurement and certification processes, including the roles and responsibilities of each party;

(2) Outlines the Coast Guard's oversight role;

(3) Prohibits the organization from using an employee or contractor of the organization to measure and certify the tonnage of a vessel if that employee or contractor is acting or has acted as a tonnage consultant for that same vessel; and

(4) Requires the organization to—

(i) Accept all requests to perform delegated services without discrimination and without regard to the vessel's location, unless prohibited from doing so under the laws of the United States or under the laws of the jurisdiction in which the vessel is located;

(ii) Physically inspect each vessel before issuing a tonnage certificate;

(iii) Provide the Coast Guard with current schedules of measurement fees and related charges;

(iv) Maintain a tonnage measurement file for each U.S. vessel that the organization measures and permit access to the file by any person authorized by the Commandant;

(v) Permit observer status representation by the Coast Guard at all formal discussions that may take place between the organization and other vessel tonnage measurement organizations pertaining to tonnage measurement of U.S. vessels or to the systems under which U.S. vessels are measured;

(vi) Comply with and apply all laws and regulations relating to tonnage measurement of U.S. vessels within the scope of authority delegated; and

(vii) Comply with all other provisions, if any, of the Memorandum of Agreement.

(e) Upon delegation of authority, the organization is listed in § 69.15(a), Organizations authorized to measure vessels.

§ 69.29 OMB control numbers assigned under the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and record keeping requirements in this part by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The Coast Guard intends that this part comply with 44 U.S.C. 3507(f), which requires that agencies display the current control number assigned by the Director of OMB for each approved agency information collection requirement.

(b) *Display*—

Section of 46 CFR part 69	Currently assigned OMB control No.
69.17	2115-0086
69.19	2115-0086
69.21	2115-0086
69.27	2115-0086
69.55	2115-0086
69.105	2115-0086
69.121(d)	2115-0086
69.159	2115-0086
69.179	2115-0086
69.205	2115-0086

Subpart B—Convention Measurement System

§ 69.51 Purpose.

This subpart prescribes the requirements for measuring a vessel in order to comply with the International Convention on Tonnage Measurement of Ships, 1969 (Convention), and 46 U.S.C. chapter 143.

§ 69.53 Definitions.

As used in this subpart—

Amidships means the midpoint of the registered length, as "registered length" is defined in this section.

Cargo space means an enclosed space appropriated for the transport of cargo which is to be discharged from the vessel. The term does not include a space which qualifies as an excluded space under § 69.61.

Enclosed space is defined in § 69.59.

Excluded space is defined in § 69.61.

Gross tonnage or *GT* means the tonnage determined under § 69.57.

Line of the upper deck means a longitudinal line at the underside of the upper deck or, if that deck is stepped, the longitudinal line of the underside of the lowest portion of that deck parallel with the upper portions of that deck.

Molded depth means the vertical distance amidships between the following points:

(a) From the line of the upper deck at the vessel's side or, if the vessel has rounded gunwales, from the intersection of the line of the upper deck extended to the molded line of the shell plating as though the gunwales were of angular design.

(b) To the top of the flat keel, to the lower edge of the keel rabbet if the vessel is of wood or composite structure, or to the point where the line of the flat of the bottom extended inward cuts the side of the keel if the vessel's lower part is hollow or has thick garboards.

Molded draft means—

(a) For vessels assigned a load line under part 42, 44, 45, or 47 of this chapter, the draft corresponding to the Summer Load Line (other than a timber load line);

(b) For passenger vessels assigned a load line under part 46 of this chapter, the draft corresponding to the deepest subdivision load line assigned;

(c) For vessels to which part 42, 44, 45, 46, or 47 of this chapter do not apply but which otherwise have been assigned a load line, the draft corresponding to the Summer Load Line so assigned;

(d) For vessels to which no load line has been assigned but the draft of which is restricted under any Coast Guard requirement, the maximum draft permitted under the restriction; and

(e) For other vessels, 75 per cent of the molded depth.

Net tonnage or *NT* means tonnage determined under § 69.63.

Passenger means a person on board a vessel other than—

(a) The master, a member of the crew, or other person employed or engaged in any capacity in the business of the vessel; and

(b) A child under one year of age.

Registered breadth means the maximum breadth of a vessel measured amidships to the molded line of the frame in a vessel with a metal shell and to the outer surface of the hull in all other vessels.

Registered length means either 96 percent of the length on a waterline at 85 percent of the least molded depth measured from the top of the flat keel or the length from the fore side of the stem to the axis of the rudder stock on that waterline, whichever is greater. In vessels designed with a rake of keel, this length is measured on a waterline parallel to the design waterline.

Upper deck means the uppermost complete deck exposed to weather and sea, which has permanent means of weathertight closing of all openings in the weather part of the deck, and below which all openings in the sides of the vessel are fitted with permanent means of watertight closing.

Weathertight means secure against penetration of water into the vessel in any sea condition.

§ 69.55 Application for measurement services.

Applications for measurement under this subpart must include the following information and plans:

(a) Type of vessel.

(b) Vessel's name, official number (if assigned), and intended port of documentation.

(c) Builder's name and the vessel hull number assigned by builder.

(d) Place and year built.

(e) Date keel was laid.

(f) Overall length, breadth, and depth of vessel.

(g) Lines plan.

(h) Booklet of offsets at stations.

(i) Capacity plans for tanks and cargo compartments.

(j) Hydrostatic curves.

(k) Construction plans showing measurements and scantlings of deck structures, hatches, appendages, recesses, and other enclosed spaces.

(l) Arrangement plans.

§ 69.57 Gross tonnage.

Gross tonnage (GT) is determined by the following formula $GT=K_1V$, in which V=total volume of all enclosed spaces in cubic meters and $K_1=0.2+0.02 \log_{10}V$.

§ 69.59 Enclosed spaces.

Enclosed space means a space which is bounded by the vessel's hull, by fixed or portable partitions or bulkheads, or by decks or coverings other than permanent or movable awnings. No break in a deck, nor any opening in the vessel's hull, in a deck or in a covering of a space, or in the partitions or bulkheads of a space, nor the absence of a partition or bulkhead precludes the space from being included in the enclosed space.

§ 69.61 Excluded spaces.

(a) *Excluded space* means an enclosed space which is excluded from volume (V) in calculating gross tonnage. Except as under paragraph (g) of this section, this section lists the excluded spaces.

(b) A space that is within a structure and that is opposite an end opening extending from deck to deck (except for a curtain plate of a height not exceeding by more than one inch the depth of the adjoining deck beams) and having a breadth equal to or greater than 90 percent of the breadth of the deck at the line of the opening is an excluded space, subject to the following:

(1) Only the space between the actual end opening and a line drawn parallel to the line or face of the opening at a distance from the opening equal to one-half of the breadth of the deck at the line of the opening is excluded. (See § 69.75, Figure 1.)

(2) If, because of any arrangement (except convergence of the outside plating as shown in § 69.75, figure 3), the breadth of the space is less than 90 percent of the breadth of the deck, only the space between the line of the opening and a parallel line drawn through the point where the athwartship breadth of the space is equal to 90 percent or less of the breadth of the deck is excluded. (See § 69.75, figures 2 and 4.)

(3) When any two spaces, either of which is excluded under paragraphs (b)(1) or (b)(2) of this section, are separated by an area that is completely open except for bulwarks or open rails, these two spaces must not be excluded if the separation between the two spaces is less than the least half breadth of the deck in way of the separation. (See § 69.75, figures 5 and 6.)

(4) When the deck at the line of an opening has rounded gunwales, the breadth of the deck is the distance between the tangent points indicated in § 69.75, figure 11.

(c) A space that is open to the weather and that is under an overhead deck covering with no connection on the space's exposed sides between the covering and the deck other than the stanchions necessary for the covering's support is an excluded space. An open rail or bulwark fitted at the vessel's side does not disqualify the space from being an excluded space if the height between the top of the rail or bulwark and the overhead structure or curtain plate (if fitted) is not less than 2.5 feet or one-third of the height of the space, whichever is greater. (See § 69.75, figure 7.)

(d) A space in a side-to-side structure directly in way of opposite side openings not less than 2.5 feet in height or one-third of the height of the structure, whichever is greater, is an excluded space. If the opening is only on one side of the structure, the space to be excluded is limited inboard from the opening to a maximum of one-half of the breadth of the deck in way of the opening. (See § 69.75, figure 8.)

(e) A space in a structure immediately below an uncovered opening in the deck overhead is an excluded space, if the opening is exposed to the weather and the space to be excluded is limited to the area of the opening. (See § 69.75, figure 9.)

(f) A recess in the boundary bulkhead of a structure which is exposed to the weather and which has an opening that extends from deck to deck without a means of closing is an excluded space, if the interior width of the space is not greater than the width of the opening and extension of the space into the structure is not greater than twice the width of the opening. (See § 69.75, figure 10.)

(g) Any space described in paragraphs (b) through (f) of this section which fulfills at least one of the following conditions is not an excluded space:

(1) The space is fitted with shelves or other means designed for securing cargo or stores.

(2) The opening that would otherwise permit the space to be excluded space is fitted with a means of closure.

(3) Other features of the space make it possible for the space to be closed.

§ 69.63 Net tonnage.

Net tonnage (NT) is determined by the formula:

$$NT=K_2V_c\left(\frac{4d}{3D}\right)^2+K_3\left(N_1+\frac{N_2}{10}\right),$$

in which:

V_c=total volume of cargo spaces in cubic meters.

$K_2=0.2+0.02 \log_{10} V_c$.

$$K_3=1.25\left(\frac{GT+10{,}000}{10{,}000}\right).$$

D=molded depth amidships in meters, as "molded depth" is defined in § 69.53.

d=molded draft amidships in meters, as "molded draft" is defined in § 69.53.

N_1=number of passengers in cabins with not more than eight berths, as "passenger" is defined in § 69.53.

N_2=number of other passengers, as "passenger" is defined in § 69.53.

GT=gross tonnage as determined under § 69.57.

N_1 plus N_2 must equal the total number of passengers the vessel is permitted to carry as indicated on the Ship's Passenger Certificate. If N_1 plus N_2 is less than 13, both N_1 and N_2 are zero.

$\left(\frac{4d}{3D}\right)^2$ must not be greater than unity.

$K_2V_c\left(\frac{4d}{3D}\right)^2$ must not be less than 0.25 GT.

NT must not be less than 0.30 GT.

§ 69.65 Calculation of volumes.

(a) Volumes V and V_c used in calculating gross and net tonnages, respectively, must be measured and calculated according to accepted naval architectural practices for the spaces concerned.

(b) The volume of the hull below the upper deck is determined as follows:

(1) If the number and location of sections originally used in making other calculations which relate to the form of the vessel (such as displacement volumes and center of buoyancy) are reasonably available, Simpson's first rule may be applied using those sections.

(2) If the number and location of stations originally used are not reasonably available or do not exist and the hull is of conventional design with faired lines, Simpson's first rule may be applied using a number and location of stations not less than those indicated in § 69.109(g)(1).

(3) If the hull is of standard geometric shape, a simple geometric formula that yields a more accurate volume may be used.

(4) If the lines of the hull are not fair, the volume may be measured by using a combination of methods under this section.

(c) The volume of structures above the upper deck may be measured by applying the superstructure provisions in § 69.113 or by any accepted method or combinations of methods.

(d) Measurements must be taken, regardless of the fitting of insulation or the like—

(1) To the inner side of the shell or structural boundary plating, in vessels constructed of metal; and

(2) To the outer surface of the shell or to the inner side of structural boundary surfaces, in all other vessels.

(e) When determining the volume of a cargo space, measurements must be taken without consideration for insulation, sparring, or ceiling fitted within the space.

(f) Measurements must be to the nearest one-twentieth of a foot.

(g) Calculations must be made on a worksheet and must be sufficiently detailed to permit easy review. The measurement procedures used must be identified on the worksheet.

§ 69.67 Marking of cargo spaces.

Cargo spaces used in determining volume (Vc) for calculating net tonnage must be permanently marked with the letters "CC" (cargo compartment) which are at least four inches in height and positioned so as to be visible at all times.

§ 69.69 Issuance of an International Tonnage Certificate (1969).

On request of the vessel owner, an International Tonnage Certificate (1969) is issued for a vessel measured under this subpart that is 79 feet or more in registered length and that will engage on a foreign voyage. The Certificate is issued to the vessel owner or master and must be maintained on board the vessel when it is engaged on a foreign voyage.

§ 69.71 Change of net tonnage.

(a) When a vessel is altered so that the net tonnage is increased, the new net tonnage must be applied immediately.

(b) A vessel concurrently assigned load lines under both the International Convention on Load Lines (parts 42, 44, 45, or 47 of this chapter) and either the International Convention for the Safety of Life at Sea (SOLAS) (part 46 of this chapter) or other international agreement must be assigned only one net tonnage. The net tonnage assigned must be the net tonnage applicable to the load line assigned under the International Convention on Load Lines or SOLAS for the trade in which the vessel in engaged.

(c) When a vessel is altered so that the net tonnage is decreased or the vessel's trade is changed so that the load line assigned for that trade under paragraph (b) of this section is no longer appropriate and results in a decrease in its net tonnage, a new International Tonnage Certificate (1969) incorporating that net tonnage may not be issued until twelve months after the date on which the current Certificate was issued. However, if one of the following apply, a new Certificate may be issued immediately:

(1) The vessel is transferred to the flag of another nation.

(2) The vessel undergoes alterations or modifications which the Coast Guard deems to be of a major character, such as the removal of a superstructure which requires an alteration of the assigned load line.

§ 69.73 Variance from the prescribed method of measurement.

(a) When application of this supart to a novel type vessel produces unreasonable or impractical results, the Commandant may determine a more suitable method of measurement.

(b) Requests for a determination must be submitted to the Commandant, explain the problem, and include plans and sketches of the spaces in question.

§ 69.75 Figures.

0=excluded space.
C=enclosed space.
I=space to be considered as an enclosed space.
B=breadth of deck in way of the opening.

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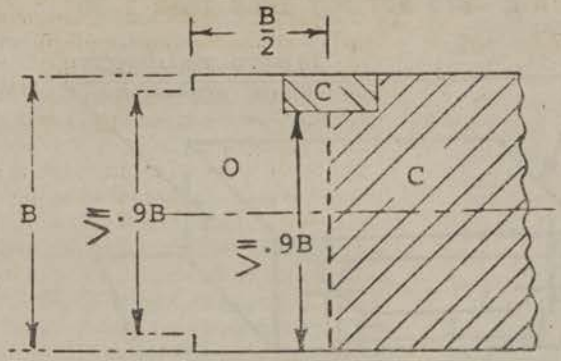


Figure 1

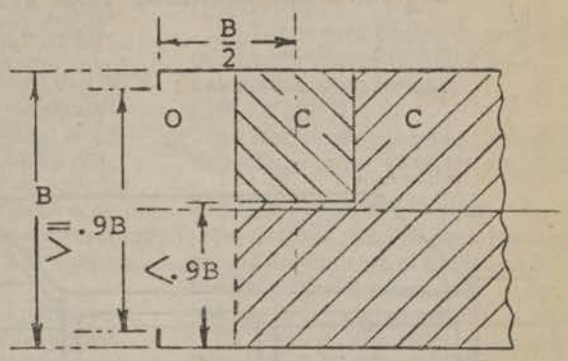


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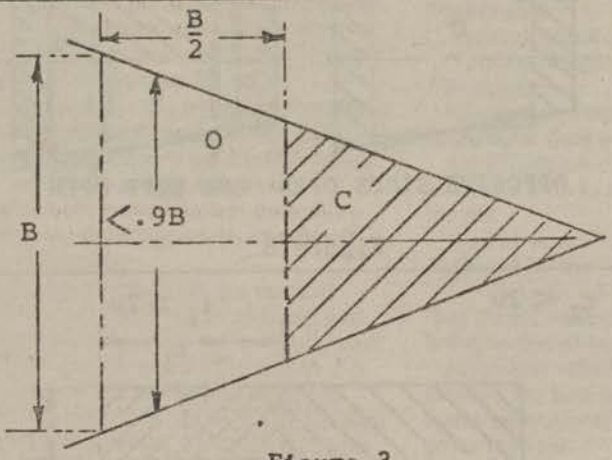


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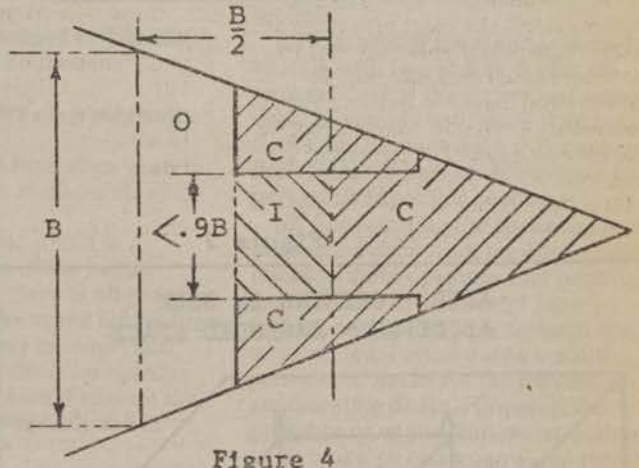


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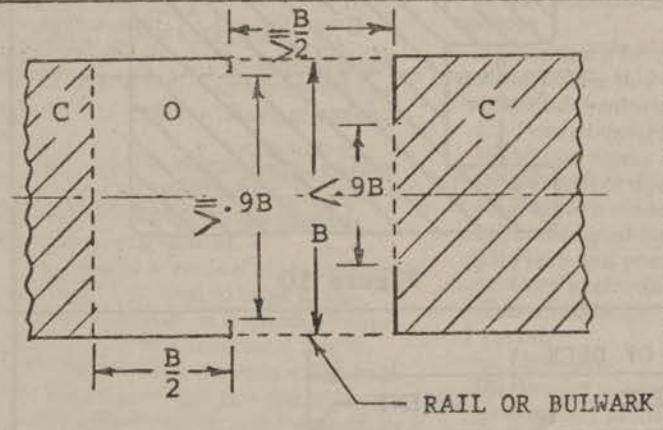


Figure 5

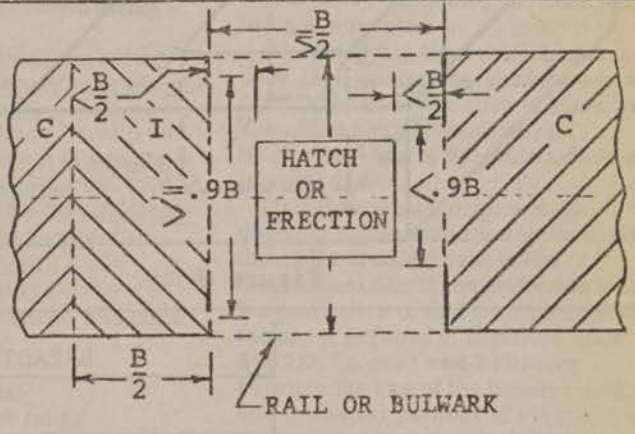


Figure 6

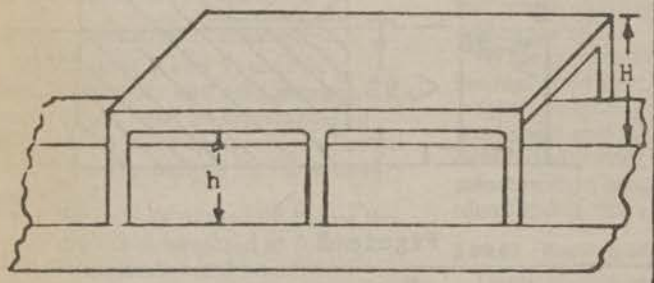


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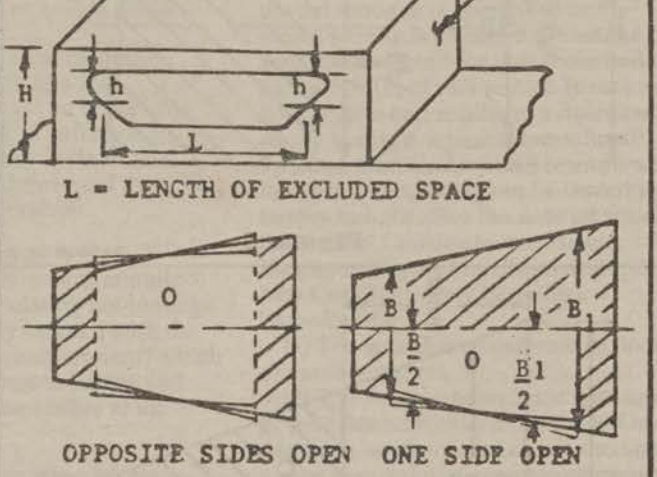


Figure 8

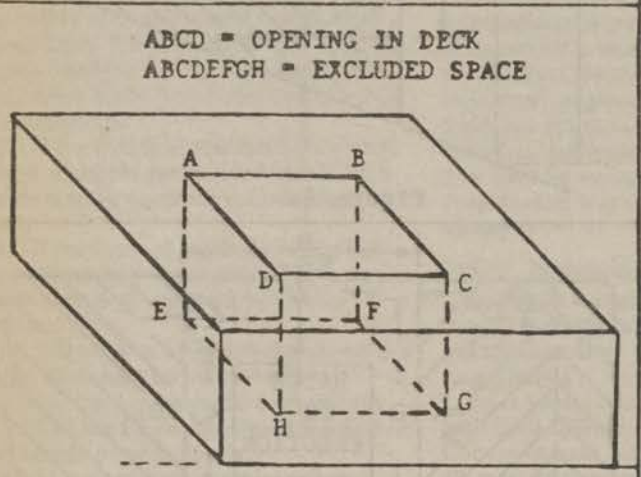


Figure 9

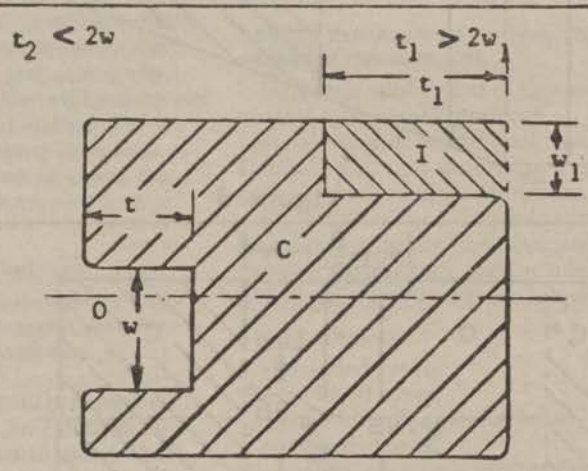


Figure 10

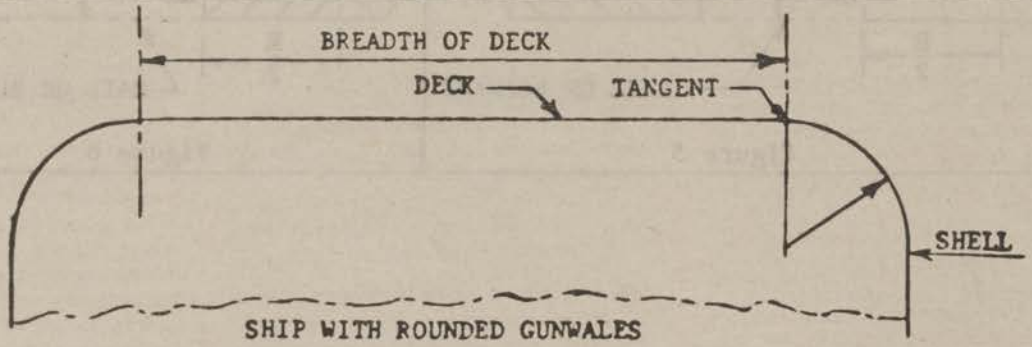


Figure 11

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Subpart C—Standard Measurement System

§ 69.101 Purpose.

This supart prescribes the procedures for measuring a vessel under the Standard Measurement System described in 46 U.S.C. 14512.

§ 69.103 Definitions.

As used in this subpart—

Between-deck means the space above the line of the tonnage deck and below the line of the deck next above.

Break means the space between the line of a deck and the upper portion of that deck, in cases where that deck is stepped and continued at a higher elevation.

Camber means the perpendicular rise or crown of a deck at the centerline of the vessel measured above the skin of the vessel at the vessel's sides.

Ceiling means the permanent planking or plating fitted directly on the inboard side of frames, floors, or double bottom and includes cargo battens and refrigeration insulation but does not include false ceiling which stands off from the framing.

Coaming means both the vertical plating around a hatch or skylight and the sill below an opening in a bulkhead.

Deckhouse means a structure that is on or above the uppermost complete deck and that does not extend from side to side of the vessel. The term includes cabin trunks and closed-in spaces over the holds of vessels.

Depth of frame means the perpendicular depth of a bottom frame and the athwart distance between the inboard and outboard faces of a side frame.

Double bottom means a space at the bottom of a vessel between the inner and outer bottom plating and used solely for water ballast.

Floor means a vertical plate or timber extending from bilge to bilge in the bottom of a vessel. In a wooden vessel, "floor" means the lowermost timber connecting the main frames at the keel when that timber extends the full depth of the frames to which it is fastened. In a double bottom, floors usually extend from the outer to the inner bottom.

Gross tonnage is defined in § 69.107(a).

Hatch means an opening in a deck through which cargo is laden or discharged.

Line of tonnage deck means the line determined under § 69.109(e).

Line of uppermost complete deck means the line determined under § 69.111(b).

Net tonnage is defined in § 69.107(b).

Registered breadth is defined in § 69.53.

Registered depth means "molded depth" as defined in § 69.53.

Registered length is defined in § 69.53.

Shelter deck means the uppermost deck that would have qualified as the uppermost complete deck had it not been fitted with a middle line opening.

Step means a cutoff in a deck or in the bottom, top, or sides of a space resulting in varying heights of a deck or varying heights or widths of a space.

Superstructure means all permanent structures (such as forecastle, bridge, poop, deckhouse, and break) on or above the line of the uppermost complete deck or, if the vessel has a shelter deck, on or above the line of the shelter deck.

Tonnage deck is defined in § 69.109(c).

Tonnage length is defined in § 69.109(f).

Uppermost complete deck means the uppermost deck—

(a) Which extends from stem to stern and from side to side at all points of its length;

(b) The space below which is enclosed by the sides of the vessel;

(c) Through which there is no opening that would exempt the space below from being included in gross tonnage; and

(d) Below which there is no opening through the hull that would exempt the space below from being included in gross tonnage.

§ 69.105 Application for measurement services.

Applications for measurement services under this subpart must include the following information and plans:

(a) Type of vessel.

(b) Vessel name, official number, and intended port of documentation.

(c) Builder's name and the vessel hull number assigned by the builder.

(d) Place and year built.

(e) Date keel was laid.

(f) Overall length, breadth, and depth of vessel.

(g) Lines plan.

(h) Booklet of offsets.

(i) Capacity plans for tanks

(j) Construction plans showing measurements and scantlings of hull and superstructure.

(k) Tonnage drawing showing tonnage length in profile and tonnage sections.

(l) Arrangement plans.

§ 69.107 Gross and net tonnages.

(a) Gross tonnage is the sum of the following tonnages, less certain spaces exempt under § 69.117:

(1) Under-deck tonnage (§ 69.109).

(2) Between-deck tonnage (§ 69.111).

(3) Superstructure tonnage (§ 69.113).

(4) Excess hatchway tonnage (§ 69.115(c)).

(5) Tonnage of framed-in propelling machinery spaces included in calculating gross tonnage (§ 69.121(d)(1)).

(b) Net tonnage is gross tonnage less deductions under §§ 69.119 and 69.121.

§ 69.109 Under-deck tonnage.

(a) *Defined.* "Under-deck tonnage" means the tonnage of the space below the line of the tonnage deck, as that volume is calculated under this section.

(b) *Method of calculating tonnage.* Under-deck tonnage is calculated by applying Simpson's first rule using the tonnage length and the areas of the transverse sections prescribed by this section.

(c) *Identifying the tonnage deck.* In vessels with two or less decks, the tonnage deck is the uppermost complete deck. In vessels with more than two decks, the tonnage deck is the second deck from the keel as determined in paragraph (d) of this section.

(d) *Enumerating the decks to identify the second deck from the keel.* Only decks without openings that permit space below to be exempt from inclusion in under-deck tonnage are enumerated. Partial decks are not considered decks for the purpose of enumerating decks. However, the presence of engine and boiler casings, peak tanks, or cofferdams that penetrate a deck do not disqualify the deck from being enumerated.

(e) *Identifying the line of the tonnage deck.* (1) If the tonnage deck runs in a continuous line from stem to stern, the line of the tonnage deck is the longitudinal line at the underside of the tonnage deck.

(2) If the tonnage deck runs at different levels from stem to stern, the line of the tonnage deck is the longitudinal line of the underside of the lowest portion of that deck parallel with the upper portions of that deck. (See § 69.123, figures 1 and 2.) Spaces between the line of the tonnage deck and the higher portions of that deck are not included in under-deck tonnage.

(f) *Tonnage length.* (1) "Tonnage length" means the length of a horizontal straight line measured at the centerline of the vessel from the point forward where the line of the tonnage deck intersects the line of the inboard faces of the ordinary side frames to the point aft where the line of the tonnage deck intersects the inboard face of the transom frames or cant frames. (See § 69.123, figure 3.)

(2) For a vessel having a headblock or square end with framing which extends

from the tonnage deck to the bottom of the vessel, the tonnage length terminates on the inboard face of the head block or end framing. When a headblock extends inboard past the face of the end side frames or when the headblock plates are excessive in length, the tonnage length terminates at the extreme end of the vessel less a distance equal to the thickness of an ordinary side frame and shell plating. (See § 69.123, figure 4.)

(3) For a vessel having a square bow or stern and tonnage deck with camber, the effect of the camber on the tonnage length must be considered. The tonnage length must be measured below the tonnage deck at a distance equal to one-third of round camber an done-half of straight pitch camber.

(g) *Division of vessel into transverse sections.* (1) Except as under paragraph (m)(1)(iii) of this section, the tonnage length is divided into an even number of equal parts as indicated in the following table:

Class	Tonnage length	Divisions
1	50 ft. or less	6
2	Over 50 ft. but not exceeding 100 ft.	8
3	Over 100 ft. but not exceeding 150 ft.	10
4	Over 150 ft. but not exceeding 200 ft.	12
5	Over 200 ft. but not exceeding 250 ft.	14
6	Over 250 ft.	16

(2) Transverse sections are cut at each end of the tonnage length and at each point of division of the tonnage length. Intervals and one-third intervals between the points of division are measured to the nearest thousandth of a foot. (See § 69.123 figures 5 and 6.)

(h) *Depths of transverse sections.* (1) Transverse section depths are measured at each point of division of the tonnage length at the centerline of the vessel from a point below the line of the tonnage deck equal to one-third of the camber or to one-half of the pitch of the beam down to the upper side of the ordinary frames, floors, longitudinals, or tank top of a cellular double bottom, as the case may be.

(2) When a depth falls at a point where the tank top of a double bottom has a straight fall from centerline to the wings, the depth terminates at one-half of the height of fall. (See § 69.123 figure 8.)

(3) When a depth falls at a point where the tank top of a double bottom rises from the centerline to the wings, the depth terminates at one-half the dead rise. (See § 69.123, figure 9.)

(4) The depth at the midpoint of the tonnage length or, when a vessel is measured in parts, the depth at the midpoint of each part determines the number of equal parts into which each depth is divided, as follows:

(i) If the midpoint depth is 16 feet or less, each depth is divided into four equal parts. If the midpoint depth exceeds 16 feet, each depth is divided into six equal parts. (See § 69.123, figure 7.)

(ii) The interval between the points of division of a depth and one-third intervals are carried to the nearest hundredth of a foot.

(i) *Breadths of transverse sections.* (1) Transverse section breadths are measured horizontally at each point of division of each depth and also at the upper and lower points of each depth. Breadths are measured to the inboard face of the ordinary frames or to the line of the ordinary frames. Breadths are measured parallel to each other and at right angle to the vessel's centerline. (See § 69.123, figure 7.)

(2) Upper breadths are not reduced by measuring to deck-beam brackets. In cases of camber when an upper breadth passes through the deck (see § 69.123, figure 7), the breadth is measured to the line of the side frames at the under side of the deck projected vertically up to the height of the upper breadth.

(3) Bottom breadths are measured only as far as the flat of the floor extends. (See § 69.123, figures 7 and 10.) When bottom frames rise immediately from the flat keel, bottom breadths are equal to the breadth of the flat keel. Where there is no double bottom and where there is dead rise of the bottom out to the sides of the vessel, bottom breadths are equal to the part of the bottom plating not affected by dead rise.

(4) Bottom breadths falling in way of a double bottom, the top of which rises or falls from certerline to the wings, are measured between the inboard faces of the frame brackets which connect the double bottom with the frames. (See § 69.123, figures 8 and 9.)

(j) *Measuring spaces having ceiling.* The maximum allowance for terminating measurements on ceiling is three inches on the bottom frames or tank top and three inches on each side frame. When ceiling is less than three inches thick, only the actual thickness is allowed. When ceiling is fitted on a platform directly above the bottom frames, depths are measured down through the platform to the upper side of the frames and the allowable ceiling on the platform is then deducted.

(k) *Area of transverse sections.* (1) A transverse section at an end of the tonnage length may not yield area.

except in vessels (such as barges) with an upright bow or stern.

(2) The breadths of each transverse section are numbered from above, the upper being "1", the second down being "2", and so on to the lowest.

(3) Multiply the even numbered breadths by four and the odd numbered breadths by two, except for the first and last breadths, which are multiplied by one.

(4) Add together the products from paragraph (k)(3) of this section.

(5) Multiply the sum from paragraph (k)(4) of this section by one-third of the interval between the breadths. The product is the area of the transverse section.

(l) *Tonnage.* (1) Number the transverse sections successively "1", "2", and so forth, beginning at the bow.

(2) Multiply the area of the even numbered sections by four and the area of the odd numbered sections by two, except the first and last sections, which are multiplied by one.

(3) Add together the products from paragraph (l)(2) of this section and multiply the sum by one-third of the interval between the sections. The product is the volume under-deck.

(4) The volume under-deck is divided by 100 and is, subject to exemptions, the under-deck tonnage.

(m) *Steps in double bottom.* (1) The tonnage length of a vessel having a step exceeding six inches in height in its double bottom is divided into longitudinal parts at the step. Each part is subdivided as follows to determine the number of transverse sections:

(i) Parts 20 feet or under in length are divided into two equal parts.

(ii) Parts over 20 feet and under 40 feet in length are divided into four equal parts.

(iii) Parts 40 feet or over are divided as provided in paragraph (g)(1) of this section.

(2) The tonnage of each part is calculated separately. The sum of the tonnages of the parts is the under-deck tonnage.

(n) *Outside shaft tunnel exclusion.* Any portion of an outside shaft tunnel included in tonnage through the process of measurement is subtracted from the under-deck tonnage.

(o) *Open vessels.* (1) An open vessel is one of any length without a deck or with one or more partial decks, the total length of which is less than one-half the tonnage length.

(2) The line of the tonnage deck for an open vessel is the upper edge of the upper strake. Depths of transverse sections are taken from this line.

(3) Any vessel, other than one having a mechanically refrigerated hold, that is not an open vessel and that has a tonnage length of less than 50 feet is measured as an open vessel, if the distance between the line of its tonnage deck and the upper edge of the upper strake is more than one-sixth of the midship depth. "Midship depth" means the depth measured from the line of the upper edge of the upper strake to the point in the bottom used for measuring tonnage depths.

§ 69.111 Between-deck tonnage.

(a) *Defined.* "Between-deck tonnage" means the tonnage of the space above the line of the tonnage deck and below the line of the uppermost complete deck.

(b) *Identifying the line of the uppermost complete deck.* (1) If the uppermost complete deck runs in a continuous line from stem to stern, the line of the uppermost complete deck is the longitudinal line of the underside of the uppermost complete deck.

(2) If the uppermost complete deck runs at different levels from stem to stern, the line of the uppermost complete deck is the longitudinal line of the underside of the lowest portion of that deck parallel with the upper portions of that deck. Spaces between the line of the uppermost complete deck and the higher portions of the deck are included in superstructure tonnage.

(c) *Method for calculating tonnage.* The tonnage of each level of the between-deck space is calculated separately, as follows:

(1) The length of each level is measured at the mid-height between the line of the deck above and the line of the deck below. Measure from the point forward where the continuation of the line of the inboard face of the normal side frames intersects the center line of the vessel aft to the forward face of the normal transom framing.

(2) Divide the length under paragraph (c)(1) of this section into the same number of equal parts into which the tonnage length is divided under § 69.109(g)(1).

(3) Measure at mid-height between the faces of the normal side frames the inside breadth of the space at each end and at each point of division of the length. Number the breaths successively "1", "2", and so forth beginning at the bow.

(4) Multiply the even numbered breadths by four and the odd numbered breadths by two, except the first and last, which are multiplied by one.

(5) Add together the products under paragraph (c)(4) of this section and multiply the sum by one-third of the interval between the points at which the breadths are taken. The product is the square foot area of the space at mid-height.

(6) Multiply the area of the space at mid-height by the average of the heights taken each point of division of the space. The product divided by 100 is the tonnage of that space.

(7) The between-deck tonnage is the sum of the tonnage of each level within the between-deck space.

§ 69.113 Superstructure tonnage.

(a) *Defined.* "Superstructure tonnage" means the tonnage of all permanent structures, such as forecastle, bridge, poop, deckhouse, and break, on or above the line of the uppermost complete deck (or line of shelter deck, if applicable).

(b) *Method of calculating tonnage.* The tonnage of all structures on each level on or above the uppermost complete deck (or shelter deck, if applicable) is calculated separately as follows:

(1) The length of each structure is measured along its centerline at mid-height between the line of the inboard face of the framing on one end to the line of the inboard face of the framing on the other end. (See § 69.123, figure 11.)

(2) Divide the length under paragaph (b)(1) of this section into an even number of equal parts most nearly equal to those into which the tonnage length is divided under § 69.109.

(3) Measure at mid-height the inside breadth at each end and at each point of division of the length. Number the breadths successively "1", "2", and so forth, beginning at the extreme forward end of the structure. If an end of the structure is in the form of a continuous arc or curve, the breadth at that end is one-half the nearest breadth. If an end is in the form of an arc or curve having a decided flat, the breadth at the end is two-thirds of the nearest breadth.

(4) Multiply the even numbered breadths by four and the odd numbered by two, except the first and last breadth, which are multiplied by one.

(5) Add together the products under paragraph (b)(4) of this section and multiply the sum by one-third of the interval between the points at which the breadths are taken. The product is the square foot area of the structure at mid-height.

(6) Multiply this area by the average of the heights taken at each point of division of the structure between its decks or the line of its decks. The product divided by 100 is the tonnage of that structure.

(c) A structure having steps in its deck or side must be measured in parts.

(d) The superstructure tonnage is the sum of tonnages of each level above the line of the uppermost complete deck (or shelter deck, if applicable).

(e) When a structure is located over a cut-away portion of the tonnage deck, the structure's height is measured from the under side of its overhead deck to the line of the tonnage deck. If the tonnage deck has no camber, allow for camber in the overhead deck.

(f) For structures of a standard geometric shape, a simple geometric formula that yields an accurate volume may be used.

§ 69.115 Excess hatchway tonnage.

(a) Hatchways that are above the tonnage deck and are either open to the weather or within open structures are measured to determine excess hatchway tonnage. Hatchways that are in between-deck spaces, on decks within closed-in structures, or on open structures are not measured.

(b) The tonnage of a hatchway is its length times breadth times mean depth divided by 100. Mean depth is measured from the under side of the hatch cover to the top of the deck beam.

(c) From the sum of the tonnage of the hatchways under this section, subtract one-half of one percent of the vessel's gross tonnage exclusive of the hatchway tonnage. The remainder is added as excess hatchway tonnage in calculating gross tonnage.

§ 69.117 Spaces exempt from inclusion in gross tonnage.

(a) *Purpose.* This section lists spaces which are exempt from inclusion in gross tonnage.

(b) *Spaces on or above the line of the uppermost complete deck.* The following spaces or portions of spaces on or above the line of the uppermost complete deck are exempt if the spaces or portions are reasonable in extent and adapted and used exclusively for the purpose indicated:

(1) Spaces for anchor gear, including capstan, windlass, and chain locker, are exempt.

(2) Companions and booby-hatches protecting stairways or ladderways leading to spaces below are exempt, whether or not the spaces below are exempt.

(3) Galley or other spaces fitted with a range or oven for cooking food to be consumed onboard the vessel are exempt.

(4) Spaces designed to provide light or air to propelling machinery are exempt, as follows:

(i) When propelling machinery is located entirely on or above the line of the uppermost complete deck, the entire propelling machinery space and all fuel bunker spaces that are also located above that line are exempt as light or air spaces. (See exception in § 69.121(d)(1) for framed-in spaces.)

(ii) When part of the propelling machinery projects above the line of the uppermost complete deck into a space used exclusively to provide light or air to the propelling machinery, the entire space is exempt as light or air space. When any portion of this space is used for purposes other than providing light or air, only the portion of the space used for light or air, the space occupied by the propelling machinery itselt, and a propelling machinery working space allowance under § 69.121 limited to two feet, if available, on each side of the propelling machinery are exempt.

(iii) Any part of an escape shaft, or a companion sheltering an escape shaft, above the line of the uppermost complete deck is exempt as light or air space.

(iv) Space that would otherwise be exempt as a light or air space is not exempt when propelling machinery is boxed-in and does not extend above the line of the uppermost complete deck. Any portion of the boxed-in space above the line of the uppermost complete deck is exempt.

(5) Skylights affording light or air to a space below, other than to propelling machinery spaces. Space immediately below the line of the deck on which a skylight is located is exempt only when there is an opening in the next lower deck directly below the skylight to permit light or air to an even lower deck.

(6) Machinery spaces, other than for propelling machinery under § 169.121.

(7) Spaces for steering gear.

(8) Water closet spaces that are fitted with at least a toilet and are intended for use by more than one person.

(9) The space in a wheelhouse necessary for controlling the vessel.

(c) *Passenger spaces.* (1) As used in this section, the term "passenger" includes officers and enlisted men on military vessels who are not assigned ship's duties and not entered on the ship's articles.

(2) As used in this section, "passenger space" means a space reserved exclusively for the use of passengers and includes, but is not limited to, berthing areas, staterooms, bathrooms, toilets, libraries, writing rooms, lounges, dining rooms, saloons, smoking rooms, and recreational rooms. The space need not be part of or adjacent to a berthing area to be considered a passenger space.

(3) A passenger space located on or above the first deck above the uppermost complete deck is exempt from gross tonnage.

(4) A passenger space located on the uppermost complete deck is exempt from gross tonnage only when it has no berthing accommodations and is an open structure under paragraph (d) of this section.

(d) *Open structures.* (1) Structures that are located on or above the line of the uppermost complete deck that are under cover (sheltered) but open to the weather are exempt from gross tonnage.

(2) A structure is considered "open to the weather" under paragraph (d)(1) of this section when an exterior end bulkhead of the structure is open and, except as provided in paragraph (d)(4) of this section, is not fitted with any means of closing. To be considered "open to the weather", the end bulkhead must not have a coaming height of more than two feet in way of any required opening and have one of the following:

(i) Two openings, each at least three feet wide and at least four feet high in the clear, one on each side of the centerline of the structure.

(ii) One opening at least four feet wide and at least five feet high in the clear.

(iii) One opening at least 20 square feet in the clear with a breadth in excess of four feet and a height of not less than three feet.

(3) A compartment within an open structure is considered open to the weather only when an interior bulkhead of that compartment has an opening or openings that meet the requirements for end bulkheads under paragraphs (d)(2)(i) through (d)(2)(iii) of this section. Other compartments within the structure are not considered open to the weather.

(4) An interior or exterior opening that is temporarily closed by shifting boards dropped into channel sections at the sides of the opening or by plates or boards held in place by hook bolts is considered open to the weather—

(i) If the hook bolts are spaced at least one foot apart and hook over a stiffener bar around the perimeter of the opening;

(ii) If the cover plates fay against the bulkhead;

(iii) If battening, cawlking, or gaskets of any material are not used; and

(iv) If cleats, stud bolts, hinges, bolts through the bulkhead, or other attachments (other than hook bolts) that may be used in conjunction with the temporary cover as a means of closing the opening are not installed at the edge of opening. (See § 69.123, Figure 12.)

(5) A structure with its aft end entirely open from the under side of its overhead stiffeners down to the deck, to the line of the deck, or to a coaming not

exceeding three inches in height and open athwartship between the inboard faces of the side stiffeners is considered open to the weather. The opening may be covered by a wire mesh screen or temporarily closed by canvas secured at the top and lashed or buttoned in place.

(e) *Open space between the shelter deck and the next lower deck.* (1) Space that is between the shelter deck and the next lower deck and that is under cover (sheltered) but open to the weather is exempt from gross tonnage when all openings in the uppermost complete deck are provided with a watertight means of closing.

(2) A space is considered "open to the weather" under paragraph (e)(1) of this section when the shelter deck above the space has a middle line opening which conforms to the following:

(i) The middle line opening must be at least four feet long in the clear and at least as wide as the after cargo hatch on the shelter deck, but not less than one-half the width of the vessel at the midpoint of the length of the opening. The opening may have rounded corners not exceeding a nine inch radius. When a greater radius is required by the Coast Guard or a Coast Guard recognized classification society under § 42.05–60 of this chapter, notification of that requirement must be submitted to the Commandant.

(ii) The middle line openings must be located so that the distance between the aft edge of the middle line opening and the vessel's stern is not less than one-twentieth of the tonnage length of the vessel and the distance between the fore edge of the opening and the vessel's stem is not less than one-fifth of the tonnage of the vessel.

(iii) The middle line opening must not be within a structure of any type.

(iv) If the middle line opening is guarded by rails or stanchions, the rails and stanchions must not be used to secure or assist in securing a cover over the opening.

(v) The coaming of the middle line opening must not exceed one foot mean height above the shelter deck. Bolts must not pass through the stiffeners or flanges on the coaming, nor may there be any other attachments on the coaming for fastening a cover. Portable wood covers may be fitted over the middle line opening if held in place only by lashings fitted to the under side of the covers. Metal covers may be fitted if held in place only by hook bolts spaced not less than 18 inches apart that pass through the cover and hook over angle stiffeners or flanges fitted to the outside of the coaming.

(vi) The space below the middle line opening must have a minimum length of four feet throughout its entire breadth and height and be in the clear at all times.

(vii) A scupper having a five inch minimum inside diameter and fitted with a screw down non-return valve geared to and operated from the shelter deck must be fitted on each side of the upper deck in way of the middle line opening.

(3) When the shelter deck space forward or aft of the middle line opening is divided by interior bulkheads, only those compartments with at least two openings that progress to the middle line opening are considered "open to the weather" under paragraph (e)(1) of this section. Each required opening must be at least three feet wide and at least four feet high in the clear, must not have a coaming height or more than two feet, and must not be fitted (except as provided in paragraph (d)(4) of this section) with any means of closing. Other compartments within the shelter deck space are not considered "open to the weather" under paragraph (e)(1) of this section.

(f) *Water ballast spaces.* A space, regardless of location, adapted only for water ballast and not available for stores, supplies, fuel, or cargo (other than water to be used for underwater drilling, mining, and related purposes, including production), upon request, may be exempt from gross tonnage if the following are met:

(1) The space must be available at all times only for water ballast that is piped through a system independent of other systems (except fire fighting and bilge suction systems). Pumps, pipes, and other equipment for loading and unloading water ballast must be of a size suitable for the efficient handling of the water ballast within a reasonable time frame. All manholes providing access to a water ballast space must be oval or circular and not greater than 34 inches in diameter. Except for those on a deck exposed to the weather, the manholes may have a coaming not exceeding six inches in height. Existing hatches over spaces being converted to water ballast spaces must have a watertight cover plate welded to the hatch and a manhole, as described in this paragraph, fitted in the plating.

(2) The primary purpose of the water ballast must be to afford a means of maintaining the vessel's stability, immersion, trim, pre-loading conditions, or seakeeping capabilities.

(3) If the space is in a vessel that is subject to inspection under 46 U.S.C. 3301, the space must be considered when determining the adequacy of the vessel's stability under 46 CFR chapter I.

(4) If the total of all water ballast spaces to be exempted from gross tonnage exceeds 30% of the vessel's gross tonnage (as calculated under this subpart without any allowance for water ballast), a justification of the operating conditions that require the water ballast must be submitted to the measuring organization. The measuring organization reviews the submittal for completeness and, when complete, forwards the submittal to the Commandant for approval. Although a single condition may justify all water ballast spaces, several conditions may be necessary in other cases. However, a particular tank is not justified by a condition if another tank already justified by another condition could be used as effectively. The justification must—

(i) Designate the vessel's service;

(ii) Explain for what purpose under paragraph (f)(2) of this section the water ballast is being used;

(iii) Provide the calculations required in paragraphs (f)(4)(vi) through (f)(4)(ix) of this section for those uses on a form similar to Coast Guard Stability Test Form CG–993–9;

(iv) Include the capacity, tank arrangement, and piping plans for the vessel;

(v) Include a statement certifying that the space will be used exclusively for water ballast as prescribed by this section;

(vi) If water ballast is used for stability, describe each loading condition and the resultant metacentric height (GM) and include calculations;

(vii) If water ballast is used for immersion or trim, describe those conditions and include loading and trim calculations;

(viii) If water ballast is used for pre-loading, describe how it is used and include strength and weight calculations; and

(ix) If water ballast is used for seakeeping, describe each loading condition, GM, period of roll, and, if speed is involved, speed versus trim and draft and include calculations.

(5) If the water ballast space or its use, purpose, or piping are changed, the vessel owner or operator must report the change promptly to a measurement organization listed in § 69.15 for a determination as to whether a tonnage remeasurement is required.

(g) *Methods for measuring exempt spaces.* (1) If the exempt space is located within the superstructure, the exempt space is measured using the same procedures used to measure superstructure tonnage under § 69.113.

(2) If the exempt space is located between-deck, the space is measured using the same procedures used for

between-deck tonnage under § 69.111(c), except that the length of the exempt space is divided into the even number of spaces most equal to the number of spaces into which the between-deck was divided.

(3) If the exempt space is located under-deck, the space is measured using the same procedures used for under-deck tonnage under § 69.109, except that the length of the exempt space is divided into the even number of spaces most equal to the number of spaces into which the under-deck was divided.

§ 69.119 Spaces deducted from gross tonnage.

(a) *Purpose.* This section lists the requirements for spaces (other than propelling machinery spaces under § 69.121) which, though included in calculating gross tonnage (i.e., are not exempt under § 69.117), are deducted from gross tonnage in deriving net tonnage.

(b) *General.* (1) A deductible space must be used exclusively for, and be reasonable in size for, its intended purpose.

(2) When a space is larger than necessary for the safe and efficient operation of deductible equipment, only the space occupied by the equipment plus a two foot maximum working space on each side of the equipment, if available, is deductible.

(3) Space specified in this section may be located anywhere within the vessel, unless otherwise specified.

(c) *Anchor gear.* A space below the line of the uppermost complete deck occupied by the anchor gear, capstan, windlass, and chain locker is deductible. A fore peak used exclusively as chain locker is measured by the method prescribed under § 69.177(g)(3).

(d) *Boatswain's stores.* A space containing oils, blocks, hawsers, rigging, deck gear, or other boatswain's stores for daily use is deductible. The maximum deduction allowed for vessels less than 100 gross tons is one ton and, for vessels 100 gross tons or over, is one percent of the gross tonnage, not to exceed 100 tons.

(e) *Chart room.* A space for keeping charts and nautical instruments and for plotting the vessel's course is deductible. For a combined wheelhouse and chart room, that part not exempted as wheelhouse under § 69.117(b)(9) is deductible. For small vessels in which the only space for a chart room is in a cabin or saloon, one half the space not to exceed 1.5 tons is deductible as chart room.

(f) *Donkey engine and boiler.* Donkey engine and boiler space is deductible when connected with the main (non-cargo) pumps of the vessel, except as follows:

(1) If the space is within the engine room or within the casing above the engine room and if the donkey engine is an auxiliary to the main propelling machinery, the space is an engine room deduction under § 69.121(b).

(2) If the space is above the line of the uppermost complete deck and if the donkey engine is not an auxiliary to the main propelling machinery, the space is exempt under § 69.117(b).

(g) *Spaces for the exclusive use of officers or crew.* (1) The following spaces, regardless of their location (unless otherwise noted), are deductible if not used by passengers:

(i) Sleeping rooms.

(ii) Bathrooms with a bath tub or shower but without a water closet.

(iii) Water closets below the line of the uppermost complete deck serving more than one person, with or without a bath tub or shower. Water closets, regardless of location, that serve only one person or that are accessible only through a stateroom or bedroom serving one person are considered as part of the space they serve and are deductible only if that space is deductible.

(vi) Clothes drying rooms.

(v) Drinking water filtration or distilling plant below the line of the uppermost complete deck.

(vi) Hospitals.

(vii) Mess rooms.

(viii) Office of the chief engineer.

(ix) Oil skin lockers.

(x) Pantries.

(xi) Recreation rooms.

(xii) Smoking rooms.

(xiii) Galleys below the line of the uppermost complete deck.

(2) Shops for engineers, carpenters, plumbers, or butchers and offices for clerks, pursers, or postmasters are not deductible, wherever located.

(h) *Master's cabin.* The master's sleeping room, dressing room, bathroom, observation room, reception room, sitting room, water closet, and office are deductible.

(i) *Radio room.* Spaces in which radio apparatus is installed and messages are sent and received and which may provide off-duty operator accommodations are deductible.

(j) *Steering gear.* Spaces for steering gear below the line of the uppermost complete deck are deductible.

(k) *Generators.* Spaces for generators below the line of the uppermost complete deck are deductible regardless of what space the generators serve. These spaces may include other equipment necessary for the generator's operation.

(l) *Pump room.* Spaces below the line of the uppermost complete deck containing pumps that are not capable of handling cargo and that are not fuel oil transfer pumps considered part of the propelling machinery under § 69.121(b)(2)(v) are deductible.

(m) *Sail stowage.* A space for stowing sails on a vessel propelled only by sails is deductible up to two and one-half percent of the vessel's gross tonnage.

(n) *Waste material space.* (1) A tank or collection space, regardless of location, used for the carriage or collection of sewage, garbage, galley waste, trash, slop-oil mixture, tank cleaning residue, bilge residue, or other waste material generated aboard the vessel is deductible.

(2) Space below the line of the uppermost complete deck used exclusively to separate, clarify, purify, or otherwise process waste material generated aboard the vessel is deductible.

(o) *Passageways.* A passageway or companionway is deductible—

(1) If it serves deductible space only; or

(2) If it serves deductible space and is also the sole means of access to one of the following non-deductible spaces:

(i) Lockers of less than two tons each, containing medicine, linen, mops, or other items for the free use of the crew.

(ii) A ship's office.

(iii) Spare rooms (not exceeding two) used by a pilot, customs officer, reserve engineer, or employee or agent of the vessel's owner or operator.

(p) *Markings for deductible spaces.* (1) Each space deducted under this section must be marked with the words "Certified _____" (inserting the space designation, such as "Seaman", "Generator", Office of Chief Engineer", "Hospital", or "Anchor Gear"). If a deductible space berths more than one crew member, the marking must indicate the number of crew members berthed, such as "Certified _____ Seamen" (inserting the number of crew).

(2) The abbreviations "Cert." for "certified" and "W.C." for "water closet" may be used.

(3) The markings must be in Roman letters and Arabic numerals at least ½ inch in height, must be painted in a light color on a dark background, must be embossed, center-punched, carved, or permanently cut in a bulkhead or metal plate, and must be placed in a legible location over a doorway on the inside of the space. A metal plate, if used, must be permanently fastened in place by welding, riveting, lock screws, or a Coast Guard-approved bonding agent.

(q) *Method for measuring deductible spaces.* (1) A rectangular space must be measured by taking the product of its length, breadth, and height.

(2) A space with curved sides on or above the tonnage deck is measured according to § 69.109.

(3) Space less than 15 feet in length may be measured by any practical method.

(4) Spaces below the tonnage deck exceeding 15 feet in length and bounded by a curved surface conforming to the side of the vessel must be measured by the formula used for measuring the superstructure under § 69.113.

(5) The height of a space located on a platform in the hull must be measured from the top of the bottom hull frames, if the platform is used only to form a flat surface at the bottom of the space, if the platform is not more than one foot above the top of the bottom frames, and if the space below the platform is not usable.

(6) The height of a space is measured through any ceiling, paneling, false overhead, or other covering, to the space's structural boundary, unless the space enclosed by the covering is available for a non-deductible use.

§ 69.121 Engine room deduction.

(a) *General.* The engine room deduction is either a percentage of the vessel's total propelling machinery spaces or a percentage of the vessel's gross tonnage.

(b) *Propelling machinery spaces.* (1) Propelling machinery spaces are the spaces occupied by the main propelling machinery and auxiliary machinery and spaces reasonably necessary for the operation and maintenance of the machinery. Propelling machinery spaces do not include spaces for fuel tanks, spaces exempt from gross tonnage under § 69.117, and spaces not used or not available for use in connection with the propelling machinery.

(2) Propelling machinery spaces are—

(i) Space below the crown. The crown is the top of the main space of the engine room to which the heights of the main space are taken. The crown is either the underside of a deck or, if the side bulkheads are sloping, the uppermost point at which the slope terminates. (See § 69.123, figures 13 and 14.)

(ii) Framed-in space located between the crown and the uppermost complete deck and used for propelling machinery or for the admission of light or air to propelling machinery spaces. (See § 69.123, figures 13 and 14.)

(iii) Shaft tunnel space and thrust block recess space.

(iv) Space below the uppermost complete deck used for escape shafts or trunked ladderways leading from the aft end of the shaft tunnel to the deck above.

(v) Space containing a fuel oil transfer pump located in a separate space and not used for bunkering the vessel. When the pump serves both ballast and fuel oil, only one-half of the pump's space is considered a propelling machinery space.

(vi) Spaces containing fuel oil settling tanks used solely for the main boilers. The space must not exceed one percent of the vessel's gross tonnage.

(vii) Spaces for engineers' stores and workshops located below the uppermost complete deck and either open to a propelling machinery space or separated from a propelling machinery space only by a screen bulkhead. The space must not exceed three-quarters of one percent of the vessel's gross tonnage.

(viii) Framed-in space located above the line of the uppermost complete deck and used for propelling machinery or for the admission of light or air to a propelling machinery space, when requested under paragraph (d) of this section.

(ix) If the propelling machinery is boxed-in below the tonnage deck, the boxed-in space plus the spaces outside of the boxing for the shaft, auxiliary engines, and related propelling machinery. If a portion of the boxed-in space extends above a platform or partial deck that is below the uppermost complete deck, that portion is also considered part of the propelling machinery space.

(c) *Methods for measuring propelling machinery spaces.* (1) If the propelling machinery space is bulkheaded off or is not larger than necessary for the safe operation and maintenance of the propelling machinery, the entire space, or, if bulkheaded off, the portion bulkheaded off, is measured for the engine room deduction.

(2) If the propelling machinery space is not bulkheaded off or is larger than necessary for the safe operation and maintenance of the propelling machinery, only the space occupied by the propelling machinery itself plus a working space of two feet, if available, on each side of the propelling machinery is measured for the engine room deduction. If the working space overlaps another working space not related to the propelling machinery, only one-half of the overlapping working space is included in the propelling machinery space. The height of the working space is measured as provided in paragraph (c) of this section.

(3) If the propelling machinery is located in more than one space, each space must be measured separately.

(4) If the propelling machinery is located in a space with a step in the bottom or side lines, each stepped portion of the space must be measured separately.

(5) The length of a space under paragraph (c)(1) of this section is measured from the bulkhead just forward of the propelling machinery to the bulkhead just aft of the propelling machinery. The length of a space under paragraph (c)(2) of this section is measured from the forward edge of the working space to the aft edge of the working space.

(6) If the boundaries of the propelling machinery space form a rectangle, the product of the length, breadth, and height, divided by 100, is the tonnage of the space.

(7) If the boundaries of the propelling machinery space are continuous fair lines, heights are measured at the fore and aft ends and at the center of the space from the bottom frames, floors, or tank top of a double bottom up to the line of the crown. A breadth is measured at half-length of each height. The product of the length, mean breadth, and mean height, divided by 100, is the tonnage of the space.

(8) If the propelling machinery space is in the aft end of the hull, extends from side to side of the hull, and has a continuous bottom line, the length of the space is divided into the even number of equal parts most nearly equal to the number of parts that the tonnage length under § 69.109(g) was divided. The tonnage is then calculated by the same method used for calculating the under-deck tonnage in § 69.109(l).

(9) The tonnage of a framed-in space located between the crown and the uppermost complete deck and used for propelling machinery or for the admission of light or air to the propelling machinery space, is the product of its length, breadth, and height, divided by 100.

(10) The tonnage of a shaft tunnel, or a thrust block recess, having a flat top is the product of its length, breadth, and height, divided by 100. If the shaft tunnel or thrust block recess top is not flat, the space above must be calculated by using the appropriate geometrical formula. If the space aft of the shaft tunnel extends from side to side of the vessel, the tonnage of the space is found by the formula for measuring peak tanks in § 69.109(l).

(11) The length and breadth of the space for a shaft tunnel, or a thrust block recess, when not cased is that

which is necessary for maintenance of the shaft. The height allowed for thrust block recess space must not exceed seven feet. The mean height allowed for the shaft tunnel space must not exceed six feet. In a multi-screw vessel where the shaft tunnel or thrust block recess space is open from side to side, measure only the space used for purposes of propelling the vessel.

(12) When the propelling machinery is on a bed at the vessel's bottom, the height of the propelling machinery space is measured from the top of the bottom frames or floors.

(d) *Request to treat certain framed-in engine room spaces as part of a propelling machinery space.* (1) Under § 69.117(b)(4), framed-in spaces located above the line of the uppermost complete deck and used for propelling machinery or for admitting light or air to a propelling machinery space are exempt from inclusion in gross tonnage. However, upon written request to a measurement organization listed in § 69.15, the vessel owner may elect to have these spaces included in calculating gross tonnage, then deducted from gross tonnage as propelling machinery spaces under paragraph (b)(2)(viii) of this section.

(2) The framed-in space must be safe, seaworthy, and used only for propelling machinery or for the admission of light or air to the propelling machinery space. The length of the space must not exceed the length of the propelling machinery space and the breadth must not exceed one-half of the extreme inside midship breadth of the vessel. Portions of the framed-in space that are plated over are not included in the propelling machinery space.

(3) To exercise the option in paragraph (d)(1) of this section, all of the framed-in space need not be treated as propelling machinery space, but only that portion required to entitle the vessel to have 32 percent of its gross tonnage deducted as an engine room deduction under paragraph (e) of this section.

(e) *Calculating the engine room deduction.* (1) The engine room deduction is based on a percentage of the vessel's gross tonnage or a percentage of the total propelling machinery space.

(2) for vessels propelled in whole or in part by screw—

(i) If the total propelling machinery space is 13 percent or less of the vessel's gross tonnage, deduct $3\frac{2}{13}$ times the total propelling machinery space;

(ii) If the total propelling machinery space is more than 13 but less than 20 percent of the vessel's gross tonnage, deduct 32 percent of the vessel's gross tonnage; or

(iii) If the total propelling machinery space is 20 percent or more of the vessel's gross tonnage, deduct either 32 percent of the vessel's gross tonnage or 1.75 times the total propelling machinery space, whichever the vessel's owner elects.

(3) For vessels propelled in whole or in part by paddle-wheel—

(i) If the total propelling machinery space is 20 percent or less of the vessel's gross tonnage, deduct $3\frac{7}{20}$ times the total propelling machinery space;

(ii) If the total propelling machinery space is more than 20 but less than 30 percent of the vessel's gross tonnage, deduct 37 percent of the vessel's gross tonnage; or

(iii) If the total propelling machinery space is 30 percent or more of the vessel's gross tonnage, deduct either 37 percent of the vessel's gross tonnage or 1.5 times the total propelling machinery space, whichever the vessel's owner elects.

§ 69.123 Figures.

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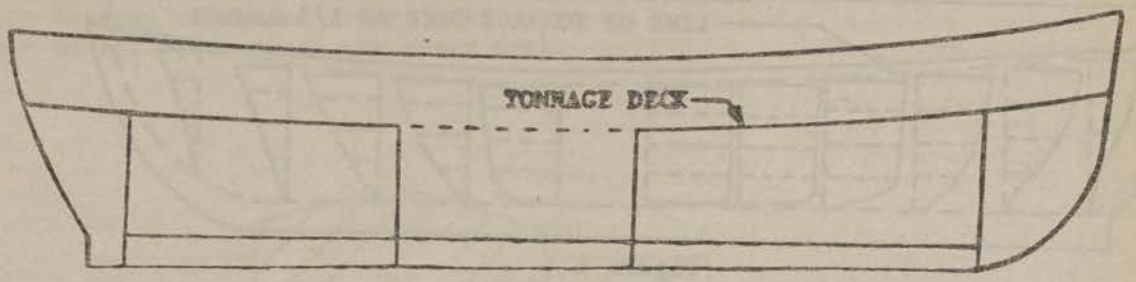


Figure 1

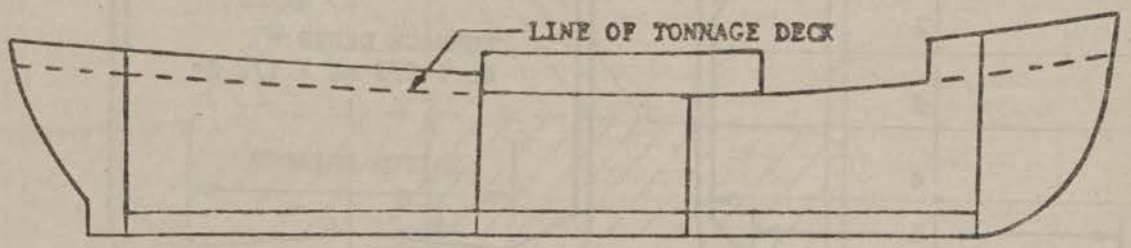


Figure 2

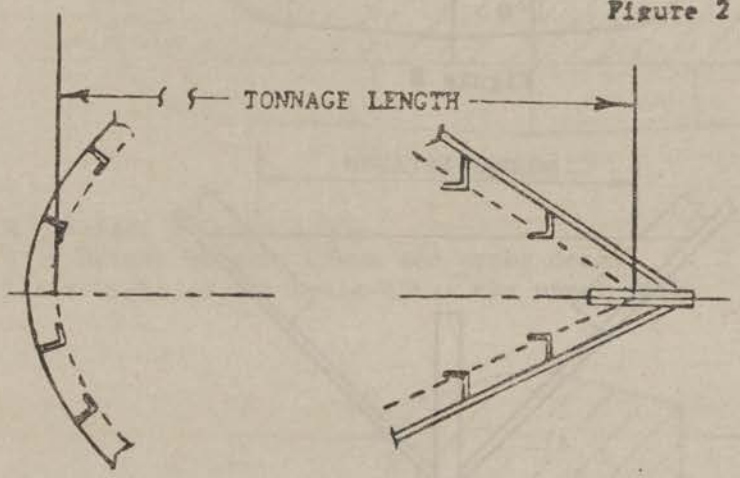


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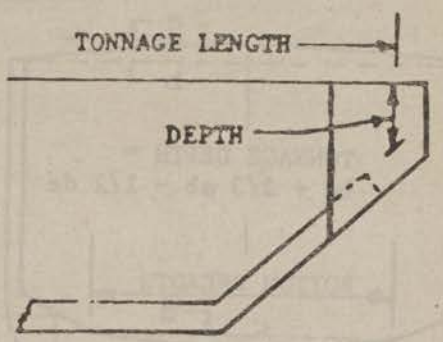


Figure 4

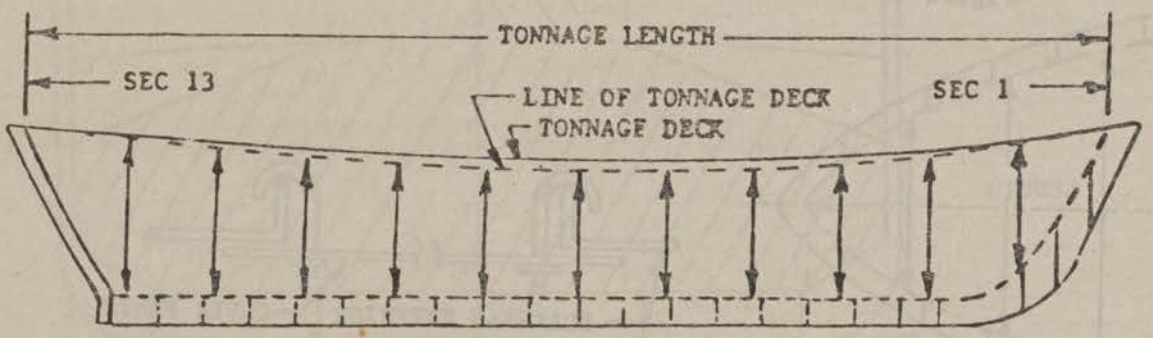


Figure 5

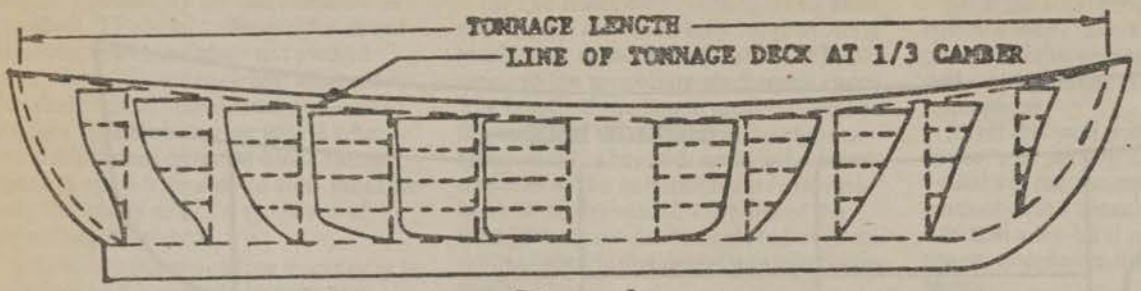


Figure 6

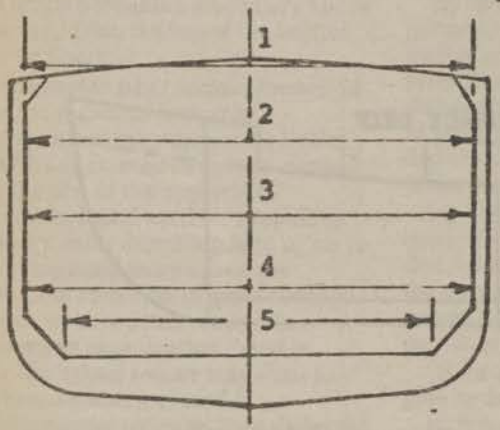


Figure 7

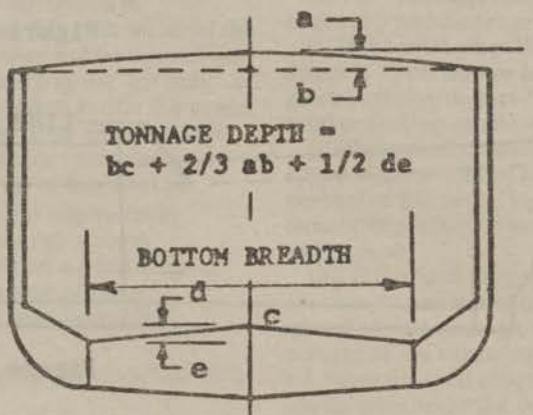


Figure 8

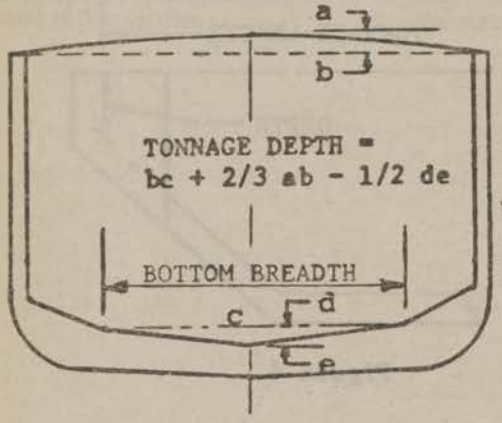


Figure 9

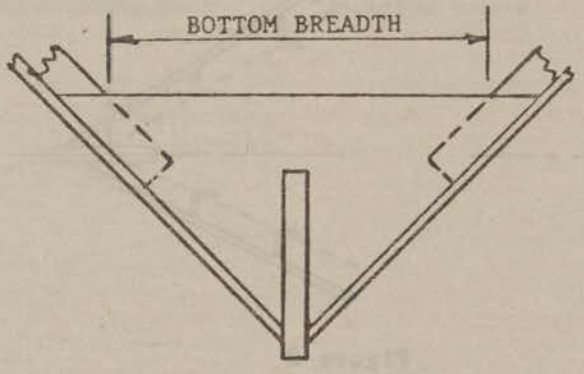


Figure 10

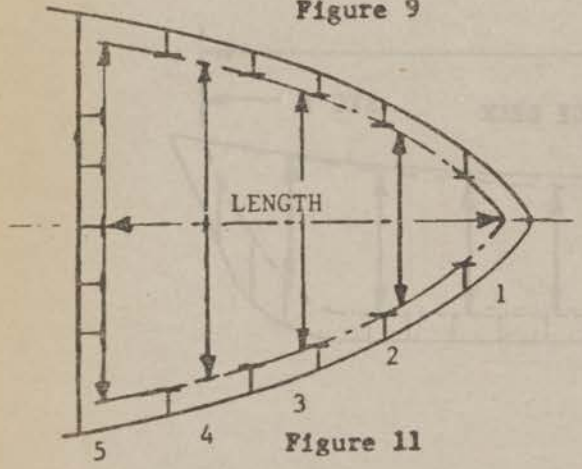


Figure 11

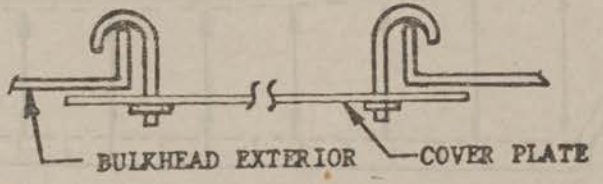


Figure 12

H = Height of main space.
H' = Height between crown and upper deck.
L/A = Light or air space above the upper deck.

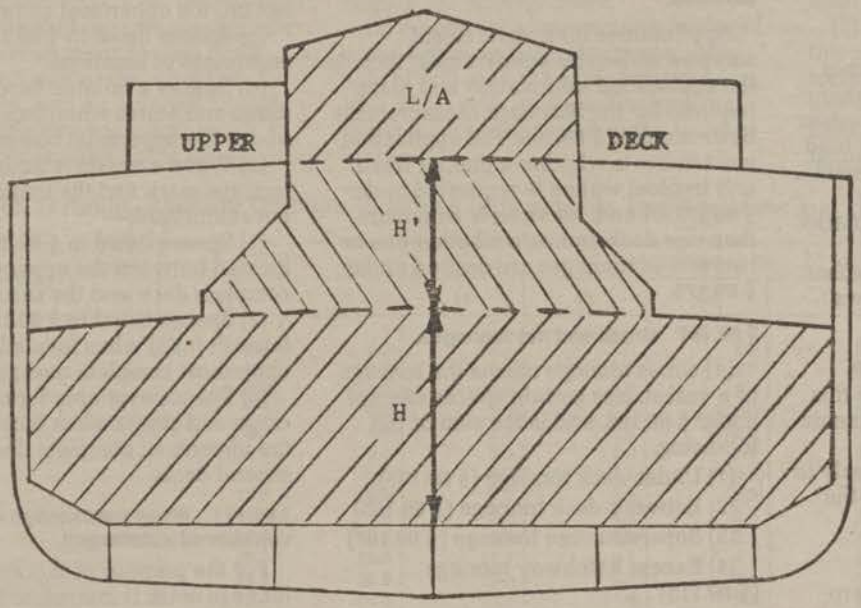


Figure 13

H = Height of main space.
H' = Height between crown and upper deck.
L/A = Light or air space above the upper deck.

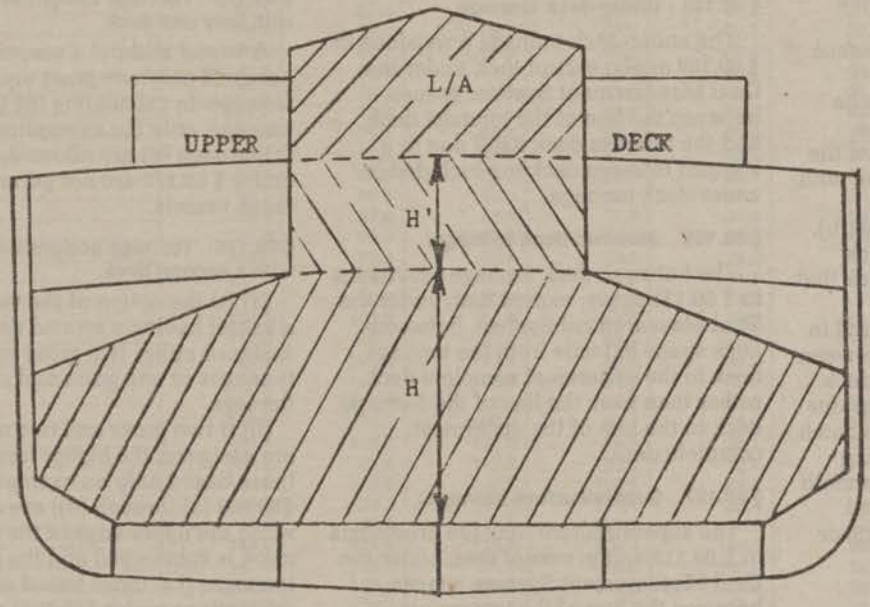


Figure 14

Subpart D—Dual Measurement System

§ 69.151 Purpose.

This subpart prescribes measurement requirements for the assignment of either one gross and one net tonnage or two gross and two net tonnages to vessels under the Dual Measurement System.

§ 69.153 Application of other laws.

(a) If a vessel is assigned two gross tonnages under § 69.175(b), the higher gross tonnage is the tonnage used when applying inspection, manning, and load line laws and regulations to the vessel.

(b) Tonnage marks are not to be construed as additional load line marks. Whether or not a tonnage mark is submerged under § 69.171 has no effect on the applicability of load line laws and regulations.

§ 69.155 Measurement requirements.

Except as otherwise required by this subpart, the measurement requirements under the Standard Measurement System in subpart C of this part apply to the measurement of vessels under the Dual Measurement System.

§ 69.157 Definitions.

Terms used in this subpart that are defined in § 69.103 have the same meaning as in § 69.103, except the terms listed below. As used in this subpart,—

Gross tonnage is defined in § 69.161(a).

Line for fresh and tropical waters means the line described in § 69.177(b)(2).

Line of the second deck means the line described in § 69.181.

Line of the uppermost complete deck means a longitudinal line at the underside of the uppermost compelte deck or, if that deck is stepped, the longitudinal line of the underside of the lowest portion of that deck parallel with the upper portions of that deck.

Net tonnage is defined in § 69.161(b).

Second deck means the next deck below the uppermost complete deck that meets the following:

(a) Is continuous athwartships and in a fore-and-aft direction at least between peak bulkheads, even though the deck may have interruptions or openings due to propelling machinery spaces, to hatch and ventilation trunks not extending longitudinally completely between main transverse bulkheads, to ladder and stairway openings, to chain lockers, or to cofferdams.

(b) Is fitted as an integral and permanent part of the vessel.

(c) Has proper covers to all main hatchways.

(d) Does not have steps the total of which exceed 48 inches in height.

Tonnage deck means, for a vessel with only one deck, the uppermost complete deck and, for a vessel with a second deck, the second deck.

Tonnage mark means the line described in § 69.177(a)(2).

§ 69.159 Application for measurement services.

Applications for measurement services under this subpart must include the application information and plans required for the Standard Measurement System under § 69.105. The application must indicate whether a line for fresh and tropical waters is requested under § 69.177(b) and, for vessels with more than one deck, indicate whether one or two sets of tonnages are desired under § 69.175.

§ 69.161 Gross and net tonnages.

(a) *Gross tonnage* means the tonnage of a vessel, less certain spaces exempt under § 69.169, and is the sum of the following:

(1) Under-deck tonnage (§ 69.163).

(2) Between-deck tonnage (§ 69.165)

(3) Superstructure tonnage (§ 69.167)

(4) Excess hatchway tonnage (§ 69.115)

(5) Tonnage of framed-in propelling machinery spaces included in calculating gross tonnage (§ 69.121(d)(1)).

(b) *Net tonnage* means gross tonnage less deductions under § 69.119 and § 69.121.

§ 69.163 Under-deck tonnage.

The under-deck tonnage provisions in § 69.109 apply; except that, under the Dual Measurement System, spaces between the line of the tonnage deck and the tonnage deck itself due to a stepped tonnage deck are included in under-deck tonnage.

§ 69.165 Between-deck tonnage.

The between-deck tonnage provisions in § 69.111 apply, except that, under the Dual Measurement System, between-deck space extends from the tonnage deck to the uppermost complete deck, rather than from the line of the tonnage deck to the line of the uppermost complete deck.

§ 69.167 Superstructure tonnage.

The superstructure tonnage provisions in § 69.113 apply; except that, under the Dual Measurement System, spaces between the line of the uppermost complete deck and the uppermost complete deck itself due to a stepped uppermost complete deck are not included in the superstructure tonnage.

§ 69.169 Spaces except from inclusion in gross tonnage.

The tonnage of the following spaces is exempt from inclusion in gross tonnage:

(a) Spaces listed in § 69.117(b) when located within the superstructure.

(b) Spaces listed in § 69.117(c)(1) through (c)(3) when located above, but not on, the uppermost complete deck.

(c) Spaces listed in § 69.117(f), regardless of locations.

(d) Spaces available for carrying dry cargo and stores when located on or above the uppermost complete deck.

(e) When a vessel is assigned a tonnage mark and the tonnage mark is not submerged,—

(1) Spaces listed in § 69.117(b) when located between the uppermost complete deck and the second deck;

(2) Spaces listed in § 69.117(c)(1) through (c)(3) when located on the uppermost complete deck; and

(3) Spaces available for carrying dry cargo and stores when located between the uppermost complete deck and the second deck.

§ 69.171 When the tonnage mark is considered submerged.

For the purpose of this subpart, a tonnage mark is considered submerged when—

(a) In salt or brackish water, the upper edge of the tonnage mark is submerged; and

(b) In fresh or tropical water, the upper edge of the line for fresh and tropical waters is submerged.

§ 69.173 Tonnage assignments for vessels with only one deck.

A vessel without a second deck is assigned only one gross and one net tonnage. In calculating the gross tonnage, only the exemptions in § 69.169 (a) through (d) are allowed. Markings under § 69.177 are not permitted on these vessels.

§ 69.175 Tonnage assignments for vessels with a second deck.

(a) At the option of the vessel owner, a vessel having a second deck is assigned either two gross and two net tonnages or one gross and one net tonnage.

(b) If two gross and two net tonnages are assigned, the higher tonnages (i.e. those based only on exemptions under §69.169 (a) through (d)) are applicable when the upper edge of the tonnage mark is submerged and the lower tonnages (i.e. those based only on all exemptions under §69.169) are applicable when the upper edge of the tonnage mark is not submerged.

(c) If only the low gross and low net tonnages, as calculated under paragraph

(b) of this section, are assigned, these tonnages are applicable at all times. On these vessels, the tonnage mark must be located in accordance with § 69.177(a)(6) at the level of the uppermost part of the load line grid.

§ 69.177 Markings.

(a) *Tonnage mark.* (1) All vessels with a second deck that are measured under the Dual Measurement System must have, on each side of the vessel, a tonnage mark, and an inverted triangle identifying the tonnage mark, as described and located under this section. (See the figure in § 69.183(a).) Vessels with only one deck are not assigned markings under this section.

(2) The tonnage mark is a horizontal line 15 inches long and one inch wide. The tonnage mark must be designated by a welded bead or other permanent mark 15 inches long placed along the top edge of the tonnage mark.

(3) Above the tonnage mark is placed an inverted equilateral triangle, each side of which is 12 inches long and one inch wide, with its apex touching the upper edge of the center of the tonnage mark.

(4) If the vessel has a load line mark, the longitudinal location of the center of the tonnage mark must be between 21 inches and six feet six inches aft of the vertical centerline of the load line ring. (See the figures in § 69.183 (b) and (c).) If the vessel does not have a load line mark, the center of the tonnage mark must be located amidships.

(5) Except as under paragraph (a)(6) of this section, the upper edge of the tonnage mark must be located below the line of the second deck at the distance indicated in Table 69.177(a)(5). (See the figure in § 69.183(b).)

TABLE 69.177(a)(5)—MINIMUM DISTANCE IN INCHES BETWEEN THE TONNAGE MARK AND THE LINE OF THE SECOND DECK

L (in feet)	L divided by D								
	12	13	14	15	16	17	18	19	20
220 and under	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
230	3.2	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
240	4.7	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
250	6.3	3.3	2.0	2.0	2.0	2.0	2.0	2.0	2.0
260	8.0	4.8	2.1	2.0	2.0	2.0	2.0	2.0	2.0
270	9.9	6.4	3.5	2.0	2.0	2.0	2.0	2.0	2.0
280	11.8	8.1	4.9	2.1	2.0	2.0	2.0	2.0	2.0
290	13.9	9.9	6.5	3.5	2.0	2.0	2.0	2.0	2.0
300	16.0	11.7	8.1	4.9	2.1	2.0	2.0	2.0	2.0
310	18.3	13.7	9.8	6.4	3.5	2.0	2.0	2.0	2.0
320	20.7	15.8	11.7	8.1	4.9	2.1	2.0	2.0	2.0
330	23.2	18.0	13.6	9.8	6.4	3.5	2.0	2.0	2.0
340	25.9	20.4	15.7	11.6	8.1	4.9	2.1	2.0	2.0
350	28.7	22.9	17.9	13.6	9.8	6.5	3.6	2.0	2.0
360	31.7	25.5	20.2	15.7	11.7	8.2	5.0	2.2	2.0
370	34.7	28.3	22.7	17.9	13.6	9.9	6.6	3.7	2.0
380	38.0	31.1	25.3	20.2	15.7	11.8	8.3	5.2	2.4
390	41.3	34.1	27.9	22.6	17.9	13.8	10.1	6.8	3.8
400	44.8	37.2	30.7	25.0	20.1	15.8	11.9	8.4	5.3
410	48.2	40.3	33.5	27.7	22.6	18.1	14.0	10.4	7.2
420	51.5	43.4	36.4	30.4	25.2	20.6	16.4	12.7	9.7
430	54.8	46.5	39.4	33.3	27.9	23.2	19.0	15.2	11.8
440	58.4	49.9	42.6	36.4	30.9	26.0	21.7	17.8	14.4
450	62.1	53.4	46.0	39.6	33.9	29.0	24.6	20.6	17.1
460	65.9	57.0	49.5	42.9	37.1	32.1	27.6	23.5	19.9
470	69.8	60.7	53.0	46.3	40.4	35.2	30.6	26.5	22.8
480	73.7	64.4	56.5	49.7	43.7	38.4	33.7	29.5	25.7
490	77.5	68.1	60.0	53.0	46.9	41.5	36.7	32.4	28.5
500	81.2	71.6	63.4	56.2	50.0	44.5	39.6	35.2	31.2
510	84.9	75.1	66.7	59.4	53.0	47.4	42.4	37.9	33.9
520	88.4	78.4	69.9	62.4	55.9	50.2	45.1	40.5	36.4
530	91.8	81.6	72.9	65.3	58.7	52.9	47.7	43.0	38.8
540	95.2	84.8	75.9	68.1	61.4	55.5	50.2	45.4	41.2
550	98.4	87.8	78.8	70.9	64.0	58.0	52.6	47.8	43.4
560	101.6	90.8	81.6	73.6	66.6	60.5	55.0	50.1	45.6
570	104.8	93.8	84.4	76.3	69.2	62.9	57.3	52.3	47.8
580	107.9	96.8	87.2	78.9	71.7	65.3	59.6	54.5	49.9
590	111.0	99.7	90.0	81.5	74.2	67.7	61.9	56.7	52.0
600	114.0	102.5	92.6	84.0	76.5	69.9	64.0	58.8	54.0
610	117.0	105.3	95.2	86.5	78.9	72.1	66.2	60.8	56.0
620	120.0	108.0	97.8	88.9	81.2	74.4	68.3	62.8	58.0
630	122.9	110.7	100.4	91.3	83.5	76.6	70.4	64.8	59.9
640	125.7	113.4	102.9	93.7	85.8	78.7	72.4	66.8	61.7
650	128.6	116.1	105.4	96.1	88.0	80.8	74.4	68.7	63.6
660	131.4	118.7	107.8	98.3	90.1	82.8	76.3	70.6	65.3
670	134.2	121.2	110.2	100.6	92.2	84.8	78.3	72.4	67.1
680	136.9	123.8	112.8	102.9	94.3	86.8	80.2	74.2	68.9
690	139.6	126.3	115.0	105.1	96.4	88.8	82.1	76.0	70.6
700	142.3	128.8	117.3	107.3	98.5	90.8	83.9	77.8	72.3
710	144.9	131.3	119.6	109.4	100.5	92.7	85.7	79.5	73.9
720	147.5	133.7	121.8	111.5	102.5	94.6	87.5	81.2	75.5
730	150.1	136.1	124.0	113.6	104.5	96.5	89.3	82.9	77.1
740	152.7	138.5	126.2	115.7	106.5	98.3	91.5	84.5	78.7
750	155.3	140.8	128.5	117.8	108.4	100.1	92,8	86.1	80.3
760	157.8	143.1	130.6	119.7	110.3	101.9	94.4	87.8	81.7
770	160.2	145.4	132.7	121.7	112.1	103.6	96.0	89.3	83.2
780	162.6	147.6	134.8	123.7	113.9	105.3	97.6	90.8	84.7
790	165.1	149.9	136.9	125.6	115.7	107.0	99.2	92.3	86.1

TABLE 69.177(a)(5)—MINIMUM DISTANCE IN INCHES BETWEEN THE TONNAGE MARK AND THE LINE OF THE SECOND DECK—Continued

L (in feet)	L divided by D								
	12	13	14	15	16	17	18	19	20
800	167.5	152.1	138.9	127.4	117.4	108.6	100.8	93.8	87.4

L=the length in feet of the line of the second deck at the centerline of the vessel from the inner surface of the frames at the vessel's stem to the inner surface of the frames at the vessel's stern.

D=The vertical distance in feet from the top of the flat keel of the vessel to the line of the second deck.

EXAMPLE (1) For a vessel in which L=450 feet and L/D=15 feet, read down from the L/D column "15" and to the right on the column "450" to where the two columns intersect at 39.6. The tonnage mark must be located 39.6 inches below the line of the second deck.

EXAMPLE (2) If L or L/D is an intermediate number, the distance "a" between the tonnage mark and the line of the second deck must be obtained by linear interpolation. For a vessel in which L=424.80 feet and L/D=15.17:

L	Table L/D=15	Actual L/D=15.17	Table L/D=16
Table 420	30.4		25.2
Actual 424.80	r	a	s
Table 430	33.3		27.9

Interpolation:
r=30.4+0.48 (33.3−30.4)=31.79
s=25.2+0.48 (27.9−25.2)=26.50
a=r−0.17 (r−s)=31.79−0.17 (31.79−26.50)=30.89 inches

(6) For the following vessels with a load line mark, the upper edge of the tonnage mark must be located at the level of the uppermost part of the load line grid:

(i) Vessels assigned only one gross and one net tonnage under § 69.175(c).

(ii) Vessels for which a load line assigning authority certifies that the vessel's load line mark was located as though the second deck were the freeboard deck.

(b) *Line for fresh and tropical waters.* (1) Except as under paragraph (b)(4) of this section, a horizontal line for fresh and tropical waters may be assigned at the vessel owner's request.

(2) The line must be nine inches long and one inch wide and located above and to the left of the tonnage mark at a distance equal to one forty-eighth of the distance from the top of the flat keel to the tonnage mark. The tonnage mark and the line for fresh and tropical waters must be connected by a vertical line one inch wide. (See the figure in § 69.183(a).)

(3) The line for fresh and tropical waters must be designated by a welded bead or other permanent mark nine inches long placed along the upper edge of the line.

(4) For vessels with a load line mark, if the load line assigning authority certifies that the load line mark was located as though the second deck were the freeboard deck, a line for fresh and tropical waters must not be placed on the vessel.

(c) *Freeboard deck mark.* A vessel assigned two gross and two net tonnages which has more than one deck and no load line mark assigned must have a mark on each side of the vessel with the same dimensions and location as the freeboard deck line mark under § 42.13–20 of this chapter, except that the mark must be located directly above the tonnage mark.

(d) *The line of the second deck.* The line of the second deck must not be marked on the side of the vessel.

(e) *Color of markings.* All markings under this section must be maintained in either a light color on a dark background or a dark color on a light background.

§ 69.179 Certification of markings.

(a) Before a certificate of measurement is issued for a vessel requiring a tonnage mark, a certification by a measurement organization under § 69.15 that all markings meet the requirements of this subpart is required.

(b) The Coast Guard, at any time, may verify markings under this subpart.

§ 69.181 Locating the line of the second deck.

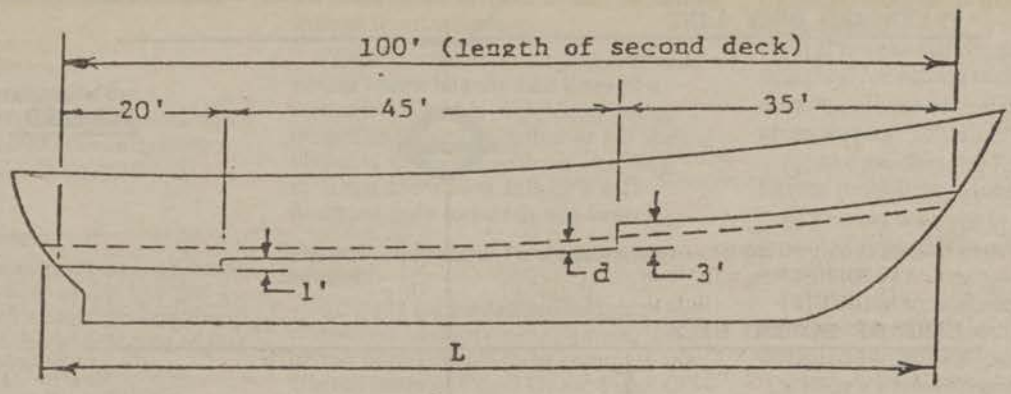
(a) If the second deck is not stepped, the line of the second deck is the longitudinal line of the underside of the second deck at the side of the hull.

(b) If the second deck is stepped (as in the examples following this paragraph), the line of the second deck is a longitudinal line extended parallel to each portion of the second deck and located at the height of the underside of the amidships portion of the second deck at the side of the hull—

(1) Plus, for each stepped portion of the second deck higher than the second deck at amidships, a distance equal to the length of the stepped portion divided by the total length of the second deck times the height that the step is above the height of the amidship portion of the second deck; and

(2) Minus, for each stepped portion of the second deck lower than the second deck at amidships, a distance equal to the length of the stepped portion divided by the total length of the second deck times the height that the amidship portion of the second deck is above the height of the step.

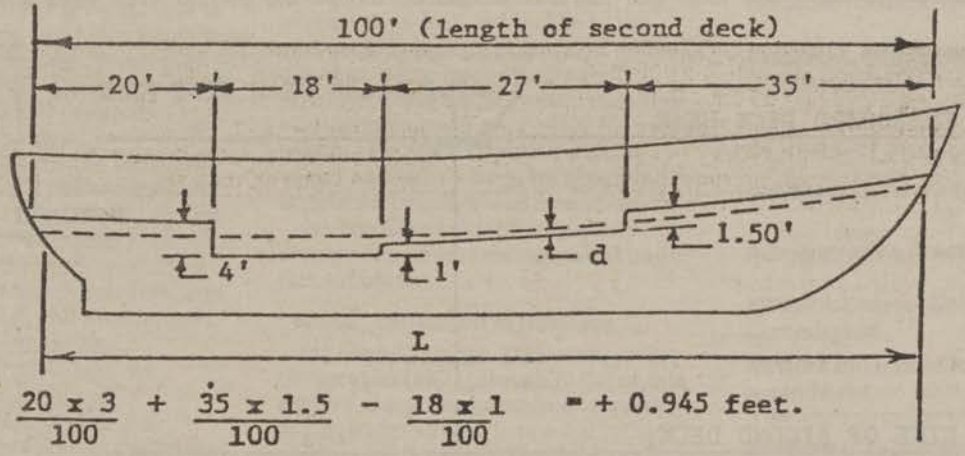
EXAMPLE: (1)



L = Length of the line of the second deck.
d = Distance from amidship portion of second deck to line of second deck.

$$d = \frac{35 \times 3}{100} - \frac{20 \times 1}{100} = +0.85 \text{ feet.}$$

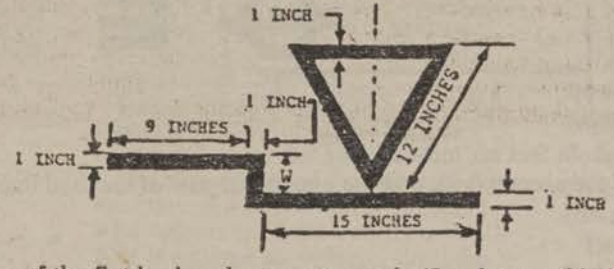
EXAMPLE: (2)



$$d = \frac{20 \times 3}{100} + \frac{35 \times 1.5}{100} - \frac{18 \times 1}{100} = +0.945 \text{ feet.}$$

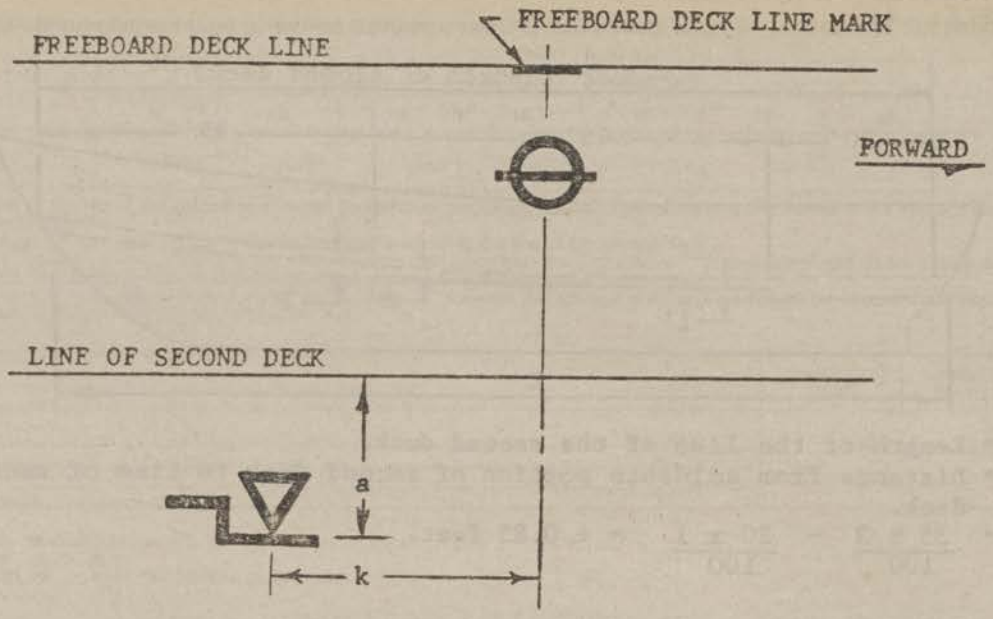
§ 69.183 Figures.

(a) *Tonnage mark with an equilateral triangle and a line for fresh and tropical waters.*



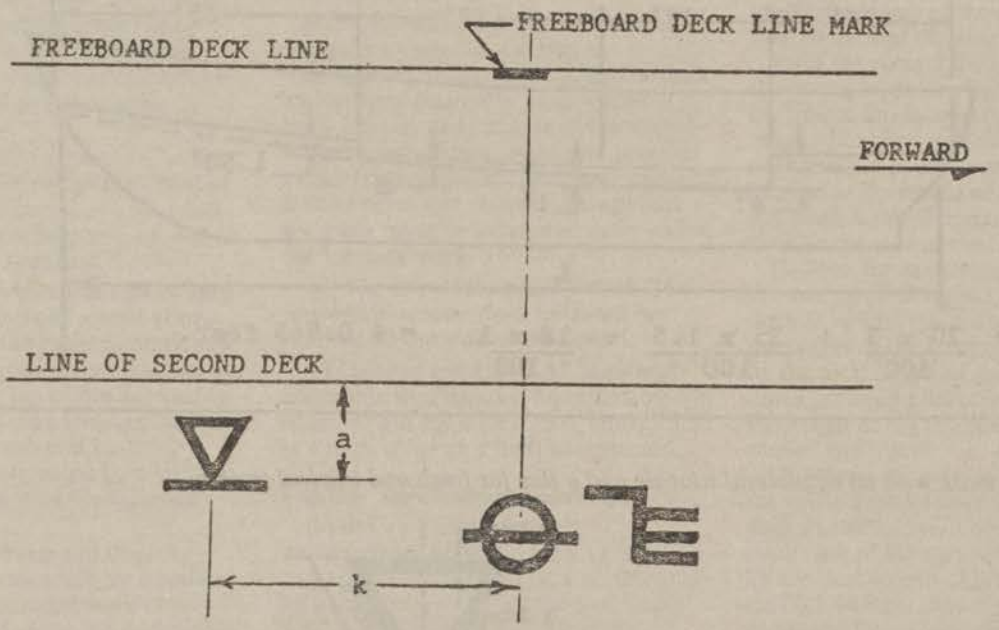
W = 1/48 of the distance from the top of the flat keel to the tonnage mark. (See § 69.177(b)(2).)

(b) *Tonnage mark location if the load line mark is not placed as though the second deck were the freeboard deck.*



k=a distance between 21 inches and six feet six inches.
a=distance derived from Table 69.177(a)(5).

(c)—*Tonnage mark location if the load line mark is placed as though the second deck were the freeboard deck.*



k=a distance between 21 inches and six feet six inches.
a=the distance between the line of the second deck and the uppermost part of the load line grid.

Subpart E—Simplified Measurement System

§ 69.201 Purpose.

This subpart prescribes the procedures for measuring a vessel under the Simplified Measurement System described in 46 U.S.C. chapter 145, subchapter III.

§ 69.203 Definitions.

As used in this subpart and in Coast Guard Form CG–5397 under § 69.205—

Overall breadth means the horizontal distance taken at the widest part of the hull, excluding rub rails, from the outboard side of the skin (outside planking or plating) on one side of the hull to the outboard side of the skin on the other side of the hull.

Overall depth means the vertical distance taken at or near midships from a line drawn horizontally through the uppermost edges of the skin (outside planking or plating) at the sides of the hull (excluding the cap rail, trunks, cabins, and deckhouses) to the outboard face of the bottom skin of the hull, excluding the keel. For a vessel that is designed for sailing and has a keel faired to the hull, the keel is included in "overall depth" if the distance to the bottom skin of the hull cannot be determined reasonably.

Overall length means the horizontal distance between the outboard side of the foremost part of the aftermost part of the stem and the outboard side of the aftermost part of the stern, excluding rudders, outboard motor brackets, and other similar fittings and attachments.

Registered breadth means—

(a) For a single-hull vessel, the vessel's overall breadth; and

(b) For a multi-hull vessel, the horizontal distance taken at the widest part of the complete vessel between the outboard side of the skin (outside planking or plating) on the outboardmost side of one of the outboardmost hulls to the outboard side of the skin on the outboardmost side of the other outboardmost hull, excluding rubrails.

Registered depth means—

(a) For a single-hull vessel, the vessel's overall depth; and

(b) For a multi-hull vessel, the overall depth of the deepest hull.

Registered length means—

(a) For a single-hull vessel, the vessel's overall length; and

(b) For a multi-hull vessel, the horizontal distance between the outboard side of the foremost part of the stern of the foremost hull and the outboard side of the aftermost part of the stern of the aftermost hull, excluding fittings or attachments.

Vessel designed for sailing means a vessel which has the fine lines of a sailing craft and is capable of being propelled by sail, whether or not the vessel is equipped with an auxiliary motor, a decorative sail, or a sail designed only to steady the vessel.

§ 69.205 Application for measurement services.

To apply for measurement under the Simplified Measurement System, the owner of the vessel must complete the current issue of Coast Guard Form CG–5397 and submit the form to the Coast Guard Port of Documentation Office at the port where the vessel will be documented. (See part 67, appendix D, of this chapter for a list of these offices.)

§ 69.207 Measurements.

(a) All lengths and depths must be measured in a vertical plane at centerline and breadths must be measured in a line at right angles to that plane. All dimensions must be expressed in feet and inches to the nearest half inch or in feet and tenths of a foot to the nearest .05 of a foot.

(b) For a multi-hull vessel, each hull must be measured separately for overall length, breadth, and depth and the vessel as a whole must be measured for registered length, breadth, and depth.

(c) The Coast Guard may verify dimensions of vessels measured under this subpart.

§ 69.209 Calculation of tonnages.

(a) *Gross tonnage.* (1) Except as in paragraphs (a)(2) through (a)(5) of this section, the gross tonnage of a vessel designed for sailing is one-half of the product of its overall length, overall breadth, and overall depth (LBD) divided by one hundred (i.e., 0.50 LBD/100), and the gross tonnage of a vessel not designed for sailing is 0.67 LBD/100.

(2) The gross tonnage of a vessel with a hull that approximates in shape a rectangular geometric solid (barge-shape) is 0.84 LBD/100.

(3) The gross tonnage of a multi-hull vessel is the sum of all the hulls as calculated under this section.

(4) If the volume of the principal deck structure of a vessel that is indicated as a houseboat on Coast Guard Form CG–5397 is as large as, or larger than, the volume of the vessel's hull, the volume of the principal deck structure in tons of 100 cubic feet is added to the tonnage of the hull to establish the vessel's gross tonnage. The volume of the principal deck structure of a vessel is determined by the product of its average dimensions.

(5) If the overall depth of a vessel designed for sailing includes the keel, only 75 percent of that depth is used for gross tonnage calculations.

(b) *Net tonnage.* (1) For a vessel having propelling machinery in its hull—

(i) The net tonnage is 90 percent of its gross tonnage, if it is a vessel designed for sailing; or

(ii) The net tonnage is 80 percent of its gross tonnage, if it is not a vessel designed for sailing.

(2) For a vessel having no propelling machinery in its hull, the net tonnage is the same as its gross tonnage.

Dated: August 21, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89–21233 Filed 9–11–89; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[DA 89–773]

Adminstrative Practice and Procedure

AGENCY: Federal Communications Commission.

ACTION: Final rule; technical amendment.

SUMMARY: This order amends § 1.45(d) of the Commission's rules to reflect that § 1.4(g), which provides three additional days when service is by mail, was re-designated § 1.4(h). This change occurred in December 1987 when the Commission amended its rules regarding computation of time.

EFFECTIVE DATE: September 12, 1989.

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

FOR FURTHER INFORMATION CONTACT:

Donna Viert, Office of General Counsel, (202) 632–6990.

SUPPLEMENTARY INFORMATION: On July 7, 1989, the Commission released an Order in the matter of amendment of § 1.45(d) of the Commission's rules. 4 FCC Rcd 5585.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Edward J. Minkel,
Managing Director.

Rule Change

PART 1—[AMENDED]

Part 1 of title 47 of the CFR is amended as follows:

1. The authority citation for part 1 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless othewise noted.

2. 47 CFR 1.45(d) is amended by substituting "§ 1.4(h)" for "§ 1.4(g)" in the last sentence thereof.

[FR Doc. 89-21311 Filed 9-11-89; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-417]

Radio Broadcasting Services; Idalia; CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 231A to Idalia, Colorado, as a first local broadcast service, in response to a petition filed by Virginia K. Cutforth. Coordinates for Channel 231A to Idalia, Colorado, are 39-42-06 and 102-17-30. With this action the proceeding is terminated.

DATES: Effective October 20, 1989; The window period for filing applications on Channel 231A at Idalia, Colorado, will open on October 23, 1989, and close on November 22, 1989.

FOR FURTHER INFORMATION CONTACT: Ordee Pearson, (202) 634-6530. Questions related to the window application filing process at Idalia, Colorado, should be addressed to the Audio Service Division, FM Branch, Mass Media Bureau, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order MM Docket 88-417, adopted August 15, 1989, and released September 5, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.302 [Amended]

2. Section 73.202(b), the Table of Allotments, is amended by adding Idalia, Colorado, Channel 231A.

Federal Communications Commission.

Karl A. Kensinger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-21312 Filed 9-11-89; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-413; RM-5630]

Radio Broadcasting Services; Ligonier, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 274A to Ligonier, Indiana, as that community's first local FM service, in response to a petiton filed on behalf of Erwin Draper. See 52 FR 38798, October 19, 1987. Coordinates used for Channel 274A at Ligonier are 41-28-51 and 85-35-34. With this action, the proceeding is terminated.

DATES: Effective October 20, 1989; The window period for filing applications on Channel 274A at Ligonier, Indiana, will open on October 23, 1989, and close on November 22, 1989.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket 87-413, adopted August 22, 1989, and released September 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.302 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Indiana, by adding Ligonier, Channel 274A.

Federal Communications Commission.

Karl A. Kensinger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-21313 Filed 9-11-89; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-49; RM-5866]

Radio Broadcasting Services; Gladstone, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 288C1 for Channel 288A at Gladstone, Michigan, in response to a petition filed by David C. Schaberg. We shall also modify the permit of Station WWTM, Channel 288A, to specify operation on Channel 288C1. The coordinates for Channel 288C1 at Gladstone are 46-07-50 and 86-56-52. Concurrence of the Canadian government has been obtained since Gladstone is located within 320 kilometers of the U.S.-Canadian border. With this action, the proceeding is terminated.

EFFECTIVE DATE: October 20, 1989.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-49, adopted August 21, 1989, and released September 5, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Michigan is amended by removing Channel 288A and adding Channel 288C1 at Gladstone.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy & Rules Division, Mass Media Bureau.

[FR Doc. 89-21315 Filed 9-11-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-532; RM-6415]

Radio Broadcasting Services; Rayville, Louisiana and Yazoo City, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 221C2 for Channel 221A at Yazoo City, Mississippi, in response to a petition filed by St. Pe' Broadcasting, Inc. We shall also modify the license of Station WJNS(FM) to specify operation on Channel 221C2 in lieu of Channel 221A in accordance with § 1.420(g) of the Commission's Rules. The coordinates for Channel 221C2 are 33-03-57 and 90-35-01. To accommodate the substitution at Yazoo City, it is necesssary to substitute Channel 222A for Channel 221A at Rayville, Louisiana. Channel 222A can be allotted to Rayville at the licensed site for Station KTJC(FM). The coodinates for Channel 222A at Rayville are 32-27-22 and 91-39-27. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 20, 1989.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-532, adopted August 14, 1989, and released September 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi is amended by removing Channel 221A and adding Channel 221C2 at Yazoo City.

3. In § 73.202(b), the Table of Allotments under Louisiana is amended by removing Channel 221A and adding Channel 222A at Rayville.

Federal Communications Commission,

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-21314 Filed 9-11-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 3

[MM Docket No. 89-76; RM-6633]

Television Broadcasting Services; Thief River Falls, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots UHF Television Channel *30 to Thief River Falls, Minnesota, reserving the channel for noncommercial educational use, in response to a petition filed by Thief River Falls Technical Institute. Canadian concurrence has been obtained for the allotment of Channel *30 to Thief River Falls. The coordinates for Channel *30 are 48-07-06 and 96-10-24. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 20, 1989.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-76, adopted August 21, 1989, and released September 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW,. Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW,. Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments is amended under Minnesota by adding Channel *30 at Thief River Falls.

Federal Communications Commission,

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-21317 Filed 9-11-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-609; RM-6498]

Radio Broadcasting Services; Galeton, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Lori L. Michael, allots Channel 264B1 to Galeton, Pennsylvania, as the community's first local FM service. Channel 264B1 can be allotted to Galeton in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.4 kilometers (9.6 miles) southeast to avoid a short-spacing to Stations WQIX, Channel 265A, Horesheads, New York, and WBJZ, Channel 265A, Olean, New York. The coordinates for this allotment are North Latitude 41-36-26 and West Longitude 77-33-43. Canadian concurrence has been received since Galeton is located within 320 kilometers of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective October 20, 1989. The window period for filing applications will open on October 23, 1989, and close on November 22, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-609, aodpted August 22, 1989, and released September 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended by adding the following entry, Galeton, Pennsylvania, Channel 264B1.

Federal Communications Commission,

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-21316 Filed 9-11-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of finding of conformance.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, announces that the Government of Mexico has submitted information which demonstrates that Mexico and the tuna purse seine fishing vessels under its control are in conformance with United States marine mammal regulations. As a result of this finding, yellowfin tuna from Mexico may continue to be imported into the United States through 1990.

EFFECTIVE DATES: This finding is effective September 11, 1987, and remains in effect until December 31, 1990 or until superseded.

FOR FURTHER INFORMATION CONTACT: E. Charles Fullerton, Regional Director, or J. Gary Smith, Deputy Regional Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, CA 90731, Phone: (213) 514-6196. Copies of the NMFS decision memorandum and analysis of Mexico's 1988 Annual Report are available upon request.

SUPPLEMENTARY INFORMATION: On March 18, 1988 (53 FR 8910), the NMFS promulgated an interim rule within 50 CFR 216.24 concerning the importation of yellowfin tuna caught by purse seines in the eastern tropical Pacific Ocean (ETP). Under this rule, in order to import yellowfin tuna into the United States, any nation which has purse seine vessels greater than 400 tons carrying capacity operating in the ETP must supply documentary evidence that it has a regulatory program governing the incidental taking of marine mammals in the tuna fishery and a comparable marine mammal mortality rate to that of the United States.

On July 31, 1989 the Government of Mexico submitted their 1988 Annual Report seeking a finding to export yellowfin tuna to the United States in 1990. The report contained publications relating to their marine mammal regulations (Circular No. 20 from the Directorate-General of Fisheries Regions, dated September 12, 1977; provisions from the "Official Register", dated June 29, 1987); a list of Mexican-flag purse seine vessels greater than 400 tons, their status from 1986 through 1989 in the ETP, and the performance date for same vessels; a description of the nation's regulatory and enforcement program governing incidental taking of marine mammals in the purse seine fishery for yellowfin tuna; and data relating to fleet performance during 1986, 1987, and 1988, obtained from the Inter-American Tropical Tuna Commission (IATTC) based on reports from observers placed aboard fishing vessles by the IATTC.

The Assistant Administrator, after consultation with the Department of State, finds that the Government of Mexico has met all of the current requirements for importing yellowfin tuna into the United States and may continue to do so through December 31, 1990, subject to the terms and conditions of the Marine Mammal Importation Regulations (Federal Register Vol. 54, No. 43, 7 March 1989).

Dated: September 6, 1989.

James W. Brennan,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 89-21328 Filed 9-11-89; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 175
Tuesday, September 12, 1989

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 302

RIN 3206-AD73

Considering Candidates for Excepted Appointment

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes to revise its regulations governing procedures used to refer and select candidates for appointments in the excepted service. The proposed regulations would distinguish between candidates who are legally entitled to priority consideration for reemployment and those who are considered for reemployment at the agency's discretion. This change would ensure that those candidates with statutory reemployment rights receive the full priority intended by applicable laws. The revised regulations would also eliminate the requirement that agencies establish delegation agreements with OPM in order to approve use of alternative plans for ranking and referring candidates for excepted appointment

DATE: Comments must be received on or before November 13, 1989.

ADDRESS: Send or deliver written comments to Curtis J. Smith, Associate Director for Career Entry and Employee Development, Office of Personnel Management, Room 6F0B, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 632-6817.

SUPPLEMENTARY INFORMATION: In 1988, OPM revised the procedural requirements for ranking and referring candidates for excepted appointment (final regulations issued September 13, 1988, 53 FR 35291). Comments received on those regulations suggested the need for further revisions. However, since the issues raised did not relate directly to those for which we had solicited comments, it would not have been appropriate to adopt those suggestions in final regulations. Instead, the suggestions have been considered in developing these proposed regulations.

I. Priority on Reemployment Lists

The reemployment provisions of 5 CFR part 302 implement several statutory provisions including: 5 U.S.C. 3315 and 3316, which provide for reinstatement of veteran preference eligibles who have resigned or who have been separated or furloughed without delinquency or misconduct; 5 U.S.C. 7701, which provides for appeals of unjustified personnel actions to the Merit Systems Protection Board; and 5 U.S.C. 8151, which provides for reemployment of employees who recover from compensable injuries. Most of these laws afford the same reemployment or reinstatement eligibility to preference eligibles in the excepted service as to those in the competitive service.

In practice, however, reemployment provisions in the excepted service have not fully paralleled those in the competitive service because the excepted service lacks a uniform appointment authority. In the competitive service, career and career-conditional appointments are used to fill jobs in all agencies. Employees who receive such appointments may be considered for transfer or reinstatement to competitive positions in any agency without going through all the procedures required for new appointments. In the excepted service, however, jobs are filled under numerous appointing authorities, each of which covers specific positions in a specific agency. Employees appointed under those authorities gain eligibility only for movement to other positions which may be filled under the same authority, i.e., to other specified positions in the same agency. Movement to any position filled under a different appointing authority must necessarily be processed as a new appointment under that authority. Similarly, because excepted appointments confer no status or reinstatement eligibility comparable to that afforded by career or career-conditional appointments in the competitive service, reemployment following a break in service must be processed in the same manner as a new appointment.

To provide a mechanism similar to reinstatement, the regulations in 5 CFR part 302 permit agencies to include current or former employees on their reemployment lists. (Employees on the reemployment list are generally considered ahead of employees on the regular employment list.) Once on the reemployment list, however, these employees receive the same treatment as those who are entitled to priority consideration for reemployment, and who would generally be considered ahead of reinstatement candidates if the jobs were in the competitive service.

To correct this problem, we propose to establish a priority category within the reemployment list. Priority consideration for reemployment would be required for former employees legally entitled to such consideration and permitted for former employees who have no statutory entitlement but who would be eligible for inclusion on the agency's reemployment priority list if their positions were in the competitive service. All other reemployment candidates would be considered after candidates on the priority reemployment list, but would generally be considered ahead of candidates on the regular employment list, in accordance with the procedures currently prescribed by 5 CFR part 302.

II. Eligibility for Inclusion on Reemployment List

The current regulations in part 302 do not limit the types of former employees who may be considered for reemployment. From time to time, agencies have asked about their authority to extend reemployment eligibility to nonpermanent employees, to set time limits on reemployment eligibility, or to restrict reemployment eligibility to employees who previously served in the same occupation, grade level, geographical location, or organizational unit.

The revised regulations would effectively limit eligibility for inclusion on the priority reemployment list to former permanent employees because the laws and regulations on which eligibility would be based apply only to employees separated from appointments without time limit. Nonpermanent employees could be included on the reemployment list at an agency's

discretion. However, the revised regulations would limit their eligibility to positions with tenure and work schedules comparable to the positions previously held. Eligibility of former employees who are preference eligibles to be reappointed without regard to lists would be limited to nontemporary employees. This would ensure that temporary and seasonal employees would not bypass other applicants, including preference eligibles, in consideration for permanent excepted employment. The revised regulations will also clarify agencies' authority to set additional conditions for reemployment eligibility.

III. Approval of Alternate Ranking Plans

Currently, 5 CFR part 302 requires agencies to refer applicants for employment consideration in one of two ways: in preference order without ranking; or under ranking and referral procedures comparable to those used in competitive examinations. Use of any alternative method, such as ranking by adjective categories, requires OPM approval unless the agency has established a delegation agreement. The proposed regulations would remove the requirement for agencies to have delegation agreements in order to approve special ranking plans, as long as the plans meet basic veteran preference requirements.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation effects only the procedures used to appoint certain Federal employees.

List of Subjects in 5 CFR Part 302

Administrative practice and procedure, Government employees.

Constance B. Newman,

Director,

Office of Personnel Management.

PART 302—[AMENDED]

Accordingly, OPM proposes to amend 5 CFR part 302 as follows:

1. The authority citation for Part 302 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302, 8151, E.O. 10577 (3 CFR 1954–1958 Comp., p. 218); § 302.105 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); § 302.501 also issued under 5 U.S.C. 7701 *et seq.*

2. Section 302.105 is revised to read as follows:

§ 302.105 Special agency plans.

An agency having a position subject to this part may establish a system which will result in granting to eligible persons the preference or priority consideration referred to in sections 1302(c) or 8151 of title 5, United States Code, but which does not conform to all the procedural requirements set forth in this part. The agency establishing such a system must ensure that all eligible applicants entitled to veteran preference or priority consideration receive at least as much advantage in referral as they would receive under the procedures set forth in this part.

3. In § 302.303, paragraphs (b) and (c) are removed, paragraph (a) is redesignated paragraph (b), the introductory text to newly redesignated paragraph (b) is revised, and a new paragraph (a) is added to read as follows.

§ 302.303 Maintenance of employment lists.

(a) *Establishment.* An agency shall enter the names of all applicants rated eligible under § 302.302 on the priority reemployment list, the reemployment list, or the regular employment list, as appropriate. In establishing its lists, an agency may limit priority consideration of non-preference eligibles and reemployment consideration of current and former employees to applicants who meet specific conditions, but must make those conditions a matter of record and must apply its policy uniformly to all eligible employees. Generally, full-time employees may be considered only for full-time positions and other-than-full-time employees only for other-than-full-time positions. However, full-time employees may be considered for other-than-full-time positions if there are no other-than-full-time employees on the appropriate priority or reemployment list; and other-than-full-time employees may be considered for full-time positions if there are no full-time employees on the appropriate list.

(1) *The priority reemployment list* includes:

(i) The name of each former employee of the agency who is a preference eligible, has been furloughed or separated from a continuing appointment without delinquency or misconduct, and applies for reemployment;

(ii) The name of each former employee of the agency who is a preference eligible and who, as the result of an appeal under part 752 of this chapter, is found by the Merit Systems Protection Board to have been unjustifiably dismissed from the agency, but who is not entitled to immediate restoration under the Board's decision;

(iii) The name of each former employee of the agency who has been furloughed or separated due to compensable injury sustained under the provisions of 5 U.S.C. chapter 81, subchapter I, who is not entitled to immediate restoration, and who is eligible for priority consideration under this part; and

(iv) *At the agency's discretion,* the name of each former employee of the agency who is not a preference eligible, has been furloughed or involuntarily separated from a continuing appointment without delinquency or misconduct, and applies for reemployment.

(2) *The reemployment list* may include the names of current employees of the agency and of former employees of the agency who are to be considered for future employment and who are not eligible for inclusion on the priority reemployment list. Employees may be entered on the reemployment list only for positions in which tenure and/or work schedule is no greater than that of the position previously held.

(3) *The regular employment list* includes the names of applicants rated eligible under § 302.302 whose names are not included on either the priority reemployment list or the reemployment list.

(b) *Order of entry.* An agency shall enter the names of all applicants rated eligible under § 302.302 on the appropriate list (priority reemployment, reemployment, or regular employment) in the following order:

* * * * *

4. In § 302.304, paragraphs (b) through (e) are revised to read as follows:

§ 302.304 Arrangement of ratings.

* * * * *

(b) *Order A.* (1) The name of each qualified preference eligible who has a compensable service-connected disability of 10 percent or more and is entitled to 10-point preference under section 3309 of title 5, United States Code, and whose name appears on the agency's priority reemployment list, in the order of his/her numerical ranking.

(2) The name of each qualified preference eligible who has a compensable service-connected disability of 10 percent or more and is entitled to 10-point preference under section 3309 of title 5, United States Code, and whose name appears on the agency's reemployment list, in the order of his/her numerical ranking.

(3) The name of each qualified preference eligible who has a compensable service-connected disability of 10 percent or more and is entitled to 10-point preference under section 3309 of title 5, United States Code, and whose name appears on the agency's regular employment list, in the order of his/her numerical ranking.

(4) The name of each other qualified applicant on the agency's priority reemployment list, in the order of his/her numerical ranking.

(5) The name of each other qualified applicant on the agency's reemployment list, in the order of his/her numerical ranking.

(6) The name of each other qualified applicant on the agency's regular employment list, in the order of his/her numerical ranking.

(c) *Order B.* (1) The name of each qualified preference eligible who has a compensable service-connected disability of 10 percent or more and is entitled to 10-point preference under section 3309 of title 5, United States Code, and whose name appears on the agency's priority reemployment list, in the order of his/her numerical ranking.

(2) The name of each other qualified applicant on the agency's priority reemployment list, in the order of his/her numerical ranking.

(3) The name of each qualified preference eligible who has a compensable service-connected disability of 10 percent or more and is entitled to 10-point preference under section 3309 of title 5, United States Code, and whose name appears on the agency's reemployment list, in the order of his/her numerical ranking.

(4) The name of each other qualified applicant on the agency's reemployment list, in the order of his/her numerical ranking.

(5) The name of each qualified preference eligible who has a compensable service-connected disability of 10 percent or more and is entitled to 10-point preference under section 3309 of title 5, United States Code, and whose name appears on the agency's regular employment list, in the order of his/her numerical ranking.

(6) The name of each other qualified applicant on the agency's regular employment list, in the order of his/her numerical ranking.

(d) *Professional order.* An agency shall consider applicants who have been assigned eligible ratings for professional and scientific positions at the GS–9 level and above, or equivalent, in the following order:

(1) *Applicants on the agency's priority reemployment list.* If numerical scores have been assigned, the applicants will be considered in the order of their augmented scores. If numerical scores have not been assigned, all preference eligibles will be considered together regardless of the type of preference, followed by all other priority reemployment candidates.

(2) *Applicants on the agency's reemployment list.* If numerical scores have been assigned, the applicants will be considered in the order of their augmented scores. If numerical scores have not been assigned, all preference eligibles will be considered together regardless of the type of preference, followed by all other reemployment candidates.

(3) *Applicants on the agency's regular employment list.* If numerical scores have been assigned, the applicants will be considered in the order of their augmented scores. If numerical scores have not been assigned, all preference eligibles will be considered together regardless of the type of preference, followed by all other candidates.

(e) *Unranked order.* When numerical scores are not assigned, the agency may consider applicants who have received eligible ratings for positions not covered by paragraph (d) of this section in either of the following orders:

(1) *By preference status.* Under this method, preference eligibles having a compensable service-connected disability of 10 percent or more are considered first, followed, second, by other 10-point preference eligibles, third, by 5-point preference eligibles, and, last, by nonpreference eligibles. Within each category, applicants from the priority reemployment list will be placed ahead of applicants from the reemployment list, and applicants from the reemployment list will be placed ahead of applicants from the regular employment list.

(2) *By reemployment/regular list status.* Under this method, all applicants on the priority reemployment list are considered before applicants on the reemployment list, and all applicants on the reemployment list are considered before applicants on the regular employment list. On each list, preference eligibles having a compensable service-connected disability of 10 percent or more are considered first, followed, second, by other 10-point preference eligibles, third, by 5-point preference eligibles, and, last, by nonpreference eligibles.

5. In § 302.401(a), the introductory text and paragraph (a)(1) are revised to read as follows:

§ 302.401 Selection and appointment.

(a) *Selection.* When making an appointment from a priority reemployment, reemployment, or regular list on which candidates have not received numerical scores, an agency must make its selection from the highest available preference category, as long as at least three candidates remain in that group. When fewer than three candidates remain in the highest category, consideration may be expanded to include the next category. When making an appointment from a list on which candidates have received numerical scores, the agency must make its selection for each vacancy from not more than the highest three names available for appointment in the order provided in § 302.304. Under either method, an agency is not required to—

(1) Accord an applicant on its priority reemployment or reemployment list the preference consideration required by § 302.304 if the list on which the applicant's name appears does not contain the names of at least three preference eligibles; or

* * * * *

6. Section 302.402 is revised to read as follows:

§ 302.402 Reappointment.

An agency may reappoint a current or former nontemporary employee of the executive branch of the Federal Government who is a preference eligible to a position covered by this part without regard to the names of qualified applicants on the agency's priority reemployment, reemployment, or regular employment list.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 907 and 908

[FV 89–111 PR]

Navel Oranges Grown in Arizona and Designated Part of California; Valencia Oranges Grown in Arizona and Designated Part of California; Revision of the Administrative Rules and Regulations (Short Life Allotments)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise procedures which are contained in the administrative rules and regulations of the California-Arizona navel and Valencia orange marketing orders. This proposal was recommended by the Navel and Valencia Orange

Administrative Committees (committees), the agencies responsible for local administration of the orders. The proposal would require handlers requesting short life allotments to submit additional information to the committees in order to aid the committees in administering the short life allotment provisions in the orders in an equitable manner.

DATES: Comments must be received by September 27, 1989.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5120.

SUPPLEMENTARY INFORMATION:

This proposed rule is issued under Marketing Order Nos. 907 and 908 (7 CFR parts 907 and 908), as amended, regulating the handling of navel and Valencia oranges grown in Arizona and designated parts of California. These orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 125 handlers of navel oranges and 115 handlers of Valencia oranges subject to regulation under their respective orders, and approximately 4,065 producers of navel oranges and 3,500 producers of Valencia oranges in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three fiscal years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of California-Arizona navel and Valencia orange producers and handlers may be classified as small entities.

This proposed rule invites comments on changes to the administrative rules and regulations of the navel and Valencia orange marketing orders. The proposed changes would require handlers requesting short life allotments to submit additional information to the committees in order to aid the committees in administering the short life allotment provisions of the orders in an equitable manner.

Paragraph (a) of §§ 907.50 and 908.50 of the navel and Valencia orange marketing orders, respectively, provide that, prior to recommendations for regulation for each prorate district, the committees shall submit to the Secretary their respective marketing policies for the ensuing season. These marketing policies include, among other information, the estimated utilization of the navel or Valencia orange crops, showing the quantity and percentages of those crops that will be marketed in domestic, export, and byproduct channels.

Paragraph (b) of §§ 907.51 and 908.51 of the orders provide that the committees shall provide equity of marketing opportunity to handlers in all districts. Paragraph (a) of §§ 907.110 and 908.110 of the administrative rules and regulations of the orders state that the committees shall establish an equity factor which is the same for all prorate districts. The equity factor is a percentage of the tree crop in each district and reflects a quantity of oranges (grown in each district) for which there will be equitable marketing opportunity under volume regulation each season. Paragraph (b) of the same sections provide that at the marketing policy meetings for each prorate district the committees shall formulate weekly shipping schedules for the ensuing season reflecting, insofar as practicable, the quantity or oranges grown in that district to be shipped under volume regulation each week. The quantity of oranges on such schedules is computed by application of the equity factor to the tree crop of the district. Paragraph (f) of §§ 907.110 and 908.110 give the committees authority to make such adjustments as they deem advisable in the equity factors, the weekly shipping schedules, and the percentage allocations to prorate districts, so as to reflect changing crop or market conditions.

Paragraph (h) of §§ 907.53 and 908.53 of the orders provide that during any week when volume regulation is likely to be recommended, the committees shall compute, with respect to each prorate district, the total quantity of oranges available for current shipment by each person who has applied for a prorate base and for allotments. On the basis of such computation, the committees fix a prorate base for each person who is entitled thereto. Based on such prorate bases, the committees calculate the quantity of oranges (allotment) which may be handled by each handler during each week in which volume regulations are issued.

Paragraph (g) of §§ 907.110 and 908.110 authorize the committees to calculate each season an estimated percentage of the total tree crop in the production areas which, in the judgment of the committees, will be handled under volume regulation and prepare a schedule of estimated weekly shipment based thereon, taking into account the purposes of the Act. Such percentages and schedules are used as references for determining adjustments in the prorate bases of handlers, for granting short life allotments, and for matters where it is necessary to consider utilization of the crop within a district.

Most navel and Valencia oranges are picked and packed as needed as they can be stored on the tree for an indefinite period without significant losses in fruit quality and condition. However, because of environmental conditions in separate producing localities, some oranges are produced which do not possess the keeping qualities of other oranges produced in the same prorate district. At the end of the shipping season, the fruit is puffy, soft, and deteriorates very quickly. These oranges are called short life oranges. The shipping life of such oranges, therefore, is shorter than the shipping life of other oranges in the same district and thus, they have a shorter marketing period. Under the orders, the normal marketing period for navel and Valencia oranges is that period in which the fruit is of such keeping quality that it can be shipped and will hold sufficiently well to be acceptable to consumers. The normal marketing period of short life oranges is

shorter than that of other oranges and can very not only between districts but between groves in the same district.

Sections 907.61 and 908.61 of the orders provide for the committees to withhold from the allotments of handlers, on a uniform proportionate basis for all handlers, an amount sufficient to permit handlers of short life oranges to handle during the normal marketing period of such short life oranges as large a proportion of oranges as the average which will be handled by all handlers. The committees determine, on the basis of all available information, the extent to which a handler needs short life allotment and allocate such allotment to such handler at a uniform weekly rate, insofar as practicable, during the normal marketing period of the handler's short life oranges. Thus, handlers who are granted short life allotments are permitted to handle during the shipping season of their short life oranges a quantity of short life oranges equal proportionately to the average to be handled by all handlers of navel or Valencia oranges within their prorate district. After a handler of short life oranges has received allotment sufficient to permit such total handling, allotment thereafter due such handler of short life oranges is allocated to handlers from whom allotment has been withheld.

Short life allotments are only applicable during the normal marketing period of such oranges. Thus, a handler whose oranges can only be marketed for a six-week period beginning in November could receive short life allotment only during that period, whereas a handler whose short life oranges can only be marketed for a six-week period beginning in January could receive short life allotment for those oranges only during that period.

To require handlers of short life oranges to market their oranges at the same rate as other handlers would result in handlers of short life oranges shipping a lower percentage of their crop of oranges to the fresh domestic market compared to other handlers in the district and industry because short life oranges shipped during the latter part of the shipping season could not be shipped to consuming markets in good condition.

There are handlers who ship both short and normal life oranges. Some of these handlers, because they have a low percentage of short life oranges, are able to adjust their picking and packing operations to allow the shipment of all of their short life oranges before they begin to deteriorate. Thus, they are able to handle their total supply of oranges without undue difficulty. However, there are other handlers who have a high percentage of short life oranges and, while under prorate limitations, might not be able to ship all their short life oranges prior to the time such oranges begin to deteriorate. Therefore, without short life allotments, they would be unable to ship the same percentage of oranges into the fresh domestic market which the industry and their district would move under regulation.

Short life allotment provisions in the navel and Valencia orange marketing orders state that short life allotments shall be allocated to handlers of short life oranges at a uniform weekly rate, insofar as practicable, during the normal fiscal year for navel oranges and the normal marketing year for Valencia oranges of the handler's short life oranges. The uniform weekly rate in calculated by comparing the total allotment a handler would have received under general maturity during that handler's shortened shipping season and the actual amount of allotment necessary for such handler to ship up to the industry equitable percentage during that same shipping season. The amount of extra allotment a handler must receive is expressed as a percentage uniformly applied, insofar as practicable, each week of the handler's short life shipping schedule. This percentage is derived by dividing the number of additional cartons the handler needs in order to ship up to the industry season average by the number of cartons the handler would receive under general maturity, and coverting that number to a percent.

The phrase in the regulation "insofar as practicable" gives the committees flexibility in setting percentages for short life allotments each week. This is necessary since the shipping schedules for navel and Valencia oranges are estimates, and it is impossible to arrive at an estimate that would be accurate for each week of the season. However, handlers who qualify for short life allotments must receive such allotment as uniformly as possible each week of their reduced shipping season. Thus, the allocation percentage for handlers with short life oranges must be adjusted each week that actual allotment levels established by the Secretary deviate from the shipping schedule. Such adjustments must continue in order to permit handlers of short life oranges to ship up to the equitable percent before the ending date of their short life season. The modifications to the administrative rules and regulations of the orders proposed herein would not alter this method of issuing short life allotments.

Sections 907.114 and 908.114 of the administrative rules and regulations of the orders require that handlers controlling short life oranges who desire to obtain short life allotments must file, with their respective committees, an application for such allotment on N.O.A.C./V.O.A.C. Forms No. 10. These applications request information which includes the following: (1) The location of each grove producing short life oranges: (2) a record covering the maximum number of years available, but not in excess of the 10 immediately preceding years, which shows the marketing period and total utilization of all oranges; (3) a suggested shortened marketing season which shows the final date when the the short life oranges covered by the application should be marketed; and (4) a showing satisfactory to the committees why the oranges covered by the application cannot be marketed during the normal marketing period for the applicable district through appropriate adjustments in the handler's packinghouse operations.

Recently, there has been growing concern among the orange industries that the current applications for short life allotments do not provide enough information for the committees to determine that short life allotments are necessary. Therefore, the committees have unanimously recommended amending §§ 907.114 and 908.114 to require that additional information be submitted by applicants for short life allotments. The additional reporting requirements would be reported on revised N.O.A.C./V.O.A.C. Forms No. 10 and new N.O.A.C./V.O.A.C. Forms No. 10A, which would request information on each grove producing short life oranges. The N.O.A.C./V.O.A.C. Forms No. 10 would be revised to require information on the percentage of grades of oranges packed out each year, the beginning and ending dates of the shipments in each year and the estimated quantity and the acreage of all general maturity and short life oranges controlled by the applicant.

New N.O.A.C./V.O.A.C. Forms No. 10A would require additional information such as: (1) The root stock and scion used, if known, of the trees in the short life producing grove; (2) a breakout of historical short life crop utilization for the past 10 years, if available, which includes the beginning and ending dates of shipments for each year; (3) a physical description of the fruit at the end of each of the previous 10 shipping seasons; (4) information regarding the application of materials to extend on-tree storage life of navel and Valencia oranges during the past 10 years; and (5) planned treatments to

extend on-tree storage life of the upcoming crop.

Information regarding percentages of grades of fruit shipped to the domestic market each year would allow the committees to determine if "high grading" of fruit is being practiced by the handler. High grading is a practice whereby handlers choose to selectively pack and ship primarily high grade (i.e., high quality) fruit. This results in the handler harvesting a larger quantity of fruit each week in order to utilize such handler's prorate for only high grade fruit. Therefore, a lower percentage of such handler's fruit is shipped in fresh domestic channels than the average since the handler is selectively packing only high grade fruit and utilizing the remainder in our outlets. This shortens the handler's marketing season, as the handler can ship only as much high grade fruit as such handler has available, and, once that fruit is picked, the handler's shipments from that particular grove are complete.

Information on the rootstock and scion variety would aid the committees in determining if the applicant's trees are susceptible to producing short life fruit. Certain varieties and combinations of rootstock and scion varieties are known to be susceptible to the production of short life fruit.

Information regarding historical crop utilization would allow the comittees to determine if the handler applying for short life allotment has been able to market the same proportionate share of fruit to fresh domestic markets in relation to the average of all handlers in that district.

A description of the fruit at the ending date of the shipments would help the committees determine if the fruit is actually in a less marketable condition than is normal for fruit in that district at that point of the general shipping season.

Use of materials such as growth regulators to extend on-tree fruit life is a common practice in the orange industries. Information regarding the use of such materials used to extend on-tree fruit life would aid in the committees' review and decision process to determine if the applicant's fruit is actually short life fruit. Information on planned treatments to extend on-tree storage life of the upcoming crop would help the committees determine if the handler has planned to take appropriate measures to extend the on-tree life of the short life oranges.

This action would require handlers to submit additional information on their short life oranges in order to qualify for short life allotments. It is estimated that the additional information would take less than ten minutes per form to complete and thus would present no significant burden to handlers.

This additional information would aid the committees in determining that short life fruit genuinely exists, that the shortened marketing season is not a result of marketing patterns and handler decisions, and that the handler cannot adequately intermingle such handler's short life and normal life oranges to be able to ship up to the industry's average. The committees consider the additional information necessary so that they can consider short life requests in as equitable a manner as possible. Therefore, the committees recommended amending §§ 907.114 and 908.114 by revising paragraphs (b) of those sections and adding new paragraphs (c). In addition, changes to paragraphs (a) of §§ 907.114 and 908.114 are made to provide gender neutral language.

This proposed rule would require navel orange handlers to file applications for short life allotments by August 31 prior to the fiscal year for navel oranges in Districts 1, 3, and 4 and by September 30 for handlers in District 2. However, for the 1989–90 fiscal year, navel orange handlers in all districts would be required to file applications for short life allotments prior to October 31 in order to give handlers sufficient time to file such applications during this fiscal year. Valencia orange handlers would be required to file applications for short life allotments by December 31 prior to the marketing year for Valencia oranges in District 3 and January 31 for handlers in Districts 1 and 2. The different dates for the districts reflect their different growing seasons. Applications received by these dates would give the committees adequate time to include considerations for short life allotments in their respective marketing policies and shipping schedules. Once the handlers have provided the committees with adequate information in order for the committees to determine the validity of the short life applications, the committees would give written notice to the applicants before general maturity allotments are issued for the prorate district in which the short life oranges are grown. Since short life allotments would be issued during each week of the handler's short life shipping season, the committee could not delay its decision. In addition, once the committees approve short life allotments for a handler, such allotments would be issued from the beginning of the handler's shipping season for such oranges at a uniform weekly rate, insofar as practicable.

Based on available information, the Administrator of the AMS has determined that issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504) the information collection provisions that are included in §§ 907.114 and 908.114 of this proposed rule have been submitted to the Office of Management and Budget (OMB). They will not be made effective until OMB approval has been obtained.

Interested persons are invited to submit their views and comments on this proposal. A 15-day comment period is considered appropriate because the fiscal year for navel oranges begins on November 1 and applications for short life allotments for navel orange handlers should be filed no later than October 31 for all districts for this season.

List of Subjects

7 CFR Part 907

Arizona, California, Marketing agreements and orders, Navels, and Oranges.

7 CFR Part 908

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

For the reasons set forth in the preamble, 7 CFR parts 907 and 908 are proposed to be amended as follows:

1. The authority citation for 7 CFR Parts 907 and 908 continues to read as follows:

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

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

2. Section 907.114 is revised to read as follows:

Subpart—Rules and Regulations

§ 907.114 Short life allotments.

(a) *Qualification for short life allotment.* A handler shall be considered to have short life oranges when such handler has oranges which historically are known to lack keeping qualities which will permit such handler to handle, during the normal marketing period for the oranges grown in the handler's prorate district, the same proportion of such oranges as the average which will be handled by all handlers pursuant to § 907.110(g).

(b)(1) *Application to be filed.* Each handler controlling short life oranges who desires to obtain short life allotments shall file with the committee,

prior to the crop year for which an application for a Prorate Base and Allotments is filed by such handler, a signed application for such allotments on N.O.A.C. Form No. 10. The deadline for the filing of such application shall be August 31 for handlers in Districts 1, 3, and 4 and September 30 for handlers in District 2: *Provided,* That for the 1989–90 fiscal year, handlers in all districts must file applications for short life allotments no later than October 31. The application shall contain the following information: Name and address of the handler applicant; location of each grove producing short life oranges; the estimated quantity and the acreage of all general maturity and short life oranges controlled by the applicant; a record covering the maximum number of years available, but not in excess of the 10 immediately preceding years, which shows the utilization of all oranges; the percentage pack-out of fruit by grade; the beginning and ending dates of the shipments in each year; a suggested shortened marketing season showing the beginning date of the normal marketing period of such fruit and the ending date which is the final date when the short life oranges covered by the application could be marketed; and a showing satisfactory to the committee why the oranges covered by the application cannot be marketed during the normal marketing period for the applicable district through appropriate adjustments in the handler's packinghouse operations.

(2) *Application supplement.* At the time handlers file applications for allotment for short life oranges they shall file, for each grove having short life oranges included in the application, a signed application information supplement on N.O.A.C. Form No. 10A. The application supplement shall include the following information: Name of the applicant handler; the location of the grove; the acreage in the grove; the year it was planted; the rootstock and scion of the trees, if known; a record covering the maximum number of years available, but not in excess of the 10 immediately preceding years, which shows the utilization of the oranges produced in the grove and the beginning and ending dates of the shipments of the short life oranges for each year in which utilization is listed in the application, a description of the condition of the short life oranges at the ending date of shipments; a description of any methods or materials used by the grower to extend the on-tree storage life of the short life oranges; and any planned treatments to extend the on-tree storage life of the short life oranges in the upcoming year.

(c) Using the information furnished on the forms referred to in subsection (b) above, along with such other relevant information as is available, the committee shall determine which applicants are entitled to receive short life allotments, the amount of the allotments, and the specific time span (which includes the beginning and ending dates of the normal marketing season of such fruit) over which they will be given. Action shall be taken for each applicant as soon as is practicable after the application is received, but in no event later than the time when general maturity allotments are issued for the prorate district in which the short life oranges are grown: *Provided,* That such application provided the committee with adequate information to allow the committee to determine the validity of such application. Each applicant shall be given written notice of the committee's action as soon as it is taken.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

3. Section 908.114 is revised to read as follows:

Subpart—Rules and Regulations

§ 908.114 Short life allotments.

(a) *Qualification for short life allotment.* A handler shall be considered to have short life oranges when such handler has oranges which historically are known to lack keeping qualities which will permit such handler to handle, during the normal marketing period for the oranges grown in the handler's prorate district, the same proportion of such oranges as the average which will be handled by all handlers pursuant to § 908.110(g).

(b)(1) *Application to be filed.* Each handler controlling short life oranges who desires to obtain short life allotments shall file with the committee, prior to the crop year for which an application for a Prorate Base and Allotments is filed by such handler, a signed application for such allotments on V.O.A.C. Form No. 10. The deadline for the filing of such application shall be December 31 for handlers in District 3 and January 31 for handlers in Districts 1 and 2. The application shall contain the following information: Name and address of the handler applicant; location of each grove producing short life oranges; the estimated quantity and the acreage of all general maturity and short life oranges controlled by the applicant; a record covering the maximum number of years available, but not in excess of the 10 immediately preceding years, which shows the utilization of all oranges; the percentage pack-out of fruit by grade; the beginning and ending dates of the shipments in each year; a suggested shortened marketing season showing the beginning date of the normal marketing period of such fruit and the ending date which is the final date when the short life oranges covered by the application could be marketed; and a showing satisfactory to the committee why the oranges covered by the application cannot be marketed during the normal marketing period for the applicable district through appropriate adjustments in the handler's packinghouse operations.

(2) *Application supplement.* At the time handlers file applications for allotment for short life oranges they shall file, for each grove having short life oranges included in the application, a signed application information supplement on V.O.A.C. Form No. 10A. The application supplement shall include the following information: Name of the applicant handler; the location of the grove; the acreage in the grove; the year it was planted; the rootstock and scion of the trees, if known; a record covering the maximum number of years available, but not in excess of the 10 immediately preceding years, which shows the utilization of the oranges produced in the grove and the beginning and ending dates of the shipments of the short life oranges for each year in which utilization is listed in the application, a description of the condition of the short life oranges at the ending date of shipments; a description of any methods or materials used by the grower to extend the on-tree storage life of the short life oranges; and any planned treatments to extend the on-tree storage life of the short life oranges in the upcoming year.

(c) Using the information furnished on the forms referred to in subsection (b) above, along with such other relevant information as is available, the committee shall determine which applicants are entitled to receive short life allotments, the amount of the allotments, and the specific time span (which includes the beginning and ending dates of the normal marketing season of such fruit) over which they will be given. Action shall be taken for each applicant as soon as is practicable after the application is received, but in no event later than the time when general maturity allotments are issued for the prorate district in which the short

life oranges are grown: *Provided*, That such application provided the committee with adequate information to allow the committee to determine the validity of such application. Each applicant shall be given written notice of the committee's action as soon as it is taken.

Dated: September 7, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-21397 Filed 9-11-89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Permanent Regulatory Program; Remining

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSMRE is reopening the public comment period on Revised Program Amendment No. 37 to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments proposed in Revised Program Amendment No. 37 are intended to respond to OSMRE questions about proposed Program Amendment No. 37 concerning the remining of previously affected areas. The proposed changes in Revised Program Amendment No. 37 are also intended to adopt revisions to chapter 1513 of the Ohio Revised Code (ORC) enacted through House Bill No. 399 of the Ohio General Assembly.

This notice sets forth the times and locations that the Ohio program and proposed amendments to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on October 12, 1989. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. on October 10, 1989. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on September 27, 1989.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Ms. Nina Rose Hatfield, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSMRE's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, Room 202, Columbus, Ohio 43232, Telephone: (614) 866-0578

Ohio Department of Natural Resources, Division of Reclamation, Fountain Square, Building B-3, Columbus, Ohio 43224, Telephone: (614) 265-6675

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982 **Federal Register** (47 FR 34668). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendments

By letter dated January 20, 1989 (Administrative Record No. OH-1131), the Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed Program Amendment No. 37 to the Ohio program. The proposed amendments were initiated by Ohio to take advantage of the increased flexibility afforded to the Ohio Environmental Protection Agency (OEPA) under the amended Clean Water Act. Ohio's proposed amendments were intended to create incentives for mine operators to enter, mine, and reclaim areas that were previously affected by mining and which, as a result, have continuing water pollution.

On February 7, 1989, OSMRE published a notice in the **Federal Register** (54 FR 5940) announcing receipt of proposed Program Amendment No. 37 and inviting public comment on its adequacy. The public comment period ended on March 9, 1989. The public hearing scheduled for March 6, 1989 was not held because no one requested an opportunity to testify.

By letter dated July 26, 1989 (Administrative Record No. OH-1203), OSMRE requested additional information from Ohio concerning several aspects of the proposed amendment.

By letter dated August 16, 1989 (Administrative Record No. OH-1201) Ohio submitted responses to OSMRE's questions about proposed Program Amendment No. 37. With its responses, Ohio submitted Revised Program Amendment No. 37 incorporating changes resulting from OSMRE's questions and from revisions to Chapter 1513 of the Ohio Revised Code (ORC) enacted through House Bill No. 399 of the Ohio General Assembly.

The changes proposed by Ohio in Revised Program Amendment No. 37 are briefly discussed below. In addition to the specific changes discussed below, numerous other nonsubstantive changes are being made throughout these statutes and rules to correct grammar, punctuation, and paragraph number and letter notations.

(1) ORC section 1513.07(B)(2)(s): The previous version of this paragraph proposed in Program Amendment No. 37 is being rewritten to clarify that "previously mined areas" means areas that were affected by coal mining operations before August 3, 1977; to include the authorization of reclamation as well as mining operations; to delete reference to "pollution abatement areas" in this paragraph; and to clarify that the pollution abatement plan may improve water quality with respect to pH, iron, and manganese.

(2) ORC section 1513.07(E)(7): The previous version of this paragraph proposed in Program Amendment No. 37 is being rewritten to clarify the conditions which an applicant must demonstrate in order for the Chief of the Ohio Department of Natural Resources, Division of Reclamation (the Chief) to authorize coal mining and reclamation operations in previously mined areas. Paragraph (E)(7)(f) is being rewritten to clarify that the partners and corporate officers of the applicant must not have any existing legal responsibilities to reclaim or treat water discharge from the area of proposed remining, must not have had any mining permits revoked or suspended with respect to water quality within eighteen months prior to the

application, and must not have forfeited a reclamation bond or similar security within the United States.

(3) ORC section 1513.16(F)(1): This paragraph is being rewritten to include a description of the operator's pollution abatement plan, if applicable, in the newspaper advertisement announcing the operator's filing of a request for bond release.

(4) ORC section 1513.16(F)(3)(a), (b), and (c): The previous versions of these paragraphs proposed in Program Amendment No. 37 are being rewritten to specify that remining areas being considered for bond release under this paragraph are those authorized by the Chief under ORC 1513.07(E)(7); to include the requirement that the operator comply with the approved pollution abatement plan for bond release; and to specify that additional bond release requirements for pollution abatement areas are established by the Chief in ORC section 1513.02.

(5) ORC section 1513.16(H)(2)(b) and (H)(3)(b): These paragraphs are being rewritten to delete the mining license number from the information provided by the operator when requesting an inspection of the permit area.

(6) ORC section 1513.16(H)(2)(d) and (H)(3)(d): These paragraphs are being rewritten to delete the presumption of reclamation approval by the Chief if the Chief does not notify the operator within the prescribed period following a request for inspection that the reclamation is not approved. These changes were previously approved by OSMRE in Program Amendment No. 25 and have been enacted in Ohio House Bill No. 399.

(7) OAC section 1501:13–4–15: The version of this new rule proposed in Program Amendment No. 37 is being rewritten as follows:

Paragraph (B)(6): The reference to 33 U.S.C. Section 1311(p) is being corrected.

Paragraph (E)(1)(a): References are being added to include partners of the applicant, if the applicant is a partnership, and the director and controlling officers, if the applicant is a corporation.

Paragraphs (E)(1)(a)(i) and (ii): Reference is being added to the water treatment and reclamation responsibilities under ORC Chapter 1513.

Paragraph (E)(1)(a)(iv): Reference is being added to coal or surface mining bond or security deposited in lieu of bond in this or any other State or within the United States.

Paragraph (E)(5): This new criterion for authorization of remining is being added. No authorization may be granted by the Chief until a remining NPDES permit has been issued by the Ohio Environmental Protection Agency and a copy of the remining NPDES permit has been provided to the Chief.

Paragraph (G)(1): The phrase "which are not encountered during mining or the implementation of the abatement plan" is being deleted.

Paragraph (G)(2): The phrase "which are encountered during mining or the implementation of the abatement plan" is being deleted.

Paragraph (G)(3): This paragraph explaining the term "encountered" is being deleted. Subsequent paragraphs are being renumbered.

Paragraph (G)(5): This paragraph is being rewritten to delete statements about the operator's compliance with the effluent limitations established in the remining NPDES permit and limitations for settleable and suspended solids pursuant to 40 CFR Part 434.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSMRE is now seeking comment on whether the amendments proposed by Ohio satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR MORE INFORMATION CONTACT**" by 4:00 p.m. by September 27, 1989. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSMRE representatives to discuss the proposed amendments may request a meeting at the Columbus Field Office by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under "**ADDRESSES.**" A written summary of each public meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 31, 1989.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 89–21380 Filed 9–11–89; 8:45 am]

BILLING CODE 4310–05–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1230

RIN 3095–AA22

Micrographics Records Management

AGENCY: National Archives and Records Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Archives and Records Administration (NARA) proposes to revise regulations relating to microfilming Federal records and to the maintenance, use, and disposition of microform records. The proposed rule would update references to Federal and industry micrographics standards. It would also provide separate standards for microfilming and storing permanent records and temporary records and would revise requirements relating to the inspection of microforms making the standards for temporary records less stringent than those for permanent records. The proposed rule would affect Federal agencies and private contractors tht microfilm records for Federal agencies.

DATES: Comments must be received by November 13, 1989.

ADDRESSES: Comments should be sent to Director, Policy and Program Analysis Division, National Archives and Records Administration (NAA), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: John A. Constance or Nancy Allard at 202–523–3214 (FTS 523–3214).

SUPPLEMENTARY INFORMATION: The industry micrographics standards cited in the current 36 CFR part 1230 require updating to reflect the latest editions of the standards. These standards will be incorporated by reference in the final rule.

In addition, NARA proposes to provide separate filming and storage requirements for unscheduled records and records designated as permanent in a NARA approved records disposition schedule and for records of temporary value. Current § 1230.14 is revised to cover film and image requirements for permanent records and unscheduled records. New § 1230.16 is added to provide guidance on film and image requirements for temporary records, duplicates, and user copies.

The proposed rule makes a number of changes in the inspection requirements in § 1230.22. Currently, agencies must inspect master films of permanent microform records every 2 years, even after the records have been transferred to a Federal records center operated by NARA. The inspection requirement is based on ANSI PH1.43–1985 and is intended to ensure the degradation of film is found and corrected before the permanent record images on the film are completely lost.

The proposed rule would require agencies to conduct inspections when the records are 2 years old and every 2 years thereafter until transferred to a Federal records center or to the National Archives. Film cannot be transferred to the National Archives until the first inspection has been performed. Permanent microforms may be transferred to a Federal records center only after the agency has performed the first inspection or has certified that the microform will be inspected by the agency, an agency contractor, or the Federal records center (on a reimbursable basis) when the records become 2 years old. NARA will assume responsibility for inspecting the microforms after they are transferred to NARA custody (after the initial 2-year inspection).

The proposed rule simplifies the sampling technique to require a randomly selected sample of 1,000 microform units (rolls of film, single microfiche, or similar appropriate unit) or 1 percent of the total number of microform units in the collection. At least one microform unit must be inspected in collections of less than 100 units.

Under the proposed rule, agencies would no longer be required to send inspection reports to the NARA Office of Records Administration (NI) within 30 days after the inspection was completed. Instead, the proposed rule requires results of inspections conducted by the creating agency to be documented and attached to the SF 135 when permanent microforms are transferred to a Federal records center for storage or to the SF 258 if the permanent microforms are transferred directly to the National Archives.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1230

Archives and records; Incorporation by reference; Micrographics.

For the reasons set forth in the preamble, NARA proposes to amend part 1230 of title 36 of the Code of Federal Regulations as follows:

PART 1230—MICROGRAPHICS

1. The authority statement for part 1230 continues to read as follows:

Authority: 44 U.S.C. 2907, 3302 and 3312.

2. Section 1230.1 is revised to read as follows:

§ 1230.1 Scope of part.

This part provides standards for using micrographic technology in the creation, use, storage, retrieval, preservation, and disposition of Federal records. Agencies should also consult 41 CFR subpart 201–45.1 for General Services Administration (GSA) requirements relating to micrographics management for Federal records.

3. Section 1230.2 is revised to read as follows:

§ 1230.2 Authority.

As provided in 44 U.S.C. chapters 29 and 33, the Archivist of the United States is authorized to establish standards for the photographic and microphotographic production and reproduction of records by Federal agencies for the purpose of destroying the original records; to establish uniform standards within the Government for the creation, storage, use, and disposition of processed microform records; and to establish, maintain, and operate centralized microfilming services for Federal agencies.

4. Section 1230.3 is added to read as follows:

§ 1230.3 Publications incorporated by reference.

(a) The following publications cited in this part are hereby incorporated by reference. They are available from the issuing organization at the addresses listed in this section. They are also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW., Washington, DC 20408. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 USC 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and a notice of any change in these materials will be published in the **Federal Register.**

(b) *American National Standard Institute (ANSI) and International (ISO) Standards.* ANSI and ISO standards cited in this part are available from the American National Standards Institute, 1430 Broadway, New York City, NY 10018.

ANSI IT9.1–1988, American National Standard for Imaging Media (Film)—Silver-Gelatin Type—Specifications for Stability.

ANSI PH1.43–1985, American National Standard for Photography (film)—Processed Safety Film—Storage.

ANSI IT9.2–1988, American National Standard for Imaging Media—Processed Films, Plates, and Papers—Filing Enclosures and Containers for Storage.

ANSI/ISO 5/2–1985, ANSI PH2.19–1986, International Standard for Photography (Sensitometry)—Density Measurements—Geometric Conditions for Transmission Density.

ANSI/ISO 5/3–1984, ANSI PH2.18–1985, International Standard for Photography (Sensitometry)—Density Measurements—Spectral Conditions.

ANSI/ISO 3334–1979, International Standard for Microcopying ISO Test Chart No. 2—Description and Use in Photographic Documentary Reproduction.

(c) *Association of Information and Image Management (AIIM) Standards.* The following AIIM standards are available from the Association for Information and Image Management, 1100 Wayne Avenue, Suite 1100, Silver Spring, MD 20910.

ANSI/AIIM (NMA) MS1–1981, Practice for Operational Practice/Inspection and Quality Control for Alphanumeric Computer-Output Microforms.

ANSI/AIIM MS5–1985, American National Standard for Micrographics—Microfiche.

ANSI/AIIM (NMA) MS14–1988, Specifications for 16 and 35mm in Roll Microfilm.

ANSI/AIIM (NMA) MS19–1987, Recommended Practice for Identification of Microforms.

ANSI/AIIM (NMA) MS23–1983, Practice for Operational Procedures/Inspection and Quality Control of First Generation, Silver-Gelatin Microfilm of Documents.

ANSI/MS 32–1987, Standard for Micrographics—Microrecording of Engineering Source Documents on 35mm Microfilm.

ANSI/AIIM MS41–1988, Unitized Microfilm Carriers (Aperture, Camera, Copy, and Image Cards).

ANSI/AIIM MS43–1988, Recommended Practice for Operational Procedures/Inspection and Quality Control of Duplicate Microforms of Documents and from COM.

ANSI/SIP34–1989, Microspots and Aging Blemishes. This is a republication of NBS HB96, Inspection of Processed Photographic Record Films for Aging Blemishes.

(d) *National Institute of Standards and Technology (NIST) publications.* The following publication is available from the National Institute of Standards and Technology (NIST was formerly the National Bureau of Standards (NBS).), Office of Standard Reference Materials, Rm. B311 Chemistry, Gaithersburg, MD 20899.

NBS–SRM 1010a-1982, Microcopy Resolution Test Chart.

5. Section 1230.4 is revised to read as follows:

§ 1230.4 Definitions.

For the purpose of this part the following definitions shall apply:

Archival microfilm. A photographic film that meets the standards described in § 1230.14 and that is suitable for the preservation of permanent records when stored in accordance with § 1230.20.

Archival storage conditions. Storage conditions, as specified in § 1230.20(a), that are suitable for the preservation of photographic film appraised as having permanent value. Archival storage conditions prolong the useful life of both permanent and temporary photographic records.

Computer Output Microfilm (COM). Microfilm containing data produced by a recorder from computer generated signals.

Facility. An area set aside for equipment and operations required in the production or reproduction of microforms either for internal use or for the use of other organizational elements of the Federal Government.

Microfilm. (a) Raw (unexposed and unprocessed) fine-grain, high resolution photographic film with characteristics that make it suitable for use in micrographics;

(b) The process of recording microimages on film; or

(c) A fine-grain, high resolution photographic film containing an image greatly reduced in size from the original.

Microform. A term used for any form containing microimages.

Microimage. A unit of information such as a page of text or a drawing, that has been made too small to be read without magnification.

Permanent record. Any record (see definition in 44 U.S.C. 3301) that has been determined by the Archivist of the United States to have sufficient historical or other value to warrant its continued preservation by the Government.

Temporary record. Any record determined by the Archivist of the United States to contain information of transient value in accordance with Part 1228 of this chapter. Temporary records may warrant microfilming for economies of storage and distribution.

Unscheduled record. Any record that has not been appraised by NARA, i.e., a record that has neither been approved for disposal nor designated as permanent by the Archivist of the United States in accordance with Part 1228 of this chapter.

Use or work copies. Duplicates of original film which are prepared for use as reference copies or as duplication masters for recurring or large-scale duplication. These copies are not to be confused with the preservation master copies which are stored under the conditions in § 1230.20 and which are not to be used for reference purposes.

6. Subpart A is revised to read as follows:

Subpart A—Standards for Microfilming Records

Sec.

1230.10 Authorization.
1230.12 Preparatory steps prior to filming.
1230.14 Film and image requirements for permanent records or unscheduled records.
1230.16 Film and image requirements for temporary records, duplicates, and user copies.

Subpart A—Standards for Microfilming Records

§ 1230.10 Authorization.

(a) Agencies proposing to microfilm permanent records or unscheduled records shall submit Standard Form (SF) 115, Request for Records Disposition Authority, in accordance with part 1228 of this chapter. The SF 115 shall provide for the disposition of original records and microforms.

(1) Agencies proposing microfilming methods and procedures meeting the standards in § 1230.14(a) shall include on the SF 115 the following certification: "This certifies that the records described on this form will be microfilmed in accordance with the standards set forth in 36 CFR part 1230."

(2) Agencies having proposed microfilming methods, materials and procedures that do not meet the standards in § 1230.14(a) shall include on the SF 115 a description of the system and standards proposed for use.

(b) The approved retention period for temporary records shall be applied to microform copies of such records; the original records shall be destroyed upon verification of the microfilm, unless legal requirements preclude early destruction of the originals. The agency, not the Federal Records Center, is responsible for carrying out the provisions of this paragraph for records stored in a Federal Records Center. NARA approval is not required prior to implementation of this paragraph.

(c) Agencies proposing to retain and store the silver original microforms of permanent records after disposal of the original records shall include on the SF 115 a statement that the agency's storage conditions shall comply with the standards of § 1230.20 and that the inspections required by § 1230.22 will be performed.

§ 1230.12 Preparatory steps prior to filming.

(a) The integrity of the original records authorized for disposal shall be maintained by ensuring that the microforms are adequate substitutes for the original records and serve the purpose for which such records were created or maintained. Copies shall be complete and contain all information shown on the originals.

(b) The records shall be arranged, identified, and indexed so that any particular document or component of the records can be located. Each microform roll or fiche shall include accurate titling information on a titling target or header. At a minimum, titling information shall include the name of the agency and organization; the title of the records; the number or identifier for each unit of film; the security classification, if any; and the inclusive dates, names, or other data identifying the records to be included on a unit of film.

(c) Each microform shall contain an identification target showing the date of filming. When possible, to give the film copy better legal standing, the target shall also show the signature of the person authorizing the microfilming and the dated signature(s) of the camera operator(s). When the microfilm is directly generated by a computer (COM), the target shall contain the names of the persons since signatures cannot be conveniently added. See ANSI/AIIM (NMA) MS19–1987 for standards for identification targets.

(d) The following formats are mandatory standards for microforms.

(1) *Roll film.* The formats described in ANSI/AIIM (NMA) MS14–1988 shall be used for microfilming source documents or computer generated information (COM) on 16mm and 35mm roll film. A reduction ratio of 1:24 shall be used whenever document size and quality permits. See § 1230.14 (d) for determining the appropriate reduction ratio and format for meeting the image quality requirements. When microfilming on 35mm film for aperture card applications, the format dimensions in AIIM/MSS 32–1987, Table 1 shall be mandatory and the aperture card format "D Aperture" shown in ANSI/AIIM MS41–1988, Figure 1 shall be used.

(2) *Microfiche.* For microfilming source documents or computer generated information (COM) on microfiche, the appropriate formats and reduction ratios prescribed in ANSI/AIIM MS 5–1985 shall be used as specified for the size and quality of the documents being filmed. See § 1230.14 (d) for determining the appropriate reduction ratio and format for meeting the image quality requirements.

(e) *Index placement.* When filming original (source) documents all indexes, registers, or other finding aids, if microfilmed, shall be placed in the first frames at the beginning of a roll of film or in the last frames of a microfiche or microfilm jacket. Computer-generated microforms shall have the indexes following the data on a roll of film or in the last frames of a microfiche or microform jacket. Other index locations may be used only if dictated by special system constraints.

§ 1230.14 Film and image requirements for permanent records or unscheduled records.

(a) *Application.* The following standards shall apply to the microfilming of permanent records where the original paper record will be destroyed. Systems that produce original permanent records on microfilm with no paper originals, such as computer output microfilm (COM), shall be designed so that they produce microfilm which meets the standards of this section. Unscheduled records from systems such as COM must also meet the standards of this section. Unscheduled paper records may not be destroyed after microfilming.

(b) *Film stock standards.* Only polyester-based film that conforms to ANSI IT9.1–1988 shall be used in all applications, except when generating film to be spliced to existing rolls of cellulose acetate film, when cellulose triacetate film that conforms to ANSI IT91–1988 shall be used. To ensure protection for permanent records, agencies using microfilm systems which do not produce silver gelatin originals meeting these standards shall submit with the Standard Form 115 required by § 1230.10 a schedule for the production of silver gelatin duplicates meeting the standards.

(c) *Processing standards.* Microforms shall be processed so that the residual thiosulfate ion concentration will not exceed 0.014 grams per square meter in accordance with ANSI IT9–1–1988. Processing shall be in accordance with processing procedures in ANSI/AIIM (NMA) MS1–1981 and MS23–1983.

(d) *Quality standards.*—(1) *Resolution.* The method for determining minimum resolution on microforms of source documents shall conform to the Quality Index Method for determining resolution and anticipated losses when duplicating as described in ANSI/AIIM MS23–1983 and MS43–198. Computer Output Microforms (COM) shall meet the requirements of ANSI/AIIM MS1–1981. Resolution tests shall be performed using a NBS–SRM 1010a–1982, Microcopy Resolution Test Chart (a calibrated and certified photographic reproduction) as specified in ANSI/ISO 3334–1979, (the standard practice for using the test chart) and the patterns will be read following the instructions of ANSI/ISO 3334–1979. The character used to determine the height used in the Quality Index formula shall be the smallest character used to display information. A Quality Index of five is required at the third generation level.

(2) *Background density of images.* The background ISO standard visual diffuse transmission density on microforms shall be appropriate to the type of documents being filmed. The procedure for density measurement is described in ANSI/AIIM MS23–1983 and the densitometer shall be in accordance with ANSI/ISO 5/3–1984, for spectral conditions and ANSI/ISO 5/2–1985, for geometric conditions for transmission density. Recommended visual diffuse transmission background densities for images of documents are as follows:

Classification	Description of document	Background density
Group 1	High-quality, high-contrast printed books, periodicals, and black typing	1.3–1.5
Group 2	Fine-line originals, black opaque pencil writing, and documents with small high-contrast printing	1.15–1.4
Group 3	Pencil and ink drawings, faded printing, and very small printing, such as footnotes at the bottom of a printed page	1.0–1.2
Group 4	Low-contrast manuscripts and drawings, graph paper with pale, fine-colored lines; letters typed with a worn ribbon; and poorly printed, faint documents.	0.8–1.0
Group 5	Poor-contrast documents (special exception)	0.7–0.85

Recommended visual diffuse transmission densities for computer generated images are as follows:

Film type	Process	Density measurement method	Min. Dmax*	Max. Dmix*	Minimum density difference
Silver gelatin	Conventional	Printing or diffuse	0.75	0.15	0.60
Silver gelatin	Full reversal	Printing	1.50	0.20	1.30

*Character or line density, measured with a microdensitometer or by comparing the film under a microscope with an image of a known density.

(3) *Line or Stroke Width.* Due to optical limitations in most photographic systems, film images of thin lines appearing in the original document will tend to fill in as a function of their width and density. Therefore, as the reduction ratio of a given system is increased, the background density shall be reduced as needed to ensure that the copies produced will contain legible characters.

§ 1230.16 Film and image requirements for temporary records, duplicates, and user copies.

(a) *Film stocks.* The preferred film stock for all microforms is specified in § 1230.14(b). However, for economic reasons and systems applications, other film types may be better suited for microforms containing temporary records, and for duplicates and user copies. Diazo, vesicular, electrophotographic, and thermographic type films may be used to microfilm temporary records.

(b) *Processing.* The films will be processed according to the manufacturers' instruction.

(c) *Quality Standards.*—(1) *Resolution.* See § 1230.14(d)(1) for method of determining resolution. A Quality Index of five is recommended at the level of the specific number of generations used in the system for temporary records, duplicates and user copies.

(2) *Background density of images.* The densities recommended in § 1230.14(d)(2) apply to microforms of temporary records, duplicates and user copies. However, a ten percent per generation wider range is acceptable.

(i) For diazo and electrophotographic films with ISO standard visual diffuse transmission density shall be measured in accordance with ANSI/ISO 5/3–1984, ANSI PH2.18–1985 for spectral conditions and ANSI/ISO 5/2–1985, for geometric conditions.

(ii) For vesicular and other light scattering films the ISO standard for f/4.5 projection transmission density shall be measured in accordance with ANSI/ISO 5/2–1985, for geometric conditions for transmission density.

7. Subpart B is revised to read as follows:

Subpart B—Standards for the Storage, Use and Disposition of Microform Records

Sec.

§ 1230.20 Storage.
§ 1230.22 Inspection.
§ 1230.24 Use of microform records.
§ 1230.26 Dispostion of microform records.

Subpart B—Standards for the Storage, Use and Disposition of Microform Records

§ 1230.20 Storage.

(a) *Permanent records.* The conditions specified in ANSI PH1.43–1985 and ANSI IT9.2–1988, are required for storing permanent record microforms.

(b) *Temporary records.* Temporary microform records can be safely stored under the same conditions as temporary paper records.

§ 1230.22 Inspection.

(a) *Permanent records.*

(1) Master films of permanent records microfilmed in order to dispose of the original record and master films of permanent records originally created on microfilm shall be inspected when 2 years old and, until they are transferred to a Federal records center or to the National Archives, every 2 years thereafter. The inspection shall be made on a randomly selected sample consisting of 1000 microform units, or 1 percent of the total number of microform units in the collection, whichever is smaller. At least one microform unit must be inspected in collections of less than 100 units. The term "microform unit" refers to a single roll of microfilm, a microfiche, or similar appropriate unit for inspection. The term "collection" refers to microform units which were processed on the same equipment within a short time span and which have been stored together in the same environment since their creation.

(2) Microforms cannot be accepted for deposit with the National Archives of the United States until the first inspection (occurring after it is 2 years old) has been performed. Permanent microforms may be transferred to a Federal records center only after the agency has performed the first inspection or has certified that the microforms will be inspected by the agency, an agnecy contractor, or the Federal records center (on a reimbursable basis) when they become 2 years old.

(3) To facilitate inspection, an inventory of microfilm must be maintained, listing each microform series/publication by production date, producer, processor, format, and results of previous inspections.

(4) The elements of the inspection shall consist of:

(i) An inspection for aging blemishes following the guidelines in the AIIM/SIP34–1989;

(ii) A rereading of resolution targets;

(iii) A remeasurement of density; and

(iv) A certification of the environmental conditions under which the microforms are stored, as specified in § 1230.20(a)

(5) An inspection log shall be maintained and furnished in hard copy form to NARA in accordance with § 1230.26(b). Information to be contained in the log shall include:

(i) A complete description of all records tested (title; number or identifier for each unit of film; security classification, if any; and inclusive dates, names, or other data identifying the records on the unit of film);

(ii) The date of inspection;

(iii) The elements of inspection;

(iv) Any defects uncovered; and

(v) The corrective action taken.

In addition, the log shall contain the results of all archival film tests required by § 1230.14.

(6) A copy of the inspection report shall be furnished to NARA in accordance with § 1230.26(b). The inspection report shall include:

(i) The quantity of microform records on hand, i.e., number of rolls and number of microfiche;

(ii) The quantity of microforms inspected;

(iii) The condition of the microforms;

(iv) A summary of any defects discovered; and

(v) A summary of corrective action taken.

(7) An agency having in its custody a master microform that is deteriorating, as shown by the inspection, shall prepare a silver duplicate in accordance with § 1230.14 to replace the deteriorating master. The duplicated film will be subject to the 2-year inspection required before transfer to a Federal Record Center or to the National Archives.

(8) Inspection should be performed in an environmentally controlled area which avoids pollutant gases and particulates, temperatures in excess of 70 °F (20 °C) or relative humidities above 55 percent.

(b) *Temporary records.* Inspection by sampling procedures described in § 1230.22(a) is recommended but not required.

§ 1230.24 Use of microform records.

(a) The master microform shall not be used for reference purposes. Duplicates shall be used for reference and for further duplication on a recurring basis or for large-scale duplication, as well as for distribution of records on microform. Agency procedures shall ensure that the master microforms remain clean and undamaged during the duplication process.

(b) Agencies retaining the original record in accordance with an approved

records disposition schedule may apply agency standards for the use of microform records.

§ 1230.26 Disposition of microform records.

The disposition of microform records shall be carried out in the same manner prescribed for other types of records in part 1228 of this chapter with the following additional requirements:

(a) The silver gelatin original (or a silver gelatin duplicate negative microform record created in accordance with § 1230.14) plus one copy (silver, diazo, electrophotographic, or vesicular) of each permanent or unscheduled record microfilmed by an agency, shall be transferred to an aprpoved agency records center, the National Archives, or to a Federal records center, at the time that the records are to be retired in accordance with the approved records disposition schedule. Non-silver copies must be packaged separately and stored separately from silver originals.

(b) The microforms shall be accompanied by:

(1) Information identifying the agency and organization; the title of the records; the number or identifier for each unit of film; the security classification, if any; the inclusive dates, names, or other data identifying the records to be included on a unit of film;

(2) Any finding aids relevent to the microform that are not contained in the microform; and

(3) The inspection log forms and inspection reports required by § 1230.22(a) (5) and (6).

(c) The information required in this paragraph (b) shall be attached to the SF 135 when records are being transferred to a Federal records center and to the SF 258 when records are being transferred to the legal custody of the National Archives.

Dated: August 22, 1989.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 89-21374 Filed 9-11-89; 8:45 am]

BILLING CODE 7515-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-AD99

Definition of Marginal Employment in Consideration of Total Evaluations Based on Individual Unemployability

AGENCY: Department of Veterans Affairs.

ACTION: Correction; proposed regulations.

SUMMARY: On August 28, 1989, commencing on page 35507 (54 FR 35507-35508), the Department of Veterans Affairs (VA) published a proposed rule to amend the Schedule for Rating Disabilities to define marginal employment in consideration of total disability ratings based on unemployability of an individual. In § 4.16 a phrase was inadvertently left out of the published text. The portion left out currently appears in 38 CFR 4.16 and was to remain as published. VA is republishing that text to prevent any confusion over the changes being made. In addition, a typographical error in § 4.16(a) is being corrected. VA regrets the errors and hereby corrects them.

FOR FURTHER INFORMATION CONTACT: Mr. Joel Drebmus, Consultant, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, (202) 233-3005.

List of Subjects in 38 CFR Part 4

Handicapped, Pensions, Veterans.

Dated: September 6, 1989.

Donald R. Howell,

Acting Chief, Directives Management Division.

PART 4—[CORRECTED]

1. On page 35508, in the third column, in 38 CFR part 4, Schedule for Rating Disabilities, in § 4.16(a) the first sentence of the undesignated flush left paragraph is corrected to read as follows:

§ 4.16 [Corrected]

(a) *Total disability ratings for compensation based on unemployability of the individual.*

* * * * *

It is provided further that the existence or degree of nonservice-connected disabilities or previous unemployability status will be disagarded where the percentages referred to in this paragraph for the service-connected disability or disabilities are met and in the judgment of the rating agency such service-connected disabilities render the veteran unemployable.

* * * * *

2. On the same page, in the same column, in § 4.16(a), in the undesignated flush left paragraph remove the phrase "as the poverty threshold of one person." where is appears and add, in its place, the phrase "as the poverty threshold for one person.".

[FR Doc. 89-21366 Filed 9-11-89; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS-66008G; FRL-3645-3]

Polychlorinated Biphenyls; Manufacturing, Processing, and Distribution in Commerce Exemptions; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and reopening of comment period.

SUMMARY: This notice reopens the comment period on an amendment to a petition in the proposed rule issued in the **Federal Register** of August 24, 1988. EPA has accepted for review an amendment to the exemption petition from the prohibition against the processing and distribution in commerce of polychlorinated biphenyls (PCBs). In this document, EPA proposes to grant the amendment exemption petition. EPA, thereby, reopens the comment period and solicits comment on the amendment to this petition only.

DATES: This document reopens the comment period only for the additional amendment to a petition as described herein until October 12, 1989. An informal hearing will be scheduled if requested.

ADDRESSES: All comments should reference the docket control number OPTS-66008G, and be sent in triplicate to: TSCA Public Docket Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. G004 NE Mall, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St. SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION:

I. Background

For a discussion of the statutory authority for this rulemaking, the history of this rulemaking, and standards for granting an exemption, see the proposed rule issued in the **Federal Register** of August 24, 1988 (53 FR 32326).

II. Disposition of Pending Exemption Petitions

On July 26, 1988, Electrical Apparatus Service Association (EASA) submitted to EPA an amendment to their current

exemption petition to allow processing and distribution in commerce of PCB-contaminated fluid from component parts during activities of servicing and buying and selling of used transformers, while a double-rinse method for the non-porous components from PCB-contaminated transformers is being developed.

EASA also asserts both economic loss and detriment to society if reuse of the component parts is prohibited. Although EPA makes no judgment regarding this claim, EPA acknowledges that without stocks of component parts, there could be a severe detriment to equipment users as a result of the interruption of electrical services as well as the premature disposal of reusable units.

Therefore, due to the non-porous nature of these component parts and because of the relatively small amounts of PCBs involved (less than 10 percent of the original petition amount), EPA has determined that the activity of reusing non-porous component parts, does not pose an unreasonable risk under TSCA, section 6(e)(3)(B)(i).

To demonstrate compliance with the TSCA good faith efforts standard, EASA also submitted evidence to EPA that there may be no substitute for some components needed to repair or rebuild equipment, and that it is not feasible to sample the existing stockpiles of components for historic PCB contamination.

EASA submitted a substantial amount of evidence to indicate an effort to develop a double-rinse procedure similar to that in the spill clean-up policy. EASA maintains that the introduction of the double-rinsed, non-porous component parts back onto the PCB-contaminated transformers will not change the original parts per million PCB content of the transformer into which the component is incorporated.

EPA concludes that an exemption that is limited to processing and distribution in commerce of the PCB residues on non-porous transformer component parts meets both the no unreasonable risk and good faith efforts standards.

Therefore, EPA has determined to grant the petition for 1 year to continue processing and distribution in commerce of non-porous components that may have PCB residues. EPA has determined that the renewal of a class exemption for EASA members to reuse components, will be contingent upon EASA members showing further efforts to reduce their involvement with PCBs during buying and selling activities.

It shall be incumbent upon the petitioner, in future requests for renewal of their exemption, to show evidence of good faith efforts in eliminating their inventories of PCB-contaminated transformers in uncontained storage areas and, also, that establishing stockpiles of component parts can be effectively decontaminated.

III. Official Rulemaking Record

This proposed rule is a continuation of docket number OPTS–66008F and includes all information listed in the original proposed rule published in the **Federal Register** of August 24, 1988 (53 FR 32326).

IV. Other Regulatory Requirements

EPA discussed Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act in detail in the August 24, 1988 proposal, and no changes are indicated for this document.

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements.

Dated: August 24, 1989.

Michael Shapiro,

Acting Director, Office of Toxic Substances.

Therefore, it is proposed that 40 CFR part 761 be amended as follows:

PART 761—[AMENDED]

1. The authority citation for part 761 would continue to read as follows:

Authority: 15 U.S.C. 2605, 2607, and 2611; subpart G is also issued under 15 U.S.C. 2614 and 2616.

2. Section 761.80 is amended by adding paragraph (p) to read as follows:

§ 761.80 Manufacturing, processing, and distribution in commerce exemptions.

* * * * *

(p) The Administrator grants the following petitioner 1 year to continue to process and distribute in commerce non-porous components that may have PCB residues.

(1) Electrical Apparatus Service Association, St. Louis, MO 63132, provided the following conditions are met:

(i) Demonstration of the efficacy of a method to decontaminate existing stocks of non-porous components.

(ii) A list showing that the PCB-contaminated transformers in inventory have been identified and placed in PCB storage areas with proper containment as outlined in § 761.65(b).

(iii) Evidence that all future sources of the components, including inventories of PCB-contaminated transformers stored onsite for reuse, shall be properly identified and managed.

(2) [Reserved]

[FR Doc. 89–21413 Filed 9–11–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 22, 90

[General Docket 88–96]

Amendment of the Commission's Rules Relative to Allocation of the 849–851/894–896 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; motion to accept late-filed comments.

SUMMARY: This action accepts late-filed comments filed by the Goeken Group Corporation (Goeken Group) to the *Notice of Proposed Rule Making* in this proceeding. Further, it provides for reply comments to the Goeken Group comments to be filed until October 9, 1989. This action is in response to a *Motion To Accept Late Filed Comments*, filed by the Goeken Group. The Goeken Group requested that the comments be accepted since they provide new information that could not have been filed in a timely manner due to Mr. John Goeken's affiliation at that time with the GTE Corporation.

DATES: Reply comments are due October 9, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rodney Small, telephone (202) 653–8116.

SUPPLEMENTARY INFORMATION: The Proposed Rule was published on May 13, 1988, 53 FR 17082.

Federal Communications Commission.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 89–21318 Filed 9–11–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–384, RM–6884]

Radio Broadcasting Services; Epworth, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Margaret

Keefer seeking the allotment of Channel 247C3 to Epworth, Iowa, as the community's first local FM service. Channel 247C3 can be allotted to Epworth in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for the allotment are North Latitude 42–26–42 and West Longitude 90–55–55.

DATES: Comments must be filed on or before October 27, 1989, and reply comments on or before November 13, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Margaret Keefer, 811 Duke, Rice Lake, Wisconsin 54868 (Petitioner), Larry G. Fuss, P.O. Box 159, Fayetteville, Georgia 30214 (Consultant to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 89–384, adopted August 22, 1989, and released September 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commmission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–21319 Filed 9–11–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–385, RM–6892]

Radio Broadcasting Services; Glen Arbor and Scottsville, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed jointly by David Schaberg and West Shore Broadcasting. David Schaberg requests the substitution of FM Channel 240C2 for Channel 240A at Glen Arbor, Michigan, and modification of his construction permit for Channel 240A to specify operation on Channel 240C2. West Shore Broadcasting proposes the substitution of Channel 235C3 for Channel 240A at Scottsville, Michigan, and modification of the license for Station WKZC to the higher class channel. The coordinates for Channel 240C2 are 44–51–00 and 85–45–00 and the coordinates for Channel 235C3 are 44–04–40 and 86–25–00. Canadian concurrence will be obtained for the allotment of Channel 240C2 at Glen Arbor and Channel 235C3 at Scottsville.

DATES: Comments must be filed on or before October 27, 1989, and reply comments on or before November 13, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

David C. Schaberg, P.O. Box 21055, Lansing, Michigan 48909–1055, (Permittee of Channel 240A, Glen Arbor)

Katheryn Ziehm, West Shore Broadcasting, P.O. Box 36, Scottsville, Michigan, (Licensee of Station WKZC, Channel 240A, Scottsville)

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 89–385 adopted August 21, 1989, and released September 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–21320 Filed 9–11–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–382, RM–6753]

Radio Broadcasting Services; Blue Earth, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by KBEW, Inc., proposing the allotment of FM Channel 270C3 to Blue Earth, Minnesota, as that community's second FM broadcast service. The coordinates used for Channel 270C3 at Blue Earth with a site restriction 19.0 kilometers northwest are 43–43–15 and 94–18–21.

DATES: Comments must be filed on or before October 27, 1989, and reply comments on or before Novemher 13, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David E. Hilliard, Edward A. Yorkgitis, Jr., Wiley, Rein & Fielding,

1776 K Street NW., Washington, DC 20006, (Counsel for KBEW, Inc.).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 89-382, adopted August 22, 1989, and released September 5, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to the proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-21321 Filed 9-11-89; 8:45am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-383, RM-6917]

Radio Broadcasting Services; Cambridge, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Monday Media, Inc., proposing the substitution of FM Channel 287C3 for Channel 288A at Cambridge, Minnesota. Canadian concurrence will be sought for this allotment at coordinates 45-26-40 and 93-11-45.

DATES: Comments must be filed on or before October 27, 1989, and reply comments on or before November 13, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Steven A. Lerman, Sally A. Buckman, Leventhal, Senter & Lerman, 2000 K Street, NW., Suite 600, Washington, DC 20006, (Counsel for the petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 89-383, adopted August 22, 1989, and released September 5, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-21322 Filed 9-11-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-377, RM-6876]

Radio Broadcasting Services; Waite Park, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a proposal filed by Ronald J. Linder requesting the substitution of FM Channel 279C3 for Channel 279A at Waite Park, Minnesota, and modification of his permit for Channel 279A to specify the higher class channel. The coordinates for Channel 279C3 are 45-28-03 and 94-09-18.

DATES: Comments must be filed on or before October 27, 1989, and reply comments on or before November 13, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Ronald J. Linder, Genesis Broadcast Complex, 1986 Julep Road, P.O. Box 5119, St. Cloud, Minnesota 56302.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 89-377, adopted August 15, 1989, and released September 5, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-21323 Filed 9-11-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-386, RM-6880]

Radio Broadcasting Services; Orangeburg, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Wilkes-Posey Broadcasting Inc. seeking the substitution of Channel 280C3 for Channel 280A at Orangeburg, South Carolina, and the modification of its license for Station WKSO to specify operation on the higher powered channel. Channel 280C3 can be allotted to Orangeburg in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.1 kilometers (6.3 miles) north to avoid a short-spacing to Station WGEC, Channel 280A, Springfield, Georgia, and to accommodate petitioner's desired transmitter site. The coordinates for this allotment are North Latitude 33-35-00 and West Longitude 80-50-00. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 280C3 at Orangeburg or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before October 27, 1989, and reply comments on or before November 13, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Wilkes-Posey Broadcasting, Inc., P.O. Box 430, Orangeburg, South Carolina 29115 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 89-386, adopted August 21, 1989, and released September 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-21324 Filed 9-11-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-381, RM-6739]

Radio Broadcasting Services; Amarillo, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Amarillo Community Broadcasting Company, proposing the allotment of Channel 265C1 to Amarillo, Texas, as that community's ninth local FM service. The proposed allotment can be made consistent with the Commission's minimum distance separation requirements at the city reference coordinates. The coordinates are 35-12-30 and 101-50-00.

DATES: Comments must be filed on or before October 27, 1989, and reply comments on or before November 13, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Richard J. Hayes, Jr., Esquire, 1359 Black Meadow Road, Spotsylvania, VA 22553 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 89-381, adopted August 22, 1989, and released September 5, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-21325 Filed 9-11-89; 8:45am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

Intent To Prepare an Environmental Impact Statement for the Corporate Average Fuel Economy Program

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

ACTION: Notice of intent.

SUMMARY: NHTSA is issuing this Notice to advise the public that a programmatic Environmental Impact Statement (EIS) will be prepared to address the environmental impacts of the Corporate Average Fuel Economy (CAFE) program for passenger cars and light trucks. The EIS will address the potential environmental impacts which could arise from NHTSA's setting and amending CAFE standards for passenger cars, as well as the agency's actions in setting and amending CAFE standards for light trucks.

DATE: Comments on this notice must be received by the agency no later than November 13, 1989.

ADDRESS: Comments should refer to the docket number and notice number and be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 7th Street SW., Washington, DC, 20590. Docket hours are 8:00 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, National Highway Traffic Safety Administration, 400 7th Street SW., Washington, DC 20590 (202) 366–0846.

SUPPLEMENTARY INFORMATION: Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 *et seq.*, as amended) requires the Secretary of Transportation to administer a program for regulating the average fuel economy of new passenger cars and light trucks in the U.S. market. The authority to administer the program has been delegated by the Secretary to the Administrator of NHTSA.

NHTSA's general responsibilities with regard to fuel economy include (1) establishing and amending average fuel economy standards for manufacturers of passenger cars and light trucks, as appropriate, (2) promulgating regulations concerning procedures, definitions and reports necessary to administer the fuel economy standards, and (3) enforcing fuel economy standards and regulations.

Section 502 sets the CAFE standard for passenger cars at 27.5 mpg for model year (MY) 1985 and beyond. Section 502(a)(4) of the Act authorizes, but does not require, NHTSA to amend the 27.5 mpg standard for 1985 or any subsequent model year. If the standard is amended for a particular model year, it must be set at a level which is the maximum feasible average fuel economy for that year. In determining the maximum feasible average fuel economy level, the agency is required by section 502(e) of the Act to consider the following four factors: (1) Technological feasibility, (2) economic practicability, (3) the effect of other Federal motor vehicle standards on fuel economy, and (4) the need of the nation to conserve energy.

Pursuant to section 502(f)(2), any amendment that has the effect of making a CAFE standard more stringent must be promulgated at least 18 months prior to the beginning of the model year in question. The legislative history of the Act provides that amendments reducing a standard must be promulgated prior to the commencement of the model year in question.

The Act does not require absolute achievement of the standard by manufacturers for each model year. Instead, it allows a shortfall in one year (or years) to be offset if a manufacturer exceeds the standard for another year (or years). Credits for exceeding average fuel economy standards may be carried back for three model years, or carried forward for three model years. If a manufacturer still does not meet the standard after taking credits into account, it is liable to the Federal government for civil penalties under section 508.

Acting in accordance with the provisions discussed above, NHTSA has on several occasions reduced the statutory passenger car CAFE standard. It reduced the 27.5 mpg standard to 26.0 mpg for MY's 1986, 1987, and 1988, and to 26.5 mpg for MY 1989. Most recently, in May 1989, NHTSA issued a notice terminating a rulemaking that it had commenced to consider amending the standard for MY 1990. As a result, the standard for MY 1990 remains at the statutory level of 27.5 mpg. A detailed discussion of these rulemakings and the bases for the agency's decisions is found in the May 1989 termination notice (54 FR 21985, May 22, 1989).

Although NHTSA's authority to amend the statutory standard for passenger cars is discretionary, the agency is required by section 502(b) of the Cost Savings Act to set standards each model year for light trucks. Such standards must be prescribed at least 18 months prior to the beginning of the affected model year. Following the same statutory criteria as for passenger car standards regarding selection of the maximum feasible level, in recent years NHTSA set the light truck standard at 20.0 mpg for MY 1986, 20.5 mpg for MY 1987 through MY 1989, 20.0 mpg for MY 1990, and 20.2 mpg for MY 1991 (alternative standards for 2-wheel drive and 4-wheel drive light trucks are also provided for each of those years). In addition, the agency has twice reduced the standard for light trucks, once in MY 1985, and once in MY 1981, for two-wheel drive trucks. A comprehensive discussion of the agency's decisions with regard to light truck fuel economy standards is found in the April 1988 final rule setting light truck standards for MY's 1990 and 1991 (53 FR 11090, April 5, 1988).

In the May 1989 termination notice, NHTSA announced that it had determined that it would be appropriate at this time to prepare a programmatic EIS to address the possible cumulative environmental impacts of NHTSA's past and possible future actions relating to the amendment of passenger car standards, as well as those from setting or amending standards for light trucks. In recent years, NHTSA has not prepared an EIS in connection with the CAFE program. Instead, on the basis of environmental assessments and supplements addressing the potential impacts of each proposed action, it concluded that those actions would not have a significant environmental impact.

Under the Council on Environmental Quality (CEQ) regulations, the first step following an agency decision to prepare an EIS is to initiate the scoping process to identify significant issues and determine the scope of issues to be addressed. Comments are requested on the types of impacts which should be analyzed and their relative significance so that the detail of analysis may be geared to potential significance of impact. Among the environmental impacts suggested by the public in past CAFE rulemaking actions were those related to changes in petroleum consumption, emissions of pollutants and their impacts on large cities and non-attainment areas under the Clean Air Act, oil spills, and global warming. Comments are also requested on the extent to which any mitigation measures are available to NHTSA in light of its statutory mandate to set CAFE standards at the maximum feasible level.

Public involvement and interagency coordination will be maintained throughout the development of the EIS. Members of the public and interested Federal, state and local agencies are also invited to comment on evaluation criteria to be used to consider any significant environmental impacts associated with the agency's actions in implementing the CAFE program.

Finally, the commenters are requested to indicate whether they would be interested in attending a public scoping meeting later this year to discuss the issues identified in the comments. A notice announcing the number, date and location of the meeting or meetings will be published in the **Federal Register** within 30 days after the closing of the public comment period for this notice.

Issued September 6, 1989.

Jeffrey R. Miller,

Acting Administrator.

[FR Doc. 89–21335 Filed 9–11–89; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 54, No. 175
Tuesday, September 12, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service
Bear Mountain Ski Area; Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement for a proposal to permit the expanded development of Bear Mountain Ski Area on the Big Bear Ranger District, San Bernardino National Forest, San Bernadino County, California. The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by October 27, 1989.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Charles H. Irby, Forest Supervisor, San Bernardino National Forest, 1824 S. Commercenter Circle, San Bernadino, California 92408–3430.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement (EIS) to Marion Borrell, Recreation Officer, Big Bear Ranger District, P.O. Box 290, Fawnskin, California 92333, telephone: 714–866–3437.

SUPPLEMENTARY INFORMATION: The San Bernardino National Forest Land and Resource Management Plan was completed in January 1989. The management direction in the Plan called for the expansion of existing ski areas.

In preparing the EIS, the Forest Service will evaluate the Bear Mountain Ski Resort Winter Sports 1989 Development Plan and identify and consider a range of alternatives for this site, including those considered in the environmental assessment (EA) for which a Decision Notice and Finding of No Significant Impact was issued on June 29, 1989. This Decision and Finding of No Significant Impact was withdrawn and replaced with a new one on August 23, 1989, as a result of four appeals which indicated that not all issues had been adequately addressed nor were all issues resolved through the mitigation measures identified in the EA. Alternatives will consider development designs with capacities ranging from the existing 6,100 to approximately 10,000 skiers at one time. Alternative locations for new uphill facilities, ski runs, and support facilities also will be considered.

Charles H. Irby, Forest Supervisor, San Bernadino National Forest, San Bernardino, California, is the responsible federal official.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used, in conjunction with the input received in response to the environmental assessment, in the preparation of the draft environmental impact statement (DEIS). The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

The City of Big Bear Lake, California will be jointly preparing an environmental impact report (EIR) to evaluate potential impacts which would be created by implementation of the development plan.

Bear Mountain, Ltd. has retained the services of Michael Brandman Associates to develop the joint EIS/EIR. Public scoping meetings will be held at the City of Big Bear Lake City Hall, 39707 Big Bear Blvd., Big Bear Lake, CA at 7:00 p.m. on October 19, 1989 and 10:00 a.m. on October 21, 1989.

The DEIS/EIR is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by January 1990. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register.**

The comment period on the DEIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register.** It is very important that those interested in the management of the Bear Mountain Ski Area participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of a DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the FEIS. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

After the comment period ends on the DEIS, the comments will be analyzed and considered by the Forest Service in preparing the FEIS. The FEIS is scheduled to be completed by April 1990. In the FEIS, the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of

Decision. That decision will be subject to appeal pursuant to 36 CFR 217.3 (Federal Register, Vol. 54, No. 13, January 23, 1989, pages 3357 to 3362).

Dated: September 1, 1989.

Charles H. Irby,

Forest Supervisor.

[FR Doc. 89-21333 Filed 9-11-89; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Information Collection 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: Patent and Trademark Office (PTO).

Title: Rules for Patent Maintenance Fees.

Form Number: Agency—PTO-1536; OMB—0651-0016.

Type of Request: Extension of the expiration date.

Burden: 56,992 respondents; 4,560 reporting hours. Average hours per response is .08 hours.

Needs and Uses: The patent number and serial number of the patent on which maintenance fees are paid are required in order to insure proper crediting of such payments. Such payments are required to maintain a patent in effect.

Affected Public: Individuals, businesses or other for profit institutions, Federal agencies or employees.

Frequency: Once every four years.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Robert Veeder, 395-3785.

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 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Robert Veeder, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: September 6, 1989

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-21398 Filed 9-11-89; 8:45 am]

BILLING CODE 3510-0W-M

Agency Information Collection 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: Patent and Trademark Office (PTO).

Title: Patent Cooperation Treaty Chapter II.

Form Number: Agency—PCT/IPEA/409; OMB—0651-0021.

Type of Request: Extension of the expiration date.

Burden: 2,350 respondents; 2,350 reporting hours. Average hours per response is one hour.

Needs and Uses: PTO needs certain information from applicants using the preliminary examination procedures under Chapter II of the Patent Cooperation Treaty in order to meet the requirements of the Treaty.

Affected Public: Individuals, businesses or other for-profit institutions, Federal agencies or employees.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: Robert Veeder, 395-3785.

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 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Robert Veeder, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: September 6, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-21399 Filed 9-11-89; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis.

Title: Benchmark Survey of U.S. Direct Investment Abroad-1989.

Form Number: Agency—BE-10; OMB 0608-0049.

Type of Request: Reinstatement of a previously approved collection for which approval has expired.

Burden: 2,500 respondents; 390,100 reporting hours.

Average Hours Per Response: 156 hours.

Needs and Uses: The purpose of the benchmark survey of U.S. direct investment abroad is to obtain universe data on the financial and operating characteristics of, and on positions and transactions between, U.S. parent companies and their foreign affiliates. The data from the survey will provide benchmarks for deriving current universe estimates of direct investment from sample data collected in other BEA surveys in nonbenchmark years. The data are needed to measure the size of U.S. direct investment abroad, monitor changes in such investment, assess its impact on the U.S. and foreign economies, and, based upon this assessment, make informed policy decisions regarding U.S. indrect investment abroad. They are required for compiling the balance of payments, international investment position, and national income and product accounts of the United States.

Affected Public: Businesses or other for-profit institutions.

Frequency: Quinquennial.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Donald Arbuckle, 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 Donald Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 6, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-21400 Filed 9-11-89; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Exporters' Textile Advisory Committee; Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held on October 12, 1989. The meeting will be

from 10:00 a.m. in the David Dubinsky Student Center, also known as Building A, at the Fashion Institute of Technology, 227 West 27th Street, New York.

The Committee advises Department of Commerce officials on textile and apparel export issues.

Agenda: Reports on conditions in the export market; review of Office of Textiles and Apparel export expansion activities; and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact William Dawson (202/377–4324).

Dated: September 7, 1989.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–21428 Filed 9–11–89; 8:45 am]

BILLING CODE 3510–DR–M

Patent and Trademark Office

Public Advisory Committee for Trademark Affairs; Meeting

AGENCY: Patent and Trademark Office.

ACTION: Notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the open meeting of the Public Advisory Committee for Trademark Affairs.

DATE: The Public Advisory Committee for Trademark Affairs will meet from 10:00 a.m. until 4:00 p.m. on October 17, 1989.

Place: Days Inn Crystal City, 2000 Jefferson Davis Highway, Arlington, Virginia.

Status: The meeting will be open to public observation; seating will be available for the public on a first-come-first-served basis. Members of the public will be permitted to make oral comments of three (3) minutes each. Written comments and suggestions will be accepted before or after the meeting on any of the matters discussed. Copies of the minutes will be available upon request.

Matters To Be Considered: The agenda for the meeting is as follows:

(1) Finance;
(2) Automation;
(3) Implementation of Intent-to-Use;
(4) Strategic Planning; and
(5) Trademark Examining Operation.

Contact Person for More Information: For further information, contact Carlisle E. Walters, Office of the Assistant Commissioner for Trademarks, Room CPK2–910, Patent and Trademark Office, Washington, DC 20231. Telephone: (703) 557–7464.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 89–21394 Filed 9–11–89; 8:45 am]

BILLING CODE 3510–16–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Feasibility Report and Environmental Impact Statement on Flood Control Improvements Along the Petaluma River, City of Petaluma, Sonoma County, CA

AGENCY: U.S. Army Corps of Engineers (San Francisco District), Department of Defense.

ACTION: Notice of intent (NOI) to Prepare a Draft Feasibility Report and Environmental Impact Statement (EIS).

SUMMARY: The Corps of Engineers (Corps) is currently conducting a Feasibility Study of flood control improvements along the Petaluma River authorized for study under section 205 of the Flood Control Act of 1948, as amended. The primary objective of this study is to recommend a solution(s) to the highly flood prone Payran Street area from Lakeville Avenue to the Lynch Creek confluence, along with any recommendation for Federal participation in implementing a project.

The study will include analysis of flood control improvements along 3,500 feet of the Petaluma River adjacent to the Payran reach area. The purpose of the proposed project would be to reduce the severity of flooding on residential and commercial development, thereby reducing flood hazards and damages in the affected areas.

FOR FURTHER INFORMATION CONTACT: Questions regarding the preparation of the Feasibility Report should be directed to Don Hancock, Design Branch, U.S. Army Corps of Engineers, San Francisco District, 211 Main Street, San Francisco, California 94105–1905, (Telephone 415–974–0394). Questions regarding the scoping process or the EIS should be directed to Dave Hodges, Environmental Branch, U.S. Army Corps of Engineers, San Francisco District, 211 Main Street, San Francisco, California 94105–1905 (Telephone 415–974–0439).

SUPPLEMENTARY INFORMATION:

Petaluma River Flood Control Alternatives

The Reconnaissance Report for flood control improvements on the Petaluma River identified several plans to be carried forward for further study. The Corps will consider the following alternatives (which are subject to modification as updated information and data becomes available) in the draft Feasibility Report and EIS:

a. No-Action Plan

The no-action plan would result in the continued flooding of the Petaluma River in the city of Petaluma. This would result in continued damage during the winter seasons when flood discharges would exceed the existing carrying capacity of the Petaluma River. The most critical area affected by this flooding would be Lakeville Avenue to Payran Street reach.

b. Petaluma River Channel Improvements, 25-Year Plan

This alternative consists of a 3,500-foot long excavated trapezoidal channel with a bottom width of 50 feet and side slopes of 1 Vertical on 2.5 Horizontal. Because of the relatively low flow velocity, riprap bank protection is not considered necessary. Removal and replacement of several automobile and railroad bridges that cross the Petaluma River would be required. In addition, a sanitary sewer line which is presently an obstruction to flow, would be raised.

c. Petaluma River Channel Improvements, 50-Year Plan

This alternative is identical to the 25-year plan except that the channel bottom width is increased to 70 feet and would require the removal of one home.

d. Petaluma River Channel Improvements, 100-Year Plan

This plan is identical to the 25-year and the 50-year plan, except that the channel bottom width is increased to 90 feet and would require the removal of two homes, as well as two structures located on the east side of the Lakesville Avenue bridge, and three structures upstream of Lakeville Avenue before Edith Street. Additionally, this plan requires moderate improvements around the Washington Street bridge. These improvements would consist of clearing the silt from under the bridge and adding a 280-foot long sheet pile bulkhead wall to the north bank to ensure bank stabilization.

Additional alternatives identified during the course of the study will be considered in the draft Feasibility Report and EIS.

Corps Scoping Process

The scoping of the Petaluma River flood control improvements project will involve identifying the scope of issues to be addressed for in-depth analysis.

a. The scoping process will include public participation in order to integrate information regarding public needs and concerns into the draft EIS. A public involvement program has therefore been planned. A scoping meeting will be held on September 25, 1989, at the Petaluma City Council Chambers, 11 English Street, from 7:00 p.m. until 11:00 p.m. Written comments may be sent to the U.S. Army Corps of Engineers, San Francisco District, 211 Main Street, San Francisco, California 94105-1905, ATTN: Environmental Branch (Dave Hodges). Written comments should be received no later than 45 days after the date of NOI publication. Governmental agencies, public and private interests groups, and the public are invited to participate in the scoping process.

b. The Corps is planning to conduct in-depth studies of the following issues:

(1) Hydrology (including stream sedimentation and erosion);

(2) Fish and wildlife resources and habitat;

(3) Riparian habitat;

(4) Hazardous materials;

(5) Cultural resources;

(6) Recreation and public access;

(7) Aesthetic quality.

c. Environmental review and other consultation requirements applicable to EIS preparation include:

(1) National Environmental Policy Act, as amended;

(2) Clean Air Act, as amended;

(3) Clean Water Act, as amended;

(4) Archaeological and Historic Preservation Act;

(5) National Historic Preservation Act, as amended;

(6) Executive Order 11593—Protection and Enhancement of the Cultural Environment;

(7) Fish and Wildlife Coordination Act;

(8) Endangered Species Act, as amended;

(9) Executive Order 11988—Floodplain Management.

City and County plans and ordinances, as well as other applicable statues or regulations, will be addressed during the preparation of the draft EIS.

Availability of Report

The Corps expects to complete preparation of the draft Feasibility Report and EIS and have review copies of its available on or before September 1990.

Galen H. Yanagihara,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 89-21370 Filed 9-11-89; 8:45 am]

BILLING CODE 3710-FS-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Minority Participation in Graduate Education Program

AGENCY: Department of Education.

ACTION: Notice changing the application deadline date for the grants to institutions to encourage minority participation in graduate education program.

On August 16, 1989, the Assistant Secretary for Postsecondary Education published in the **Federal Register** (54 FR 33816), a notice inviting applications for the Grants to Institutions to encourage minority participation in graduate education program. This document changes the application deadline date to October 10, 1989. The application deadline date which appeared in the notice of August 16, 1989 is October 9; October 9, 1989 is a Federal holiday.

FOR FURTHER INFORMATION CONTACT: Mr. Walter T. Lewis, Program Manager, or Mrs. Barbara J. Harvey, U.S. Department of Education, Division of Higher Education Incentive Programs, Mail Stop 5338, 400 Maryland Avenue SW., Room 3022, ROB-3, Washington, DC 20202-5251. Telephone (202) 732-4393 or 732-4863, respectively.

Dated: September 5, 1989.

Roberta B. Dunn,

Acting Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance No. 84-202, Grants to Institutions to Encourage Minority Participation in Graduate Education Program)

[FR Doc. 89-21336 Filed 9-11-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 89-44-NG]

Conoco Inc.; Application to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Application for Blanket Authorization to Import Natural Gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on July 17, 1989, of an application filed by Conoco Inc. (Conoco) for blanket authorization to import up to 20 Bcf of Canadian natural gas over a two-year period beginning on the date of the first delivery. The gas would be purchased from Conoco Canada Limited, a Conoco subsidiary, and other Canadian producers to fulfill potential customer needs. Conoco proposes to submit quarterly reports giving details of individual transactions.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than October 12, 1989.

FOR FURTHER INFORMATION CONTACT:

Perry Bolger, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3H-055B, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-1789.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Conoco is a Delaware corporation with its petroleum operation headquarters in Houston, Texas. Under the blanket authority sought, Conoco intends to import gas from Canada on a short-term and spot basis for resale to or as agent for undesignated purchasers located primarily in the western United States. The specific terms of each import transaction would be negotiated on an individual basis in response to prevailing gas market conditions.

To the extent gas is imported by Conoco as agent, the specific location where the gas would enter the U.S. may vary for different transactions with delivery points to be established during sales contract negotiations. In support of its application, Conoco asserts that transactions negotiated under the authority requested would be competitive with other, domestic gas supply alternatives, and would be sufficiently flexible to remain competitive over the term. Conoco states that only existing pipeline

facilities will be utilized to transport the volumes proposed to be imported.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines for the requested import authority. The applicant asserts that imports made under this requested arrangement will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices on intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., e.d.t., October 10, 1989.

A decisional record on the application will be developed through responses to this notice by parties, including the parties written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Conoco's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on September 5, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–21422 Filed 9–11–89; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–36–NG]

Northern Natural Gas Co., Division of Enron Corp; Order Granting Blanket Authorization To Import National Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Order Granting Blanket Authorization to Import Natural Gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued an order granting Northern Natural Gas Company, Division of Enron Corp. (Northern), blanket authorization to import natural gas from Canada. The order issued in FE Docket No. 89–36–NG authorizes Northern to import up to 219 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery.

A copy of the order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday except on Federal holidays.

Issued in Washington, DC., September 5, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossile Energy.

[FR Doc. 89–21423 Filed 9–11–89; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. FE C&E 89–17; Certification Notice—43]

Filing Certification of Compliance; Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended, ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (section 201(a), 42 U.S.C.

8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. Three owners and operators of proposed new electric base load powerplants have filed self certifications in accordance with section 201(d). Further information is provided in the SUPPLEMENTARY INFORMATION section below.

SUPPLEMENTARY INFORMATION: The following companies have filed self certifications:

Name	Dated received	Type of Facility	Megawatt capacity	Location
Cogen Technologies, Inc., Houston, TX	08-21-89	Combined Cycle	229	Everett, MA
Cornerstone Energy Company, Miami, FL	08-21-89	Combined Cycle	45	Boulder City, NV
Masspower, Boston, MA	08-16-89	Combined Cycle	240	Springfield, MA

Amendments to the FUA on May 21, 1987, (Pub. L. 100-42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self certification procedure.

Issued in Washington, DC on September 5, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-21424 Filed 9-11-89; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. FE C&E 89-18; Certification Notice—44]

Filing Certification of Compliance; Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended, ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (section 201(a), 42 U.S.C. 8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. Two owners and operators of proposed new electric base load powerplants have filed self certifications in accordance with section 201(d). Further information is provided in the SUPPLEMENTARY INFORMATION section below.

SUPPLEMENTARY INFORMATION: The following companies have filed self certifications:

Name	Date received	Type of facility	Megawatt capacity	Location
Kamine/Besicorp Carthage L.P., Union, NJ	08-25-89	Combined Cycle	50	Carthage, NY
Kamine/Besicorp South Glens Falls L.P., Union, NJ	08-25-89	Combined Cycle	50	South Glens Falls, NY.

Amendments to the FUA on May 21, 1987, (Pub. L. 100-42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self certification procedure.

Issued in Washington, DC on September 5, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossile Energy.

[FR Doc. 89-21425 Filed 9-11-89; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted to the Office of Management and Budget for review.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Public Law 96-511, 44 U.S.C. 3501 et seq.).

The listing does not include information collection requirements contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, or

extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before October 12, 1989. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards (EI–70), Energy Information Administration, M.S. 1H–023, 1000 Independence Avenue SW., Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586–2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–557
3. 1902–0042
4. The Public Utilities Regulatory Policy Act of 1978, section 133 Cost of Service Data
5. Extension
6. Biennially
7. Mandatory
8. Businesses or other for profit, state or local governments, federal agencies or employees, non-profit institutions.
9. 8 respondents
10. 8 responses annually
11. The estimated average hours per response for each of the respondents is 2,700 burden hours.
12. The estimated total reporting hours are 21,600.
13. PURPA, section 133 requires electric utilities to gather and file information necessary to determine a utility's cost of providing retail electric service.

Authority: Sec. 5(a), 5(b), 13(b), and 52, Public Law No. 93–275, Federal Energy Administration Act of 1974, as amended, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 89–21426 Filed 9–11–89; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Pre-Freshman Engineering Program (PREP)

AGENCY: Department of Energy.

ACTION: Program Solicitation Announcement.

SUMMARY: The purpose of this notice is to announce the availability of the PREP solicitation, to identify the institutions which will be eligible for this grant program, and to inform potential applicants of the closing date and location for submission of applications for awards under this program.

SUPPLEMENTARY INFORMATION:

Background

The Department of Energy (DOE) is concerned with the supply of science and engineering professionals to perform its R&D mission and is authorized in the Energy Reorganization Act of 1974 to "* * * assure an adequate supply of manpower for the accomplishment of energy research and development programs by sponsoring and assisting in education and training activities in postsecondary institutions, vocational schools, and other institutions * * *", 42 U.S.C. 5813(11). Specifically, DOE's concern is based on the consideration that the future supply of engineering manpower is threatened by two factors: fewer students enrolling in science and mathematics courses in high school and fewer students available to join the science and engineering pool due to declining birth rates. Students who have completed the ninth grade in high school often decide not to take another science or mathematics course. Once the traditional math/science sequence is disrupted, it is too late for students to meet the minimum requirements for admission to college and university engineering programs.

The primary purpose of PREP is to alleviate manpower shortages in engineering by preparing and guiding high school students in the selection of college-preparatory courses in science and mathematics. In the past 16 years, 249 PREP projects have been funded. These projects have reached over 16,000 students, principally women and minorities who have been underrepresented in the field of engineering. Pending Congressional action, DOE intends to commit about $350,000 for the Pre-Freshman Engineering Program for fiscal year 1990. DOE invites all qualified institutions (see following section) to write for a copy of its Pre-Freshman Engineering Program solicitation, DOE/ER–0414, Notice of Program Announcement Number DE–PS05–90ER75525.

Eligibility and Limitations

The overall intent of the program is to increase the number of engineers who graduate from college, and who will continue to play critically important roles in the Nation's overall energy programs. Therefore, institutions which offer engineering degree programs are deemed most qualified.

Accordingly, pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7 (b)(1), applications will be accepted only from colleges and universities which grant engineering degrees at the baccalaureate level, institutions which have articulation agreements with engineering degree-granting institutions and institutions which have formal dual-degree pre-engineering programs with institutions granting engineering degrees at the baccalaureate level. (If applying under the latter two categories, specific details should be given about the formal dual-degree program or articulation agreement). Other institutions interested in participating in PREP may do so through cooperative projects with engineering degree-granting institutions (in this case, the application must be submitted by the engineering degree-granting institution).

Application Forms: Program solicitations are ready for mailing. Applications must be prepared and submitted in accordance with the instructions and forms included in the program solicitation. Copies of this solicitation may be obtained by writing to: Division of University and Industry Programs, ER–44, Office of Field Operations Management, Office of Energy Research, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; Telephone Number: (202) 586–1634.

Closing Date for Submission of Applications: To be eligible, applications must be received by the Department of Energy by 4:30 p.m., October 30, 1989.

FOR FURTHER INFORMATION CONTACT: All communications or questions

regarding this program solicitation should be directed to: PREP Contracting Officer; Procurement and Contracts Division; Oak Ridge Operations; Department of Energy; Oak Ridge, Tennessee 37831; Telephone Number: (615) 576-7564.

(Catalog of Federal Domestic Assistance No. 81.047, Pre-Freshman Engineering Program.)

Issued in Washington, DC on July 25, 1989.

Robert O. Hunter, Jr.,

Director, Office of Energy Research.

[FR Doc. 89-21427 Filed 9-11-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER89-546-000, et al.]

Nevada Power Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

September 1, 1989.

Take notice that the following filings have been made with the Commission:

1. Nevada Power Co.

[Docket No. ER89-546-000]

Take notice that on August 21, 1989, Nevada Power Company (Nevada) tendered for amended filing a revised agreement entitled Agreement for Transmission Service Among Nevada Power Company and Overton Power District No. 5 (Overton) and Lincoln County Power District No. 1 (Lincoln) hereinafter "the Agreement." The purpose of the Agreement is to establish the terms and conditions for the transmission of Federal Power by Nevada to Overton and Lincoln.

Nevada requests that this Agreement become effective as of March 1, 1989, and therefore requests waiver of the Commission's notice requirements.

Nevada states that copies of the amended filing were served upon Overton and Lincoln.

Comment date: September 15, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Co.

[Docket Nos. ER88-630-005 and ER88-631-005 and ER89-38-005]

Take notice that on August 28, 1989, New England Power Company (NEP) tendered for filing its compliance refund report pursuant to the Commission's order issued on July 28, 1989.

Comment date: September 15, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Carolina Power & Light Co.

[Docket No. ER89-124-000]

Take notice that on August 30, 1989, Carolina Power & Light Company (CP&L) filed revised hourly transmission charges as directed by the FERC Staff in which daily transmission costs were spread over sixteen hours per day. The change affects CP&L's interchange service schedules with South Carolina Electric & Gas Company, South Carolina Public Services Authority, and Virginia Electric and Power Company. In addition, all the utilities are filing revised production demand and transmission use rates based on updated costs as set forth in the annual review process under the provisions of the various interchange agreements. The changes to the rates are requested to become effective on the date the FERC accepts this filing.

Comment date: September 15, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Puget Sound Power & Light Co.

[Docket No. ER89-624-000]

Take notice that on August 24, 1989, Puget Sound Power & Light Company (Puget) tendered for filing documents relating to the Residential Purchase and Sale Agreement between Puget and Bonneville Power Administration. Puget states that these documents relate to the calculation of the Average System Cost (ASC) for Puget for the exchange period effective February 1, 1989, through May 31, 1989.

Comment date: September 15, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Electric and Gas Co.

[Docket No. ER89-461-000]

Take notice that on August 28, 1989, Public Service Electric and Gas Company (PSO) submitted for filing additional information, regarding the basis for determination of the lump sum payment which restores parity between PSO and the Jersey Central Power & Light Company.

Comment date: September 15, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Canal Electric Company

[Docket No. ER89-626-000]

Take notice that on August 13, 1989, Canal Electric Company (Canal) tendered for filing a Notice of Termination of Supplement No. 10 to Rate Schedule FERC No. 21 and Rate Schedule FERC No. 28.

Canal requests an effective date of April 30, 1989.

Canal states that copies of this filing have been served upon Cambridge Electric Light Company and Commonwealth Electric Company.

Comment date: September 15, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Minnesota Power & Light Co.

[Docket No. ER89-625-000]

Take notice that on August 17, 1989, Minnesota Power & Light Company (MP&L) tendered for filing a Notice of Termination of Rate Schedule No. 115 between the City of Proctor and MP&L.

MP&L requests an effective date of December 31, 1989.

Comment date: September 15, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Power & Light Co.

[Docket No. ER89-628-000]

Take notice that on August 30, 1989, Wisconsin Power & Light Company (WPL) tendered for filing an amended wholesale power agreement dated August 9, 1989, between the City of Sheboygan and WPL. WPL states that this new wholesale power agreement revises the previous agreement between the two parties which was dated January 4, 1977, and designated Rate Schedule No. 115 by the Commission.

The purpose of this new agreement is to identify an additional delivery point. Terms of service for this customer will be on a similar basis to the terms of service for other W-3 wholesale customers.

WPL requests that an effective date concurrent with the contract effective date be assigned. WPL states that copies of the agreement and the filing have been provided to the City of Stoughton and the Wisconsin Public Service Commission.

Comment date: September 15, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party

must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-21337 Filed 9-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER89-621-000 et al.]

Nevada Power Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Nevada Power Co.

[Docket No. ER89-621-000]

August 30, 1989.

Take notice that on August 25, 1989, Nevada Power Company (Nevada) tenderd for filing a Notice of Cancellation of Short Term Seasonal Power Agreements with Overton Power District No. 5 (Overton), FERC Rate Schedule No. 44.

The Agreement expired by its own terms on April 1, 1989. Therefore, Nevada requests waiver of the Commission's notice requirements and requests the cancellation be effective April 1, 1989.

Nevada states that copies of the filing were served upon Overton, the Public Service Commission of Nevada, and the Office of the Consumer Advocate.

Comment date: September 14, 1989, in accordance with Standard Paragraph E end of this notice.

2. Public Service Company of Oklahoma

[Docket No. ER89-476-001]

August 30, 1989.

Take notice that on August 28, 1989, Public Service Company of Oklahoma (PSO) tendered for filing a letter agreement (Letter Agreement), dated August 18, 1989, amending the Transmission Service Agreement, dated May 30, 1989, between KAMO Electric Cooperative, Inc. (KAMO) and PSO which PSO filed in this proceeding on June 1, 1989. PSO and KAMO have made various minor modifications to the earlier Agreement which produce a decrease in the proposed rates. PSO proposes that the Transmission Service Agreement, as amended, be made effective as of June 1, 1989 and, accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing have been sent to the Oklahoma Corporation Commission and to KAMO.

Comment date: September 14, 1989, in accordance with Standard Paragraph E end of this notice.

3. Public Service Company of New Mexico

[Docket No. ER89-622-000]

August 30, 1989.

Take notice that on August 28, 1989, Public Service Company of New Mexico (PNM) tendered for filing a Contract for Services by PNM to accept and simultaneously redeliver Western Area Power Administration power and energy to Kirtland Air Force Base (KAFB). The Services Contract provides for PNM to furnish certain services to KAFB so that KAFB can utilize its allocation of long-term firm power and energy from the Salt Lake City Area Integrated Projects. KAFB will pay a service charge of $4.33/kW-month which reflects the costs of providing such services, as well as a $1000/month fee for dispatch and administrative services.

PNM is requesting a waiver of the Commission's notice requirements and is requesting that the Services Contract be accepted for filing to be effective as of October 1, 1989.

Copies of the filing have been served upon KAFB and the New Mexico Public Service Commission.

Comment date: September 14, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. American Electric Power Service Corp.

[Docket No. ER89-415-000]

August 30, 1989.

Take notice that American Electric Power Service Corp. on August 25, 1989, tendered for filing an amendment to Addendum IV, which was filed on May 5, 1989 (Docket No. ER89-415-000), on behalf of its affiliates, Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company (I&M), Kentucky Power Company, and Ohio Power Company (AEP Parties), which are all affiliated operating subsidiaries of the American Electric Power Company (AEP).

The original filing has been amended pursuant to discussions with the Commission staff to establish a revenue cap for Short Term, Limited Term, and Non-Displacement transactions. This cap insures that the total charge for such transaction will not exceed a rate based on the investment costs and energy costs associated with I&M's Rockport Plant Unit No. 1. This amendment also revises the AEP demand charges to "up to" $3.70/kW-week for Short Term power and establishes commensurate rates for Limited Term and Non-Displacement.

Copies of the filing were served upon the Kentucky Public Service Commission, the Indiana Utility Regulatory Commission, the Michigan Public Service Commission, the Public Utilities Commission of Ohio, the State Corporation Commission of Virginia, the Public Service Commission of West Virginia, and the appropriate utilities interconnected with the AEP Parties.

Comment date: September 14, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. El Paso Electric Co.

[Docket No. ER89-620-000]

August 30, 1989.

Take notice that on August 25, 1989 El Paso Electric Company (EPE) tendered for filing an executed amendment to its Power Sales Agreement with Imperial Irrigation District (IID) dated December 2, 1986. The amendment provides for a reduction in the demand charge for Firm Capacity and System Contingent Capacity and was agreed to by EPE and IID in accordance with section 12.3.1 and Exhibit A of the December 2, 1986 agreement.

EPE requests waiver of the notice requirement in order to permit the amendment to become effective at the point in time, which is projected to occur in December 1995.

EPE states that copies of the filing have been served on IID and the Public Utilities Commission of the State of California.

Comment date: September 14, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Montana Power Co.

[Docket No. ER89-530-000]

August 30, 1989.

Take notice that on August 16, 1989, Montana Power Company (Montana) tendered for filing supplemental background information requested by staff in the above referenced docket.

Comment dated: September 14, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Interstate Power Co.

[Docket No. ES89-33-000]

August 31, 1989.

Take notice that on August 28, 1989, Interstate Power Company (Applicant), filed an application with the Federal Energy Regulatory Commission (Commission), pursuant to section 204 of the Federal Power Act, seeking authorization to issue short-term promissory notes to lending banks and/

or commercial paper, not to exceed an aggregate of $50 million outstanding at any one time, said short-term promissory notes to be issued on or before December 31, 1990 and to mature not later than December 31, 1991 with not to exceed twelve-month maturities, and said commercial paper to be issued with not to exceed nine-month maturities and to mature on or before December 31, 1991.

Comment date: September 27, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Connecticut Light and Power Co.

[Docket No. ER89-586-000]

August 31, 1989.

Take notice that on August 25, 1989, Connecticut Light and Power Company (CL&P) supplemented its earlier filing in this docket. CL&P provided Table 1 to Appendix A of its earlier filing, which table may have been inadvertently omitted from its earlier filing.

Comment date: September 11, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Montana Power Co.

[Docket No. ER89-565-000]

August 31, 1989.

Take notice that on August 17, 1989, Montana Power Company supplemented its earlier filing in this docket by filing copies of exhibits to the General Transfer Agreement between Montana Power Company and Bonneville Power Administration. These exhibits were inadvertently omitted from the company's earlier filing.

Comment date: September 11, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Iowa Public Service Co.

[Docket No. ER89-430-000]

August 31, 1989.

Take notice that on Iowa Public Service Company (IPS) on August 29, 1989, tendered for filing an amended filing for its Electric Utility Services Agreement between IPS and the Municipal Electric Utility Services Agreement between IPS and the Interim Wheeling Letter Agreement whereby IPS will supply intermediate and peaking capacity to Waverly, as well as provide dispatch and transmission services. IPS has requested an effective date of May 1, 1989 for the initial rate, and accordingly seeks waiver of the notice requirements of the Commission's rules.

IPS states that copies of this filing were served on Waverly and the Iowa Utilities Board.

Comment date: September 15, 1989, in accordance with Standard Paragraph E end of this notice.

11. Mississippi Power & Light Co.

[Docket No. ER89-623-000]

August 31, 1989.

Take notice that Mississippi Power & Light Company (MP&L) on August 28, 1989 tendered for filing a replacement energy service schedule with, and three letter agreements for the sale of energy to, the Tennessee Valley Authority.

MP&L requests an effective date of August 16, 1989 for the service schedule; July 24, 1989 for the First Letter Agreement; August 1, 1989 for the Second Letter Agreement; and August 5, 1989 for the Third Letter Agreement. Energy Services requests waiver of the Commission's notice requirements under § 35.11 of the Commission's Regulations.

Comment date: September 15, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-21338 Filed 9-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3944-002, Illinois]

City of Rockdale; Availability of Environmental Assessment

September 5, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Brandon Road Lock and Dam Hydroelectric Project on the Illinois River in Will County, Illinois, near Rockdale, Illinois, and has prepared a draft Environmental Assessment (EA) for the proposed project.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

Comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Acting Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Please affix Project No. 3943-003 to all comments. For further information, please contact Marc Zimmerman, Environmental Assessment Coordinator, at (202) 376-9052).

Lois D. Cashell,

Secretary.

[FR Doc. 89-21339 Filed 9-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1982-000 et al.]

Equitrans, Inc., et al; Natural Gas Certificate Filings

August 25, 1989.

Take notice that the following filings have been made with the Commission:

1. Equitrans, Inc.

[Docket No. CP89-1982-000]

Take notice that on August 21, 1989, Equitrans, Inc. (Equitrans), 4995 Steubenville Pike, Pittsburgh, PA 15205, filed in Docket No. CP89-1982-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide interruptible transportation service for Equitable Resources Marketing Company (ERMC), under the blanket certificate issued in Docket No. CP86-553-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Equitrans states that pursuant to a transportation service agreement dated April 1, 1989 under its Rate Schedule ITS, it proposes to transport up to 14,7000 Mcf per day of natural gas or ERMC. Equitrans states that it would transport the gas from various receipt points in Pennsylvania and West Virginia, and would redeliver the gas at the interconnect between Equitrans and Equitable Gas Company in Pennsylvania.

Equitrans advises that service under § 284.223 (a) commenced July 1, 1989, as

reported in Docket No. ST89–4416–000. Equitrans further advises that it would transport 9,000 Mcf on an average day and 300,000 Mcf annually.

Comment date: October 10, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP89–1984–000]

Take notice that on August 23, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–1984–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a firm transportation service for Enron Gas Marketing, Inc. (Enron), a marketer, under the blanket certificate issued in Docket No. CP86–435–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that pursuant to a transportation agreement dated July 20, 1989, as amended, under its Rate Schedule FT–1, it proposes to transport up to 15,000 MMBtu per day equivalent of natural gas for Enron. Northern states that it would transport the gas from receipt points in Beckham and Roger Mills Counties, Oklahoma, and would deliver the gas in Winkler County, Texas, as shown in Appendix "A" of the agreement.

Northern advises that service under § 284.223(a) commenced July 20, 1989, as reported in Docket No. ST89–4451–000 (filed August 11, 1989). Northern further advises that it would transport 11,250 MMBtu on an average day and 5,475,000 MMBtu annually.

Comment date: October 10, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Northern Natural Gas Co. Division of Enron Corporation

[Docket No. CP89–1985–000]

Take notice that on August 23, 1989, Northern Natural Gas Company, Division of Enron Corporation (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. 89–1985–000, a prior notice request pursuant to Sections 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for TranAm Energy, Inc., (TranAm), a marketer of natural gas, under the certificate issued in Docket No. CP86–435–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern requests authorization to transport up to 30,000 MMBtu of natural gas per day, pursuant to a July 25, 1989, agreement between Northern and TranAm from receipt points located in Oklahoma to a delivery point located in Texas. Northern would provide the srvice to TranAm under the provisions of its Rate Schedule FT–1, it is indicated. Northern further states that the average and annual quantities would be 22,5000 MMBtu and 10,950,000 MMBtu, respectively.

Northern states that the transportation of natural gas for TranAm commenced July 25, 1989, for a 120–day period pursuant to § 284.223(a) of the Commission's Regulations as reported in Docket No. ST89–4450–000.

Comment date: October 10, 1989, in accordance with Standard Paragraph G at the end of this notice.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89–21340 Filed 9–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP89–1983–000, et al.]

Texas Gas Transmission Corp. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Texas Gas Transmission Corp.

[Docket No. CP89–1983–000]

August 28, 1989.

Take notice that on August 22, 1989, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP89–1983–000, an application pursuant to section 7(b) of the Natural Gas Act requesting the authority necessary to abandon an interruptible transportation service performed by Texas Gas for Gulf Oil Corporation (Gulf), along with certain related facilities, all as more fully set forth in the Application which is on file with the Commission and open to public inspection.

Texas Gas is requesting authority to abandon a transportation service performed for Gulf for which Texas Gas received authority to render by an order issued on January 24, 1963, in Docket No. CP63–35. The service presently certificated involves the transportation by Texas Gas of up to 1,000 Mcf per day, on an interruptible basis, from points of receipt at the Claiborne Plant in Claiborne Parish, Louisiana, and the Church Point Field in Acadia Parish, Louisiana, for delivery to Gulf at its refinery in Cleves, Ohio. Texas Gas is also requesting authority to abandon the meter station constructed by Texas Gas in Hamilton County, Ohio to deliver such gas to the Cleves Refinery.

Texas Gas states that the Gulf refinery at Cleves has been non-operational for several years and that Gulf (now Chevron U.S.A.) has indicated it has no objection to the abandonment of the services or facilities requested by Texas Gas in the application.

Comment date: September 18, 1989, in accordance with Standard Paragraph F at the end of this notice.

2. El Paso Natural Gas Co.

[Docket No. CP89–2003–000]

August 29, 1989.

Take notice that on August 28, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP89–2003–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Mallon Oil Company (Mallon), under the blanket certificate issued in Docket No. CP88–433–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

El Paso states that pursuant to a transportation service agreement dated June 21, 1989, under its Rate Schedule T–1, it proposes to transport up to 22,000 MMBtu per day equivalent of natural gas for Mallon. El Paso states that it would transport the gas from any receipt point on its system, as provided in Exhibit "A" of the transportation agreement, and would deliver the gas to delivery points at the borderline between the States of Arizona and

California near Topock, Arizona, and Blythe, California, as shown in Exhibit "B" of the agreement.

El Paso advises that service under § 284.223(a) commenced July 23, 1989, as reported in Docket No. ST89–4409–000. El Paso further advises that it would transport 10,550 MMBtu on an average day and 3,850,750 MMBtu annually.

Comment date: October 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Texas-Ohio Gas, Inc.

[Docket No. CP89–1998–000]

August 29, 1989.

Take notice that on August 23, 1989, Texas-Ohio Gas, Inc. (Texas Ohio), One Mineral City Plaza, 800 Gessner Suite #1030, Houston, Texas 77024, has filed a complaint against Equitrans, Inc. (Equitrans) alleging that Equitrans is violating the concept of open-access transportation by curtailing interruptible transportation service for Texas Ohio, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

Texas Ohio states that during the past year it has contracted to sell natural gas to several end users served by Equitable Gas Company (Equitable), a local distribution company, in the Pittsburgh, Pennsylvania area. Texas Ohio indicates that the only way to transport gas to that distribution company is by means of Equitable's affiliated transmission line, Equitrans. Texas Ohio indicates that it has been notified for the third consecutive month by Equitrans that its interruptible transportation volumes have been curtailed, due to capacity constraints at the major interconnects with Tennessee Gas Pipeline Company and Texas Eastern Transmission Corporation. Texas Ohio alleges that in spite of the apparent difficulties related to transporting volumes to their system, Equitrans has managed to have surplus gas on its system that is being offered for sale to the curtailed companies like Texas Ohio, Texas Ohio concludes that Equitrans is clearly violating the concept of open-access transportation.

Comment date: September 18, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. United Gas Pipe Line Co.

[Docket No. CP89–1992–000]

August 29, 1989.

Take notice that on August 24, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, made a prior notice filing pursuant to §§ 157.205 and 284.223 in Docket No. CP89–1992–000, to provide interruptible transportation service on behalf of LaSER Marketing Company, a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88–6–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the Interruptible Gas Transportation Agreement T1–21–1857, dated October 1, 1988 as amended on June 13, 1989, June 29, 1989, July 5, 1989 and July 20, 1989, proposes to transport a maximum daily quantity of 626,240 MMBtu, and that service commenced June 23, 1989, as reported in Docket No. ST89–4472–000, pursuant to § 284.233(a) of the Commission's Regulations.

Comment date: October 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. El Paso Natural Gas Co.

[Docket No. CP89–1987–000]

August 29, 1989.

Take notice that on August 24, 1989, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP89–1987–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide interruptible transportation service for Western Gas Processors, Ltd. (Western Gas), under El Paso's blanket certificate issued by the Commission in Docket No. CP88–433–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open for public inspection.

El Paso requests authority to transport up to 55,000 MMBtu equivalent of natural gas per day for Western Gas from any point of receipt on El Paso's system to various delivery points at the borderline between the States of Arizona and California, and in the States of Colorado, New Mexico, and Texas. El Paso states that the estimated daily and annual quantities would be 27,500 MMBtu 10,073,500 MMBtu equivalent of natural gas, respectively. El Paso further states that transportation service under § 284.223(a) commenced on June 22, 1989, as reported in Docket No. ST89–4234–000.

Comment date: October 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Northwest Pipeline Corp.

[Docket No. CP89–1980–000]

August 29, 1989.

Take notice that on August 21, 1989, Northwest Pipeline Corporation (Northwest), P.O. Box 8900, Salt Lake City, Utah 84108–0899, filed in Docket No. CP89–1980–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for Fuel Resources Development Co. (Fuel Resources), a marketer, under Northwest's blanket certificate issued in Docket No. CP86–578–000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest states that pursuant to a transportation agreement dated February 10, 1988, as amended on November 28, 1988, and December 5, 1988, it proposes to receive up to 32,608 million Btu of natural gas per day from Fuel Resources from all transportation receipt points on its system and redeliver the gas at any transportation delivery point on its system. Northwest estimates that the peak day volumes, average day volumes, and annual volumes would be 32,608 million Btu, 100 million Btu, and 36,500 million Btu, respectively. It is stated that on July 20, 1989, Northwest commenced a 120-day transportation service for Fuel Resources under § 284.223(a), as reported in Docket No. ST89–4486–000.

Northwest further states that no facilities need be constructed to implement the service. Northwest states that the agreement, as amended, provides for a primary term expiring February 10, 1993, but that the term would continue on a month to month basis until terminated by 30 days written notice. Northwest proposes to charge the rates and abide by the terms and conditions of its Rate Schedule IT–1.

Comment date: October 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Natural Gas Pipeline Co. of America

[Docket No. CP89–1990–000]

August 29, 1989.

Take notice that on August 24, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89–1990–000 a request pursuant to §§ 157.205 and 284.223(b) of the Commission's Regulations under the Natural Gas Act for authorization to

transport natural gas on an interruptible basis for Hadson Gas Systems, Inc. (Hadson), a marketer of natural gas, respectively, under its blanket certificate issued in Docket No. CP86–582–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural states that it proposes to transport natural gas for Hadson between receipt points in offshore Louisiana, Louisiana, offshore Texas, Texas, New Mexico, Oklahoma, Illinois, Arkansas, Kansas, Colorado, Iowa, Nebraska, and Wyoming and delivery points in Louisiana, Colorado, Texas, offshore Texas, Louisiana, offshore Louisiana, New Mexico and Oklahoma.

Natural further states that the maximum daily, average daily and annual quantities that it would transport for Hadson would be 500,000 MMBtu equivalent of natural gas (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS), 100,000 MMBtu equivalent of natural gas and 36,500,000 MMBtu equivalent of natural gas, respectively.

Natural indicates that in a filing made with the Commission on August 24, 1989, it reported in Docket No. ST89–4546 that transportation service for Hadson had begun on June 20, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: October 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP89–2009–000]

August 30, 1989.

Take notice that on August 28, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–2009–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for WTG Exploration, Inc. (WTG), a producer, under the blanket certificate issued in Docket No. CP86–435–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that pursuant to a transportation agreement dated August 1, 1989, under its Rate Schedule IT–1, it proposes to transport up to 2,000 MMBtu per day equivalent of natural gas for WTG. Northern states that it would transport the gas from receipt points in Crockett County, Texas, and would deliver the gas to multiple delivery points, as shown in Appendix "A" of the agreement.

Northern advises that service under § 284.223(a) commenced August 1, 1989, as reported in Docket No. ST89–4502 (filed August 18, 1989). Northern further advises that it would transport 1,500 MMBtu on an average day and 730,000 MMBtu annually.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Trunkline Gas Co.

[Docket No. CP89–2004–000]

August 30, 1989.

Take notice that on August 28, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–2004–000 a request pursuant to § 284–223 of the Commission's Regulations under the Natural Gas Act (18 CFR 284.223) for authority to provide interruptible transportation service for Mobil Natural Gas, Inc. (Mobil), a marketer of natural gas, under Trunkline's blanket transportation certificate authority issued April 30, 1987, in Docket No. CP83–586–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline states it will receive the gas at various existing points on its system in the offshore areas of Texas and Louisiana and the states of Texas, Louisiana, Tennessee and Illinois and deliver the gas for the account of Mobil to Northern Indiana Public Service Company in the counties of Marshall, Pulaski, Elkhart and Jasper, Indiana.

Trunkline proposes to transport up to 100,000 dt of gas per peak and average day and approximately 36,500,000 dt of gas annually. Trunkline states that the transportation service commenced under the 120-day automatic authorization of § 284.223(a) of the Commission's Regulations on July 1, 1989, pursuant to a transportation agreement dated May 5, 1989. Trunkline notified the Commission of the commencement of the transportation service in Docket No. ST89–4351–000.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. El Paso Natural Gas Co.

[Docket No. CP89–2014–000]

August 30, 1989.

Take notice that on August 29, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP 89–2014–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon by sale segments of certain sales laterals to the City of Mesa, Arizona, under the blanket abandonment authorization issued in Docket No. CP82–435–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

El Paso proposes to abandon segments of certain facilities by sale to the City of Mesa, Arizona, an existing customer. El Paso states that the facilities are described as a 4½" O.D. sales lateral, known as the Mesa Line, and a 6⅝" O.D. sales lateral looping the Mesa Line, known as the Mesa Loop Line. El Paso would abandon 5.04 miles of the Mesa Line and 2.98 miles of the Mesa Loop Line by conveyance to the City of Mesa. El Paso states that the Mesa Line was constructed and operated under authorization issued in Docket No. G–1345 (10 FPC 644) on November 7, 1951, and the Mesa Loop Line was authorized by Commission order issued February 28, 1958, in Docket No. G–13107 (19 FPC 282).

El Paso states that as a result of the State of Arizona's Price Road Expressway Expansion Project, it has reached an agreement with the Arizona State Highway Department to disconnect segments of the Mesa Line and Mesa Loop Line from the remainder of the El Paso system. It is explained that a portion of these lines would be removed from the ground to allow for expansion of the Price Road Expressway. El Paso states that in order to continue natural gas service to the City of Mesa, El Paso would construct, in replacement thereof, a new 10¾" O.D. line 4.0 miles long to connect to its existing meter stations which provide service to the City of Mesa.

El Paso advises that it would no longer need to use the remaining segments of the Mesa Line and Mesa Loop Line which would be physically separated from its system. In this regard, El Paso states that it has entered into a December 16, 1988, letter agreement providing for the sale of the Mesa Line and Mesa Loop Line to the City of Mesa. El Paso states that the City of Mesa is the only customer served by these

pipeline facilities and the referenced letter agreement reflects the city's consent to the abandonment of such facilities. It is stated that the City of Mesa has indicated to El Paso that the Mesa Line and Mesa Loop Line would be an integrated part of its natural gas distribution system.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. United Gas Pipe Line Co.

[Docket No. CP89–1996–000]

August 30, 1989.

Take notice that on August 24, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1996–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service on behalf of American Central Gas Companies, Inc. (American Central), a marketer of natural gas under United's blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that it would transport a maximum daily quantity of 185,400 MMBtu for American Central pursuant to an Interruptible Gas Transportation Agreement, dated November 9, 1988, as amended on June 9, 1989, between United and American Central. United further states that it would receive the natural gas at existing points of receipt in offshore Louisiana and in the States of Alabama, Louisiana, Mississippi, and Texas and would redeliver the natural gas at existing points of delivery in the States of Alabama, Florida, Louisiana, Mississippi, and Texas. United indicates that the estimated average day and annual quantities to be transported for American Central would be 185,400 MMBtu and 67,671,000 MMBtu, respectively.

United states that it commenced the transportation of natural gas for American Central on June 27, 1989, as reported in Docket No. ST89–4263–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Trunkline Gas Co.

[Docket No. CP89–2006–000]

August 30, 1989.

Take notice that on August 28, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–2006–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of American Central Gas Marketing Company (American Central), under the authorization issued in Docket No. CP86–586–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Trunkline would perform the proposed interruptible transportation service for American Central, a shipper and marketer of natural gas, pursuant to a transportation agreement dated September 14, 1988 (contract No. T–PLT–1222). The term of the transportation agreement is for a primary term of one month from the initial date for service, and shall continue in effect month-to-month thereafter unless terminated upon 30 days prior written notice by on party to the other party. Trunkline proposes to transport on a peak day up to 150,000 dekatherm; on an average day up to 20,000 dekatherm; and on an annual basis 7,300,000 dekatherm of natural gas for American Central. Trunkline proposes to receive the subject gas from various existing receipt points in the States of Illinois, Louisiana, Tennessee, and Texas, from the Panhandle receipt point at Douglas County, Illinois, and from the areas of Offshore Louisiana and Offshore Texas. Trunkline would then transport and redeliver the subject gas, less fuel and unaccounted for line loss, to Illinois Power Company in Douglas County, Illinois. It is alleged that American Central would pay Trunkline the effective rate contained in Trunkline's rate schedule PT, which is currently 30.41 cents, which includes the ACA and GRI surcharge. Trunkline avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's regulations. Trunkline commenced such self-implementing service on July 13, 1989, as reported in Docket No. ST89–4352–000.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Transwestern Pipeline Co.

[Docket No. CP89–2012–000]

August 30, 1989.

Take notice that on August 28, 1989, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, Houston, Texas, filed in Docket No. CP89–2012–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for Union Pacific Resources Company (Union Pacific), a producer, under Transwestern's blanket certificate issued in Docket No. CP88–133–000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transwestern states that pursuant to a transportation service agreement dated April 20, 1989, it proposes to receive up to 50,000 dt equivalent of natural gas per day from Union Pacific at specified receipt points located in Texas, Oklahoma, and New Mexico and redeliver the gas at specified points located in Texas, Oklahoma, New Mexico, and Arizona. Transwestern estimates that the peak day volumes, average day volumes, and annual volumes would be 50,000 million Btu, 37,500 million Btu, and 18,250,000 million Btu, respectively. It is stated that on July 20, 1989, Transwestern commenced a 120-day transportation service for Union Pacific under § 284.223(a), as reported in Docket No. ST89–4436–000.

Transwestern further states that no facilities need be constructed to implement the service. Transwestern states that the agreement provides for a primary term of fifteen years but the term would continue on a month to month basis thereafter unless terminated at any time subsequent to the primary term by either party upon thirty days prior written notice to the other party. Transwestern proposes to charge rates and abide by the terms and conditions of its Rate Schedule ITS–1.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. United Gas Pipe Line Co.

[Docket No. CP89–1995–000]

August 30, 1989.

Take notice that on August 24, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1995–000 a request pursuant to § 157.205 of the Commission's Regulations for

authorization to transport natural gas on behalf of Seagull Marketing Services (Seagull), a marketer of natural gas, under the blanket certificate issued by the Commission's order No. 509, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport on an interruptible basis up to 25,750 MMBtu equivalent of natural gas on a peak day, 25,750 MMBtu equivalent on an average day, and 9,398,750,750 MMBtu equivalent on an annual basis. It is stated that United would receive the gas for Seagull's account at South Marsh Island, Block 160, offshore Louisiana, and would deliver equivalent volumes at South Marsh Island, Block 160, offshore Louisiana. It is asserted that the transportation service would be effected utilizing existing facilities and would not require any construction of additional facilities. It is explained that the transportation service commenced July 2, 1989, under the automatic authorization provisions of § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–4280.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

15. Trunkline Gas Co.

[Docket No. CP89–2016–000]

August 30, 1989.

Take notice that on August 29, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–2016–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for PPG Industries, Inc. (PPG), an end-user, under the blanket certificate issued in Docket No. CP86–586–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Trunkline states that pursuant to a transportation agreement dated July 6, 1989, under its Rate Schedule PT, it proposes to transport up to 10,000 dekatherms (dt) per day equivalent of natural gas for PPG. Trunkline states that it would transport the gas from receipt points in the states of Illinois, Louisiana, Tennessee, and Texas, from the Panhandle receipt at Douglas County, Illinois, and from the areas of offshore Louisiana and offshore Texas, as shown in Exhibit "A" of the transportation agreement and would deliver the gas, less fuel and unaccounted for line loss, to Illinois Power Company in Douglas County, Illinois.

Trunkline advises that service under § 284.223(a) commenced July 20, 1989, as reported in Docket No. ST89–4543–000. Trunkline further advises that it would transport 8,000 dt on an average day and 3,650,000 dt annually.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

16. Texas Gas Transmission Corp.

[Docket No. CP89–1955–000]

August 30, 1989.

Take notice that on August 15, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89–1955–000, as supplemented, August 29, 1989, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for American Central Gas Marketing Company (American Central), under Texas Gas' blanket certificate issued in Docket No. CP88–686–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas requests authorization to transport on a peak day up to 100,000 MMBtu equivalent of natural gas for American Central, with an estimated average daily quantity of 50,000 MMBtu. It is stated that on an annual basis, American Central estimates a volume of 18,250,000 MMBtu equivalent of natural gas.

Texas Gas states that transportation service for American Central commenced July 1, 1989, under the 120-day automatic provisions of § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–4203.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

17. Mississippi River Transmission Corp.

[Docket No. CP89–1991–000]

August 31, 1989.

Take notice that on August 24, 1989, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis Missouri 63124, filed in Docket No. CP89–1991–000 and application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing MRT to increase the currently authorized firm entitlement it provides to Laclede Gas Company (Laclede) under MRT's Rate Schedule CD–1, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MRT states that it currently provides firm sales service to Laclede pursuant to an existing service agreement that will terminate on October 31, 1989. MRT further states that a new service agreement will become effective November 1, 1989. MRT requests that the Commission approve the new service agreement between MRT and Laclede which would increase Laclede's contract demand from 608,480 Mcf per day to 675,00 MMBtu per day. MRT notes that the new service agreement contract demand is stated in BTU's rather than MCF's in order to be consistent with its pending open access filing in Docket No. CP89–1121–000. According to MRT, it will be required to restate all of its customers' contract demands at their thermal equivalents to be consistent with its pending filing in Docket No. CP89–1121–000, and that such a tariff filing will be made in the near future. Since MRT has not yet filed to convert its unit of measure from an Mcf to an MMBtu basis, it states that the pro forma tariff sheets contained in the application reflect the increased contract demand quantity requested by Laclede as 661,765 Mcf.[1]

MRT states that it will not install any new facilities to provide the service contemplated by the new service agreement, and that the new service agreement will have no effect on MRT's service to any of its existing firm customers, other than Laclede. In that regard, MRT states that it has total firm gas deliverability which will be more than sufficient to meet MRT's systemwide demands after the new service agreement takes effect. MRT adds that it has contracted for a substantial amount of firm transportation capacity with upstream pipelines and that it also has access to additional gas directly from producers through its West Line, which provides MRT direct access to a variety of gas producers in North Louisiana and East Texas. MRT adds that it has also contracted with United Gas Pipe Line Company for firm purchases of 50,000 Mcf per day. Finally, MRT states that its winter deliveries can be supplemented by withdrawals from its existing storage facilities.

According to MRT, the increase in contract demand proposed herein represents peak day requirements which Laclede has historically purchased

[1] 675,000 MMBtu divided by 1.020 Btu.

under a combination of MRT's Rate Schedule's CD–1, X–19 and occasionally PI–1, when available. MRT states that in Docket No. CP89–2001–000 it proposes to abandon service provided to Laclede under Rate Schedule X–19 concurrently with the implementation of the new service agreement. As such, MRT states that the effective increase in MRT's systemwide service obligation will only be 3.8 percent.

MRT requests expeditious consideration of its application so that the new service agreement may be approved by November 1, 1989, which is the commencement of the 1989 winter heating season. MRT avers that this date is also significant because service is scheduled to commence under the new service agreement, and MRT proposes to abandon its Rate Schedule X–19 service to Laclede on that date. According to MRT, the increased level of service is necessary to ensure that Laclede can adequately serve its system requirements in the current and subsequent heating seasons.

Comment date: September 21, 1989, in accordance with Standard Paragraph F at the end of this notice.

18. Panhandle Eastern Pipe Line Company

[Docket No. CP89–2015–000]

August 31, 1989.

Take notice that on August 29, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–2015–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide transportation service for Amgas, Inc. (Amgas), a shipper and marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86–585–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open for public inspection.

Panhandle requests authorization to transport, on an interruptible basis, up to a maximum of 1,000 dt equivalent of natural gas per day for Amgas pursuant to a transportation agreement dated June 22, 1989. Panhandle states that it would receive the gas from various existing points of receipt in Colorado, Kansas, Michigan, Ohio, Oklahoma, Texas and Wyoming and redeliver the gas, less fuel and unaccounted for line loss, to Union Electric-Columbia in Boone County, Missouri. Panhandle indicates that the total volume of gas to be transported for Amgas on a peak day would be 1,000 dt; on an average day would be 500 dt; and on an annual basis would be 365,000 dt.

Panhandle states that it commenced the transportation of natural gas for Amgas on July 22, 1989, at Docket No. ST89–4544–000 for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations. Panhandle indicates that it proposes no new facilities in order to provide this transportation service.

Comment date: Octber 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

19. Mississippi River Transmission Corp.

[Docket No. CP89–2001–000]

August 31, 1989.

Take notice that on August 25, 1989, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis Missouri 63124, filed in Docket No. CP89–2001–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a special winter sales service provided to Laclede Gas Company (Laclede) under MRT's Rate Schedule X–19, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MRT states that Laclede is its largest jurisdictional sales customer and purchases most of its gas supply requirements from MRT under MRT's Rate Schedule CD–1 contained in MRT's FERC Gas Tariff, Second Revised Volume No. 1. It is stated that pursuant to an April 16, 1989, contract between MRT and Laclede, as amended, MRT also provides Laclede a special winter sales service under rate Schedule X–19. MRT advises that the Rate Schedule X–19 service is provided to Laclede on 80 winter days, as selected by Laclede, during the 100-day winter period from November 21 through February 28. MRT sells Laclede up to 36,500 Mcf per day during this period to supplement Laclede's system supply. MRT states that it has restructured its use of outside storage and transportation services and that as part of this restructuring, MRT and Laclede have agreed to terminate the X–19 service. MRT states that it provides the X–19 service to Laclede through gas supplies stored in ANR Storage Company (ANR Storage) facilities in Michigan, and by transportation of certain field production to MRT's system.

MRT states that it has agreed with Laclede to terminate the X–19 service effective November 1, 1989, and that Laclede has advised MRT to abandon the transportation arrangements and ANR Storage service used to deliver the winter service gas and has declined to arrange for its injection into ANR Storage for the coming summer injection season. According to MRT, Laclede no longer has a need for the special winter sales service provided under Rate Schedule X–19. MRT adds that there will be no abandonment of facilities.

MRT states that while it will continue to receive storage service from ANR Storage (and storage-related transportation services from off-system transporters) through March 31, 1990, it has assigned its ANR Storage capacity and its storage-related transportation agreements to Panhandle Eastern Pipe Line Company effective April 1, 1990. MRT states that its actions in this regard were a part of an overall plan to restructure its outside storage and transportation services. MRT states that ANR Storage and the off-system transporters filed applications to effectuate such assignments on May 26, 1989.[2] The application herein to abandon the X–19 service is related to those applications but, according to MRT, is not contingent upon the receipt of regulatory approval for such applications. MRT further states that approval of the assignment of such services will benefit MRT and its customers through the removal of outside storage and transportation costs from MRT's cost of service, a portion of which costs are currently borne directly by Laclede under Rate Schedule X–19.

Under Rate Schedule X–19, MRT states that Laclede is charged for the cost of the field production and associated transportation charges under the transportation component of the rate schedule. MRT states that it separately identifies and determines the volumes and costs related to the field purchases in order to avoid a double collection of such costs through MRT's Purchased Gas Adjustment (PGA) account. Additionally, MRT states it pays storage component charges related to the ANR Storage fees and the storage-related transportation charges into and out of ANR Storage's facilities. Further, a special PGA calculation is made to recognize and account for the storage-related purchases of MRT's Rate Schedule CD–1 gas by Laclede under Rate Schedule X–19.

Upon abandonment of Rate Schedule X–19 service, MRT states it will file to cancel Rate Schedule X–19, and also modify its PGA tariff provisions to

[2] MRT states that applications were filed by ANR Storage in Docket No. CP78–432–009; ANR Pipeline Company in Docket No. CP78–545–006; and Michigan Consolidated Gas Company in Docket No. CP89–1523–000.

eliminate the special calculation for the CD-1 storage component gas sold to Laclede under Rate Schedule X-19.

Comment date: September 21, 1989, in accordance with Standard Paragraph F at the end of the notice.

20. Northern Natural Gas Co.; Division of Enron Corp.

[Docket No. CP89-2010-000]

August 31, 1989.

Take notice that on August 28, 1989, Northern Natural Gas Company, Division of Enron Corporation (Northern) 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP89-2010-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport gas on behalf of Carnation Company (Carnation), an end-user of natural gas, under Northern's blanket certificate issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern proposes to transport on an interruptible basis up to 2,000 MMBtu of natural gas equivalent per day on behalf of Carnation pursuant to a transportation agreement dated July 27, 1989, between Northern and Carnation. Northern would receive the gas at existing delivery points in Oklahoma, Kansas, Texas, Iowa and Minnesota and redeliver equivalent volumes, less fuel used, at an existing delivery point in Iowa.

Northern further states that the estimated average daily and annual quantities would be 1,500 MMBtu and 730,000 MMBtu, respectively. Service under § 284.223(a) commenced on August 18, 1989, as reported in Docket No. ST89-4501-000, it is stated.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

21. United Gas Pipe Line Co.

[Docket No. CP89-1993-000]

August 31, 1989.

Take notice that on August 28, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77152-1478, filed in Docket No. CP89-1993-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Texaco Gas Marketing (Texaco), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport, on an interruptible basis, up to 360,500 MMBtu per day for Texaco. United states that construction of facilities would not be required to provide the proposed service.

United further states that the maximum day, average day, and annual transportation volumes would be approximately 360,500 MMBtu, 360,500 MMBtu and 131,582,500 MMBtu respectively.

United advises that service under § 284.223(a) commenced May 25, 1989, as reported in Docket No. ST89-4279.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

22. United Gas Pipe Line Co.

[Docket No. CP89-1997-000]

August 31, 1989.

Take notice that on August 24, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77152-1478, filed in Docket No. CP89-1997-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Conoco, Inc. (Conoco) as agent for E.I. duPont de Nemours and Company, an end user of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport, on an interruptible basis, up to 15,450 MMBtu per day for Conoco. United states that construction of facilities would not be required to provide the proposed service.

United further states that the maximum day, average day, and annual transportation volumes would be approximately 15,450 MMBtu, 15,450 MMBtu and 5,639,250 MMBtu respectively.

United advises that service under § 284.223(a) commenced June 1, 1989, as reported in Docket No. ST89-4207.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

23. ANR Pipe Line Co.

[Docket No. CP89-2023-000]

August 31, 1989.

Take notice that on August 29, 1989, ANR Pipe Line Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-2023-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Xebec Gas Co. (Xebec), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport, on an interruptible basis, up to 7,463 MMBtu per day for Xebec. ANR states that construction of facilities would not be required to provide the proposed service.

ANR further states that the maximum day, average day, and annual transportation volumes would be approximately 7,463 MMBtu, 7,463 MMBtu and 2,724,000 MMBtu respectively.

ANR advises that service under § 284.223(a) commenced July 1, 1989, as reported in Docket No. ST89-4292.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

24. Stingray Pipeline Co.

[Docket No. CP89-2018-000]

August 31, 1989.

Take notice that on August 29, 1989, Stingray Pipeline Company (Stingray), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-2018-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for EnMark Gas Corporation (EnMark), a marketer, under the blanket certificate issued by the Commission's Order No. 509, pursuant to section 7 of the Natural Gas Act, corresponding to the rates, terms and conditions filed in Docket No. RP89-70-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Stingray states that pursuant to a transportation agreement dated April 3, 1989, under its Rate Schedule ITS, it proposes to transport up to 10,000 MMBtu per day equivalent of natural gas for EnMark. Stingray states that it would transport the gas from various receipt points on its system as shown in Exhibit "A" of the transportation agreement and would deliver the gas, less gas attributable to fuel used and unaccounted for line loss, in Louisiana and offshore Texas.

Stingray advises that service under § 284.223(a) commenced August 1, 1989,

as reported in Docket No. ST89–4434. Stingray further advises that it would transport 7,000 MMBtu on an average day and 2,555,000 MMBtu annually.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

25. Iowa Public Service Co.

[Docket No. CP89–2002–000]

August 31, 1989.

Take notice that on August 25, 1989, Iowa Public Service Company (IPS), 401 Douglas, P.O. Box 778, Sioux City, Iowa 51102, filed in Docket No. CP89–2002–000 an application requesting the Commission issue IPS a section 7(f) determination for a service area comprised of Union, Clay, Turner and Lincoln Counties of South Dakota, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

IPS also requests that the Commission make a determination that IPS qualifies as a local distribution company (LDC) in the area proposed as a section 7(f) service area.

IPS states that it owns and operates a pipeline which extends from Sioux City, Iowa, across the South Dakota border (Big Sioux River) providing natural gas service at retail to the communities of North Sioux City and McCook Lake in South Dakota. All the gas transported serves both residential and commercial customers and is not for resale. IPS indicates that it has one arrangement to sell gas for resale off the ANR Pipeline Company (ANR) system whereby it purchases gas from ANR for resale to Great River Gas Company.

Comment date: September 21, 1989, in accordance with Standard Paragraph F at the end of this notice.⅛

26. Northwest Pipeline Corp.

[Docket No. CP89–2030–000]

August 31, 1989.

Take notice that on August 29, 1989, Northwest Pipeline Corporation (Northwest) 295 Chipeta Way, Salt Lake City, Utah 84108 filed in Docket No. CP89–2030–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of GasMark, Inc. (GasMark), under its blanket authorization issued in Docket No. CP86–578–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest would perform the proposed interruptible transportation service for GasMark, a marketer of natural gas, pursuant to a transportation agreement dated June 10, 1989, as amended June 10, 1989, and July 10, 1989, under its Rate Schedule TI–1 (contract number 5612D). The term of the transportation agreement is from the date of execution and shall remain in full force and effect for a term continuing on a month to month basis, subject to termination upon 30 business days written notice by either party. Northwest proposes to transport on a peak day up to 5,500 MMBtu; on an average day up to 1,700 MMBtu; and on an annual basis 620,000 MMBtu for GasMark. Northwest proposes to transport the subject gas through its transmission system from wells located in Grand County, Utah; La Plata County, Colorado and Rio Arriba and San Juan Counties, New Mexico to delivery points located in Grand County, Utah; La Plata County, Colorado and Rio Arriba County, New Mexico. It is stated that the natural gas transported under the transportation agreement may be received on behalf of GasMark by any local distribution company or affiliate of GasMark which has an appropriate contractual arrangement with GasMark. Northwest avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Northwest commenced such self-implementing service on July 1, 1989, as reported in Docket No. ST89–4428–000.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

27. United Gas Pipe Line Co.

[Docket No. CP89–1994–000]

August 31, 1989.

Take notice that on August 24, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1994–000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of MidCon Marketing Company (MidCon), under the blanket certificate issued in Docket No. CP88–6–00 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that pursuant to a Transportation Agreement dated May 23, 1989, it proposes to transport, on an interruptible basis, up to a maximum of 41,200 MMBtu of natural gas for MidCon under Rate Schedule ITS.

United also states that it will transport approximately, 41,200 MMBtu on an average day and approximately 15,038,000 on an annual basis.

United further states it commenced on July 1, 1989, as reported in Docket No. ST89–4281–000.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

28. Stingray Pipeline Co.

[Docket No. CP89–2019–000]

August 31, 1989.

Take notice that on August 29, 1989, Stingray Pipeline Company (Stingray), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89–2019–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Phillips Petroleum Company (Phillips), a producer of natural gas, under the blanket certificate issued by the Commission's Order No. 509, pursuant to section 7 of the Natural Gas Act, corresponding to the rates, terms and conditions filed in Docket No. RP89–70–000, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Stingray requests authorization to transport, on an interruptible basis, up to a maximum of 10,000 MMBtu of natural gas per day for Phillips from receipt points located in Louisiana, Offshore Louisiana and Offshore Texas to a delivery point located in Cameron Parish, Louisiana. Stingray anticipates transporting 5,500 MMBtu of natural gas on an average day and an annual volume of 2,007,500 MMBtu. Stingray advises that service under § 284.223(a) commenced August 1, 1989, as reported in Docket No. ST89–4433–000.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

29. Texas Gas Transmission Corp.

[Docket No. CP89–1986–000]

August 31, 1989.

Take notice that on August 24, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed a request with the Commission in Docket No. CP89–1986–000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act for authorization to add a delivery point for its service to

Citizens, Gas and Coke Utility (C, G & C), a local distribution company, under the blanket certificate issued in Docket No. CP82-407-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is open to public inspection.

Specifically, Texas Gas requests authority to add the existing Worthington No. 2 meter station in Greene County, Indiana, as a delivery point to its proposed service agreement with C, G & C. Texas Gas states that it installed the Worthington No. 2 meter station in 1987 for the sole purpose of delivering natural gas volumes to C, G & C under section 311 of the Natural Gas Policy Act of 1978. Texas Gas now states that it needs this meter station as a jurisdictional delivery point for the sales service to C, G & C authorized January 11, 1989, in Docket No. CP87-205-001 (46 FERC ¶61,010).

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

30. ANR Pipeline Co.

[Docket No. CP89-2027-000]

August 31, 1989.

Take notice that on August 29, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center Detroit, Michigan 48243, filed in Docket No. CP89-2027-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR proposes to transport natural gas on an interruptible basis for Coastal Gas Marketing Co. (Coastal). ANR explains that service commenced July 1, 1989 under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-4296. ANR further explains that the peak day quantity would be 900,000 dekatherms, the average daily quantity would be 900,000 dekatherms, and that the annual quantity would be 328,500,000 dekatherms. ANR explains that it would receive natural gas at existing points of receipt in the states of Kansas, Louisiana, Oklahoma, Texas and Wisconsin, and the Offshore Texas and Louisiana gathering areas. ANR states that it would deliver the gas to Coastal at existing interconnections located in the state of Michigan.

Comment date: October 16, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-21341 Filed 9-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-61-000]

Bayou Interstate Pipeline System; Proposed Change in FERC Gas Tariff

September 5, 1989.

Take notice that on August 31, 1989, Bayou Interstate Pipeline System (Bayou) tendered for filing Twelth Revised Sheet No. 4 to be a part of its FERC Gas Tariff.

The proposed tariff sheet provides a revised Annual Charges Adjustment (ACA) that the Federal Energy Regulatory Commission ("Commission") assesses Bayou under § 382.103 of the Commission's Regulations.

Bayou states that a copy of this filing was mailed to Bayou's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211. All such motions or protests must be filed on or before September 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-21342 Filed 9-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-32-000]

Colorado Interstate Gas Co.; Filing

September 5, 1989.

Take that on August 31, 1989, Colorado Interstate Gas Company ("CIG") submitted for filing tariff sheets reflecting a decrease of 1.01¢ per Mcf in the ACA adjustment charge as filed on August 31, 1988 resulting in a new ACA rate of .17¢ per Mcf based on CIG's 1989 ACA billing.

Pursuant to section 25 of CIG's FERC Original Volume No. 1 Tariff and Article No. 20 of CIG's Volume No. 1-A Tariff, CIG will file at least thirty days prior to the proposed effective date to reflect any changes in the ACA billing charge.

CIG has received its 1989 ACA billing, and is making this filing to reflect the 0.01¢ reduction to be effective October 1, 1989.

CIG submits for filing six copies of the following tariff sheets to reflect the reduction in the Annual ACA billing charge rate:

Original Volume No. 1 Tariff:

Substitute Forty-First Revised Sheet No. 7
Substitute Forty-First Revised Sheet No. 8

Volume No. 1–A Tariff:

Fourth Revised Sheet No. 4

Original Volume No. 2 Tariff:

Ninth Revised Sheet No. 167
Eighth Revised Sheet No. 463
Sixth Revised Sheet No. 517A
Eighth Revised Sheet No. 544
Sixth Revised Sheet No. 593A
Seventh Revised Sheet No. 625
Seventh Revised Sheet No. 662
Seventh Revised Sheet No. 674
Sixth Revised Sheet No. 697
Sixth Revised Sheet No. 774
Sixth Revised Sheet No. 801A
Sixth Revised Sheet No. 862
Fifth Revised Sheet No. 885
Fifth Revised Sheet No. 911
Fifth Revised Sheet No. 934
Fifth Revised Sheet No. 964
Fifth Revised Sheet No. 995
Fifth Revised Sheet No. 2021
Fifth Revised Sheet No. 1046
Fifth Revised Sheet No. 1101
Fifth Revised Sheet No. 1182
Fifth Revised Sheet No. 1216
Fifth Revised Sheet No. 1248
Fifth Revised Sheet No. 1264
Fifth Revised Sheet No. 1335
Fifth Revised Sheet No. 1347
Fifth Revised Sheet No. 1370
Fourth Revised Sheet No. 1450
Fourth Revised Sheet No. 1463

CIG states that copies of this filing are being served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89–21343 Filed 9–11–89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA89–9–000]

Corpus Christi Transmission Co.; Petition for Adjustment

September 5, 1989.

Take notice that on August 21, 1989, Corpus Christi Transmission Company (Corpus Christi) filed pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), a petition for adjustment from § 284.123(b)(ii) of the Commission's regulations to permit Corpus Christi to base its rates for NGPA section 311(a) transportation services on the rate contained in Tariff Sheet No. T–05 currently on file with the Railroad Commission of Texas (Texas). Corpus Christi states that the gas will be transported under transportation agreements providing for rates not greater than comparable intrastate service as reflected in rates filed with Texas. Corpus Christi further states that Tariff Sheet No. T–05 provides for a rate of $.30 per MMBtu.

Corpus Christi submits that since it does not render city gate service it is requesting this adjustment. Corpus Christi further submits that the adjustment it seeks is necessary to prevent special hardship and inequity that would otherwise result from requiring it to submit a § 284.123(b)(2) filing, and would avoid unnecessary dual agency review.

The procedures applicable to the conduct of this adjustment proceeding are found in subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**. The petition is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–21344 Filed 9–11–89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90–1–34–000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

September 5, 1989.

Take notice that on August 31, 1989, Florida Gas Transmission Company (FGT) tendered for filing the following tariff sheets to its FERC Gas Tariff, to be effective October 1, 1989.

FERC Gas Tariff, First Revised Volume No. 1

Ninth Revised 37th Revised Sheet No. 8

FERC Gas Tariff, Original Volume No. 2

Eighth Revised 59th Revised Sheet No. 128

Reason for Filing

FGT states that above-referenced tariff sheets are being filed to revise the Annual Charge Adjustment (ACA) to .17¢/Mcf (.017¢/therm), as authorized by the Commission for the 1990 fiscal year.

FGT states that copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person whishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89–21345 Filed 9–11–89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90–1–27–000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

September 5, 1989.

Take notice that North Penn Gas Company (North Penn) on August 31, 1989 tendered for filing Ninety-Fifth Revised Sheet No. PGA–1 to its FERC Gas Tariff, First Revised Volume No. 1.

North Penn states that the filed tariff sheet reflects revision, pursuant to § 154.38(d)(6) of the Commission's regulations, of North Penn's Annual Charge Adjustment (ACA) surcharge to recover the Commission's annual

charges billing. The new ACA surcharge rate is 0.17¢ per Mcf.

North Penn proposes an effective date of October 1, 1989.

North Penn states that copies of the filing have been served on the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of North Penn's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-21346 Filed 9-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-72-000]

Pelican Interstate Gas System; Proposed Changes in FERC Gas Tariff

September 5, 1989.

Take notice that on August 31, 1989, Pelican Interstate Gas Company (Pelican) tendered for filing Second Revised Sheet No. 2A to be a part of its FERC Gas Tariff.

The proposed tariff sheet provides a revised Annual Charges Adjustment (ACA) that the Commission assesses Pelican under Part 382.103 of the Commission's Regulations.

Pelican states that a copy of this filing was mailed to Pelican's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests should be filed on or before September 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[Docket No. TM 90-1-80-000]

Tarpon Transmission Co.; Tariff Filing

September 5, 1989.

Take Notice that on August 21, 1989, Tarpon Transmission Company (Tarpon) tendered for filing the following revised tariff sheet to be effective October 1, 1989:

Original Volume No. 1

Second Revised Sheet No. 2-A

On July 14, 1989, the Commission notified Tarpon of a downward revision of 0.01 cents per Mcf to the unit rate of the Annual Charge Adjustment Clause (ACA) to be applied to interstate gas pipeline rates for recovery of 1989 Annual Charges, pursuant to Order 472. This revision, reflected in the above-described tariff sheet, authorizes Tarpon to collect 0.17 cents for each jurisdictional Mcf of natural gas transported to be applied to the 1989 Annual Charges assessed Tarpon by the Commission under Part 382 of the Commission Regulations.

Tarpon requests an effective for this revised tariff sheet of October 1, 1989.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in such accordance with §§ 385.214 and 385.211 of the Commission's regulations. All such petitions of protest should be filed on or before September 13, 1989.

Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-21348 Filed 9-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM 90-1-56-000]

Valero Interstate Transmission Co.; Proposed Change in Rates

September 5, 1989.

Take Notice that on August 31, 1989, Valero Interstate Transmission Company ("Vitco") tendered the following tariff sheets for filing containing changes to the ACA unit rate in each applicable rate schedule:

Original Volume No. 1

16th Revised Sheet No. 14.
14th Revised Sheet No. 14.2.
3rd Revised Sheet No. 21.12.
2nd Revised Sheet No. 29.9.

Original Volume No. 2

19th Revised Sheet No. 6.
3rd Revised Sheet No. 7.
2nd Revised Sheet No. 12.50.

The proposed effective date for the above filings is October 1, 1989. Vitco requests a waiver of any Commission regulations or orders which would prohibit implementation by October 1, 1989.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC., 20426, in such accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 384.211 and 385.214). All such petitions or protests should be filed on or before September 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-21349 Filed 9-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-43-000]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 5, 1989.

Take notice that Williams Natural Gas Company (WNG) on August 31, 1989, tendered for filing Fourteenth Revised Sheet No. 6 and Thirteenth Revised Sheet No. 7 to its FERC Gas Tariff, Original Volume No. 1. WNG states that pursuant to Article 24 of the General Terms and Conditions of such Tariff, it proposes to decrease its rates effective October 1, 1989, to reflect a decrease in the FERC Annual Charge Adjustment from $.0018 to $.0017 for the fiscal year beginning October 1, 1989, per the Commission's Annual Charges Billing issued July 14, 1989.

WNG states that copies of its filing were served on all jurisdictional

customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell.

Secretary.

[FR Doc. 89-21350 Filed 9-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-76-000]

Wyoming Interstate Company, Ltd., Filing

September 5, 1989.

Take note that on August 31, 1989, Wyoming Interstate Company, Ltd., ("WIC") submitted for filing tariff sheets reflecting a decrease of 0.01¢ per Mcf in the ACA adjustment charge as filed on August 31, 1988 resulting in a new ACA rate of 0.17¢ per Mcf based on WIC's 1989 ACA billing.

Pursuant to section 20.3 of WIC's FERC Original Volume No. 1 tariff, WIC will file at least thirty days prior to the proposed effective date to reflect any changes in the ACA billing charge. WIC has received its 1989 ACA billing, and is making this filing to reflect the 0.01¢ reduction to be effective October 1, 1989.

WIC submits for filing six copies of Eighth Revised Sheet No. 5 to its FERC Gas Tariff, Original Volume No. 1, to reflect the reduction in the Annual ACA billing charge rate.

WIC states that copies of this filing are being served on all jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-21351 Filed 9-11-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3644-9]

Science Advisory Board Executive Committee; Open Meeting—October 23-24, 1989

Under Public Law 92-463, notice is hereby given that the Executive Committee of the Science Advisory Board (SAB) will meet on October 23 from 8:30 a.m. to 5:00 p.m. and on October 24 from 8:30 a.m. to 3:00 p.m. at the Holiday Inn, 550 C Street SW., Washington, DC 20024.

The purpose of the meeting is to enable the Executive Committee to act on reports from its subcommittees and standing committees that have been completed since the last meeting and receive status reports from each of the committees. Some action items include: SAB Report on "Dioxin Potency and Exposure"; SAB Report on Equilibrium Partitioning for Assessing Sediment Quality; SAB Review of Global Climate Change Research Plan; the SAB Review of Lead Carcinogenicity and Agency Science and Policy; and SAB Review of Products of Incomplete Combustion (PIC) of Hazardous Wastes. The Committee will receive a status report on the SAB Mission and Functioning Subcommittee and a status report on the Management and Organization Study of the SAB.

The meetings are open to the Public. Any member of the public wishing to attend should notify Joanna Foellmer or Dr. Donald G. Barnes, Staff Director, Science Advisory Board, at 202-382-4126 by October 16, 1989.

Dated: September 5, 1989.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 89-21408 Filed 9-11-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3646-2]

Establishment and Open Meeting of the Negotiated Rulemaking Advisory Committee for the Volatile Organic Chemical Equipment Leak Rule

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), we are giving notice of the establishment of an Advisory Committee to negotiate a rule to control fugitive emissions of toxic volatile organic compounds (VOCs) from chemical equipment leaks. We have determined that this is in the public interest and will assist the Agency in performing its duties prescribed in Sections 111 and 112 of the Clean Air Act, as amended.

Copies of the Committee Charter will be filed with the appropriate committees of Congress and the Library of Congress.

The committee's initial meeting will be held on September 27, 1989 from 9:00 am to 12:30 pm and on September 28 from 9:00 am to 5:00 pm at the Quality Hotel Capitol Hill, 415 New Jersey Avenue N.W., Washington, D.C. The Committee's facilitator has notified interested parties of the meeting dates. The purpose of the meeting is to complete outstanding procedural matters, determine how best to address the substantive issues and begin to address them.

An orientation for Committee members on September 27, 1989 at from 2:00 to 5:00 pm at the Quality Hotel Capitol Hill, Washington, DC.

Persons needing further information on the substantive matters of the rule should call Robert Ajax, Office of Air Quality Planning and Standards, EPA, (919) 541-5579. Persons needing further information on procedural matters should call Deborah Dalton, Regulatory Negotiation Project, EPA, at (202) 382-5495 or the Committee's facilitator, Philip Harter at (202) 887-1033.

SUPPLEMENTARY INFORMATION:

Background

Fugitive emissions of toxics and volatile organic compounds (VOCs) from equipment leaks (valves, etc.) contribute significantly to air quality problems. For example, some estimates indicate that fugitive emissions account for approximately one third of all routine (non-accidental) toxic air emissions. Recent reports completed under section 313 of the Superfund Amendments and Reauthorization Act (SARA) included 385,878 tons per year from fugitive sources. Moreover, becaue they are released near the ground, the impact from fugitive emissions is 10-40

times greater than equal releases from stacks.

Current regulations adopted under sections 111 and 112 of the Clean Air Act and in State Implementation Plans (SIPs) have been effective in heightening awareness of the significance of the source and in stimulating control efforts. The rules basically require that equipment in place be inspected quarterly for leaks with a portable hydrocarbon detector. If concentrations in excess of 10,000 ppm are found, the component is identified as a "leaker" and maintenance is required. This approach is known as "leak detection and repair" (LDAR).

EPA studies from the early 1980s indicated that typical uncontrolled chemical plants and refineries have a leak frequency of 11 to 12 percent. Maintenance studies indicate this can be reduced by about 60–70 percent with the current leak detection and repair program. The actual frequency rate, and associated emissions, varies widely, however, and is believed to be a function of: original design (e.g. number of valves), age of the process unit, equipment selected, quality of maintenance, standard operating procedures used by the company, training provided to employees, and motivation. Recent data for highly toxic chemicals demonstrate that leak frequencies in the 0.0 to 2 percent range can be achieved in some situations. But, no one is sure what combination of factors guarantees such results, nor how to require them through enforceable regulations.

Accurate quantification of fugitive emissions from chemical equipment leaks is becoming a high priority, yet regulatory approaches currently being used do not develop accurate profiles of emissions. Specific emission levels are necessary for baseline and residual risk assessments needed for making regulatory decisions. These include setting of new regulations, issuing permits for new facilities or establishing appropriate emission fees. Further, companies must report emissions under the Community Right to Know Act (Title III of the Superfund Amendments and Reauthorization Act (SARA)). These figures were widely publicized early this summer and sparked considerable public attention on the level of emissions of toxics and VOCs.

Under the current approach, and in the absence of comprehensive component by component testing, a company complying with the regulations is assumed by EPA to achieve an estimated percentage reduction in the baseline emissions. These, in turn, are based entirely on an uncontrolled plant using the technology that was prevalent at the time the regulations were written. The actual emission levels at many facilities are probably significantly different than these assumptions. The best controlled plants emit less than the typical plants using LDAR.

Theoretically, the actual emissions from chemical equipment leaks could be measured; however, it is expensive and impractical to do so. Indirect measurements have been used in relatively few plants thus far, but their use is increasing. The accuracy of these indirect approaches varies with the procedure, with the more expensive ones providing reasonable accuracy; interestingly, however, the accuracy of these measurements may be the poorest at the best controlled plants.

Not only does the current regulatory appraoch not achieve accurate estimates of the actual emissions, it does not provide incentives or credit to firms for establishing programs and facilities that achieve the best control. Nor does the approach ensure that emission rates are reduced to levels that are readily achievable with available technology.

Because of these shortcomings in the current regulatory approach to control of VOCs from equipment leaks, EPA decided that a new strategy is needed. The new method would provide a more accurate picture of the actual emissions from fugitive sources and would assure that emissions rates are reduced to levels achievable with best technology. New regulations could be based on performance and/or emissions and could give credit for original plant design. EPA has concluded, however, that developing such a regulation using traditional data gathering and analysis would be very difficult, costly, time consuming and controversial.

Scope of the Proposed Negotiation

On April 25, 1989, EPA announced its intention to form an Advisory Committee to Negotiate A New Approach for Control of Volatile Organic Chemical Equipment Leaks (54 FR 17944, 17945). This notice announced an informational meeting in May, 1989 with the start of committee deliberations in June or July 1989. As a result of information received during and after the informational meeting and from comments provided to the docket, the decision on whether to proceed with negotiating this rule was delayed to consider modification in the scope of the negotiation.

Discussions with many of the potential parties revealed that without addressing actual levels in some manner or another, the issue was not ripe for resolution: the level of control would not have been defined in the negotiations but rather would have been set in a subsequent EPA proceeding. Moreover, the nature of the approach might also be a function of the actual requirements. Further, without addressing the regulation itself, the parties would not be participating in the actual decision as to the critical aspect of the rule: what is to be required with respect to fugitive emissions.

Equally important, some parties were vitally interested in revising the emission factors while others were vitally interested in ensuring a reduced level of emissions; combining the two would make for more productive negotiations. Broadening the negotiations to encompass the minimum requirements of technology based controls would make the negotiations sufficiently tangible and ripe so that the committee could adequately address the issues.

In subsequent discussions, several parties agreed explicitly with the need to include technological stringency and requested EPA to include it in the negotiations. EPA and the parties believe that this negotiation is not the forum to decide the goals or limits of specific risk-based standards.

EPA has made the decision to focus the negotiation on the fugitive emissions from equipment leaks for source categories that would be affected by EPA's forthcoming HON (hazardous organic NESHAPS (National Emission Standards for Hazardous Air Pollutants)). The source categories and compounds expected to be affected by the HON regulation are listed below in Table 1.

The current objectives of the proposed regulatory negotiation are:

- Revise the emission factors for fugitive emissions of VOCs from equipment leaks, leading to a better quantification of the magnitude of the leaks;
- Develop a new standard for control of toxic fugitive organic emissions from equipment leaks at HON source categories based upon best technology and lowest achievable rates. This standard would be designed to reflect the maximum degree of reduction of emissions of toxic organic compounds as defined in the Administration's proposed amendments to section 112 of the Clean Air Act (House Bill—H.R. 3030 and Senate Bill—S. 1490).
- Develop a format that could be used to implement a risk based standard for toxic organic emissions from equipment leaks. Specific risk limits or goals will not be a topic for negotiation.

Parties to the Negotiation

The following parties have been identified as tentative committee members. Membership will be finalized at the initial meeting.

Robert Ajax, U.S. EPA, Office of Air Quality Planning & Standards, Research Triangle Park, NC
David Dunn, Sterling Chemical Corp., Texas City, TX
Thomas Kittleman, E.I. DuPont de Nemours & Co., Newark, DE, On Behalf of Chemical Manufacturers Assn.
David Doniger and Allen Hershkowitz, Natural Resources Defense Council, Washington, DC. and New York, NY
Anupom Ganguli, South Coast Air Quality Management District, El Monte, CA
Les Montgomery, Texas Air Control Board, Austin, TX
Gus Von Bodungen, Department of Environmental Quality, Baton Rouge, LA
Harvele Rogers, Air Pollution Control District, Louisville, KY
Bruce Bowers, Standard Chlorine, Delaware City, DE
John Prokop, Independent Liquid Terminals Assn., Washington, DC.
International Institute for Synthetic Rubber Producers, Houston, TX.

Several other parties have been contacted and are considering whether to participate. Organizations or individuals that believe these parties do not adequately represent their interests should contact the committee facilitator, Philip Harter, at (202) 887–1033 or attend the initial meeting.

Dated: September 8, 1989.

Terry Davies,

Assistant Administrator, Office of Policy, Planning and Evaluation.

TABLE 1—HON SOURCE CATEGORIES AND CHEMICAL COMPOUNDS

Source Category	Compounds
Butadiene Production	BD
SBR Production	BD
Polybutadiene	BD
Neoprene/Chloroprene	BD
Chlorine Production	CT
CFC Production	CT, CF, PCE
EDC Production	EDC

TABLE 1—HON SOURCE CATEGORIES AND CHEMICAL COMPOUNDS—Continued

Source Category	Compounds
EO Production	EO
Pesticide Production	CT, EDC, MC
Chemical Plants (Chlorinated Compound Users).	CT, MC, PCE, CF, EDC
Chlorinated HC Production.	CT, MC, PCE, CF, TCE
Pharmaceutical Manufacturing.	MC, CT
Other Production Processes that Use Butadiene.	BD

Compounds are abbreviated as follows: (BD) Butadiene, (CT) Carbon Tetrachloride, (CF) Chloroform, (PCE) Perchloroethylene, (EDC) Ethylene Dichloride, (EO) Ethylene Oxide, (MC) Methylene Chloride, (TCE) Trichloroethylene.

[FR Doc. 89–21574 Filed 9–11–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

August 31, 1989.

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785.

OMB Number: 3060–0029.

Title: Application for New Broadcast Station License.

Form No.: FCC 302.

Action: Revision.

Respondents: Business or other for-profit, non-profit institutions, small businesses or organizations.

Frequency of Response: On occasion.

Estimated Annual Burden: 2,922 Responses; 283,656 Hours.

Needs and Uses: The FCC 302 is required to be filed by all AM, FM and TV stations to obtain a new or modified broadcast station license, and/or to notify the Commission of certain changes in the licensed facilities of these stations. Data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit and to update FCC station files. Data is then extracted from the FCC 302 for inclusion in the license to operate the station.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 89–21326 Filed 9–11–89; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 8–21–89 AND 9/1/89

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
Community Hospitals of Indiana, Inc., University Heights Hospital, Inc., University Heights Hospital, Inc	89–2385	08/22/89
Ralph J. Roberts, QVC Network, Inc., QVC Network, Inc	89–2395	08/22/89
Time Warner Inc. (formerly Time Incorporated), Centel Corporation, Centel Cable Television of Ohio	89–2398	08/22/89
Yamato Kogyo Co., Ltd., Razorback Steel Corporation, Razorback Steel Corporation	89–2399	08/22/89
Sumitomo Corporation, Razorback Steel Corporation, Razorback Steel Corporation	89–2400	08/22/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 8-21-89 AND 9/1/89—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
Marukin Shoji Co., Ltd., LAACO, Ltd. Riviera Associates	89-2401	08/22/89
Kenneth R. Thomson, Thomas E. Worrell, Jr., Worrell Enterprises, Inc	89-2408	08/22/89
Sara Lee Corporation, Matt F. Gorges, Gorges Foodservices, Inc	89-2411	08/22/89
Garden States Newspapers, Inc., Kenneth R. Thomson, Thomson Newspapers Holdings Inc	89-2417	08/22/89
Kenneth R. Thomson, Garden State Newspapers, Inc., eight newspapers	89-2418	08/22/89
Inspiration Resources Corporation, Alan Bond, Bond Gold Placer Corp	89-2446	08/22/89
Akzo N.V., Nylon Corporation of America, Nylon Corporation of America	89-2448	08/22/89
Exxon Corporation, Occidental Petroleum Corporation, Oxy USA Inc	89-2486	08/22/89
Michel Gaucher, Steinberg Inc., Steinberg Inc	89-2535	08/22/89
Cemex, S.A., Marmac Corporation, Aggregate Transportation, Inc	89-2357	08/23/89
Charter Consolidated P.L.C., Romolo Panetti, Spano Ballast Cleaning Company	89-2426	08/23/89
Daniel E. Heffernan, Danaher Corporation, Mohawk Rubber Company	89-2459	08/23/89
The Yokohama Rubber Company, Limited, Daniel E. Heffernan, The Mohawk Rubber Company	89-2461	08/23/89
British Gas, plc, Panhandle Eastern Corporation, Texas Eastern North Sea Inc	89-2462	08/23/89
Nortek, Inc., Federal-Mogul Corporation, Federal-Mogul Corporation	89-0041	08/24/89
Nortek, Inc., Federal-Mogul Corporation, Federal-Mogul Corporation	89-0170	08/24/89
HCS Technology, N.V., Savin Corporation, Savin Corporation	89-2382	08/24/89
Oppenheimer & Co., L.P., NEOAX, Inc., Nuclear Automation, Inc	89-2472	08/24/89
Tokyo General Corporation, Century City Holdings LTD., Kona Operating Partnership L.P.	89-2419	08/25/89
Noel Group, Inc., Global Natural Resources, Inc., Global Natural Resources, Inc	89-2436	08/25/89
PSE Inc., General Electric Corporation, General Electric Capital Corporation,	89-2460	08/25/89
W.W. Grainger, Inc., Vonnegut Industrial Products, Inc., Vonnegut Industrial Products, Inc	89-2493	08/25/89
Bunzl plc, Bennett Family Partnership, Benco Building Products, Inc	89-2494	08/25/89
Harrisons & Crosfield plc, Grossman's Inc., Grossman's Inc	89-2495	08/25/89
Ramada Inc., H&M Station, Inc., H&M Station, Inc	89-2496	08/25/89
Golder, Thomas, Cressey Fund III Limited Partnership, S.A. Louis Dreyfus et Cie, Louis Dreyfus Propane Corporation	89-2506	08/25/89
ML Media Partners, L.P., Anaheim Broadcasting Corporation, Anaheim Broadcasting Corporation	89-2515	08/25/89
Texfi Industries, Inc., Kingstree Knits, Inc., Kingstree Knits, Inc	89-2521	08/25/89
Quantum Fund N.V., Crystal Oil Company, Crystal Oil Company	89-2528	08/25/89
The News Corporation Limited, The News Corporation Limited, MKV/SLM III Company, W-Cal/SLM IV Company & Multi-pic	89-2536	08/25/89
Corporate Capital Limited, Sports & Recreation, Inc., Sports & Recreation, Inc	89-2539	08/25/89
Pennzoil Company, Jiffy Lube International, Inc., Jiffy Lube International, Inc	89-2414	08/28/89
Whitman Corporation, Grand Metropolitan, P.L.C., The Pillsbury Company (Van de Kamp division)	89-2480	08/28/89
Pulitzer Voting Trust, c/o Ronald H. Ridgeway, The Liberty Corporation, Cosmos Broadcasting Corporation	89-2491	08/28/89
Polar Construction Corporation, The Turner Corporation, F.N. Thompson, Inc	89-2497	08/28/89
BE&K, Inc., The Turner Corporation, F.N. Thompson, Inc	89-2498	08/28/89
McCown De Leeuw & Co., Continental Graphics Holdings, Inc., Graphic Arts Center, Inc	89-2505	08/28/89
Ameritech Pension Trust, a pension trust, William A. Estes, Jr., CID Development Co. (dba Estes Development Co.)	89-2511	08/28/89
Blue Circle Industries PLC, First Chicago Corporation, Georgia Marble Aggregates Corporation	89-2561	08/28/89
TELECOM*USA, Inc., Async Corporation, Async Corporation	89-2392	08/28/89
PacifCorp, Societe Nationale Elf Aquitaine Texasgulf Minerals and Metals, Inc	89-2544	08/29/89
Warburg, Pincus Capital Company L.P., Mattson Instruments, Inc., Mattson Instruments, Inc	89-2397	08/29/89
Noranda Inc., Falconbridge, Limited, Falconbridge, Limited,	89-2530	08/30/89
Trelleborg AB, Falconbridge, Limited, Falconbridge, Limited,	89-2531	08/30/89
Noranda Inc. FL Acquisition Corp., FL Acquisition Corp	89-2532	08/30/89
Trelleborg AB, FL Acquisition Corp., FL Acquisition Corp	89-2533	08/30/89
Dominion International Group plc, John C. York, Jr., York Associates, Inc	89-2346	08/31/89
Fujita Corporation USA, Koll KW Associates, KW Partnership	89-2369	08/31/89
JWP Inc., Aldo P Lera, individually and as Trustee of M.D. Trust, Lera Electric Company, Inc	89-2422	08/31/89
Camellia Food Stores Cooperative, Inc., Nick and Laurna Styke, Eastern Shore Markets, Inc	89-2445	08/31/89
Ashland Oil, Inc., Albert Anderson, ETS Holdings Company, Inc., E-Town Delta, Inc., E-Town	89-2476	08/31/89
The Coast Distribution System, William J. Griffin, Jr., Griffin's Outboard Marine Inc	89-2518	08/31/89
General Electric Company, Dollar Dry Dock Bank, Dollar Dry Dock Bank,	89-2573	08/31/89
National Electrical Contractors Assn. Pension Fund, Chronar Corp., Chronar Corp	89-2290	09/01/89
Sheet Metal Workers National Pension Fund, Chronar Corp., Chronar Corp	89-2291	09/01/89
REPH Acquisition Company, American Medical International, Inc., Parkway Regional Medical Center, Inc.; Parkway	89-2470	09/01/89
JWP, Inc., Environmental Reclamation Company, Environmental Reclamation Company	89-2474	09/01/89
Compagnie Francaise de l'Afrique Occidentale, W.R. Grace & Co., Grace Equipment Co	89-2508	09/01/89
International Proteins Corporation, Hanson PLC, The Ground Round, Inc	89-2519	09/01/89
Hanson PLC, International Proteins Corporation, International Proteins Corporation	89-2520	09/01/89
Westinghouse Electric Corporation, Robert F.X. Sillerman, Metropolitan Broadcasting Corporation	89-2522	09/01/89
Westinghouse Electric Corporation, Carl E. Hirsch, Legacy Broadcasting, Inc	89-2523	09/01/89
Mr. Dumri Konuntakiet, Grand Metropolitan Public Limited Company, Bumble Bee Seafoods, Inc	89-2526	09/01/89
Mission Insurance Group, Inc., GEICO Corporation, Resolute Group, Inc	89-2542	09/01/89
D.M. Draime, Chip Supply, Inc., Chip Supply, Inc	89-2545	09/01/89
American Exploration Company, Cabot Corporation, Cabot Petroleum Corporation	89-2546	09/01/89
Legend Capital Group, L.P., Jerrico, Inc., Jerrico, Inc	89-2550	09/01/89
Clondalkin Group PLC, Florida Progress Corporation, Better Business Forms, Inc	89-2553	09/01/89
Tele-Communications, Inc., Tele-Communications, Inc., Waltham Tele-Communications	89-2557	09/01/89
Golder, Thoma, Cressey Fund III Limited Partnership, Golder, Thoma, Cressey Fund II Limited Partnership, Florida Food Industries	89-2564	09/01/89
Delta Air Lines, Inc., Swissair, Swiss Air Transport Company Ltd., Swissair, Swiss Air Transport Company Ltd	89-2566	09/01/89
Christopher C. Skase, Kirk Kerkorian, MGM/UA Communications Co	89-2567	09/01/89
Mitsuo Kokufu, Nestle S.A., Wailea Beach Hotel Partners and Stouffer Hotel Company	89-2570	09/01/89
Donn Chickering, Panhandle Eastern Corporation, The Youghiogheny and Ohio Coal Company	89-2577	09/01/89
Lilly Industrial Coatings, Inc., Whittaker Corporation, Ram Chemicals	89-2590	09/01/89
JSG Holding Company, Inc., Continental Bank Corporation, Securities Settlement Corporation	89-2594	09/01/89
Centel Corporation, Graceba Total Communications, Inc., Graceba Cellular Systems, Inc	89-2607	09/01/89

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89–21384 Filed 9–11–89; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89D–0359]

Refusals by Institutional Review Boards; Compliance Policy Guide; Revocation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of Compliance Policy Guide (CPG) 7150.09, "Refusals by Institutional Review Boards—October 1, 1980."

FOR FURTHER INFORMATION CONTACT: Paul W. Goebel, Jr., Center for Drug Evaluation and Research (HFD–343), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8026.

SUPPLEMENTARY INFORMATION: CPG 7150.09, "Refusals by Institutional Review Boards—October 1, 1980" has been made unnecessary by regulation at §§ 56.115 and 56.120 (21 CFR 56.115 and 56.120) and is being revoked. The regulation at § 56.115(b) requires institutional review boards (IRB's) to make certain IRB records accessible for inspection and copying by FDA, and § 56.120 provides for administrative action for refusals of IRB's to permit inspection and/or copying of records by FDA. Therefore, CPG 7150.09 is being revoked because it is unnecessary.

Dated: September 1, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–21310 Filed 9–11–89; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–89–2048]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public commends on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 6, 1989.

John T. Murphy,

Information Policy and Management Division.

Proposal: Designation of Depository for Direct Deposit of Loan and/or Grant Fund.

Office: Administration.

Description of the Need for the Information and Its Proposed Use: The Department will use HUD–274 to request recipients of loan and grant funds being funded by requisition, to designate a depository that they wish to receive funds in connection with HUD programs. This will be an internal control system instituted to safeguard Federal funds as well as provide a service to recipients.

Form number: HUD–274.

Respondents: State or Local Governments.

Frequency of submission: On Occasion.

Reporting burden:

Number of Respondents	×	Frequency of Response	×	Hours per Response	=	Burden Hours
HUD–274						
1,000		1		.08		83

Total Estimated Burden Hours: 83.
Status: Extension.
Contact: Donald C. Dispanet, HUD, (202) 755–5143, John Allison, OMB, (202) 395–6880.

Dated: September 6, 1989.

[FR Doc. 89–21332 Filed 9–11–89; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: E.G. & G. Energy Measurements, Goleta, CA, PRT 683011.

The applicant requests an amendment to their current endangered species permit to authorize an increase in the numbers of San Joaquin kit fox *(Vulpes macrotis mutica)* that may be radio-collared, from the presently-authorized 60 to 120, and to authorize the following activities with the gopher tortoise *(Gopherus agassizi)* in Nevada:

(1) Capture, handle, mark, attach transmitters and take blood samples;
(2) Modify tortoise habitat by building drift fences and underpasses at roads;
(3) Relocate up to 10 desert tortoises per year from their existing home ranges to a new area; and
(4) Salvage carcasses of desert tortoises.

The requested gopher tortoise activities are to be conducted in order to evaluate and monitor the effects of DOE activities on the desert tortoise population on the Nevada test site and elsewhere in south central Nevada.

Applicant: Helen Carpenter, Jefferson, TX, PRT 737979.

The applicant requests a permit to export and re-import four captive-bred male tigers *(Panthera tigris)* for the purpose of conservation education. In the future applicant may amend her permit to add animals captive-born at her facility and re-export and re-import these animals for the same purpose.

Applicant: Donald Kitchens, Utica, MS, PRT 738936.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok *(Damaliscus dorcas dorcas)* to be culled from the captive herd maintained by Mr. J. D'Alton, Bredasdorp, Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Priscilla Witherell, Las Vegas, NV, PRT 741186.

The applicant requests a permit to purchase in interstate commerce twelve scarlet-chested parakeets *(Neophema splendida)* from Ole Borreson of California, for the purpose of enhancement of propagation and survival of the species.

Applicant: New York Zoological Society, Bronx, NY, PRT 741444.

The applicant requests a permit to import internal organs removed from captive-hatched Orinoco crocodiles *(Crocodylus intermedius)* for necropsy purposes. The crocodiles were hatched at the Fundo Pecuario Masaguaral, Calabozo, Venezuela, for eventual reintroduction into the wild. However, they recently died of unknown causes. The applicant would like to import the internal organs in order to perform necropsies to attempt to determine the causes of death.

Applicant: Henry Doorly Zoo, Omaha, NE, PRT 741447.

The applicant requests a permit to export frozen semen collected from two captive-born male gaurs *(Bos gaurus)* to the Kunming Institute of Zoology Academia, Sinica Kunming, Yunnan, People's Republic of China. The Kunming Institute will use the semen samples to artificially inseminate two female gaur currently maintained at their facility.

Documents and other information submitted with this application are available to the public during normal business hours (7:45 am to 4:15 pm) Room 432, 4401 N. Fairfax Dr., Arlington, VA 22203, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203–3507.

Interested persons may comment on any of these applications within 30 days of the date of this duplication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: September 6, 1989.

Susan M. Lawrence,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89–21353 Filed 9–11–89; 8:45 am]
BILLING CODE 4310–AN–M

Bureau of Land Management

[NV–060–09–4320–02]

Battle Mountain District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Notice of Grazing Advisory Board Meeting.

SUMMARY: In accordance with Public Law 94–579 and section 3, Executive Order 12548 of February 14, 1986, a meeting of the Battle Mountain District Grazing Advisory Board will be held.

DATE: October 11, 1989, beginning at 1:00 p.m. in the Battle Mountain District Conference Room, N. Second and Scott Streets, Battle Mountain, Nevada.

SUPPLEMENTARY INFORMATION: The meeting agenda will include:

(1) Election of Chairperson and Vice Chairperson,
(2) Status of FY 89 range inprovements, and
(3) FY 90 range improvements—review and recommendations.

The meeting is open to the public. Interested persons may make oral statements to the board between 4:00 and 4:30 p.m. on October 11, 1989, or file written statements for the board's consideration. If you wish to make oral comments, please contact James D. Currivan by October 4, 1989.

FOR FURTHER INFORMATION CONTACT: James D. Currivan, District Manager, P.O. Box 1420, Battle Mountain, Nevada 89820 or phone [702] 635–5181.

Dated: August 31, 1989.

James D. Currivan,

District Manager, Battle Mountain, Nevada.

[FR Doc. 89–21373 Filed 9–11–89; 8:45 am]
BILLING CODE 4310–HC–M

[CA–23085; CA–060–09–4212–14]

Noncompetitive Sale of Public Land in Kern County, CA; Realty Action

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of realty action: noncompetitive sale of public land in Kern County, California; CA–23085.

SUMMARY: The following public land in Kern County has been examined and determined suitable for disposal by direct sale pursuant to section 203 of the Federal Land Policy and Management Act of October 21, 1976 (90 stat. 2750, 43 U.S.C. 1713), at not less than the appraised fair market value:

Mount Diablo Meridian

T. 30S., R. 37E.,
Section 28, Lot 5
containing 0.19 acres, more or less.

SUPPLEMENTARY INFORMATION: The purpose of this sale is to resolve an unintentional occupancy trespass by Eugene S. and Lenora A. McKendry. A small portion of their primary residence was inadvertently constructed on public land due to a survey error. The lot proposed for sale was created by supplemental survey, and disposal will equitably resolve this trespass. Examination of the subject land has resulted in a determination that the sale would not result in land use conflicts or loss of significant resources and does not conflict with the California Desert Conservation Area Plan.

Sale will be at full fair market value as established by appraisal under applicable Federal standards. The parcel contains no known developable mineral values, and acceptance of this sale offer will also allow the purchaser to apply for mineral conveyance. The patent will be issued subject to the reservation to the United States of right of way for ditches and canals, pursuant to the Act of August 30, 1890 (43 U.S.C. 945). The patent shall also be subject to all prior existing rights.

Publication of this notice in the Federal Register segregates the subject land from appropriation under the public land laws, including the general mining laws, but not the mineral leasing laws. The segregative effect shall terminate on issuance of patent pursuant to this notice, or two years from the date of first publication of this notice, whichever occurs first. Mining claims of record may encumber the subject land on the date of this notice. No sale will be completed until any claims of record are relinquished.

DATES: For period of 45 days from the date of first publication of this notice, interested parties may submit comments to the Bureau of Land Management, Area Manager, Ridgecrest Resource Area, at the address below. Objections will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of objections, this action will become the final determination of the Department of the Interior. No transfer of public lands will occur sooner than 60 days from first publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Joe Liebhauser, Ridgecrest Resource Area, 112 East Dolphin Avenue, Ridgecrest, California 93555, telephone (619) 375–7125. Detailed information, including the official casefile, is available for public review at this address.

Dated: August 31, 1989.

Gerald E. Hillier,

District Manager.

[FR Doc. 89–21367 Filed 9–11–89; 8:45 am]

BILLING CODE 4310–40–M

Minerals Management Service

Alaska OCS Region; Outer Continental Shelf Advisory Board; Alaska Regional Technical Working Group Meeting

AGENCY: Minerals Management Service, Alaska OCS Region, Interior.

ACTION: Outer Continental Shelf Advisory Board, Alaska Regional Technical Working Group Committee; Notice for meeting.

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92–463.

The Alaska Regional Technical Working Group (RTWG) committee of the Outer Continental Shelf (OCS) Advisory Board is scheduled to meet from 9:00 a.m. to 4:00 p.m., September 27, 1989, in room 601 of the Minerals Management Service (MMS), Alaska OCS Region offices at 949 East 36th Avenue, Anchorage, Alaska. The Alaska RTWG is one of six such committees of the OCS Advisory Board that provides advice to the Director of MMS about technical matters of regional concern regarding OCS prelease and postlease sale activities.

Topics which may be addressed at the meeting are:

(a) Alaska OCS Region issues and activities.

(b) Prince William Sound oil spill—member roundtable discussion.

(c) Status of MMS review of oil-spill-contingency plans.

(d) Technology Assessment and Research Program for Offshore Minerals Operations.

(e) Report on and status of drilling activitiy on OCS leases in the Chukchi Sea.

(f) Oil-spill contingency plan and readiness for activity on OCS leases in the Chukchi Sea.

The Alaska RTWG meeting will be open to the public, although seating may be limited. Interested persons may make oral or written presentations to the committee. A request to make a presentation should be made no later than September 20, 1989, to Alan D. Powers, Regional Director, Alaska OCS Region, 949 East 36th Avenue, Room 110, Anchorage, Alaska 99508–4302, and should be accompanied by a written summary of the presentation.

Minutes of the meeting will be available 70 days after the meeting for public inspection and copying at the Alaska OCS Region Library, 949 East 36th Avenue, Anchorage, Alaska, and at the Office of OCS Advisory Board Support, MMS, Department of the Interior, 18th and C Streets, NW., Washington, DC.

Dated: September 1, 1989.

Alan D. Powers,

Regional Director, Alaska OCS Region.

[FR Doc. 89–21483 Filed 9–11–89; 8:45 am]

BILLING CODE 4310–MR–M

Bureau of Mines

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending 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 requirement should be made directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1032–0084), Washington, DC 20503, telephone 202–395–7340.

Title: Consolidated Consumers' Report.

OMB Approval Number: 1032–0084.

Abstract: Respondents supply the Bureau of Mines with domestic production and consumption data on nonfuel mineral commodities. This information is published in Bureau of Mines publications including the Mineral Industry Survey (MIS), Minerals Chapters, Mineral Facts and Problems, Mineral Commodity Summaries, Mineral Commodity Profiles, and Minerals and Materials/A Bimonthly Survey for use by private organizations and other Governmental agencies.

Bureau Form Number: 6–1109–MA.

Frequency: Monthly/Annually.

Description of Respondents: Operations that consume ferrous metals.

Estimated Completion Time: 1 Hour.

Annual Responses: 5,098.

Annual Burden Hours: 5,098.

Bureau clearance officer: James T. Hereford, 202–634–1125.

Dated: August 21, 1989.

John D. Morgan, Jr.,

Acting Director, Bureau of Mines.

[FR Doc. 89-21372 Filed 9-11-89; 8:45 am]

BILLING CODE 4310-53-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 2, 1989. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by September 27, 1989.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Coconino County

CHARLES H. SPENCER Hulk, Address Restricted, Lee's Ferry vicinity, 89001593

ARKANSAS

Desha County

Parnell—Sharpe House, 302 N. Second St., McGehee, 89001594

Lawrence County

Ficklin—Imboden House, (Powhatan MPS), Powhatan Log House, Powhatan, 89001611

Powhatan Jail (Powhatan MPS), AR 25, Powhatan, 89001612

Telephone Exchange Building (Powhatan MPS), First and Main Sts., Powhatan, 89001613

Washington County

Routh—Bailey House, Old Wire Rd. 3 mi. E. of Fayetteville, Fayetteville vicinity, 89001592

FLORIDA

Escambia County

Alger—Sullivan Lumber Company Residential Historic District, Roughly bounded by Pinewood Ave., Front St., Jefferson Ave., Church St., and Mayo St., Century, 89001586

KENTUCKY

Campbell County

St. Vincent de Paul School, 117 Main St., Newport, 89001598

Franklin County

Arrowhead, US 60, 0.5 mi. S of Hanley Ln., Frankfort vicinity, 89001597

Kenton County

Highland Cemetery Historic District (Fort Mitchell MPS), 2167 Dixie Hwy., Fort Mitchell, 89001585

Nicholas County

Carlisle Historic District, Roughly Second, Broadway, North, Archdeacon, Trueman, Chestnut, Walnut, Market, Elm, W. Main, and School Dr., Carlisle, 89001599

Dinsmore House, 210 S. Elm St., Carlisle, 89001602

Dorsey, Thomas A., Farmhouse, 416 High St., Carlisle, 89001603

Kennedy, Thomas, House, Eastern Ave. at E. Main St., Carlisle, 89001601

Mathers, William, House, KY 36, Carlisle, 89001600

Maryland

Frederick County

Camp Greentop Historic District (ECW Architecture in Catoctin Mountain Park MPS), Off Park Central Rd. in Catoctin Mountain Park, Thurmont vicinity, 89001583

Camp Misty Mount Historic District (ECW Architecture in Catoctin Mountain Park MPS), Off Park Central Rd. in Catoctin Mountain Park, Thurmont vicinity, 89001582

MASSACHUSETTS

Essex County

Estey Tavern, Central and Maple Sts. at MA 114, Middleton, 89001587

Middlesex County

Fox, Warren, Building, 190-196 Middlesex St., Lowell, 89001609

Howe Building, 208 Middlesex St., Lowell, 89001608

NEW JERSEY

Bergen County

Vaill, Edward W., House, 863 Midland Rd., Oradell, 89001595

Union County

Smith Nathaniel, House, 105 Springfield Ave., Berkeley Heights, 89001584

NEW MEXICO

Bernalillo County

Santa Barbara School, 1420 Edith Blvd., NE., Albuquerque, 89001590

Solar Building, 213 Truman St., NE., Albuquerque, 89001589

SOUTH CAROLINA

Kershaw County

Cool Springs, 726 Kershaw Hwy., Camden vicinity, 89001596

Richland County

St. Peter's Roman Catholic Church (Columbia MRA), 1529 Assembly St., Columbia, 89001610

SOUTH DAKOTA

Hanson County

Bloom Site (39HS1), Address Restricted, Ethan vicinity, 89001591

Yankton County

Fantle, William J., House, 1201 Douglas, Yankton, 89001588

WASHINGTON

King County

New Washington Hotel, 1902 Second Ave., Seattle, 89001607

Pierce County

Holy Trinity Orthodox Church, 433 Long St., Wilkeson, 89001606

Snohomish County

Coaster II, C Dock South, Port of Everett, Everett, 89001605

[FR Doc. 89-21301 Filed 9-11-89; 8:45 am]

BILLING CODE 4310-70-M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875-1608, IRM/PE, Room 1100B, SA-14, Washington, DC 20523.

Date Submitted: August 31, 1989.

Submitting Agency: Agency for International Development.

OMB Number: 0412-0014.

Form Number: AID 1550-6.

Type of Submission: Renewal.

Title: Collection of Information for the Ocean Freight Reimbursement Program.

Purpose: A.I.D.'s Ocean Freight program reimburses approved Private and Voluntary Organizations (PVOs) registered with the Agency for their transportation costs incurred when transporting donated goods overseas. To effectively monitor the program, A.I.D. has developed a proposal solicitation package and a monitoring document to collect necessary information from qualified and interested PVOs.

Respondents will have a submission burden of four responses per year.

Reviewer: Donald Arbuckle (202) 395-7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: August 31, 1989.
Wayne H. Van Vechten,
Planning and Evaluation Division.
[FR Doc. 89-21355 Filed 9-11-89; 8:45 am]
BILLING CODE 6116-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 5, 1989, a proposed Consent Decree in *United States* v. *Arkwright, Inc., et al.*, Civil No. 87-2000D, was lodged with the United States District Court for the District of New Hampshire. The proposed Consent Decree concerns the prevention of the discharge of volatile organic compounds ("VOCs") in violation of the Clean Air Act and the limits set forth in Regulation 19 of the Rhode Island State Implementation Plan. The proposed Consent Decree requires Arkwright to maintain compliance with the Act and the applicable emission limits for VOCs, to monitor and report on their compliance. Arkwright and its former parent company, Oce Van der Grinten, N.V. will also pay a civil penalty of $175,000.

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 Arkwright, D.J. Ref. 90-5-2-1-960.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of New Hampshire, 55 Pleasant Street, James Cleveland Federal Building and Courthouse, Concord, New Hampshire; the office of the United States Attorney, District of Rhode Island, Westminster Square Building, 10th Floor, 10 Dorrance Street, Providence, Rhode Island; and at the Region 1 Office of the Environmental Protection Agency, J.F.K. Federal Building, Boston, Massachusetts 02203. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1647, Ninth 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 refer to the referenced case and enclose a check in the amount of $4.10 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

Richard B. Stewart,
Assistant Attorney General, Land and Natural Resources Divison.
[FR Doc. 89-21375 Filed 9-11-89; 8:45 am]
BILLING CODE 4410-01-M

Antitrust Division

Proposed Termination of Final Judgment; N.P. Benson Optical Co.

Notice is hereby given that Benson Optical Co., Inc. ("Benson"), as successor in interest to N.P. Benson Optical Company and The House of Vision-Belgard-Spero, Inc., has filed with the United States District Court for the Northern District of Illinois a motion to terminate the final judgement in *United States* v. *N.P. Benson Optical Company*, Civil No. 89 C 18 and *United States* v. *The House of Vision-Belgard-Spero, Inc.*, Civil No. 48 C 607; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the judgments, but has reserved the right to withdraw its consent based on public comments or for other reasons. The complaints in these cases (filed on May 4, 1948) alleged a rebating and price fixing conspiracy between the corporate defendants, which were wholesale optical goods supply companies, and a number of ophthalmologists who also are defendants in the cases. The judgments (entered on May 16, 1951) in each case enjoin: (1) The corporated defendant from making any payment to any ophthalmologist or other refractionist in connection with dispensing optical goods to patients; (2) the defendant physicians from accepting any payment from dispensers in connection with dispensing optical goods to their patients; and (3) all defendants from entering into price fixing agreements with any party.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the judgments would serve the public interest. Copies of the complaints and final judgments, Benson's motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection at Room 3233, Antitrust Division, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC. 20530 (telephone 202-633-2481), and at the Office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, 219 South Dearborn Street, Chicago, Illinois 60604. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decrees to the Department. Such comments must be received within the sixty-day period established by court order, and will be filed with the court by the Department. Comments should be addressed to Kent Brown, Chief, Midwest Field Office, Antitrust Division, Department of Justice, Chicago, Illinois 60604 (telephone 312-353-7530).

Joseph H. Widmar,
Director of Operations Antitrust Division.
[FR Doc. 89-21376 Filed 9-11-89; 8:45 am]
BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Meeting of Advisory Committee for Astronomical Sciences

The dates, location, and times have been changed for the Subcommittee on Optical/Infrared Astronomy Meeting of the Advisory Committee for Astronomical Sciences.

The Subcommittee will meet in Denver, Colorado on September 28-29 rather than in Washington, DC on September 26-27.

Dates & Times: September 28, 1-5 p.m.; September 29, 9-5 p.m.

Place: Denver, Colorado

Type of Meeting: Open

Contact Person: Dr. G. Wayne van Citters, Jr., Program Director, Astronomical Instrumentation and Development, Division of Astronomical Sciences, Room 618, National Science Foundation, Washington, DC 20550 (202/357-9793)

Minutes: May be obtained from the contact person at the above address.

Purpose of Subcommittee: To provide advice and recommendations concerning research programs, proposals, and projects in NSF-funded astronomy with the objective of achieving the highest quality forefront research for the funds allocated. To provide advice and recommendations concerning short-range and long-range plans in astronomy, including a recommendation of relative priorities.

Agenda: Preparation of report on topics discussed at the Subcommittee meeting held on August 28, and 29, 1989.

The original meeting notice appeared in the **Federal Register** on September 8, 1989.

Dated: September 7, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-21385 Filed 9-11-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting of Advisory Panel for Ecology

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecology.

Date and Time: October 4-6, 1989—8:30 a.m.-5:00 p.m. each day.

Place: Room 1243, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Patrick J. Webber, Program Director, Ecology (202) 357-9734, Room 215, National Science Foundation, Washington, DC 20550.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in ecology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: September 7, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-21386 Filed 9-11-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting of Advisory Panel for Ecosystem Studies

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecosystem Studies.

Date and Time: October 5 & 6, 1989—8:30 a.m.-5:00 p.m. each day.

Place: Room 6423, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. James E. Schindler, Program Director, Ecosystem Studies (202) 357-9596, Room 215, National Science Foundation, Washington, DC 20550.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in ecosystem studies.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: September 7, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-21387 Filed 9-11-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting of Advisory Committee for Engineering

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Engineering

Date and Time: October 5-6, 1989; 8:30 a.m.-5:00 p.m., October 5, 1989 (open), 8:00 a.m.-9:00 a.m., October 6, 1989 (closed), 9:00 a.m.-12:00 Noon, October 6, 1989 (open).

Place: National Science Foundation, 1800 "G" Street NW., Room 540, Washington, DC 20550.

Type of Meeting: Partially Closed.

Contact Person: Ms. Rose Szwast, Advisory Committee for Engineering, Room 537, National Science Foundation, Washington, DC 20550, Telephone: (202) 357-9832.

Minutes: Ms. Rose Szwast at the above address.

Purpose of Meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to Engineering programs and activities.

Reason for Closing: The personnel matters being discussed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: The determination made on September 6, 1989 by the Director of the National Science Foundation pursuant to the provisions of section 10(d) of Public Law 92-463.

Agenda: Friday, October 6, 1989, Room 540—8:00 a.m. to 9:00 a.m.—Closed. Discussion of personnel issues including candidates for vacancies. Thursday, October 5, 1989, Room 540—8:30 a.m. to 5:00 p.m., and Friday, October 6, 1989, Room 540—9:00 a.m. to 12:00 Noon—Open. Discussion on issues, opportunities and future directions for the Engineering Directorate; discussion of Engineering Directorate budget situation as well as other items.

Dated: September 7, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-21388 Filed 9-11-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting of Advisory Panel for Informal Science Education

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Informal Science Education.

Date and Time: October 5-6, 1989, from 8:30 a.m. to 5:00 p.m.

Place: National Air & Space Museum, Washington, DC 20560, Room 3501.

Type of Meeting: Closed Meeting.

Contact Person: Michael Templeton or Kenneth Starr, National Science Foundation, 1800 G St. NW., Washington, DC 20550, Informal Science Education, Room 635-A, Phone (202) 357-7076.

Minutes: May be obtained from the Contact persons at the above address.

Purpose of Meeting: To provide advice and recommendations concerning Informal Science Education proposals.

Agenda: To review and evaluate Informal Science Education proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a propriety or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552 b (c), Government in the Sunshine Act.

Dated: September 7, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-21389 Filed 9-11-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting of Advisory Panel for Physiological Processes

In accordance with the Federal Advisory Committee Act, as amended, Public Law 92–463, the National Science Foundation announces the following meeting

Name: Advisory Panel for Physiological Processes.

Date and Time: October 2–6 1989, 8:30 a.m. to 5:00 p.m.

Place: Room 643, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of Meeting: Part Open—October 2—12:00 p.m.–1:00 p.m. (open); October 3—12:00 p.m.–1:30 p.m. (open); October 4—12:00 p.m.–1:00 p.m. (open). All other times the meeting is closed.

Contact Person and Minutes: Dr. Ernest J. Peck, Program Director, Physiological Processes, Room 321, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7975.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in Physiological Processes.

Agenda: Open—General discussion of the current status and future plans of the Physiological Processes Program. Closed—To review and evaluate research proposals as part of the selection process for awards.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individual associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: September 7, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89–21390 Filed 9–11–89; 8:45 am]

BILLING CODE 7555–01–M

Meeting of Advisory Panel for Population, Biology and Physiological Ecology

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Population Biology and Physiological Ecology

Date and Time: October 4–6, 1989—8:00 a.m to 5:00 p.m. each day

Place: Room 536, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Fred W. Allendorf, Program Director, Population Biology and Physiological Ecology (202) 357–9728, Room 215, National Science Foundation, Washington, DC 20550.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in population biology and physiological ecology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: September 7, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89–21391 Filed 9–11–89; 8:45 am]

BILLING CODE 7555–01–M

Meeting of Advisory Committee for Science and Technology Centers Development

Name: Advisory Committee for Science and Technology Centers Development.

Place: Room 543, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Date: October 5, 1989.

Time: 8:30 a.m.

Type of Meeting: Open.

Contact: Dr. William C. Harris, Director, Office of Science and Technology Centers Development, Room 533, National Science Foundation, Washington, DC 20550, Telephone: 202/357–9808.

Purpose of Meeting: To provide advice on the development of the National Science Foundation's Science and Technology Research Centers Program.

Minutes: May be obtained from Director, Office of Science and Technology Centers Development.

Agenda: Discussion of review and selection procedures and criteria for Science and Technology Centers.

Dated: September 7, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89–21392 Filed 9–11–89; 8:45 am]

BILLING CODE 7555–01–M

Meeting of Advisory Panel for Systematic Biology

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Systematic Biology.

Date and Time: October 2–4, 1989—8:30 a.m. to 5 p.m. each day.

Place: Room 1242, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. William S. Moore, Program Director, Systematic Biology (202) 357–9588, Room 215, National Science Foundation, Washington, DC 20550.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are with exemptions (4) and (6) of 5 U.S.C. 552b(b), Government in the Sunshine Act.

Dated: September 7, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89–21393 Filed 9–11–89; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–155]

Consumers Power 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. DPR–6 issued to the Consumers Power Company (the licensee), for the Big Rock Point Plant, located in Charlevoix County, Michigan.

Environmental Assessment

Identification of the Proposed Action

The proposed action would delete § 6.4.2(d) from the Big Rock Point Technical Specifications. This section

stated that the portable neutron or gamma dose-rate measuring instruments provided for establishing permissible working limits be calibrated at least once every three months.

The proposed action is in accordance with the licensee's application for amendment dated October 24, 1988.

The Need for the Proposed Action

The proposed change would make the Big Rock Point Plant Technical Specifications consistent with industry practice and the Standard Technical Specifications. The plant has committed to follow ANSI N323–1978 including the performance of a source check daily or prior to use, whichever is less frequent, on each scale or decade normally used and perform a calibration semi-annually.

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the Technical Specifications. Performance of a more complete source check (source checking each scale or decade normally used versus source check daily or prior to use) of portable gamma and neutron dose-rate measuring instruments will better assure instrument reliability and accuracy. The licensee feels that changing the calibration frequency from once every three months to once every six months will not result in less accurate instruments because of the more extensive source checks and because less than 5% of the instruments fail the pre-calibration checks. The Commission concludes that there are no measurable radiological or nonradiological 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 29, 1989 (54 FR 12976). No request for hearing or petition for leave to intervene was filed following this notice.

Alternatives to the Proposed Action

It has been determined that there is no measurable impact associated with the proposed amendment; any alternatives to the amendment will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested amendment. The proposed dose-rate measuring instrument checking changes do not involve any increase in the release of radioactive and non-radioactive effluents from the plant.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal operation.

Agencies and Persons Contacted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concluded that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see the request for amendment dated October 24, 1988. This document is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC, and at North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Dated at Rockville, Maryland this 6th day of September 1989.

For The Nuclear Regulatory Commission.

John O. Thoma,

Acting Director, Project Directorate III–1, Division of Reactor Projects—III, IV V & Special Projects Office of Nuclear Reactor Regulation.

[FR Doc. 89–21401 Filed 9–11–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–341; FERMI–2]

Detroit Edison Co., Wolverine Power Supply Cooperative, Inc.; 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–43, issued to the Detroit Edison Company (DECo) and the Wolverine Power Supply Cooperative, Incorporated (the licensees) for the operation of Fermi–2 located in Monroe County, Michigan.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise provisions in the Fermi–2 Operating License and operation of Fermi–2 Cycle 2 with a reload of General Electric (GE) manufactured fuel assemblies and GE analyses and methodologies. In addition, TS changes are also proposed to allow operation of Fermi–2 with an Extended Load Line Limit Region (ELLLR).

The proposed action is in accordance with the licensees' applications dated April 3 and May 31, 1989, as supplemented by letter dated August 23, 1989.

The August 23, 1989 letter provided only additional information and clarifications which did not alter the substance or scope of the original applications.

The Need for the Proposed Action

The proposed changes to the TSs are required in order to provide appropriate TS requirements and limits related to cycle 2 operations and the analyzed operating domain for cycle 2.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the Operating License and the TS. The proposed changes relate to Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) and Linear Heat Generation Rate (LHGR) limits for the new fuel, Minimum Critical Power Ratio (MCPR) limits for all of the fuel using Cycle 2 core and transient parameters, extended operating regions and conditions, and editorial changes. The proposed change will not increase fuel burnup in excess of the levels evaluated on the "Final Environmental Statement related to operation of Fermi–2," dated August 1981.

Therefore, the proposed changes do not increase the probability of consequences of any accidents, no changes are being made in 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 impact and could result in the reduction of the radiological impacts.

With regard to potential nonradiological impacts, the proposed changes to the TS involve systems located within the restricted area as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notices of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action were published in the Federal Register on July 11, 1989 (54 FR 29116 and 54 FR 29122). No request for hearing or petition for leave to intervene was filed following these notices.

Alternative to the Proposed Action

Because the Commission has concluded that there is no significant environment impact associated with the proposed amendment, any alternative would have either no or greater environmental impact. The principal alternative would be to deny the requested amendment. This would result in the TS not correctly reflecting the nuclear core design for Cycle 2 Operation.

Alternative Use of Resources

This action involves no use of resources not previously considered in connection with the "Final Environmental Statement Related to Operation of Fermi-2, dated August 1981.

Agencies and Persons Consulted

The Commission's staff reviewed the licensees' 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 amendments.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with aspect to this action, see the applications for amendment dated April 3 and May 31, 1989 which are available for public inspection at the Commission's Public Document Room 2120 L Street, NW., Washington, DC, and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 7th day of September 1989.

For the Nuclear Regulatory Commission.

John O. Thoma,

Acting Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V & Special Projects Office of Nuclear Reactor Regulation.

[FR Doc. 89-21402 Filed 9-11-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-029]

Yankee Atomic Electric Co.; Yankee Nuclear Power Station; Withdrawal of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted a request by Yankee Atomic Electric Company to withdraw its March 21, 1989 and as supplemented on April 14, 1988 application for an amendment to Facility Operating License No. DPR-3 issued to the licensee for operation of the Yankee Nuclear Power Station. Notice of Consideration of Issuance of this amendment was published in the Federal Register on May 3, 1989 (54 FR 18965).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) pertaining to snubber listing.

Subsequently, the licensee informed the staff that the amendment is no longer requested. Thus, the amendment application is considered to be withdrawn by the licensee.

For further details with respect to this action, see the application for amendment dated March 21, 1989 and as supplemented on April 14, 1988.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 02111.

Dated at Rockville, Maryland, this 1st day of September 1989.

For the Nuclear Regulatory Commission.

Patrick M. Sears,

Project Manager, Project Directorate I-3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-21403 Filed 9-11-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-60017, License No. 45-23009-01, EA 89-44]

Lee County Community Hospital, Pennington Gap, VA; Order Imposing Civil Monetary Penalty

I

Lee County Community Hospital, Pennington Gap, Virginia (licensee), is the holder of License No. 45-23009-01 issued by the Nuclear Regulatory Commission (Commission or NRC), which authorizes the medical use of byproduct material by the licensee. The license was issued August 22, 1983, was most recently renewed on August 19, 1988, and is due to expire on July 31, 1993.

An NRC safety inspection of the licensee's activities under this license was conducted on August 11, 1988. During the inspection, the NRC inspector noted that the minutes of Radiation Safety Committee meetings dated May 28, 1987 and August 27, 1987 were identical, except for the date. A subsequent investigation conducted by the NRC Office of Investigations disclosed that the minutes for one of the Radiation Safety Committee meetings was falsified at the direction of a licensee official. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the licensee by letter dated April 18, 1989. The Notice stated the nature of the violation, the provisions of the Nuclear Regulatory Commission's requirements that the licensee had violated, and the civil penalty amount proposed for the violation. Responses dated May 18 and August 1, 1989, were received from the licensee in response to the Notice. In these responses, the licensee did not deny the violation but requested a reduction in the Severity Level of the violation and mitigation of the civil penalty.

III

After consideration of the licensee's responses and the statements of fact, explanation and argument for mitigation contained therein, the NRC staff has determined as set forth in the Appendix to this Order, that the penalty proposed in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby Ordered That:*

The licensee pay a civil penalty in the amount of $2,500 within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington DC 20555.

V

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing shall be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the U.S. Nuclear Regulatory Commission, ATTN:

Document Control Desk, Washington, DC 20555, with a copy to the Assistant General Counsel for Hearings and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and the Regional Administrator, U.S. NRC, Region II, 101 Marietta Street, NW., Suite 2900, Atlanta, Georgia 30323.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Impostion of Civil Penalty referenced in Section II above, and (b) Whether, on the basis of such violation, this Order should be sustained.

Dated at Rockville, Maryland this 1st day of September 1989.

For the Nuclear Regulatory Commission.

James Liberman,

Director, Office of Enforcement.

Appendix—Evaluation and Conclusion

On April 18, 1989, a Notice of Violation and Proposed Imposition of Civil Penalty was issued to Lee County Community Hospital. The licensee responded to the Notice on May 18 and August 1, 1989, did not deny the violation, but requested a reduction in the severity level of the violation and mitigation of the civil penalty. The NRC's evaluation and conclusion regarding the licensee's responses is as follows:

Summary of Licensee's Request for Mitigation

The licensee's reasons for requesting reduction in the Severity Level of the violation and mitigation of the civil penalty can be summarized as follows: (1) the hospital stated that they have had no major deficiencies in their program which were identified by the NRC since the inception of the nuclear medicine program, (2) there was no intent to defraud or mislead the NRC but merely an attempt to document a meeting that was held but for which the minutes were lost, (3) the licensee physicist's agenda and findings discussed at the May and August quarterly meetings were basically the same, (4) the Chief Technologist's performance has been well above average, and (5) corrective action has been taken, including involving the hospital administrator in the quarterly radiation safety committee meetings and detailed reviews of all aspects of operations with the staff.

NRC Evaluation of Licensee's Request for Mitigation

The licensee requested a reduction of the severity level assigned to the violation. The NRC Enforcement Policy (10 CFR Part 2, Appendix C, 1989) classifies at Severity Level II violations involving inaccurate or incomplete information which is provided to the NRC by a licensee official because of careless disregard for the completeness or accuracy of the information. In deciding to downgrade the classification of this violation from Severity Level II to Severity Level III, NRC has already taken into account the information that the Radiation Safety Committee meeting was actually held and that the discussion that took place may have been similar to the previous meeting. However, the NRC maintains that when the Chief Radiation Technologist noted that the minutes for one meeting were missing, he directed that the date be substituted for the date on a copy of some minutes that presented a specific, detailed account of a previous meeting; and, thereafter, this falsified document, which is an NRC-required document, was maintained in the files and was available for NRC inspection. It is unacceptable for a licensee official to direct that an NRC-required document be falsified. Therefore, mitigation or further reduction in the severity level is not appropriate.

The appropriate way to document the missing meeting minutes would have been to acknowledge that the record was misplaced and to recreate the minutes from other records or discussions with those in attendance and to annotate in the minutes that the original record was lost and that the record had been reconstructed.

The licensee stated that no other major deficiencies have been identified by NRC inspections. NRC has, however, identified fourteen violations during the period covered by the last two inspections. Therefore, additional mitigation of the civil penalty based on past performance is not warranted.

NRC Conclusion

The NRC staff has carefully reviewed the licensee's responses and has concluded that the licensee has not provided adequate basis for reduction of the severity level or mitigation of the civil penalty. Therefore, the civil penalty in the amount of $2,500 should be imposed.

[FR Doc. 89-21405 Filed 9-11-89; 8:45 am]
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[Docket No. 50-390 and 50-391]

Tennessee Valley Authority, Watts Bar Nuclear Plant, Units 1 and 2;

Exemption I

The Tennessee Valley Authority (TVA) holds Special Nuclear Material License Nos. 70-02910 and 70-02928, which authorize the use of unirradiated fuel at the Watts Bar Nuclear Plant, Units 1 and 2 (the facility, Units 1 and 2). The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect concerning Special Nuclear Material. The facility consists of two pressurized water reactors located on TVA's site in Rhea County, Tennessee.

II

Section 70.51(d) of 10 CFR part 70 requires, in part, that each licensee who is authorized to possess special nuclear material is a quantity totaling more than 350 grams of Uranium-235, Uranium-233, or plutonium, or any combination thereof, shall conduct a physical inventory of all special nuclear material in the licensee's possession at intervals not to exceed 12 months. TVA holds licenses to have special nuclear material in a quantity totaling greater than 350 grams at the facility site. The special nuclear material is unirradiated nuclear fuel for the nuclear power plant. The licenses are 70-02910 and 70-02928 for Units 1 and 2, respectively.

Pursuant to the above requirement, a physical inventory of the facility fuel was conducted by piece count and serial number verification in August 1988. The next inventory should have been conducted by August 9, 1989. In order to perform the inventory, removal of the spent fuel pit covers and the new fuel vault covers is required. However, the Auxiliary Building crane which is required to remove those covers is currently out of service. This crane was not returned to service in time to conduct the physical inventory before the required date. The spent fuel pit covers weight about 5,000 pounds each and the new fuel vault covers weight about 6,000 pounds each.

In order to comply with NRC requirements, TVA requested a temporary exemption from the time requirements in 10 CFR 70.71(d). TVA

stated it will perform the physical inventory of the nuclear fuel assemblies within 90 days of the original scheduled inventory date, which will be no later than November 7, 1989. The Auxiliary Building crane is expected to be returned to service within that time.

TVA has an approved facility security plan which has acceptable requirements to protect the fuel stored at the facility.

Based on the above, the staff finds that the temporary exemption is acceptable if the physical inventory of the fuel is conducted as soon as practical after the Auxiliary Building crane is returned to service but not later than November 7, 1989. TVA stated that the crane should be returned to service so that the inventory can be conducted by November 7, 1989.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 70.14(a), this temporary exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. The Commission further determines that special circumstances are present justifying the temporary exemption; namely; that the application of the regulation in the particular circumstances would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted. TVA can not conduct the inventory of the fuel at the Watts Bar site without the Auxiliary Building crane being able to remove the spent fuel pit covers and the new fuel vault covers.

Accordingly, the Commission hereby grants a temporary exemption from 10 CFR Part 70.51(d) for Watts Bar, Units 1 and 2 as described above, provided that the physical inventory of all special nuclear material is conducted as soon as practical after the Auxiliary Building crane is returned to service but not later than November 7, 1989.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this temporary Exemption will have not significant impact on the environment. An Environment Assessment and Finding of No Significant Impact for this temporary exemption was issued in the **Federal Register** (54 FR 35953), on August 30, 1989.

For further details with respect to this action, see the request for the temporary exemption dated July 10, 1989, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC., and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

The temporary Exemption is effective upon issuance and must be implemented no later than November 7, 1989. Dated at Rockville, Maryland this 1st day of September, 1989.

For the Nuclear Regulatory Commission.

B.D. Liaw,

Director, TVA Projects Division, Office of Nuclear Reator Regulation.

[FR Doc. 89-21404 Filed 9-11-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 030-19752, 030-20466, 030-08985; License Nos. 29-19769-02, 29-19769-03, 29-15364-01; EA 89-19]

Isomedix, Inc., Whippany, NJ; Order Imposing Civil Monetary Penalties

I

Isomedix, Inc., (license) is the holder of License Nos. 29-19769-02 and 29-19769-03 issued by the Nuclear Regulatory Commission (Commission or NRC) which authorizes the licensee to irradiate materials as a commercial service. The current licenses were issued on December 10, 1987 and October 20, 1988 and are due to expire on December 31, 1992 and October 31, 1993.

The licensee was also the holder of License No. 29-15364-01, which was last issued on May 30, 1986, which authorized the commercial irradiation of materials at their Parsippany, New Jersey facility. That license was terminated by the NRC on April 28, 1989 after the licensee closed the Parsippany facility on December 31, 1987, and requested termination of the license.

II

NRC safety inspections of the licensee's activities were conducted at the licensee's former facility in Parsippany, New Jersey on August 19 and 25, 1987, and at its facility in Northboro, Massachusetts on August 20, 1987. Further, investigations were also conducted by the NRC Office of Investigations subsequent to the inspections. The results of the inspections and investigations indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties (Notice) was served upon the licensee by letter dated June 28, 1989. The Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission's requirements that the licensee has violated, and the civil penalty amount for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties by letter dated July 26, 1989. In its response the licensee admitted the violations, however requested that the civil penalties be mitigated.

III

After consideration of the licensee's response and the statement of fact, explanations, and argument for mitigation contained therein, the NRC staff has determined as set forth in the appendix to this Order that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby* ordered that:

The licensee pay civil penalties in the amount of $28,500 within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing shall be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. A copy of the hearing request shall also be sent to the Assistant General Counsel for Hearings and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to the Regional Administrator, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issue to be considered at such hearing shall be whether, on the basis of the admitted violations set forth in the Notice of

Violation and Proposed Imposition of Civil Penalties referenced in Section II, above, this Order should be sustained.

Dated at Rockville, Maryland, this 1st day of September 1989.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

Appendix—Evaluations and Conclusions

On June 28, 1989, a Notice of Violation and Proposed Imposition of Civil Penalties was issued to Isomedix, Incorporated for violations identified during NRC inspections and investigations. The licensee responded to the Notice on July 26, 1989. In its response, the licensee admits all of the violations but requests mitigation of the civil penalties. The NRC's evaluation and conclusion regarding the licensee's arguments are as follows:

1. Restatement of Violations

Violations Assessed Civil Penalties:

I. 10 CFR 20.203(c)(6)(i) requires that each entrance or access point to an area (in which there may exist radiation levels in excess of 500 rems in one hour at one meter from a sealed radioactive source) must be equipped with entry control devices which function automatically to prevent any individual from inadvertently entering the area when such radiation levels exist.

A. Contrary to the above, for a period of time of at least one day prior to and after February 11, 1985, the access point to the irradiator room at the licensee's former irradiator facility in Parsippany, New Jersey (in which radiation levels existed in excess of 500 rems in one hour at one meter from a sealed radioactive source) was not equipped with an entry control device which functioned automatically to prevent an individual from entering the area. Specifically, during this time period, while the irradiator was operating, the required entry control device radiation monitor, which functions automatically to lock the entrance when excessive radiation levels are present, was not present and operating because it had been removed and sent for calibration without a replacement monitor being installed.

This a Severity Level II violation. (Supplement IV) Civil Penalty—$8,000.

B. Contrary to the above, for a period of time of at least one day prior to and after April 14, 1986, the access point to the irradiator room at the licensee's former irradiator facility in Parsippany, New Jersey (in which radiation levels existed in excess of 500 rems in one hour at one meter from a sealed radioactive source) was not equipped with an entry control device which functioned automatically to prevent an individual from entering the area. Specifically, during this time period, while the irradiator was operating, the required entry control device radiation monitor, which functions automatically to lock the entrance when excessive radiation levels are present, was not present and operating because it had been removed and sent for calibration without a replacement monitor being installed.

This is a Severity Level II violation. (Supplement IV) Civil Penalty—$8000.

C. Contrary to the above, from May 29, to August 19, 1987, the access point to the irradiator room at the licensee's former irradiator facility in Parsippany, New Jersey (in which radiation levels existed in excess of 500 rems in one hour at one meter from a sealed radioactive source) was not equipped with an entry control device which functioned automatically to prevent an individual from entering the area. Specifically, during this time period, while the irradiator was operating, the required entry control device radiation monitor, which functions automatically to lock the entrance when excessive radiation levels are present, was not present and operating because it had been removed and sent for calibration without a replacement monitor being installed.

This is a Severity Level II Violation. (Supplement IV) Civil Penalty—$10,000.

II. Condition 19 of License No. 29–19769–02 requires that the licensee possess and use licensed radioactive material at its facility in Northboro, Massachusetts in accordance with the statements, representations, and procedures contained in the license application dated May 24, 1982.

Section 4.6.1 of the license application dated May 24, 1982 requires that the proper operation of the irradiator ventilation fan be monitored by an air flow switch installed in the filter body such that if no air flow is indicated, the source is returned to the fully shielded position.

Contrary to the above, on August 20, 1987 and for an indeterminate number of times prior to that date (specifically whenever water from heavy rainfall entered the ventilation system), no air flow was indicated in the ventilation system and, because jumper cables were installed to bypass the interlock associated with the air flow switch, the source was not returned to the fully shielded position.

This is a Severity Level III violation. (Supplement VI) Civil Penalty—$2,500.

Violations Not Assessed a Civil penalty

III. Condition 20 of License No. 29–15364–01 required that the licenses possess and use licensed radioactive material at its former Parsippany facility in accordance with statements, representations, and procedures contained in the application dated December 20, 1985.

Item 7.2 of this application required that formalized weekly and monthly safety and maintenance related checks be performed on the mechanical systems of the irradiator.

Contrary to the above, the required monthly safety and maintenance related checks of the mechanical systems of the irradiator were not performed for January and February 1987, and the required weekly safety and maintenance related checks were not performed between December 17, 1986 and March 24, 1987.

This is a Severity Level IV violation. (Supplement VI)

IV. 10 CFR 20.203(c)(6)(vii) requires that entry control devices required in accordance with 10 CFR 20.203(c)(6)(i) be tested with a source of radiation for proper functioning prior to initial operation on any day that operations are not uninterruptedly continued from the previous day, or before resuming operations after any interruptions, and records maintained of the date, time, and results of such tests.

Contrary to the above, records were not maintained of the safety interlock checks performed during the period from August 29, 1986 to February 1, 1987.

This is a Severity Level V Violation. (Supplement IV)

2. Summary of Licensee Response Requesting Mitigation of the Civil Penalties

Although the licensee admits the occurrence of all of the violations, the licensee requests mitigation of the respective civil penalties proposed for Violations. I.A, I.B and I.C. In support of its request, the licensee argues that during those periods that the radiation cell monitor was out for calibration, the safety of personnel was not jeopardized because (1) alternate safety procedures were instituted requiring two individuals with two survey meters to monitor the door entry point, and the operators were instructed in these procedures which were posted at the entry point; and (2) seven other safety features were operable as part of the normal cell entry procedure. The licensee also argues that it was totally open and honest with the NRC during the inspections and investigations. The licensee also states

that when the inspectors identified the violations, the licensee responded honestly regarding whether it had operated in this manner before, and that this form of self-incrimination should not be a basis for civil action.

3. NRC Evaluation of the Licensee's Response

In its letter dated June 28, 1989, transmitting the Notice of Violation and Proposed Imposition of Civil Penalties to Isomedix, Inc., the NRC recognized that alternate safety procedures had been instituted when the radiation monitor was removed for calibration. However, the NRC also noted that the licensee knew that the alternate procedures did not constitute an entry control device which functioned automatically to prevent inadvertent entry to the area, and this did not constitute compliance with the requirements set forth is 10 CFR 20.203 (c)(6)(i). These factors were considered by the NRC in evaluating the significance and severity level of the violations. In accordance with the guidance provided in the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C (Enforcement Policy), these factors are not considered by the NRC in the decision to escalate and mitigate a civil penalty (although a reduced Severity Level of a violation will generally result in a lower civil penalty amount). In this case, the NRC considered classifying each of these three violations at Severity Level I since the violations were willful. However, because alternate procedures and other safety features were in effect, the NRC determined that a Severity Level II classification was appropriate, and the amount of the civil penalties was determined after considering the normal escalation and mitigation factors in the manner described in the NRC's letter dated June 28, 1989.

Furthermore, while the NRC acknowledges the openness and honesty exhibited during the inspection and investigation, the NRC requires such honesty from its licensees and anything less would have been unacceptable and may have resulted in more significant civil and/or criminal enforcement action. It is a fundamental regulatory principal that all information provided to the NRC be complete and accurate in all material ways. Therefore, while this openness and honesty is commendable, it provides no basis for mitigation of the penalty.

4. NRC Conclusion

The NRC staff has carefully reviewed the licensee's response and has concluded that the licensee has not provided a sufficient basis for mitigation of the amount of the civil penalties. Therefore, civil penalties in the amount of $28,500 should be imposed.

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OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

SMALL BUSINESS ADMINISTRATION

Final Policy Directive

AGENCY: Office of Federal Procurement Policy (OFPP); Small Business Administration (SBA).

ACTION: Notice of final policy directive.

SUMMARY: The OFPP and SBA are issuing a final policy directive and test plan implementing title VII of the "Business Opportunity Development Reform Act of 1988," Public Law (Pub. L.) 100-656, which establishes the Small Business Competitiveness Demonstration Program. As a result of comments received following publication of an interim policy directive and test plan in the Federal Register on December 29, 1988 (53 FR 52889), changes have been made to the interim policy directive and test plan as indicated below. The changes include deleting Federal Procurement Data System (FPDS) service codes C217, Mapping Incidental to A&E Services, and C218, Surveying Incidental to A&E Services, and establishing an annual report on results of the Program.

In addition, the "Business Opportunity Development Reform Act Technical Corrections Act," Pub. L. 101-37, adds the Department of Interior as a participating agency in the Program. The final policy directive and test plan reflect this change.

EFFECTIVE DATE: October 12, 1989.

FOR FURTHER INFORMATION CONTACT: Karen Maris, Deputy Associate Administrator, (202) 395-3300; or Robert Neal, Deputy Associate Administrator, (202) 395-6810.

SUPPLEMENTARY INFORMATION:

A. Background

Title VII of the "Business Opportunity Development Reform Act of 1988," Pub. L. 100-656, seeks to test the effectiveness of eliminating small business set-asides in certain industries through the establishment of the "Small Business Competitiveness Demonstration Program." The program has two primary objectives: (1) To demonstrate whether small businesses in certain industry groups can compete successfully on an unrestricted basis for Federal contracts; and (2) to demonstrate whether targeted goaling and management techniques can expand Federal contract opportunities for small businesses in industry categories where such opportunities historically have been low despite adequate numbers of small business contractors in the economy. OFPP and SBA are charged with issuing a policy directive to ensure consistent government-wide implementation of Title VII.

B. Public Comments

OFPP and SBA published an interim policy directive and test plan with request for comment on December 29, 1988 (53 FR 52889). Forty public comments were received in response to that notice. Twenty-nine specifically supported the Program or the interim policy directive. Only one expressed disagreement with the Program as a whole.

A majority of the comments suggested adding more Federal agencies to the list of nine participating agencies covered by the interim policy directive and test plan. The agencies mentioned include the Departments of Interior, Commerce, State, Justice, and Housing and Urban Development. The Department of Interior has been added as a participating agency by the "Business Opportunity Development Reform Act Technical Corrections Act," Pub. L. 101-37.

The Administrator of OFPP (Administrator) is authorized by section 718(c) of Pub. L. 100-656 to specify the list of executive agencies designated to participate in the Program, but is required to include at least the ten agencies listed in the law, as amended. The Conference Report on Pub. L. 100-656 indicates that Congress intended to include in the Program agencies whose combined procurement constituted a substantial portion of all Federal procurement and to exclude those agencies whose procurement was relatively insignificant. After considering the comments received and analyzing procurement award data for FY 1987 and 1988 from the FPDS, the Administrator has decided that it is inappropriate to include any other agencies in the Program.

The statutorily designated agencies already account for over 90% of the Federal procurement awards in each of the four designated industry groups covered by the Program. The inclusion of any one of the remaining suggested agencies would not result in an appreciable expansion of coverage for

any of the designated industry groups because the maximum increase obtained would be less than 2 percent. Therefore, the Administrator has determined that the amount of procurement done by these agencies, in the industry groups covered by the Program, is not sufficient to warrant their inclusion in the Program.

Thirteen comments were received which recommended that FPDS service codes C217, Mapping Incidental to A&E Services, and C218, Surveying Incidental to A&E Services, be deleted from the Program. The commenters urged that these codes, which were created specifically for the Program, are confusing because surveying and mapping services are considered to be architectural and engineering services; consequently, there is no need to refer to surveying and mapping "incidental" to A&E services. Several commenters also argued that adequate FPDS service codes already existed for reporting surveying and mapping contracts, and therefore the new codes C217 and C218 were superfluous and confusing. OFPP and SBA have decided to delete new FPDS service codes C217 and C218 because we agree that the previously existing FPDS service codes are adequate for reporting purposes and that the addition of the new codes could cause confusion.

Ten comments were received that recommended that OFPP and SBA report regularly to the public on the results of the Program. We believe this is a good idea and will issue reports summarizing Program results on an annual basis.

Several comments were received that suggested the language in paragraph IV.A. of the test plan be clarified to indicate that the references to monitoring goal attainment based on awards in "individual codes" means FPDS service codes rather than Standard Industrial Classification (SIC) codes. The use of the words "individual codes" rather than "FPDS service codes" in paragraph IV.A. was intentional. This is because as provided in paragraph IV.B.4., the construction industry is to be monitored by SIC codes rather than FPDS service codes. (We believe that the construction SIC codes sufficiently identify the components of that industry for reporting purposes, while the same is not true for the other industries covered by the Program.) We have, however, amended paragraph IV.A. to clarify this point.

Several comments from firms engaged in the surveying and mapping professions and from associations that represent them suggested the addition to Program coverage of FPDS service codes D315, Digitizing Services to T099, Other Photographic, Mapping, Printing and Publication Services, in order to cover the fullest range of surveying and mapping contracts. We have decided not to add these codes to the Program. D315 is a code that falls under automated data processing (ADP) services, and it is our understanding that digitizing is an ADP application. While it is used for putting maps into a digitized form, it may be done by an ADP firm and need not be done by a surveying and mapping firm. Similarly, FPDS service code T099 is a miscellaneous code that covers a variety of services that may include, but are not limited to, surveying and mapping. If we added T099 to the Program, we would be covering services other than surveying and mapping which should not be included in the Program.

A few commenters also recommended the creation of new product and service codes to better define surveying under the program. We have determined that such an undertaking is not properly within the scope of the Program, which is a four year test that covers selected executive agencies. FPDS service codes are used for reporting purposes across the Federal government. Therefore, we do not believe a comprehensive restructuring of the surveying service codes for a limited purpose such as the Demonstration Program is appropriate.

Nine comments were received that suggested revising the size ranges included in Clause No. 1 and Clause No. 3 of Attachment A of the test plan. These clauses contain blanks that an offeror must check to indicate its size according to one of a series of specified size ranges, starting at $1 million or less and going to over $17 million. The commenters recommended that the size ranges should better reflect the actual size standard for their own industry. We have determined not to change the size ranges in the clauses.

The size ranges used in Clause No. 1 and Clause No. 3 were chosen because they generally are the same ranges used elsewhere in the government, such as the Bureau of Census, to collect data on small businesses. We did, however, make minor modifications to those ranges, such as providing more detailed breakdowns between the commonly used ranges of $1–$5 million and 500–1000 employees, to accommodate the most frequently used size standards. In order to change the size ranges so that they reflect the size standards for each of the covered industry groups, we would have to replace each clause with several alternative clauses because the size standards for the covered industry groups are all different. This would be cumbersome and confusing, and would make it difficult to make across the board comparisons between data obtained under the Program and data from other sources, such as the Bureau of the Census.

We also have been asked to amend Clause No. 1, paragraph (c) and Clause No. 3, paragraph (c) to clarify for offerors which of the two alternative columns, "No. of employees" and "Avg. annual gross revenues," they should check. This has been done by adding a parenthetical explanation to each clause. The parenthetical indicates that the column entitled "No. of employees" should be checked when the size standard stated in the solicitation is expressed in terms of number of employees, and the column entitled "Avg. annual gross revenues" should be checked when the size standard is expressed in terms of annual receipts.

Several comments were received which suggested changes which we believe would be inconsistent with the requirements of Pub. L. 100–656. For example, some commenters argued that the trigger for reinstituting set-asides should be set at a lower percentage, such as 20 percent. The 40 percent figure used in the Program is required by sections 712(a) and 713(a) of Pub. L. 100–656. Section 712(a) requires that each participating agency establish an annual small business participation goal of 40 percent, and section 713(a) provides that an agency that has failed to attain its small business participation goal shall solicit subsequent contracting opportunities through the use of small business set-asides to the extent necessary to attain its goal.

We also received several other comments recommending changes to policies that have broad applicability beyond the scope of the Program. We have determined that such changes are not appropriate within the limited context of the Program.

C. Clarification of Monitoring Requirements

We have learned that there is some confusion concerning whether the monitoring requirements in paragraphs IV.A.1., IV.A.2., and IV.A.3. of the test plan apply to emerging small businesses. These requirements do apply to emerging small businesses, and the paragraphs in question have been amended to clarify this point.

In addition, we have amended paragraphs III.A.1. and IV.A.3. to clarify that modifications to contracts covered by the Program should be counted toward goal attainment.

D. Addition of Portable Sanitation Services to the Program

We received a request to include portable sanitation services in the Program. The requestor points out that the Conference Report on Pub. L. 100–656 (H. Rep. No. 1070, at 84–85) states that the industry group "Refuse Systems and Related Services" is intended to include contracts for the regular collection and disposal of nonhazardous waste material from federal facilities and operations. The requestor argues that portable sanitation services come within this description. The requestor also notes that including portable sanitation services in the Program would advance the objectives of Pub. L. 100–656 because virtually all contracts for these services currently are being set aside, which indicates that this industry is already dominated by small businesses.

We believe that the inclusion of portable sanitation services in the Program is consistent with the congressional intent expressed in Pub. L. 100–656. These services do entail the regular collection and disposal of nonhazardous waste. Furthermore, they do not fit within any of the categories that the Conference Report indicates should not be covered: the operation of dumps, landfills, and sludge disposal sites; sea disposal operations; incinerators, and the collection and disposal of acid, radioactive, or other hazardous waste material. Accordingly, we have amended paragraphs III.A.2.b. and IV.B.1. to include portable sanitation services.

E. Regulatory Flexibility Act

These procedures may have a significant economic impact on a substantial number of small businesses, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and an Initial Regulatory Flexibility Analysis is necessary. However, data adequate for performance of an initial analysis are not yet available. An initial analysis will be prepared when adequate data are available and will be provided to the Chief Counsel for Advocacy, U.S. Small Business Administration.

The Program seeks to demonstrate whether expanded use of full and open competition in the four designated industry groups adversely affects small business participation in those industry groups. This element of the Program contains two protective features to ensure that any possible adverse impacts on small business participation in these industry groups are limited. First, the Program sets a small business participation goal of 40 percent in each of these groups. Second, the Program sets a goal for participation by emerging small businesses of 15 percent in each of these groups. Baseline data needed to perform an initial analysis of the likely effects of these provisions in the designated industry groups are not currently available.

Also, the Program directs each of the participating agencies to identify ten procurement categories that represent products and services purchased in substantial quantities by the agency that historically have had a small business participation rate of less than 10 percent by category, and in which there is a significant amount of small business productive capacity that has not been utilized by the Government. Successful implementation of this aspect of the Program would have a significant beneficial impact on a substantial number of small businesses. Baseline data to be used in performing the initial analysis of this portion of the Program also are not currently available.

F. Executive Order 12291

For the purposes of E.O. 12291, OFPP and SBA have determined that this interim policy directive is a major rule because it will have an annual effect on the economy of $100 million or more. In FY 1988, the total amount of Federal contract dollars set aside for small businesses by the participating agencies in the four designated industry groups affected by this directive was approximately $4.5 billion. We assume that the figures will be comparable for FY 1989. Most of these contracts will no longer be set aside for small businesses. This is expected to have a substantial impact on the small businesses in the four designated industry groups; however, the net effect on the economy is expected to be positive due to the increased level of competition for Federal contracts, by all sizes of firms, and the resulting reduction in Federal contract costs. This estimate does not include the portion of the Program covering the ten industry categories. Estimates of the economic impact for this portion of the Program cannot be developed here and instead must be developed by each agency covered by the Program for the ten industry categories it has selected to target for increased participation.

The lack of available economic data will not allow us to publish a regulatory analysis at this time. We, therefore, requested and received from the Office of Management and Budget (OMB) a waiver from the requirements of section 3 of E.O 12291 regarding the preparation and consideration of a Regulatory Impact Analysis at this time. We will publish in the **Federal Register** a notice of availability of the results of the regulatory analysis upon its completion.

G. Paperwork Reduction Act

The information collection requirements contained in the policy directive and test plan were previously approved by OMB and assigned OMB control number 9000–0100. Pub. L. 101-37, however, expanded the universe of contracts requiring this data submission. A revised information collection request has been submitted to OMB for approval under the Paperwork Reduction Act (44 U.S.C. 35).

Dated: August 31, 1989.

Allan V. Burman,

Deputy Administrator and Acting Administrator Office of Federal Procurement Policy.

Robert J. Moffitt,

Acting Associate Administrator for Procurement Assistance Small Business Administration.

Memorandum For: The Secretary of Agriculture, The Secretary of Defense, The Secretary of Energy, The Secretary of Health and Human Services, The Secretary of the Interior, The Secretary of Transportation, The Administrator of the Environmental Protection Agency, The Administrator of the General Services, The Administrator of the National, Aeronautics and Space Administration, The Secretary of Veterans Affairs.

Subject: The Small Business Competitiveness Demonstration Program.

August 31, 1989.

1. *Purpose.* This memorandum provides policy direction to the participating agencies for implementation of Title VII of the "Business Opportunity Development Reform Act of 1988", Pub. L. 100–656, that establishes the Small Business Competitiveness Demonstration Program.

2. *Authority.* This memorandum is issued pursuant to Sec. 715. of Pub. L. 100–656 which requires that the Office of Federal Procedurement Policy (OFPP) and the Small Business Administration (SBA) issue a policy directive to ensure consistent government-wide implementation of Title VII in the Federal Acquisition Regulation (FAR).

3. *Background.* Section 15(a) of the Small Business Act mandates that small businesses receive a fair proportion of Federal procurements. To achieve this goal, Subpart 19.5 of the FAR requires that Federal agencies reserve, or set aside, procurements for exclusive small business participation when a contracting officer determines that two

or more small businesses are capable of providing the goods or services at reasonable prices. While restricting procurements for exclusive small business participation has been very effective in assuring a small business share of Federal contracts, one unintended result is a concentration of awards in certain industries often dominated by small businesses. A further result is that agencies expend resources in those industries that are conducive to high levels of small business participation rather than expand the base of small business contracting into areas were small businesses do not traditionally obtain a significant share of procurement awards.

4. *Policy.* The Small Business Competitiveness Demonstration Program is designed to provide for enhanced goals for small businesses in certain industry groups and to expand small business participation in a broader range of industry categories. The Program is conducted under the authority of section 15 of the Office of Federal Procurement Policy Act which provides for the test of unique and innovative procurement procedures and techniques. The goal of the Program is to test the ability of small businesses in certain designated industry groups to retain a fair proporation of procurement awards in unrestricted competition in those industry groups. The Act designates SBA to act as the executive agent for OFPP in conducting the test. The procedures for implementing the test required by the Program are set forth in the attached test plan.

5. *Implementation.* This final policy directive shall be implemented in FAR Part 19. Pursuant to Sec. 714(a) of Pub. L. 100-656, provisions of the FAR that are inconsistent with this final policy directive and the attached test plan are hereby waived.

6. *Expiration Date.* The Small Business Competitiveness Demonstration Program and this policy will expire on December 31, 1992.

Allan V. Burman,

Deputy Administrator and Acting Administrator, Office of Federal Porcurement Policy.

Robert J. Moffitt,

Acting Associate Administrator for Procurement Assistance, Small Business Administration.

Small Business Competitiveness Demonstration Program Test Plan

I. Purpose

This document implements Title VII of the "Business Opportunity Development Reform Act of 1988", which establishes the Small Business Competitiveness Demonstration Program (the Program). There are three primary purposes for this Program. First, the Program seeks to demonstrate whether the competitive capabilities of small business firms in certain industry groups will enable them to successfully compete on an unrestricted basis for Federal contracts. Second, the Program attempts to demonstrate whether the use of targeted goaling and management techniques by procuring agencies, in conjunction with the Small Business Administration (SBA), will expand small business participation in Federal contracting opportunities that have been historically low despite adequate numbers of qualified small business contractors in the economy. Finally, the Program seeks to demonstrate whether expanded use of full and open competition adversely affects small business participation in certain industry groups, taking into consideration the numerical dominance of small firms, the size and scope of most contracting opportunities, and the competitive capabilities of small firms.

II. Authority

The Program is established pursuant to Title VII of the Business Opportunity Development Reform Act of 1988 (Pub. L. 100-656) and Section 15 of the Office of Federal Procurement Policy Act, 41 U.S.C. 413, which provides for the testing of innovative procurement methods and procedures.

III. Program Requirements

A. Applicability

1. The Program shall be conducted over a period of four (4) years, from January 1, 1989, through December 31, 1992. The Program will consist of two major components: (1) four Designated Industry Groups, which test unrestricted competition, and (2) ten Targeted Industry Categories, which test enhanced small business participation. Contracts resulting from solicitations issued from January 1, 1989 through December 31, 1992, and any subsequent modifications to such contracts, are covered by this Program.

2. Contract awards in the following designated industry groups are covered by this Program:

a. Construction under standard industrial classification (SIC) codes that comprise major groups 15, 16, and 17 (excluding dredging—Federal Procurement Data System (FPDS) service codees Y216 and Z216);

b. Refuse systems and related services, including portable sanitation services, under SIC code 4212 or 4953, limited to FPDS service code S205;

c. Architectural and engineering (A&E) services (including surveying and mapping) under SIC codes 7389, 8711, 8712, or 8713 (limited to FPDS service codes C111 through C216, C219, T002, T004, T008, T009, T014, and R404); and

d. Non-nuclear ship repair—ship repair (including overhauls and conversions) performed on non-nuclear propelled and nonpropelled ships under SIC code 3731, limited to FPDS service codes J998 (repair performed east of the 108th meridian) and J999 (repair performed west of the 108th meridian).

3. Targeted industry categories for enhanced participation will be determined by each participating agency, in conjunction with SBA.

4. Contract awards under the Federal Schedule Program are not covered by the Program.

B. Participating Agencies

The following agencies are participants in the Program:

1. The Department of Agriculture,
2. The Department of Defense, except the Defense Mapping Agency,
3. The Department of Energy,
4. The Department of Health and Human Services,
5. The Department of Transportation,
6. The Environmental Protection Agency,
7. The General Services Administration,
8. The National Aeronautics and Space Administration,
9. The Department of Veterans Affairs, and
10. The Department of the Interior

C. Agency Goals for the Four Designated Industry Groups

1. Each participating agency shall have a small business participation goal that is 40 percent of the agency's total contract dollars awarded for each of the four designated industry groups. In addition, each participating agency must make a good faith effort to assure that emerging small businesses receive not less than 15 percent of the agency's total contract dollars awarded for each of the four designated industry groups.

2. The Business Opportunity Development Reform Act of 1988 defines an emerging small business as one whose size is no greater than 50 percent of the numerical size standard applicable to the SIC Code assigned to the procurement. Subject to the requirements of paragraph D.3 below, contract opportunities in the four designated indusy groups, which have an estimated award value equal to or less than the reserve amount established

for emerging small businesses, are reserved for such businesses.

3. Contract awards made to fulfill the 15 percent goal for emerging small businesses also count toward attainment of the 40 percent goal. All prime contract awards to small businesses, including awards under section 8(a) of the Small Business Act, section 1207 of the FY 87 National Defense Authorization Act, and sole source awards, count toward attainment of goals.

D. Procurement Procedures for the Four Designated Industry Groups

Participating agencies shall use the following procedures for procurements in the four designated industry groups.

1. Full and Open Competition for Contracts in Excess of the Emerging Business Reserve Amount. Subject to the requirements of the Competition in Contracting Act of 1984, participating agencies are required to use full and open competition for all solicitations issued on or after January 1, 1989, in the four designated industry groups, if the anticipated award value exceeds the dollar amount reserved for emerging small businesses (unless the procurement is placed under section 8(a) of the Small Business Act or set aside under section 1207 of the FY National Defense Authorization Act). Each participating agency shall continue to use full and open competition as long as quarterly reviews show that the agency's 40 percent goals are being attained. The continued use of full and open competition is not affected by an agency's failure to meet its 15 percent award goals for emerging small businesses.

2. Restricted Competition for Contracts in Excess of the Emerging Small Business Reserve Amount. a. If any participating agency's quarterly review of its awards to small businesses in the four designated industry groups shows that the agency has failed to attain its 40 percent goals for any of the groups, subsequent contracting opportunities, in excess of the amount reserved for emerging small businesses, shall be solicited through competition ⅛restricted to eligible small businesses to the extent necessary for the agency to attain its goals for that industry. Such solicitations (unless placed under section 8(a) of the Small Business Act or set aside under section 1207 of the FY National Defense Authorization Act) shall be conducted in accordance with section 15(a) of the Small Business Act and Subpart 19.5 of the Federal Acquisition Regulation (FAR).

b. Agencies shall be responsible for determining the extent to which restricted competition shall be employed in order to attain their small business participation goals; successive failures to meet small business participation goals warrant more aggressive measures. (For example, if an agency only misses a goal by five percent, the agency may conclude that it can attain its goal by restricting competition for a portion of its procurements, rather than all of them. Agencies are expected to exercise this discretion judiciously, and make appropriate adjustments if they miss their goal again.) Agencies shall return to the use of full and open competition upon determining that their contract awards to small business concerns meet the required goals.

c. Modifications to agency solicitation practices (instituting restricted competition and reinstituting full and open competition) shall be made as soon as practicable, but no later than the beginning of the quarter following completion of the review indicating the need for such change.

3. Reserve Program for Emerging Small Businesses

a. The emerging small business reserve amount is $25,000, or such higher amount as OFPP sets in the event that emerging small business concerns are not receiving 15 percent of the total dollar value of contract awards in one or more of the four designated industry groups. Any required adjustments to the emerging small business reserve amount will be made semi-annually by industry group.

b. Competition for all contract opportunities in the four designated industry groups with an estimated award value that is equal to or less than the emerging small business reserve amount shall be restricted to emerging small businesses, provided that the contracting officer determines that there is a reasonable expectation of obtaining offers from two or more responsible emerging small businesses that will be competitive in terms of market price, quality, and delivery. If no such reasonable expectation exists, requirements will be processed in accordance with FAR Subpart 13.105 or in accordance with FAR Subpart 19.5 or 19.8. However, if no such reasonable expectation exists where OFPP has raised the small business reserve amount to a level over $25,000, requirements over $25,000 will be processed in accordance with paragraphs D.1 and D.2, above.

c. The use of small purchase procedures is not required under the reserve program; any competitive source selection method may be used. The reserve program applies only to new awards within the emerging small business reserve threshold. Modifications within the scope of work contracts having an initial award value in excess of the emerging small business reserve amount are not subject to the reserve program.

d. Each solicitation under the Program that utilizes small purchase procedures shall include the applicable SIC code and size standard for the procurement. The exception for small purchases in FAR subpart 19.303(a) is hereby waived for the Program.

4. Solicitation Provisions for Procurements in the Four Designated Industry Groups

a. The provision set forth in Attachment A entitled "Small Business Concern Representation For The Small Business Competitiveness Demonstration Program (AUGUST 1989)" shall be inserted in full text in all solicitations issued by the participating agencies under the Small Business Competitiveness Demonstration Program for the four designated industry groups.

b. The clause set forth in Attachment A entitled "Notice of Emerging Small Business Set-Aside (DEC 1988)" shall be inserted in full text in all solicitations and resulting contracts restricted to emerging small businesses pursuant to paragraph III.D.3.

c. The face of each award issued by a participating agency under the Small Business Competitiveness Demonstration Program for the four designated industry groups shall contain a statement that the award is being issued pursuant to such Program.

E. Agency Programs For Targeted Industry Categories With Limited Small Business Participation

1. Each participating agency is required to select ten industry categories (four-digit SIC Code or some segmented portion(s) of such code(s), as identified by FPDS product or service code) as targeted categories for expansion of small business participation.

2. In order to achieve such expanded participation, agencies shall select categories that represent products and services purchased in substantial quantities by the agency; that historically have had a small business participation rate of less than 10 percent by category; and, in which there is a significant amount of small business productive capacity that has not been utilized by the Government.

3. Each participating agency shall consult with the Administrator of SBA in selecting the ten targeted categories, developing the plan for expanded small business participation, and establishing

the goals for the Program. Upon completion of their consultation with SBA, participating agencies shall publish in the Federal Register, an announcement soliciting public comment on that agency's program for expansion of small business participation in the targeted categories.

4. Each plan shall be submitted to the Administrator of SBA and shall contain a detailed time-phased strategy with incremental goals, including reporting on goal attainment. To the extent practicable, provisions that encourage and promote teaming and joint ventures shall be included. These provisions should permit small business firms to effectively compete for contracts that individual small businesses would be ineligible to compete for because of lack of production capacity or capability. Such joint ventures or teams shall comply with the applicable small business guidelines. (See 13 C.F.R. § 121.3(a)(vii)(C) and 121.5(a)).

5. Participating agencies shall report to OFPP and SBA on the results of the expansion program regarding the ten targeted categories on the same quarterly schedule as required for the four designated industry groups.

6. Goal attainment for the ten targeted industry categories shall be determined on the basis of awards to U.S. business firms.

7. The provision set forth in Attachment A entitled "Small Business Size Representation For Targeted Industry Categories Under The Small Business Competitiveness Demonstration Program (AUGUST 1989)" shall be inserted in full text in any soliciation issued in each of the ten targeted industry categories under the Small Business Competitiveness Demonstration Program that is expected to result in a contract award in excess of $25,000.

8. The face of each award issued in any of the ten targeted industry categories under the Small Business Competitiveness Demonstration Program shall contain a statement that the award is being issued pursuant to such Program.

IV. Monitoring and Reporting for Four Designated Industry Groups

A. Monitoring of Goals for the Four Designated Industry Groups

1. Each participating agency shall monitor its attainment of its small business and emerging small business participation goals on a quarterly basis. Written reports must be made to OFPP and SBA as to whether goals have been attained for each industry group, as specified in paragraph A.3 below. The Department of Defense shall submit a report that separately identifies performance by the Army, Air Force, Navy and the Defense Agencies. The report submitted by the General Services Administration shall separately identify performance by the Public Building Service. Reports shall be submitted within 60 days after the end of each quarter.

2. Agencies shall monitor their goal attainment for the first three quarters based on aggregate data for the following time periods:

a. First quarterly review: 1/1/89–3/31/89.

b. Second quarterly review: 1/1/89–6/30/89.

c. Third quarterly review: 1/1/89–9/30/89.

Thereafter, monitoring is to be based on aggregate data for the four preceding quarters.

3. Attainment of small business and emerging small business participation goals for the four designated industry groups will be monitored by each participating agency. Monitoring of goal attainment will be based on awards (and any subsequent modifications to those awards) in the individual codes comprising the industry, as specified in paragraph B. below.

4. Any necessary modifications to agency solicitation practices for the purpose of achieving the agency's small business participation goals (instituting restricted competition or reinstituting full and open competition) will be accomplished for each of the industry groups as follows:

a. Construction (excluding dredging).

i. Major Group 15.

ii. Major Group 16.

iii. Major Group 17.

b. Refuse Systems and related services.

c. Architectural and engineering services (including surveying and mapping).

d. Non-nuclear ship repair.

However, if goal attainment for any individual FPDS service code within the architectural and engineering services or non-nuclear ship repair industry groups falls below 35 percent, the agency shall reinstitute set-asides for that individual service code, even if overall goal attainment in the industry group is 40 percent or more. In addition, if goal attainment for any individual SIC code within one of the major groups comprising the construction industry group falls below 35 percent, the agency shall reinstitute set-asides for that individual SIC code, even if overall goal attainment in the major group is 40 percent or more.

5. Agencies shall monitor goal attainment in the four designated industry groups by reviewing total prime contract award dollars to (a) all U.S. business firms (b) small U.S. business concerns and (c) emerging small U.S. business concerns.

6. OFPP and SBA will closely monitor the Program using data from the FPDS to ensure that each participating agency makes a consistent effort to achieve goals evenly across all individual codes that comprise a designated industry group. Data shall be retrieved in the format set forth at Attachment B.

7. All prime contract awards to small businesses, including awards under section 8(a) of the Small Business Act, Section 1207 of the FY 87 National Defense Authorization Act, and sole source awards, count toward attainment of goals.

B. Codes for Monitoring and Reporting Goal Attainment For The Four Designated Industry Groups

1. Refuse Systems and Related Services.

The Business Opportunity Development Reform Act of 1988 outlines the SICs that are included in the designated industry groups. However, in the area of refuse systems and related services, SICs 4212 and 4953 include services that should not be included in the Program. The Program is designed to test small firms' competitiveness generally in procurements for the collection, transportation, and disposal of residential and nonhazardous commercial garbage, refuse and waste materials. For example, contracts for the regular collection and disposal at publicly or privately operated landfills of residential and nonhazardous commercial solid waste, garbage, debris, or other refuse from military installations, federal office buildings, and other federal facilities, and garbage processing and recycling activities, should be included. Contracts for the operation of those facilities, collection and disposal of acid, radioactive, or other hazardous waste should not be included. Therefore, participating agencies shall use FPDS service code S205 (trash/garbage collection services—including portable sanitation services) to monitor goal attainment for refuse systems and related services.

2. Architectural and Engineering Services.

a. The statute designates SICs 8711, 8712, 8713, and 7389 (if identified as mapping), as the codes for tracking architectural and engineering services, which includes surveying and mapping. Since SIC 7389 includes many more

services than mapping, participating agencies shall use the following FPDS service codes to monitor goal attainment for mapping services:

T002 Cartography services
T004 Charting services
T006 Photogrammetry services
T009 Aerial photographic services
T014 Topography services

b. Participating agencies shall use the following FPDS service codes to monitor A&E services under SICs 8711 and 8712:

C111 Administrative and Service Buildings
C112 Airfield, Communication and Missile Facilities
C113 Educational Buildings
C114 Hospital Buildings
C115 Industrial Buildings
C116 Residential Buildings
C117 Warehouse Buildings
C118 Research and Development Facilities
C119 Other Buildings
C121 Conservation and Development
C122 Highways, Roads, Streets and Bridges
C123 Electric Power Generation (EPG)
C124 Utilities
C129 Other Non-Building Structures
C130 Restoration
C211 Architect—Engineer Services (non-construction)
C212 Engineering Drafting Services
C213 A&E Inspection Services (non-construction)
C214 A&E Management Engineering Services
C215 A&E Production Engineering Services
C216 Marine A&E Services
C219 Other Architect and Engineering Services

(c) Participating agencies shall identify surveying by using FPDS service code R404 (land surveys, cadastral services—non construction).

3. Non-nuclear Ship Repair.

Non-nuclear ship repair is included within SIC 3731. Since this SIC includes all ship repair as well as shipbuilding, participating agencies shall use the following FPDS service codes to monitor goal attainment for non-nuclear ship repair: J998 (Ship Repair (Including Overhauls and Conversions) Performed on Non-nuclear Propelled and Nonpropelled Ships East of the 108th Meridian) or J999 (Ship Repair (Including Overhauls and Conversions) Performed on Non-nuclear Propelled and Nonpropelled Ships West of the 108th Meridian).

4. Construction.

Goal attainment for construction shall be monitored through the use of the SIC codes identified in Attachment B.

V. Data Collection Requirements

Participating agencies shall maintain and report procurement data to the FPDS in order to determine the level of small business participation in the four designated industry groups and the ten targeted industry categories for the small business expansion program.

A. Awards in Excess of $25,000

For contract awards in excess of $25,000, the FPDS (1) has information on the SIC code of the procurement and (2) can distinguish awards to small business concerns. However, the FPDS reporting requirements are being revised to:

1. Distinguish awards resulting from solicitations issued under the Program from awards resulting from solicitations issued prior to January 1, 1989, in the four designated industry groups. A distinction must be made between contract actions awarded from solicitations issued under the Program and contract actions awarded from solicitations issued prior to January 1, 1989.

2. Distinguish emerging shall business firms from other small businesses. Participating agencies must make a good faith effort to award not less than 15 percent of the dollar value of awards in the four designated industry groups to emerging small businesses.

3. Distinguish awards to emerging small business firms in the small business reserve program. Participating agencies must reserve for exclusive competition among emerging small business concerns all contracts of $25,000 or less in the four designated industry groups or a greater amount set by OFPP if the 15 percent goal is not attained. Emerging small businesses can also receive awards above the small business reserve threshold.

4. Provide the size of the small business concern in terms of number of employees or dollar volume of sales for awards in the four designated industry groups and the ten targeted industry categories. Section 714(c) of the Business Opportunity Development Reform Act of 1988 requires each participating agency to collect data pertaining to the size of the small business concern receiving any award for services in the four designated industry groups and products or services in the ten targeted industry categories.

5. The number of employees will be based on the average of the pay periods for the last twelve months. The volume of sales will be based on the average annual gross revenue for the last three fiscal years (See FAR 19.101).

6. Specific details outlining the FPDS changes have been included in an amendment to the October 1988 FPDS Reporting Manual.

B. Awards of $25,000 or Less

During the term of the Program, each award of $25,000 or less made by a participating agency for the procurement of a service in the four designated industry groups shall be reported to the Federal Procurement Data Center in the same manner as if the award was in excess of $25,000. This means that all applicable data collected in the FPDS via the Individual Contract Action Report (SF 279), or agencies' equivalent computer-generated format, shall be reported for these purchases. It should be noted that awards of $500 or less are not reportable to the FPDS.

C. Subcontracting Activity

1. The OFPP Administrator must devise and implement, during the Program, a simplified system to test the collection, reporting, and monitoring of data on subcontract awards to small business concerns and small disadvantaged business concerns for services in the four designated industry groups and products or services in the ten targeted industry categories. The Test Subcontracting Reporting System must, even if limited to only a small number of buying activities or products or services, effectively capture the full range of small business participation at all tiers.

2. The simplified system should be implemented at the beginning of FY 1990 (October 1989). OFPP is working with officials from participating agencies' Small and Disadvantaged Business Utilization Office to develop the requirements for the simplified subcontracting system.

Attachment A—Clause No. 1

Insert the following provision (clause no. 1) in full text in all solicitations issued by the participating agencies under the Small Business Competitiveness Demonstration Program for the four designated industry groups. Insert this clause as Alternate I in addition to the clause at FAR 52.219–1.

Small Business Concern Representation for the Small Business Competitiveness Demonstration Program (August 1989)

(a) *Definition.*

"Emerging small business", as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the standard industrial classification code assigned to a contracting opportunity.

(b) (Complete only if Offeror has certified itself under the clause at FAR 52.219–1 as a

small business concern under the size standards of this solicitation.)

The Offeror represents and certifies as part of its offer that it _____ is, _____ is not an emerging small business.

(c) (Complete only if the Offeror is a small business or an emerging small business, indicating its size range.)

Offeror's number of employees for the past twelve months (check this column if size standard stated in solicitation is expressed in terms of number of employees) *or* Offeror's average annual gross revenue for the last three fiscal years (check this column if size standard stated in solicitation is expressed in terms of annual receipts). (Check one of the following.)

No. of employees	Avg. annual gross revenues
50 or fewer	$1 million or less.
51–100	$1,000,001–$2 million.
101–250	$2,000,001–$3.5 million.
251–500	$3,500,001–$5 million.
501–750	$5,000,001–$10 million.
751–1,000	$10,000,001–$17 million.
Over 1,000	Over $17 million

(End of clause)

Clause No. 2

A. Insert the following provision (clause no. 2) in full text in all solicitations and resulting contracts restricted to emerging small businesses pursuant to paragraph III. D. 3.

Notice of Emerging Small Business Set-Aside (Dec 1988)

Offers or quotations under this acquisition are solicited from emerging small business concerns only. Offers that are not from an emerging small business shall not be considered and shall be rejected.

(End of provision)

B. When using other than small purchase procedures, insert the clause at 52.219–14 in all solicitations and resulting contracts restricted to emerging small businesses.

Clause No. 3

Insert the following provision (clause no. 3) in full text in all solicitations issued in each of the ten targeted industry categories under the Small Business Competitiveness Demonstration Program that is expected to result in a contract award in excess of $25,000. Insert this clause as Alternate II in addition to the clause at FAR 52.219–1.

Small business Size Representation for Targeted Industry Categories Under the Small Business Competitiveness Demonstration Program (Augst 1989)

(Complete only if the Offeror has certified itself under the clause at FAR 52.219–1 to be a small business concern under the size standards of this solicitation.)

Offeror represents and certifies as follows:

Offeror's number of employees for the past twelve months (check this column if size standard stated in solicitation is expressed in terms of number of employees) *or* Offeror's average annual gross revenue for the last three fiscal years (check this column if size standard stated in solicitation is expressed in terms of annual receipts). (Check one of the following.)

No. of employees	Avg. annual gross revenues
50 or fewer	$1 million or less.
51–100	$1, 000,001–$2 million.
101–250	$2, 000,001–$3.5 million.
251–500	$3, 500,001–$5 million.
501–750	$5, 000,001–$10 million.
751–1,000	$10, 000,001–$17 million.
Over 1,000	Over $17 million.

(End of clause)

Attachment B—Report on Small Business Participation under the Small Business Competitiveness Demonstration Program for Designated Industry Groups

Fiscal Year _____ Quarter _____

Agency: _____

Subagency (if applicable) _____

Designated groups	Total US business actions/dollars	Small business actions/dollars [1]	Percentage of dollars	Emerging small business actions/dollars	Percentage of dollars
I. Construction (excluding dredging)					
SIC Group 15					
1521					
1522					
1531					
1541					
1542					
Subtotal					
SIC Group 16					
1611					
1622					
1623					
1629					
Subtotal					
SIC Group 17					
1711					
1721					
1731					
1741					
1742					
1743					
1751					
1752					
1761					
1771					
1781					
1791					
1793					
1794					
1795					
1796					
1799					
Subtotal					
Grand Total					

Designated groups	Total US business actions/dollars	Small business actions/dollars [1]	Percentage of dollars	Emerging small business actions/dollars	Percentage of dollars
II. Refuse Systems and Related Services					
PSC S205					
Total					
III. Architectural and Engineering Services (including mapping and surveying)					
SIC 7389:					
PSC T002					
PSC T004					
PSC T008					
PSC T009					
PSC T014					
Subtotal					
SIC 8711 or SIC 8712:					
PSC C111					
PSC C112					
PSC C113					
PSC C114					
PSC C115					
PSC C116					
PSC C117					
PSC C118					
PSC C119					
PSC C121					
PSC C122					
PSC C123					
PSC C124					
PSC C129					
PSC C130					
PSC C211					
PSC C212					
PSC C213					
PSC C214					
PSC C215					
PSC C216					
PSC C219					
Subtotal					
SIC 8713:					
PSC R404					
Subtotal					
Grand Total.					
IV. Non-nuclear Ship Repair					
SIC 3731:					
PSC J998					
PSC J999					
Total					

[1] Small Business Dollars include dollars to Emerging Small Businesses.

[FR Doc. 89-21334 Filed 9-1-89; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-17124; 812-7274]

Allied Capital Corp., et al.; Notice of Application

September 1, 1989

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Allied Capital Corporation ("Allied Capital"), Allied Capital Corporation II ("Allied Capital II") (together, the "Funds"), Allied Advisory, Inc. ("Allied Advisory"), Allied Management Partners ("Management Partners") and Allied Venture Partnership ("Venture"), and Allied Technology Partnership ("Technology") (Venture and Technology, the "Venture Partnerships").

Relevant 1940 Act Sections: Order requested under Sections 6(c), 17(d) and Rule 17d-1 thereunder permitting certain joint transactions otherwise prohibited by Sections 17(d) and 57(a)(4).

Summary of Application: Applicants seek an order under Sections 6(c) and 17(d) of the Act and Rule 17d-1 thereunder permitting certain joint transactions relating to a proposed co-investment program involving Allied Capital, Allied Capital II, and the Venture Partnerships.

Filing Dates: The application was filed on March 23, 1989, and an

amendment thereto was filed on September 1, 1989.

Hearings or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing.

Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant[s] with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 25, 1989, and should be accompanied by proof of service on the Applicant[s], in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 1666 K Street, NW., Suite 901, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Stuart Horwich, Staff Attorney (202) 272–3035 or Karen Skidmore, Branch Chief, at (202) 272–3023, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Allied Capital is a closed-end investment company registered under the Act. It is a holding company engaged in providing venture capital financing to small businesses primarily through four wholly-owned subsidiaries also registered as closed-end investment companies. Allied Capital's total consolidated assets as of December 31, 1988 were valued at $127,530,000.

2. Allied Capital II is a closed-end investment company. Its board of directors has determined that it will elect to be regulated as a business development company ("BDC") pursuant to Section 54 of the Act. As is true of Allied Capital, the investment objective of Allied Capital II is a long-term capital appreciation through venture capital investments in small businesses ("Portfolio Companies"). Like Allied Capital, it will invest in high-yielding debt, debt with equity features, and equity securities of companies believed to have significant potential for growth. A registration statement on Form N–2 has been filed registering the offering of shares of Allied Capital II under the Securities Act of 1933. Upon the effectiveness of such registration, a public offering expected to raise up to $125 million will commence. The principal underwriter for Allied Capital II is Shearson Lehman Hutton Inc.

3. Allied Advisory, a wholly-owned subsidiary of Allied Capital, will be the investment adviser of Allied Capital II. Allied Advisory is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). The Commission is reviewing an application for exemptive relief under the Act to permit the spin-off of 100 percent of the shares of Allied Advisory to the shareholders of Allied Capital (the "spin-off"). Under the terms of the spin-off, shareholders of Allied Capital would receive shares of Allied Advisory equal to the number of shares of Allied Capital owned. Upon effectuation of the spin-off, Allied Advisory will become the investment adviser of Allied Capital pursuant to a contract to be submitted to the shareholders of Allied Capital.

4. Allied Capital and Allied Capital II have identical fundamental investment policies and strategies. The principal difference between the two companies is in their structure: Allied Capital makes its investments principally through its investment company subsidiaries, while Allied Capital II will make its investments directly. Both Funds will have officers in common, and two of Allied Capital's directors will be interested directors of Allied Capital II. Except for the two directors the Funds will have in common, their boards will be composed of different and unrelated persons, including the non-interested directors.

5. Allied Advisory structures all investments made by Allied Capital and the Venture Partnerships and will do so as well for Allied Capital II. Fees received from potential and actual borrowers are treated as either "commitment fees" or "management advisory fees". When Allied Advisory receives these fees, they are then distributed to the various entities such as Allied Capital and the Venture Partnerships (and will be distributed to Allied Capital II) based on each fund's pro rata commitment to invest, or, in the case of management advisory fees, the amount they have already invested. This means that no fees remain in Allied Advisory; they are all directed to the various funds.

6. Under the terms of a proposed investment advisory contract, Allied Capital II will pay an advisory fee of 2 percent of invested assets under management to Allied Advisory during its first year of operation, and 2.5 percent in its second year. In those first two years, it will pay a fee of .5 percent on assets invested in money market instruments and a business management fee of .25 percent of assets under management to The Boston Company Advisors, Inc. In its third year, Allied Capital II will pay to Allied Advisory a fee of 2.5 percent of all assets under management; Allied Advisory will either provide business management services itself or pay an outside entity to perform that function. When shareholders of Allied Advisory are solicited for approval of the spin-off proposal, they will also be asked to approve an advisory contract that will call for Allied Capital to pay a fee to Allied Advisory of 2.5 percent of assets under management.

7. Allied Capital has been granted orders of the Commission to permit it to co-invest with the two Venture Partnerships and certain other affiliates (Release IC–14725, September 17, 1985; Release IC–15833, June 30, 1987; Release IC–13461, August 23, 1983; Release IC–14961, February 27, 1986; and Release IC–16468, July 5, 1988) ("Prior Orders"). Venture and Technology are private venture capital investment partnerships that manage the assets of institutional and sophisticated investors. Allied Advisory is the investment adviser of the Venture Partnerships.

8. Applicants propose to allow Allied Capital and Allied Capital II to invest in tandem in Portfolio Companies and to allow Allied Capital II to co-invest with Venture and Technology to the extent that Allied Capital shares its portion of investment opportunities with its affiliates, including Venture and Technology under the terms of the Prior Orders; Allied Capital II will never make direct co-investments with the Venture Partnerships. This cooperative program ("Co-Investment Program") will apply to all potential investments identified by Allied Advisory as suitable investments for both Funds, except when such investments involve Portfolio Companies already in Allied Capital's portfolio. It is expected that the Co-Investment Program will increase favorable investment opportunities for both Funds and the Allied Group as a whole. Such tandem investing will make larger amounts of capital available for Portfolio Companies, thus permitting Applicants to invest on more favorable terms and to exert a greater influence in the management and operations of those Portfolio Companies.

9. The relative amounts offered each Fund will be a function of a predetermined ratio derived by comparing the total consolidated assets

of Allied Capital plus the Venture Partnerships (the "Allied Group") with the total assets of Allied Capital II. The percentage participation offered the Allied Group in any transaction will equal the percentage determined by dividing its total consolidated assets by the total consolidated assets by the total consolidated assets of both the Allied Group and Allied Capital II. The percentage participation offered Allied Capital II will be for the balance of the investment. Once a Venture Partnership is fully invested, its total assets will not be used in the formula since it is no longer seeking investments. Each Fund's board of directors will determine how much the Funds will purchase of the offerings made available by Allied Advisory.

10. The non-interested directors of each Fund will be provided with independent counsel so that they may be advised as to potential conflicts. Among other things, counsel will present the non-interested directors with a memorandum detailing the responsibilities associated with their non-interested status and their obligations under the terms of any exemptive order obtained.

Applicant's Legal Conclusions

1. Allied Capital owns 100 percent of the outstanding voting securities of Allied Advisory. Allied Capital and Allied Advisory are thus affiliated persons of each other. Assuming Allied Advisory is retained by Allied Capital II as the investment adviser, Allied Advisory will be an affiliated person of Allied Capital II and Allied Capital will thus be an affiliated person of an affiliated person (Allied Advisory) of Allied Capital II. After the spin-off, it is expected that Allied Advisory will become the investment adviser to Allied Capital, as well as to Allied Capital II, and, if so, it will be an affiliate of both Allied Capital and Allied Capital II. Allied Advisory is the general partner of Management Partners, which is in turn the general partner of the Venture Partnerships. The Venture Partnerships, therefore, may be deemed to be controlled by, and therefore affiliates of, Allied Advisory. The Venture Partnerships could therefore be deemed to be affiliates of an affiliate (Allied Advisory) of Allied Capital II. Because of their relationships, Allied Capital, Allied Capital II, Allied Advisory, Management Partners and the Venture Partnerships may be deemed to be precluded from cooperation in the Co-Investment Program by virtue of Sections 17(d) and 57(a) of the Act and Rule 17d–1 thereunder.

2. Applicants assert that the Co-Investment Program meets the standards for granting relief under Sections 17(d) and 57(a)(4) of the Act and Rule 17d–1 thereunder in that the terms of the Co-Investment Program are not less advantageous to either Fund and each Fund would be offered the opportunity to participate in the transactions on an identical basis. Further, the formula for the sharing of investment opportunities ensures that the Funds will be treated fairly and the non-overlapping independent boards of the Funds will ensure that no overreaching occurs. Also, the non-interested directors of each Fund will be provided with independent counsel to advise them as to potential conflicts.

3. Applicants seek an exemption pursuant to Section 6(c) for a class of transactions under the Co-Investment Program. Applicants submit that it would be impractical to attempt to obtain separate exemptive relief for each transaction because: (a) participation in investment opportunities may be precluded because of time delays in obtaining separate exemptive orders; and (b) use of an escrow account pending receipt of an exemptive order is not a viable alternative since Portfolio Companies must be assured of non-contingent funds.

4. Under the terms of the Prior Orders, Allied Capital is allowed to engage in transactions with certain affiliates relating to the co-investment in Portfolio Companies. Nothing in the proposed Co-Investment Program will affect the conditions established in those Prior Orders; Allied Capital will merely share with those affiliates covered by the Prior Orders its portion of the Co-Investment Program securities. The conditions in the Prior Orders were designed to ensure that co-investments would always be made in the best interest of Allied Capital and that any disproportionate allocation of investment opportunities and any disposition of investments would be approved by a majority of Allied Capital's directors who have no interest in the Venture Partnerships. For this reason, Applicants do not believe the Prior Orders need to be amended. However, Applicants seek an order pursuant to Section 57(a)(4) of the Act and Rule 17d–1 thereunder to allow Allied Capital II to co-invest with Venture and Technology in Portfolio Companies to the extent that mutual holding of the securities of Portfolio Companies could be deemed a joint transaction.

Applicants' conditions

Applicants agree that any order of the Commission permitting the Co-Investment Program will be subject to the following conditions:

1. No concurrent investments will occur with respect to Portfolio Companies in which Allied Capital or any of its affiliates have acquired an interest prior to the implementation of the Co-Investment Program.

2. The boards of directors of Allied Capital and Allied Capital II will have no more than two common directors. The remaining directors of the two companies, including the "non-interested" directors, will be unrelated. Each board, including the non-interested directors, will approve investments in advance. To facilitate the boards' determinations, they will be provided with periodic information listing all venture capital investments made by the other Fund. Allied Advisory, the Funds' adviser, will be responsible for providing such information to the directors of each Fund, including the non-interested directors. Neither Fund will have more than 85 percent of their total consolidated assets [1] invested jointly with the Venture Partnerships, except as a higher percentage may result from appreciation rather than acquisition of assets.

3. (a) Allied Advisory will review investment opportunities. To the extent that a Fund has funds available for investment or is otherwise considering new investments, Allied Advisory will make a preliminary determination as to whether each particular investment opportunity meets applicable investment criteria and is consistent with the existing composition of the Fund's portfolio in terms of diversification of investments. If Allied Advisory makes a favorable determination with respect to a particular investment, such investment will be deemed eligible for investment by the Funds. Investment opportunities will be offered to the Funds in amounts proportionate to total consolidated assets.[2] The adviser will maintain at

[1] "Total consolidated assets" is a technical accounting term. It refers to all of the assets of the entity in question, including cash, investments, loans, receivables, and other assets. Each quarter, Allied Capital, Allied Capital II and the Venture Partnerships determine their total consolidated assets in accordance with general accepted accounting principles. This is done as a matter of course and is required for public companies in order to report to their shareholders. In allocating investment opportunities, the ratio would be based on the last quarter's total consolidated assets for each of the entities. The ratio would be expected to change quarterly.

[2] The relative amounts offered by each Fund will be function of a predetermined ratio derived by

Continued

each Fund's office written records of the factors considered in any preliminary determination.

(b) Following the making of the determination referred to in (a), information concerning the proposed investment will be distributed to the directors of each Fund, including the non-interested directors, except that such information need not be distributed to the directors of any Fund that, at that time, either does not have funds available for investment or is not otherwise considering new investments. Such information will be presented in written form and will include the name of each affiliated entity that proposes to make the investment and the amount of each proposed investment.

(c) Information regarding the adviser's preliminary determinations referred to in (a) will be reviewed by the board of directors of each Fund, including the non-interested directors. Each board, including a majority of the non-interested directors, will make an independent decision as to whether and how much, to participate in an investment based on what is appropriate under the circumstances. A Fund wil only make a joint investment if a majority of the non-interested directors of the Fund prior to making the investment conclude, after consideration of all information deemed relevant (including the extent to which such participation is on a basis different from or less advantageous than that of other participants), that the investments by another Fund or Venture Partnership would not disadvantage the Fund in the making of such investment, maintaining its investment position or disposing of such investment. The non-interested directors will maintain at the Fund's office written records of the factors considered in any decision regarding the proposed investment.

4. Joint purchases of securities by a Fund with the other Fund or a Venture Partnership will consist of the same class of securities, including the same registration rights (if any), and other rights related thereto, purchased at the same unit consideration and the approval of such transactions, including determination of the terms of the transactions by a Fund's non-interested directors will be made in the same time period.

5. Neither non-interested directors of a Fund nor any other Allied Advisory affiliate, will co-invest with a Fund unless a separate exemptive order with respect to such transaction has been obtained.

6. If one Fund or a Venture Partnership elects to sell, exchange or otherwise dispose of an interest in a security that is also held by another Fund or Venture Partnership, notice of the proposed sale will be given to the Fund(s) at the earliest practical time and the Fund(s) will be given the opportunity to participate in such disposition at the same time for the same unit consideration and in amounts proportional to their respective holdings of such securities. Allied Advisory, will formulate a recommendation as to participation by such Fund in such a disposition, and provide the recommendation to the non-interested directors of such Fund. Each Fund will participate in such disposition if a majority of its non-interested directors determines that such action is in the best interest of the Fund. Each Fund will bear its own expenses associated with the disposition of a portfolio security. The non-interested directors of each Fund will record in their records the adviser's recommendation and their decision as to whether to participate in such disposition, as well as the basis for their decision that such action is in the best interest of the Fund.

7. If a Fund or Venture Partnership determines that the Fund or Venture Partnership should make a "follow-on" investment (i.e., an additional investment in the same entity) in a particular Portfolio Company whose securities are held by one or both Funds or a Venture Partnership or to exercise warrants or other rights to purchase securities of such an issuer, notice of such transaction will be provided to the other Fund (or to the Funds in the case of the Venture Partnerships) at the earliest practical time. The adviser will formulate a recommendation as to the proposed participating by a Fund in a follow-on investment and provide the recommendation to the non-interested directors of the Fund along with notice of the total amount of the follow-on investment. Each Fund's non-interested directors will make their own determination with respect to follow-on investments. Assuming that the amount of a follow-on investment available to a Fund is not based on the amount of such Fund's initial investment, the relative amount of investment by each Fund participating in the follow-on investment will be based on a ratio derived by comparing the total consolidated assets of each participating Fund with the total amount of the available follow-on investment. Each Fund will participate in such investment if a majority of the non-interested directors determines that such action is in the best interest of their Fund. The non-interested directors of each Fund will record in their records the adviser's recommendation and their decision as to whether to engage in a follow-on transaction with respect to that Portfolio Company, as well as the basis for such decision.

8. The non-interested directors of a Fund will be provided quarterly for review, all information concerning co-investments made by the Funds, including co-investments in which one or both Fund declined to participate, so they may determine whether all investments made during the preceding quarter, including those investments they declined, complied with the conditions set forth above. In addition, at least annually, as well as during any quarter in which a co-investment was made, the non-interested directors will consider the continuing appropriateness of the standards established for investments by a Fund. The non-interested directors will consider whether use of such standards continues to be in the best interest of the Fund and its shareholders and does not involve overreaching of the Fund or its shareholders on the part of any party concerned.

9. The non-interested directors of Allied Capital and Allied Capital II will maintain the records required by Section 57(f)(3) of the Act and will comply with the provisions of Section 57(h) of such Act,[3] and each Fund will otherwise maintain all records required by the Act. All records referred to or required under these conditions will be available for inspection by the Commission.

10. The Funds will make no changes in conditions (1)–(9) until an amendment of any order issued pursuant to this Application is obtained from the Commission.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89–21382 Filed 9–11–89; 8:45 am]

BILLING CODE 8010-01-M

comparing the total consolidated assets of the Allied Group (Allied Capital plus the Venture Partnerships) with the total assets of Allied Capital II. As stated above, once a Venture Partnership is fully invested, its total assets will not be used in the formula since it is no longer seeking investments.

[3] Allied Capital will comply with such provisions even though it is not a BDC and, therefore, not subject to these sections of the Act.

[File No. 22-19593]

Application and Opportunity for Hearing; American Airlines, Inc.

September 6, 1989.

Notice is hereby given that American Airlines, Inc. (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission ("Commission") that (*a*) the trusteeship of the Connecticut National Bank ("CNB") under two or more indentures to be qualified under the Act and (*b*) the trusteeship of CNB under one or more of such qualified indentures and under certain other indentures described below, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify CNB from acting as trustee under such qualified indentures or such other indentures.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture under which any other securities of the same obligor are outstanding. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for a hearing thereon, that trusteeship under the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures. The Applicant alleges that:

1. The Applicant has filed one or more Registration Statements on Form S-3 covering the proposed issuance of up to four new series of 1989 Equipment Trust Certificates, Series A, *et seq.* (the "Proposed Certificates").

2. Each series of the Proposed Certificates will be issued pursuant to a separate idenure (a "Proposed Indenture", and collectively, the "Proposed Indentures"), each to be qualified under the Act, among a banking institution, as trustee (the "Proposed Owner Trustee"), the Applicant, as lessee, and an indenture trustee (the "Proposed Indenture Trustee"). The Applicant desires to appoint CNB as the Proposed Indenture Trustee under each such Proposed Indenture.

3. The proceeds from the sale of the Proposed Certificates will be used to provide long-term financing for a portion of the equipment cost of up to four Boeing 757-223 aircraft or McDonnell Douglas DC-9-82 aircraft (collectively, the "Proposed Aircraft"), each of which will be leased by the Proposed Owner Trustee to the Applicant.

4. Each series of the Proposed Certificates will be secured by a security interest in one of the Proposed Aircraft and by the right of the Proposed Owner Trustee to receive rentals payable in respect of such Aircraft by the Applicant under the applicable lease. No Aircraft will be covered by more than one Proposed Indenture or by any other indenture, and the Proposed Certificates to be issued pursuant to any one Proposed Indenture will be separate from the Proposed Certificates to be issued pursuant to any other Proposed Indenture.

5. Each Proposed Indenture will provide, pursuant to section 310(b) of the Act, for the resignation of the Proposed Indenture Trustee in the event that it does not eliminate a conflicting interest, and will provide that trusteeship under another indenture of the Applicant constitutes a conflicting interest, provided, however, that the Applicant may apply to the Commission for a finding that no material conflict exists.

6. CNB currently acts as indenture trustee (the "Pass Through Trustee") under four qualified indentures under which the Equipment Note Pass Through Certificates, Series 1988-A, are outstanding (the "1988 Qualified Indentures") and as indenture trustee (the "Loan Trustee") under four separate leveraged lease indentures related to the 1988 Qualified Indentures (the "1988 Lease Indentures").

7. Each of the 1988 Lease Indentures relates to a separate leveraged lease transaction in which an owner trustee leases one McDonnell Douglas DC-9-82 Aircraft to the Applicant. In 1988, each owner trustee, for the benefit of institutional investors acting as equity participants, issued four series of loan certificates (the "1988 Equipment Notes") under each 1988 Lease Indenture to four separate grantor trusts. These grantor trusts in turn issued four series of Pass Through Certificates (the "1988 Pass Through Certificates") under the four separate 1988 Qualified Indentures. The 1988 Equipment Notes issued with respect to each 1988 Lease Indenture are secured by a security interest in the aircraft to which such 1988 Lease Indenture relates and by the right of the owner trustee to receive rentals on such aircraft from the Applicant.

8. Each aircraft covered by a 1988 Lease Indenture is not covered by any other indenture, and the 1988 Equipment Notes issued under each 1988 Lease Indenture are separate from loan certificates issued under any other indenture.

9. The Pass Through Certificates issued under the 1988 Qualified Indentures represent undivided interests in the 1988 Equipment Notes held by the related Pass Through Trustee. The 1988 Equipment Notes are not covered by any other indenture, and the 1988 Pass Through Certificates issued under each 1988 Qualified Indenture are separate from loan certificates issued under any other indenture.

10. None of the 1988 Lease Indentures is subject to the Act and, accordingly, none contains the language regarding conflicts required by Section 3.10(b) of the Act for qualified indentures.

11. Each 1988 Qualified Indenture provides, pursuant to Section 310(b) of the Act, for the resignation of the Pass Through Trustee in the event that it does not eliminate a conflicting interest, and provides that trusteeship under another indenture of the Applicant constitutes a conflicting interest, provided, however, that the Applicant may apply to the Commission for a finding that no material conflict exists.

12. The Applicant is not in default in any respect under any of the 1988 Qulaified Indentures or the 1988 Lease Indentures.

13. CNB also acts as Pass Through Trustee under five qualified indentures under which the Equipment Note Pass Through Certificates, Series 1987-A, are outstanding (the "1987 Qualified Indentures") and as Loan Trustee under six separate leveraged lease indentures related to the 1987 Qualified Indentures (the "1987 Lease Indentures").

14. Each of the 1987 Lease Indentures relates to a separate leveraged lease transaction in which an owner trustee leases one McDonnell Douglas DC-9-82 Aircraft to the Applicant. In 1987 each owner trustee, for the benefit of institutional investors acting as equity participants, issued seven series of loan certificates (the "1987 Equipment Notes") under each 1987 Lease Indenture to seven separate grantor

trusts. These grantor trusts in turn issued seven series of Pass Through Certificates (the "1987 Qualified Indentures.) (One series of 1987 Equipment Notes matured on January 1, 1988, and another series of 1987 Pass Through Certificates issued by the two grantor trusts holding such Equipment Notes were paid off. As a result, the two 1987 Qualified Indentures under which such 1987 Pass Through Certificates were issued terminated, and thus only five 1987 Qualified Indentures remain.) The 1987 Equipment Notes issued with respect to each 1987 Lease Indenture are secured by a security interest in the aircraft to which such 1987 Lease Indenture relates and by the right of the owner trustee to receive rentals on such aircraft from the Applicant.

15. Each aircraft covered by a 1987 Lease Indenture is not covered by any other indenture, and the 1987 Equipment Notes issued under each 1987 Lease Indenture are separate from loan certificates issued under any other indenture.

16. The Pass Through Certificates issued under the 1987 Qualified Indentures represent undivided interests in the 1987 Equipment Notes held by the related Pass Through Trustee. The 1987 Equipment Notes are not covered by any other indenture, and the 1987 Pass Through Certificates issued under each 1987 Qualified Indenture are separate from loan certificates issued under any other indenture.

17. None of the 1987 Lease Indentures is subject to the Act and, accordingly, none contains the language regarding conflicts required by Section 310(b) of the Act for qualified indentures.

18. Each 1987 Qualified Indenture provides, pursuant to Section 310(b) of the Act, for the resignation of the Pass Through Trustee in the event that it does not eliminate a conflicting interest, and provides that trusteeship under another indenture of the Applicant constitutes a conflicting interest, provided, however, that the Applicant may apply to the Commission for a finding that no material conflict exists.

19. The Applicant is not in default in any respect under any of the 1987 Qualified Indentures or the 1987 Lease Indentures.

20. CNB also acts as indenture trustee under an indenture, dated as of October 15, 1986 (the "Other Indenture"), between CNB and Wilmington Trust Company ("WTC"), which relates to a leveraged lease transaction in which WTC, as owner trustee for the benefit of certain institutional investors acting as equity participants, issued in a private placement loan certificates to institutional investors acting as loan participants. Such loan certificates had an original principal amount of $32,829,735 and have a final maturity date of January 2, 2005.

21. The proceeds of the issuance of the loan certificates issued under the Other Indenture were used by the owner trustee to purchase one Boeing 767–223 aircraft that was then leased by such owner trustee to the Applicant. The Applicant is not a party to the Other Indenture (only WTC, as the owner trustee and as issuer of the loan certificates, and CNB are parties), but the Applicant's unconditional obligation to make rental payments under the lease relating to such Other Indenture is the only credit source of principal and interest payments on the loan certificates.

22. The loan certificates issued under the Other Indenture are secured by a security interest in the aforementioned Boeing 767–223 aircraft and the right of the owner trustee to receive rentals on such aircraft from the Applicant. Such aircraft is not covered by any other indenture, and the loan certificates issued under the Other Indenture are separate from loan certificates issued under any other indenture.

23. The Other Indenture is not subject to the Act and, accordingly, does not contain the language regarding conflicts required by Section 310(b) of the Act of the qualified indentures.

24. The Applicant is not in default in any respect under the Other Indenture.

The Applicant waives notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Section, File Number 22–19593, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than October 2, 1989, request in writing that a hearing be held on such matter, stating the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Jonathan G. Katz, Secretary, Securities and Exchange Commission, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–21381 Filed 9–11–89; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1–1657]

Issuer Delisting; Application To Withdraw From Listing (Crane Co., Common Stock, $1 Par Value; Preferred Shares Purchase Rights; 7% Subordinated Debentures Due July 1, 1994; 5% Convertible Subordinated Debentures, Due July 1, 1994

September 5, 1989.

Crane Co. ("Company"), has filed an application with the Securities and Exchange Commission ("Commission") pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the Pacific Stock Exchange ("PSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Crane Co. ("the Company") has requested the PSE to delist the foregoing securities because the volume of trading with respect to each such security has been minimal.

Crane Co. Common Stock, its Preferred Share Purchase Rights and the 7% Subordinated Debentures are presently listed on the New York Stock Exchange and will continue to be so listed with that Exchange.

The Company's 5% Convertible Subordinated Debentures, due July 1, 1994, when delisted from the PSE will not be listed on any Exchange. As of July 31, 1989 the aggregate outstanding principal amount of Convertible Debentures was $993,500 and Convertible Debentures were held by approximately 590 holders. Accordingly, the Company that states the Convertible Debentures could not presently meet the applicable listing requirements of a national securities exchange.

Any interested person may, on or before September 26, 1989, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms,

if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-21383 Filed 9-11-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted on or before October 12, 1989. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340.

Title: Prime Contracts Program Quarterly.

Form Nos.: SBA Forms 843.

Frequency: 4 times annually.

Description of respondents: Procurement Center Representatives.

Annual Responses: 1,260.

Annual Burden Hours: 1,260.

Title: Nominate a Small Business Person or Advocate of the Year.

Frequency: On occasion.

Description of respondents: Individuals nominating a Small Business Person or Advocate of the Year.

Annual Responses: 400.

Annual Burden Hours: 400.

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 89-21360 Filed 9-11-89; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Areas #2376 and #2377]

Delaware and Contiguous Counties in the State of Maryland; Declaration of Disaster Loan Area

Sussex County and the contiguous county of Kent, in the State of Delaware, and Caroline, Dorchester, Wicomico, and Worcester Counties, in the State of Maryland, constitute a disaster area as a result of damages from heavy rains and flooding which occurred on August 18 and 19, 1989. Applications for loans for physical damage may be filed until the close of business on October 30, 1989 and for economic injury until the close of business on May 29, 1990 at the address listed below:

Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th Fl., Atlanta, Georgia 30308, or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Businesses and non-profit organizations (EIDL) without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	9.125

The numbers assigned to this disaster for physical damage are 237606 for the State of Delaware and 237706 for the State of Maryland. The numbers assigned for economic injury are 683000 for the State of Delaware and 683100 for the State of Maryland.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: August 29, 1989.

Susan Engeleiter,

Administrator.

[FR Doc. 89-21361 Filed 9-11-89; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0238]

The Remington Fund, Inc.; Surrender of License

Notice is hereby given that The Remington Fund, Inc. (TRF), 1927 First Avenue North, Birmingham, Alabama 35202, has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act). TRF was licensed by the Small Business Administration on May 16, 1986.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was effective on August 29, 1989, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 5, 1989.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 89-21362 Filed 9-11-89; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting in Sacramento, CA

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of San Francisco, will hold a public meeting at 10:00 a.m., Wednesday, September 27, 1989, at the Sacramento Commercial Bank, Conference Room, 525 "J" Street, Sacramento, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call J. Mark Quinn, Acting District Director, U.S. Small Business Administration, San Franscisco District Office, 211 Main Street, 4th Floor, San Francisco, California 94105, phone (415) 974-0642.

Dated: September 5, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-21358 Filed 9-11-89; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Public Meeting in Macon, GA

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Georgia, will hold a public meeting

from 12:30 p.m. on Thursday, October 5, 1989, through 11:30 a.m. on Friday, October 6, 1989, at The Shoney's Inn, 3850 Riverside Drive, Macon, Georgia 31210.

The purpose of the meeting is to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Wilfred A. Stone, District Director, U.S. Small Business Administration, 1720 Peachtree Road, NW., 6th Floor, Atlanta, Georgia 30309, (404) 347–4749.

Dated: September 5, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89–21359 Filed 9–11–89; 8:45 am]

BILLING CODE 8025–01–M

Region VII Advisory Council; Public Meeting in St. Louis, MO

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of St. Louis and Eastern Missouri, will hold a public meeting at 9:00 a.m. on Wednesday, October 25, 1989, at the St. Louis District Office of the U.S. Small Business Administration, The Old Post Office, 815 Olive Street, Room 242, St. Louis, Missouri, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Robert L. Andrews, District Director, U.S. Small Business Administration, 815 Olive Street, Room 242, St. Louis, Missouri, 63101, phone (314) 539–6600.

Dated: September 5, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89–21357 Filed 9–11–89; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 05/05/0212]

Polaris Capital Corp., Application for a Small Business Investment Company License

An application for a license to operate a small business investment company (SBIC) under the provisions of the Small Business Invest Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Polaris Capital Corp. (Applicant), One Park Plaza, Suite 320, 11270 W. Park Place, Milwaukee, Wisconsin 53224, with the Small Business Administration pursuant to 13 CFR 107.102 (1989).

The Proposed Officers, Directors and Shareholders of the Applicant will be as follows:

Name	Title or position	Percent of ownership
Dean A. Treptow, N61W5353 Edgewater Dr., Cedarburg, WI 53012.	Chairman, Director and Chief Executive Officer.	10.87
Richard F. Laabs, N99W16743 Woodcock Rd., Germantown, WI 53022.	President/ Director.	4.35
John C. Gardner, 320 E. Buffalo Street, Milwaukee, WI 53202.	Director	10.87
Frederick G. Luber, 777 N. Prospect Ave., Milwaukee, WI 53202.	Director	10.87
Franklin M. Buchta, 2480 N. Mayfair Dr., Brookfield, WI 53005.	Director	4.35
Robert H. Taylor, 2118 W. Raleigh Ct., Mequon, WI 53092.	Director	2.17

The Applicant, a Wisconsin corporation, is expected to begin operations with $3,450,000 of private capital. The Applicant will conduct its activities primarily in the State of Wisconsin.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the company under their management, including profitability and financial soundness, in accordance with Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of the Notice shall be published in a newspaper of general circulation in Milwaukee, Wisconsin.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 5, 1989.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 89–21363 Filed 9–11–89; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended September 1, 1989

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (see 14 CFR 302.1701 *et seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 46474

Dated filed: August 29, 1989

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 26, 1989

Description: Application of Express One International, Inc. pursuant to Section 401(d)(1) of the Act and Subpart Q of the Regulations, requests a certificate of public convenience and necessity to engage in interstate and overseas scheduled air transportation.

Docket Number: 46475

Date Filed: August 30, 1989

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 27, 1989

Description: Application of Transbrasil S.A. pursuant to section 402 of the Act and Subpart Q of the Regulations requests a foreign air carrier permit authorizing it to conduct scheduled combination transportation of passengers, cargo and mail on the route between a point or points in the Federative Republic of Brazil and the terminal point of Orlando, Florida. Transbrasil requests that its foreign air carrier permit include authorization for long-term charter authority for the transportation of passengers and cargo between a point or points in the United States of America and a point or points in the Federative Republic of Brazil.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 89–21354 Filed 9–11–89; 8:45 am]

BILLING CODE 4910–62–M

Office of the Secretary

Continental/American Route Transfer

[Docket 46303]

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Tentative approval of transfer of Continental Airlines, Inc.'s Texas-Alberta, Canada route authority to American Airlines, Inc., Order to Show Cause, Order 89-9-7.

SUMMARY: The Department has tentatively decided to approve (1) the transfer of Continental Airlines, Inc.'s Houston/Dallas/Ft. Worth-Calgary/Edmonton, Alberta, Canada-Fairbanks, Alaska route authority (Route 470) to American Airlines, Inc., and (2) renewal of the authority for five years from the effective date of final approval of the route transfer. Continental's existing route authority will expire by its own terms February 5, 1990. The Department tentatively concludes that approval of the transfer will not conflict with any important international aviation policy objectives; will have no adverse impact on industry balance; and will not otherwise be inconsistent with the public interest.

DATES: Objections and comments to the Department's tentative decision are due not later than September 20, 1989; answers thereto shall be filed not later than September 27, 1989.

ADDRESS: Objections, comments and answers should be filed in Docket 46303, addressed to the Documentary Services Division, U.S. Department of Transportation, 400 7th St., SW. Room 4107, Washington, DC 20590 and should be served in all parties in Docket 46303.

Dated: September 5, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-21329 Filed 9-11-89; 8:45 am]

BILLING CODE 4910-10-M

Fitness Determination of Las Vegas Airlines, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 89-9-8, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that Las Vegas Airlines, Inc., is fit, willing, and able to provide commuter air service under section 419(e)(1) of the Federal Aviation Act.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Room 6401, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Mrs. Janet A. Davis, Air Carrier Fitness Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9721.

Dated: September 5, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-21330 Filed 9-11-89; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Tax on Certain Imported Substances; Notice of Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance under Notice 89-61, 1989-21 I.R.B. 25, of a petition requesting that *ABS (ACRYLONITRILE, BUTADIENE, STYRENE) PELLETS* be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89-61. This is not a determination that the list of taxable substances should be modified.

DATE: Written comments and requests for a public hearing relating to this petition must be delivered or mailed by November 13, 1989.

ADDRESS: Send comments and requests for a public hearing to the Internal Revenue Service, Attention: CC:CORP:T:R (Petition), Room 4429, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries). Telephone 202-566-4475 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petition was received on July 11, 1989. The petitioner is GE Chemicals, Inc., a manufacturer and exporter of this substance. The following is a summary of the information contained in the petition. The complete petition is available in the Internal Revenue Service Freedom of Information Reading Room.

Harmonized Tariff System number: 3903.30

Schedule B number: 3903.30.0000-6

Chemical Abstract Service number: 003-56-9

This substance is derived from the taxable chemicals *benzene, ethylene, propylene, ammonia, butadiene, potassium hydroxide,* and *sulfuric acid.* ABS is made by the emulsion polymerization process. The ABS resin is a great polymer that is manufactured by the continuous polymerization of a mixture of styrene and acrylonitrile in the presence of a butadiene homopolymer.

According to the petition, taxable chemicals constitute 95 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $6.09 per ton.

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 89-21308 Filed 9-11-89; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 175
Tuesday, September 12, 1989

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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of a Matter To Be Withdrawn From Consideration at an Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the following matter will be withdrawn from the "summary agenda" for consideration at the open meeting of the Board of Directors of the Federal Deposit Insurance Corporation scheduled to be held at 2:00 p.m. on Tuesday, September 12, 1989, in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, DC:

Memorandum and resolution re: Final amendments to Part 309 of the Corporation's rules and regulations, entitled "Disclosure of Information," in order to conform the regulation to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which amendments substitute the term "depository institution" each place the term "bank" appears, with certain exceptions.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Deputy Executive Secretary of the Corporation, at (202) 898–3811.

Dated: September 7, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretaary.

[FR Doc. 89–21514 Filed 9–8–89; 1:04 pm]

BILLING CODE 6714–01–M

FEDERAL ENERGY REGULATORY COMMISSION

September 6, 1989.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–49), 5 U.S.C. 552B:

DATE AND TIME: September 13, 1989, 10:00 a.m.

PLACE: 825 North Capitol Street N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Power Agenda, 902nd Meeting—September 13, 1989, Regular Meeting (10:00 a.m.)

CAP–1.
Docket Nos. EL86–24–001 and EL86–29–001, Municipal Electric Utilities Association of New York State v. Power Authority of the State of New York; and Connecticut Municipal Wholesale Electric Cooperative and Massachusetts Municipal Wholesale Electric Company v. Power Authority of the State of New York

CAP–2.
Project No. 2959–021, The City of Seattle, Washington

CAP–3.
Project No. 4632–004, Clifton Power Corporation

CAP–4.
Project No. 7270–002, Northern Wasco County People's Utility District

CAP–5.
Project No. 4435–008, Damnation Peak Power Company

CAP–6.
Project No. 4412–008, Thornton Lake Resources Company

CAP–7.
Project No. 2716–015, Virginia Electric and Power Company

CAP–8.
Project Nos. 8256–009 and 010, Electro-Technologies, Ltd.

CAP–9.
Project No. 2144–008, City of Seattle, Washington

CAP–10.
Project No. 9732–000, Brookside Hydroelectric Company, Inc.
Project No. 9277–000, Riverside Dam, Inc.
Project No. 10080–000, Lower Falls Hydro Co., Inc.

CAP–11.
Docket No. QF86–608–002, Fort Howard Corporation

CAP–12.
Docket No. ER89–522–000, Vermont Electric Power Company, Northeast Utilities Service Company and New England Power Company

CAP–13.
Docket Nos. ER89–465–000 and ER89–569–000, Green Mountain Power Corporation

CAP–14.
Docket No. ER89–470–000, AEP Generating Company

CAP–15.
Docket No. ER89–355–000, CP National Corporation

CAP–16.
Docket Nos. ER85–648–001, ER86–341–001 and ER87–593–000, Central Hudson Gas and Electric Corporation
Docket Nos. ER85–607–001, ER85–621–001, ER85–763–001 and 003, Consolidated Edison Company of New York, Inc.
Docket Nos. ER86–262–001, ER88–465–000, ER89–237–000, ER89–366–000, ER89–488–000 and ER89–502–000, New York State Electric and Gas Corporation
Docket Nos. ER88–554–000, ER88–558–000, ER88–579–000, ER88–586–000, ER89–50–000, ER89–271–000, Niagara Mohawk Power Corporation
Docket Nos. ER85–598–001, 002, 003, 005, 007 and ER85–634–001, Orange and Rockland Utilities, Inc.

CAP–17.
Docket No. EL89–26–001, Southern California Edison Company v. Arizona Public Service Company

CAP–18.
Docket No. ER89–265–001, Arizona Public Service Company

CAP–19.
Docket No. ER87–180–005, Cincinnati Gas & Electric Company

CAP–20.
Omitted

CAP–21.
Docket Nos. ER89–228–001, ER89–125–002 and ER89–66–000, Canal Electric Company

CAP–22.
Docket No. EL88–39–001, Northern States Power Company (Wisconsin)
Docket No. EL89–9–001, Northern States Power Company (Minnesota)

CAP–23.
Docket No. ER88–316–000, Commonwealth Edison Company

CAP–24.
Docket No. ER88–540–000, Louisiana Power & Light Company

Consent Miscellaneous Agenda

CAM–1.
Docket No. FA86–51–002, Indianapolis Power & Light Company

CAM–2.
Docket No. FA89–44–000, UNISON Transformer Services, Inc.

CAM–3.
Docket No. FA86–19–001 (Phase I), System Energy Resources, Inc.

CAM–4.
Docket No. RM79–52–001, Procedures for Shortages of Electric Energy and Capacity Under Section 206 of the Public Utility Regulatory Policies Act of 1978

CAM–5.
Docket No. RM89–13–000, Revision of Formula for Computing Monthly Carrying Charges in PGA Filings

CAM–6.

Docket No. GP89–35–000, Jennings Exploration Company
CAM–7.
Docket No. GP89–45–000, Amoco Production Company
CAM–8.
Docket No. GP87–20–000, ANR Pipeline Company v. Plains Resources, Inc.
CAM–9.
Docket No. GP89–51–000, Michigan Department of Natural Resources, Section 102 NGPA Determination, West Bay Exploration Company, Duff-Grant Farms No. 3–36D Well, FERC J.D. No. 85–04112

Consent Gas Agenda

CAG–1.
Docket Nos. RP89–217–000 and 001, El Paso Natural Gas Company
CAG–2.
Docket No. RP89–121–000, West Texas Gathering Company
CAG–3.
Docket Nos. TA89–1–6–003 and 004, Sea Robin Pipeline Company
CAG–4.
Docket Nos. TA89–1–4–004 and TQ89–7–4–001, Granite State Gas Transmission, Inc.
CAG–5.
Omitted
CAG–6.
Docket Nos. RP89–140–000 and RP89–195–000, Williams Natural Gas Company
CAG–7.
Docket Nos. RP89–98–000 and RP89–133–000, Colorado Interstate Gas Company
CAG–8.
Docket No. RP89–120–003, Questar Pipeline Company
CAG–9.
Docket Nos. CP83–254–324, 325, 326, 327, 328, 329, 330, CP 83–335–250 and 251, Williston Basin Interstate Pipeline Company
CAG–10.
Docket Nos. TA89–1–31–001, 002, 003, 004, RP89–62–001, 002, 003, TQ89–3–31–001, 002 and 003, Arkla Energy Resources
CAG–11.
Docket Nos. RP89–121–000, West Texas Gathering Company
CAG–12.
Docket Nos. TA89–1–27–000 and 001, North Penn Gas Company
CAG–13.
Docket No. TA89–1–48–000, Kentucky-West Virginia Gas Company
CAG–14.
Docket No. TA89–1–47–002, MIGC, Inc.
CAG–15.
Docket Nos. RP89–212–000 and CP89–759–001, Transcontinental Gas Pipe Line Corporation
CAG–16.
Docket Nos. RP89–84–003 and RP88–228–024, Tennessee Gas Pipeline Company
CAG–17.
Docket No. RP88–259–020, Northern Natural Gas Company
CAG–18.
Docket Nos. RP88–27–016, RP88–264–013 and CP87–524–007, United Gas Pipe Line Company and Texas Gas Transmission Corporation
CAG–19.
Docket Nos. RP89–140–004 and RP89–195–001, Williams Natural Gas Company
CAG–20.
Docket Nos. RP89–130–002, 003, 006, RP88–198–009 and RP89–59–003, Transwestern Pipeline Company
CAG–21.
Docket No. RP89–194–001, Texas Gas Transmission Corporation
CAG–22.
Docket Nos. RP85–177–063, CP88–136–008 and RP88–67–014, Texas Eastern Transmission Corporation
CAG–23.
Docket No. RP88–191–009, Tennessee Gas Pipeline Company
CAG–24.
Docket No. RP89–160–001, Trunkline Gas Company
CAG–25.
Docket No. RP89–124–001, CNG Transmission Corporation
CAG–26.
Docket Nos. RP89–23–003 and RP89–182–001, Northern Natural Gas Company, Division of Enron Corp.
CAG–27.
Docket No. RP89–120–001, Questar Pipeline Company
CAG–28.
Docket No. RP89–161–001, ANR Pipeline Company
CAG–29.
Docket Nos. RP80–55–013, RP80–118–014, RP81–73–006 and RP82–32–009, Sea Robin Pipeline Company
CAG–30.
Omitted
CAG–31.
Docket No. TQ89–2–27–001, North Penn Gas Company
CAG–32.
Docket No. RP89–200–001, Pacific Gas Transmission Company
CAG–33.
Docket No. RP88–106–002, Northern Natural Gas Company
CAG–34.
Docket Nos. RP88–28–000 and 001, Northern Illinois Gas Company v. Natural Gas Pipeline Company of America
CAG–35.
Docket No. ST89–3130–000, The Nueces Company
CAG–36.
Docket Nos. ST89–481–000, ST89–916–000, ST89–917–000, ST89–958–000 and ST89–1367–000, Phillips Natural Gas Company
CAG–37.
Docket No. CI89–190–000, Nielson Enterprises Inc. and J.W. Bullion, Trustee
CAG–38.
Docket No. G–16679–001, Jupiter Corporation and Tennessee Gas Pipeline Company
CAG–39.
Docket Nos. CP87–389–005, CP88–225–002 and CP88–759–001, National Fuel Gas Supply Corporation
CAG–40.
Docket Nos. CP88–129–004 and CP88–163–002, Columbia Gas Transmission Corporation
Docket No. CP89–656–002, Algonquin Gas Transmission Company
CAG–41.
Docket No. CP89–657–001, Commonwealth Gas Pipeline Corporation
CAG–42.
Docket No. CP89–3–003, Panhandle Eastern Pipe Line Company
CAG–43.
Docket Nos. CP88–490–003 and CP88–548–003, Panhandle Eastern Pipe Line Company
CAG–44.
Docket No. CP89–1582–001, National Fuel Gas Supply Corporation
CAG–45.
Docket No. CP89–465–001, Arkansas Oklahoma Gas Corporation
CAG–46.
Docket No. CP88–539–002, Great Lakes Gas Transmission Company
CAG–47.
Docket No. CP61–92–020, El Paso Natural Gas Company
Docket No. CP61–139–017, Northern Natural Gas Company, Division of Enron Corp.
CAG–48.
Docket No. CP89–1108–001, Stingray Pipeline Company
CAG–49.
Omitted
CAG–50.
Docket Nos. CP89–275–000 and CP89–594–000, Ozark Gas Transmission System
CAG–51.
Docket No. CP88–778–001, Hall-Houston Oil Company
CAG–52.
Docket No. CP89–1895–000, Colorado Interstate Gas Company
CAG–53.
Docket No. CP89–1993–000, United Gas Pipe Line Company
CAG–54.
Docket No. CP89–1997–000, United Gas Pipe Line Company
CAG–55.
Docket No. CP89–983–000, Riverside Pipeline Company, L.P.
CAG–56.
Docket No. CP89–14–000, Northern Natural Gas Company, Division of Enron Corp.
CAG–57.
Docket No. CP89–1127–000, CNG Transmission Corporation
CAG–58.
Docket No. CP89–1270–000, Midwestern Gas Transmission Company
CAG–59.
Docket No. CP89–1121–000, Mississippi River Transmission Corporation
CAG–60.
Docket No. CP88–703–000, Natural Gas Pipeline Company of America
CAG–61.
Omitted
CAG–62.
Docket No. CP89–655–000, Iowa-Illinois Gas and Electric Company
CAG–63.
Docket Nos. CP88–464–000 and CP88–509–000, Michigan Consolidated Gas Company-Utility Division
Docket No. CP89–1233–000, CNG Transmission Corporation v. Michigan

Consolidated Gas Company-Utility Division

CAG–64.
Docket No. RP89–60–000, Southwest Gas Storage Company

CAG–65.
Docket No. RP89–161–000, ANR Pipeline Company

I. Licensed Project Matters

P–1.
Project No. 2971–002, Allegheny Electric Cooperative
Project No. 7914–003, Allegheny Hydropower, Inc.
Project No. 8908–000, Borough of Brownsville, Pennsylvania, Washington County Board of Commissioners, and Pennsylvania Renewables Resources, Inc.
Project No. 4675–002, Borough of Charleroi, Pennsylvania, Washington County Board of Commissioners, and Pennsylvania Renewables Resources, Inc.
Project No. 4474–003, Borough of Cheswick, Pennsylvania, and Allegheny Valley North Council of Governments
Project No. 7660–000, Borough of Point Marion, Pennsylvania, and Noah Corporation
Project No. 7307–000, City of Grafton, West Virginia
Project No. 6939–001, City of Jackson, Ohio
Project Nos. 6901–001 and 6902–003, City of New Martinsville, West Virginia
Project No. 3218–001, City of Orrville, Ohio
Project No. 4017–002, City of Pittsburgh, Pennsylvania
Project No. 10098–000, City of Point Pleasant, West Virginia, and WV Hydro, Inc.
Project No. 9999–000, City of St. Marys, West Virginia, and WV Hydro, Inc.
Project Nos. 7568–001 and 7909–002, County of Allegheny, Pennsylvania
Project No. 9042–000, Gallia Hydro Partners
Project Nos. 7399–000, 8990–000 and 8654–001, Noah Corporation
Project Nos. 3490–003 and 7041–001, Potter Township, Pennsylvania
Project No. 6998–001, Upper Mississippi Water Company, Inc.
Project No. 10332–000, WV Hydro, Inc. Order regarding the 24 applications for license for projects to be located in the upper Ohio River Basin that were assessed in the Final Environmental Impact Statement, Upper Ohio River Basin.

(A)
Project No. 3218–001 West Virginia/Ohio, City of Orrville, Ohio

(B)
Project No. 4017–002 Pennsylvania, The City of Pittsburgh, Pennsylvania

(C)
Project No. 4474–003 Pennsylvania, a Borough of Cheswick, Pennsylvania and the Allegheny Valley North Council of Governments

(D)
Project No. 4675–002 Pennsylvania, Borough of Charleroi, Washington County Board of Commissioners, and Pennsylvania Renewables Resources, Inc.

(E)
Project No. 6901–001 WV–Ohio, City of New Martinsville, West Virginia
Project No. 10332–000 WV–Ohio, WV Hydro, Inc.

(F)
Project No. 6902–003 WV–Ohio, City of New Martinsville, West Virginia
Project No. 9999–000 West Virginia, City of St. Marys, West Virginia, and WV Hydro, Inc.

(G)
Project No. 6939–001 West Virginia, The City of Jackson, Ohio

(H)
Project No. 7041–001 Pennsylvania, Potter Township, Pennsylvania

(I)
Project No. 7307–000, The City of Grafton, West Virginia
Project No. 7399–000, Noah Corporation

(J)
Project No. 7568–001 Pennsylvania, Allegheny County, Pennsylvania

(K)
Project No. 7660–000 Pennsylvania, Borough of Point Marion, Pennsylvania, and Noah Corporation

(L)
Project No. 7909–002 Pennsylvania, Allegheny County, Pennsylvania

(M)
Project No. 8645–001 West Virginia, Noah Corporation

(N)
Project No. 8908–000 Pennsylvania, The Borough of Brownsville, Pennsylvania, the Washington County Board of Commissioners, Pennsylvania, and Pennsylvania Renewable Resources, Inc.

(O)
Project No. 8990–000 West Virginia, Noah Corporation

(P)
Project No. 9042–000, Gallia Hydro Partners
Project No. 10098–000, City of Point Pleasant, West Virginia, and WV Hydro, Inc.
Project No. 8381–000 Ohio/West Virginia, Noah Corporation.

Orders regarding the 24 applications for license for projects to be located in the upper Ohio River Basin that were assessed in the Final Environmental Impact Statement, Upper Ohio River Basin, Docket No. EL85–18–114, September 1988.

II. Electric Rate Matters

ER–1.
Reserved

Miscellaneous Agenda

M–1.
Reserved

M–2.
Reserved

I. Pipeline Rate Matters

RP–1.
Docket Nos. RP88–45–000, 016, RP88–48–000 and 002, Arkla Energy Resources, a Division of Arkla, Inc. Order concerning settlement involving sales and transportation rates.

RP–2.
Docket No. RP88–209–000, Natural Gas Pipeline Company of America. Order concerning settlement involving sales and transportation rates.

II. Producer Matters

CI–1.
Reserved

III. Pipeline Certificate Matters

CP–1.
Docket No. CP88–123–000, Katy Interchange Service. Order ruling on application to authorize a natural gas interchange service for the closing of gas futures contracts and spot transactions.

CP–2.
Docket No. CP88–570–000, Mobile Bay Pipeline Project. Procedural order on multiple filings for certificate authorizations to construct and operate pipeline projects in the Mobile Bay Area.

Lois D. Cashell,

Secretary.

[FR Doc. 89–21448 Filed 9–7–89; 8:45 am]

BILLING CODE 6717–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of September 11, 18, 25, and October 2, 1989.

PLACE: Commissioner's Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of September 11

Monday, September 11

10:00 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Amendments to 10 CFR Part 34: Safety Requirements for Industrial Radiographic Equipment
b. Motion by Joseph J. Macktal to Reconsider CLI–89–14 (Tentative)

Thursday, September 14

10:00 a.m.
Briefing on Status of NRC Technical Training Programs (Public Meeting)

Friday, September 15

9:00 a.m.
Briefing on Status of Maintenance Initiatives and Schedule (Public Meeting)

Week of September 18—Tentative

Wednesday, September 20

10:00 a.m.
Briefing on EPRI Design Requirements Document for Advanced Light Water Reactors (Public Meeting)

Thursday, September 21

10:00 a.m.
Briefing on Study of Adequacy of Regulatory Oversight of Materials Under a General License (Public Meeting)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of September 25—Tentative

There are not meetings scheduled for the Week of September 25.

Week of October 2—Tentative

Wednesday, October 4

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: September 7, 1989.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 89–21523 Filed 9–8–89; 2:51 pm]

BILLING CODE 7590–01–M

RESOLUTION TRUST CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:47 p.m. on Tuesday, September 5, 1989, the Board of Directors of the Resolution Trust Corporation met in closed session to consider (1) matters relating to the resolution of certain depository institutions placed in conversatorship under the joint regulatory oversight program; and (2) matters regarding the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director M. Danny Wall (Director of the Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, N.W., Washington, DC.

Dated: September 6, 1989.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 89–21517 Filed 9–8–89; 2:08 pm]

BILLING CODE 6714–01–M

Corrections

Federal Register
Vol. 54, No. 175
Tuesday, September 12, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. 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

[Docket No. 86N-0141; DESI 12708]

Diutensen Tablets; Withdrawal of Approval of New Drug Application

Correction

In notice document 89-16592 appearing on page 32696 in the issue of Wednesday, August 9, 1989, make the following corrections:

In the second column, under **SUPPLEMENTARY INFORMATION:**

1. In the third line the date should read "June 5, 1986";
2. In the fourth line "Drug" should read "Drugs"; and
3. In the second paragraph, in the sixth line, "had" should read "has".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

Annual License Fees for Fiscal Year 1990 for Power Reactor Operating Licenses

Correction

In notice document 89-20500 appearing on page 36074 in the issue of Thursday, August 31, 1989, make the following corrections:

1. In the second column, in the ninth line "effected" should read "affected".
2. In the third column, in the third column of the table, the seventh entry should read "858,000". Also, the last entry in that column should read "734,000".

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

Proposed Demonstration Project; Department of Agriculture

Correction

In notice document 89-19673 beginning on page 35134 in the issue of Wednesday, August 23, 1989, make the following correction:

On page 35135, in the first column, under *E. Types and Numbers of Participating Employees*, in the second line, "500 employees" should read "5000 employees".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 18334; Amdts. No. 1-36, 21-66, 23-37, 25-68, 27-24, 29-27, 31-5, 33-13, 35-6, 36-18, 43-31, 45-18, 47-24, 61-84, 63-27, 65-34, 71-13, 91-211, 93-56, 99-11, 103-3, 121-206, 125-12, 127-43, 133-10, 135-32, 137-12, 141-11]

RIN 2120-AA13

Revision of General Operating and Flight Rules

Correction

In rule document 89-18775 beginning on page 34284 in the issue of Friday, August 18, 1989, make the following corrections:

§ 91.185 [Corrected]

1. On page 34303, in the second column, in § 91.185(c)(2) introductory text, in the third line, "segment" was misspelled.

§ 91.323 [Corrected]

2. On page 34310, in the third column, in § 91.323(a)(2), in the fourth line, "1" should be removed.

§ 91.409 [Corrected]

3. On page 34312, in the first column, in § 91.409(d)(2)(ii), in the third line, after "routine", insert "and detailed inspections will be performed and including".

§ 91.801 [Corrected]

4. On page 34322, in the first column, in § 91.801(b), in the sixth line from the bottom of the paragraph, after "under" insert a comma.

PART 91 Appendix A—[Corrected]

5. On page 34328, in Appendix F to part 91, in the 3rd column, in the 10th line, before "5", insert "±"

Note: For a Federal Aviation Administration correction to the document referenced in this correction, see the Rules and Regulations section of this issue.

BILLING CODE 1505-01-D

federal register

Tuesday
September 12, 1989

Part II

Department of Transportation

Research and Special Programs Administration

Reichhold Ltd. Application for Inconsistency Ruling Concerning State of Maine Regulations for the Transportation of Hazardous Materials; Public Notice and Invitation To Comment

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. IRA-48]

Reichhold Ltd., Application for Inconsistency Ruling Concerning State of Maine Regulations for the Transportation of Hazardous Materials

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: Reichhold Limited has applied for an administrative ruling determining whether Maine's regulations requiring a license for the transportation of hazardous materials are inconsistent with the Hazardous Materials Transportation Act (HMTA) and the Hazardous Materials Regulations (HMR) issued thereunder and, therefore, preempted under section 112(a) of the HMTA. RSPA is expanding the proceeding to include Maine's licensing and enforcement statute concerning such transportation, and its fee statue for hazardous materials transported by railroad.

DATES: Comments received on or before October 20, 1989, and rebuttal comments received on or before December 8, 1989, will be considered before an administrative ruling is issued by the Director of the Office of Hazardous Materials Transportation (OHMT). Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and any comments received may be reviewed in the Dockets Unit, Research and Special Programs Administration, Room 8421, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Comments and rebuttal comments on the application may be submitted to the Dockets Unit at the above address, and should include the Docket Number, IRA-48. Three copies are requested. A copy of each comment and rebuttal comment must also be sent to Mr. G.R. Beasant, Reichhold Limited, Mississauga Executive Centre, Four Robert Speck Parkway, Suite 700, Mississauga, Ontario, Canada L4Z 1S1, and to Mr. Garry R. Hinkley, Director, Commercial Vehicle, Secretary of State, Motor Vehicles Division, Station No. 29, Augusta, Maine 04333, and that fact certified to at the time each comment is submitted to the Dockets Unit. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Mr. Beasant and Mr. Hinkley at the addresses specified in the Federal Register.").

FOR FURTHER INFORMATION CONTACT: Mr. Edward H. Bonekemper, III, Senior Attorney, Office of the Chief Counsel, Research and Special Programs Administration, 4000 Seventh Street SW., Washington, DC 20590, telephone number 202-366-4400.

SUPPLEMENTARY INFORMATION:

1. Background

The HMTA (49 App. U.S.C. 1801-1811), at section 112(a) (49 App. U.S.C. 1811(a)) expressly preempts "any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement" of the HMTA or the HMR issued thereunder.

Procedural regulations implementing section 112(a) of the HMTA and providing for the issuance of inconsistency rulings are codified at 49 CFR 107.201 through 107.211. An inconsistency ruling is an advisory administrative opinion as to the relationship between a state or political subdivision requirement and a requirement of the HMTA or HMR. Section 107.209(c) sets forth the folowing factors which are considered in determining whether a state or local requirement is inconsistent:

(1) Whether compliance with both the state or local requirement and the HMTA or HMR is possible (the "dual complaince" test); and

(2) The extent to which the state or local requirement is an obstacle to the accomplishment and execution of the HMTA and the HMR (the "obstacle" test).

Inconsistency rulings do not address issues of preemption under the Commerce Clause of the Constitution or under statutes other than the HMTA.

In issuing its advisory inconsistency rulings concerning preemption under the HMTA, OHMT is guided by the principles enunciated in Executive Order No. 12,612 entitled "Federalism" (52 FR 41,685 (Oct. 30, 1987)). Section 4(a) of that Executive Order authorizes preemption of state laws only when the statute contains an express preemption of state laws only when the statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of state authority directly conflicts with the exercise of Federal authority. The HMTA, of course, contains an express preemption provision, which OHMT has implemented through regulations and interpreted in a long series of inconsistency rulings beginning in 1978.

2. The Application for Inconsistency Ruling

On June 21, 1989, Reichhold Limited (Reichhold), Mississauga, Ontario, Canada, through Mr. G.R. Beasant, its Transportation Manager, applied for an inconsistency ruling concerning the State of Maine's Bureau of State Police regulations (chapter 11) requiring a license for the transportation of hazardous materials, reproduced in Appendix A to this Notice.

To facilitate consideration of all relevant issues, this proceeding is being expanded to include the State's statute, Me. Rev. Sta. Ann. tit. 29, sections 246-B and 246-C (1988), which require such a license and provide for enforcement; and Me. Rev. Sta. Ann. tit. 38, section 1319-I, subsection 4-B (1988), which imposes a fee on hazardous materials transported by railroad. Those statutes are reproduced in appendix B to this Notice.

Section 246-B.2 of Maine's statute concerning a license for transportation of hazardous materials states that "[h]azardous materials subject to the requirements of this section shall mean those substances identified pursuant to the United States Superfund Amendments and Reauthorization Act (SARA) of 1986, title III, sections 302 and 313" (Pub. L. No. 99-499, 100 Stat. 1730-31; 1742-47). Pursuant to this statute, Maine promulgated regulations governing the display and examination of the license for transportation of hazardous materials. These regulations apply to "any person * * * who transports certain hazardous materials, identified pursuant to the United States Superfund Amendments and Reauthorization Act of 1986, title III sections 302 and 313." Section 1319-I, subsection 4-B of Maine's statute concerning the imposition of fees on hazardous materials transported by railroad also identifies hazardous materials as those identified in sections 302 and 313 of SARA. The Environmental Protection Agency has published a list of the hazardous substances and toxics under sections 302 and 313 of SARA; a copy of that list is available from RSPA's Dockets Unit, Room 8421, Nassif Building, 400 Seventh Street SW., Washington, DC 20590 (202-366-4453).

In its application, Reichhold contends that SARA is applicable to fixed facility hazardous materials emissions and was never intended to apply to hazardous materials transportation. Reichhold further states that Maine's use of SARA

as a basis for its licensing requirement is inconsistent with 49 CFR 171.8, which defines "hazardous materials" as "a substance or material, including a hazardous substance, 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." (Emphasis added.) Reichhold states that certain hazardous chemicals covered by sections 302 and 313 of SARA, such as melamene, are not included in the Hazardous Materials Table, 49 CFR 172.101, and that certain hazardous materials in the table, such as paraformaldehyde, are not covered by section 302 or section 313 of SARA.

Reichhold alleges that it received a summons for violation of Maine state laws for operating without a hazardous materials license. Reichhold states that the material being transported from Quebec, Canada to Maine was a phenolic resin containing the following substances listed in 49 CFR 172.101: phenol, formaldehyde, and sodium hydroxide. However, Reichhold states that the substances transported were in concentrations below those defined as constituting a hazardous substance pursuant to 49 CFR 171.8 (less than 1.0%, 0.5%, and 0.25%, respectively). Reichhold thus contends the phenolic resin is not a material that is regulated for purposes of interstate transportation.

Therefore, Reichhold requests a ruling that the relevant State of Maine regulations are inconsistent with the hazardous materials regulations and are thus preempted by section 112(a) of the HMTA. Because those regulations were effectively mandated by Me. Rev. Sta. Ann. tit. 29, sections 246–B and 246–C (1988) and because Me. Rev. Sta. Ann. tit. 38, section 1319–I, subsection 4–B (1988) contains similar SARA-based provisions, this proceeding is being expanded to include those statutes.

3. Public Comment

Comments should be limited to the issues of whether Maine's above-described statutes and regulations, requiring a license for transportation of hazardous materials, and imposing a fee on hazardous materials transported by railroad, are inconsistent with the HMTA and the HMR. They should specifically address the "dual compliance" and "obstacle" tests described above under "Background".

Persons intending to comment on the application should examine the complete application in the RSPA Dockets Unit, Appendices A and B to this Notice, and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–107.211).

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

Issued in Washington, DC on September 5, 1989.

Appendix A—State of Maine Bureau of State Police

Chapter 11—License for the Transportation of Hazardous Materials Rules

Sec.
11.01: Purpose
11.02: Scope
11.03: Rules
11.04: Enforcement

Summary: These rules adopt the regulations governing the display and examination of the license for transportation of hazardous materials.

Section 11.01: Purpose

These rules prescribe the requirements of the Commissioner of Public Safety governing the examination and display of the license for transportation of hazardous materials. They are established in order to meet the requirements of 29 MRSA section 246–B and 246–C.

Section 11.02: Scope

These rules apply to any person, including a private carrier or a common or contract carrier who transports certain hazardous materials, identified pursuant to the United States Superfund Amendments and Reauthorization Act of 1986, title III sections 302 and 313, by highway such that the motor vehicle used in that transportation transports more than 2,000 pounds of any of those hazardous materials at any one time.

Section 11.03: Rules

There shall be issued to each motor vehicle that transports more than 2,000 lbs. of any of those hazardous materials at any one time as specified in 29 MRSA section 246–B a license from the Secretary of State.

This license shall be readily accessible for inspection by Main State Police officers or any member of the Department of Public Safety designated by the Commissioner of Public Safety and shall be displayed upon demand. The license shall be filled out completely and legibly.

Section 11.04: Enforcement

Only Maine State Police officers or any members of the Maine Department of Public Safety designated by the Commissioner of Public Safety are authorized and directed to enforce 29 MRSA section 246–B, 246–C, and these rules.

Authority: 29 MRSA Section 246–B.

Effective Date: February 1, 1989.

Appendix B—Maine Revised Statutes Annotated

Title 29, Section 246–B. License for Transportation of Hazardous Materials

1. *License required.* As of January 1, 1989, any person, including a private carrier or a common or contract carrier, who transports certain hazardous materials as specified in this section by highway, such that the motor vehicle used in that transportation, transports more than 2,000 pounds of any of those hazardous materials at any one time shall first obtain from the Secretary of State an annual license or single-trip license for each motor vehicle used in that transportation. This license shall be available for examination and displayed in accordance with rules adopted by the Commissioner of Public Safety. Annual licenses shall expire one year following the date of issuance. The license shall be in such form as the Secretary of State by rule prescribes. No license may be transferable to another motor vehicle.

2. *Hazardous materials covered.* Hazardous materials subject to the requirements of this section shall mean those substances identified pursuant to the United States Superfund Amendments and Reauthorization Act of 1986, title III, sections 302 and 313.

3. *Exceptions.* This section shall not apply to:

A. Any motor vehicle owned or operated by the Federal Government or any political subdivision of the Federal Government;

B. Any properly registered agricultural motor vehicle used in a bona fide farming operation;

C. Any motor vehicle used during an emergency with the specific approval of a peace officer, fire chief, designated official of the Department of Environmental Protection or the Department of Public Safety; or

D. Any motor vehicle which has a valid license issued by the Department of Environmental Protection for the transportation of hazardous waste or waste oil pursuant to title 38, section 1319–0.

4. *Fee.* The fee for an annual license is $50 and the fee for a single-trip license is $25. No portion of the annual fee for licensing may be prorated or reduced.

5. *Apportionment of fees.* Fees shall be paid to the Secretary of State and, upon receipt, credited to the Maine Hazardous Waste Fund. Fees collected shall be apportioned in the following manner:

A. Sixty-five percent to the Maine Hazardous Waste Fund administered by the Department of Environmental Protection;

B. Fifteen percent to the Secretary of State for the costs of administering the licensing program;

C. Ten percent to the Department of Public Safety for costs related to motor vehicle inspections and enforcement of this section; and

D. Ten percent to the State Emergency Response Commission established under the Maine Emergency Management Agency for hazardous materials training of local and State officials.

Title 29, Section 246–C. Enforcement

Every State police officer or any member of the Department of Public Safety designated by the Commissioner of Public Safety is authorized and directed to enforce section 246–B. A violation of section 246.B is a Class E crime, except that any owner or operator who displays, causes or permits to be

displayed a fictitious license or a license issued to another motor vehicle shall be guilty of a Class D crime. All fines shall accrue to the Maine Hazardous Waste Fund.

Title 3o, Section 1319–I, Subsection 4–B

Fee on hazardous materials transported by railroad. Effective October 1, 1988, any person who transports more than 25 tons of certain hazardous materials as specified in this subsection at any one time by rail shall register annually with the department. Fees for the transportation of hazardous materials by rail shall be imposed on the registrant who first transports the materials in Maine by rail. Fees for the transportation of hazardous materials shall be determined on the basis of fifteen cents per ton of hazardous materials transported by the registrant during the period of registration and shall be paid monthly by the registrant on the basis of records certified to the department. Fees shall be paid to the department and upon receipt by it credited to the Maine Hazardous Waste Fund.

Hazardous materials subject to the requirements of this subsection shall mean those substances identified pursuant to the United States Superfund Amendments and Reauthorization Act of 1986, title III, sections 302 and 313. The registrant shall make available to the department and its authorized representatives all documents relating to the hazardous materials transported by the registrant during the period of registration.

[FR Doc. 89–21331 Filed 9–11–89; 8:45 am]
BILLING CODE 4910–60–M

federal register

Tuesday
September 12, 1989

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Vibration, Buffet and Aeroelastic Stability Requirements for Transport Category Airplanes; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 26007; Notice No. 89-24]

RIN 2120-AD36

Vibration, Buffet and Aeroelastic Stability Requirements for Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revise the airworthiness standards of the Federal Aviation Regulations (FAR) for transport category airplanes concerning flutter, divergence, vibration, and buffet. It would clarify the requirement to consider flutter and divergence when treating certain damage and failure conditions required by other sections of the FAR. It would revise the required safety margins by slightly reducing the safety margin concerning airplane speed for normal configurations and providing a minimum safety margin concerning airplane speed for damage and failure configurations. These changes are intended to provide consistency with other sections of the FAR, to relieve a design burden which is now unnecessary as a result of advances in technology, and to improve certain safety margins as a result of the evolution in the design of transport airplanes.

DATE: Comments must be received on or before March 12, 1990.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 26007, 800 Independence Avenue SW., Washington, DC 20591, or delivered in duplicate to: Room 915G, 800 Independence Avenue SW., Washington, DC 20591. Comments delivered must be marked: Docket No. 26007. Comments may be inspected in Room 915G weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Office of the Regional Counsel (ANM-7), FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments in the information docket may be inspected in the Office of the Regional Counsel weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James Haynes, Airframe and Propulsion Branch (ANM-112), Transport Airplane Directorate, Aircraft Certification Service, FAA, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2113.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of proposals contained in this notice are also invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit comments, in duplicate, to the Rules Docket address specified above. All comments will be considered by the Administrator before taking action on the proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26007." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591; or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

The term "aeroelastic" is applied to an important class of phenomena which involves the mutual interaction between the inertial, aerodynamic, and elastic forces in a structure. These forces can interact to give rise to a variety of aeroelastic phenomena ranging from transient or dynamic responses as a result of external forces (vibration or buffeting) to aeroelastic instabilities (flutter or divergence). The important distinction between response and instability phenomena is that instabilities are self-excited, that is, they can exist even in smooth air in the absence of any external forces. A slight perturbation of the structure at or above the critical airspeed is all that is needed to initiate the unstable condition which then may be maintained or grow to destructive proportions in the absence of any external forces.

Few aeroelastic phenomena fit neatly into classifications where exact definitions can be considered to apply without qualification. For the purpose of better understanding the proposals in this NPRM the following definitions are provided. They should be considered to apply to classical aeroelastic phenomena and used with a certain amount of judgment since not even the experts in the field would agree completely on any set of definitions.

1. *Vibration.* An oscillation of the structure or of a control surface resulting from an independent external excitation.

2. *Buffeting.* A random oscillation of the structure resulting from unsteady aerodynamic forces, usually associated with separated flow.

3. *Flutter.* The unstable self-excited structural oscillation at a definite frequency where energy is extracted from the airstream by the motion of the structure. The deformation and motion of the structure result in forces on the structure that tend to maintain or augment the motion. The displacement modes associated with potential flutter instabilities are often called "flutter modes" even though they may be well damped or do not become unstable within the flight envelope.

4. *Whirl Flutter.* Flutter in which the aerodynamic and gyroscopic forces associated with rotations and displacements in the plane of a propeller or large turbofan play an important role. The displacement modes associated with whirl flutter are frequently called "whirl modes."

5. *Divergence.* A static instability at a speed where the aerodynamic forces resulting from the deformation of the structure exceed the elastic restoring forces resulting from the same deformation.

6. *Control Reversal.* A condition in which the intended effects of displacing a given component of the control system are completely overcome by the

aeroelastic effects of structural deformation, resulting in reversed command at higher speeds.

7. *Deformation Instability.* The loss of airplane stability and control as a result of the aeroelastic effects of structural deformation.

Many of the above terms have been used in the airworthiness regulations and associated advisory material for many years and there is no intent to redefine these phenomena or require consideration of new phenomena by this proposal.

Regulations dealing with flutter and divergence for transport category airplanes were first introduced in part 04 of the Civil Air Regulations (CAR) in the 1940's. A safety margin was established by requiring that the airplane be designed to be free from flutter and divergence at an airspeed 20 percent greater than the maximum design dive speed. Flutter analyses, using the available theoretical methods of that time, were used to show compliance. The 20 percent margin was intended to account for the inaccuracy in the analytical prediction of the flutter speed, as established by those early methods, and to provide for production and service variations. A 20 percent margin was chosen as the safety margin for civil airplanes after comparing analytical studies with the results of model testing conducted by the Army Air Corps. Based on the same studies and tests, a 15 percent margin was chosen by the Army Air Corps as the safety margin for the related military specification.

The flutter requirement of part 04 evolved into section 4b.308 of the CAR, where developing fail-safe philosophy continued to change the scope of the flutter and divergence substantiation requirements. Among the early fail-safe provisions were the requirements that control surface tabs and flutter damper systems be fail-safe. The most comprehensive fail-safe requirement was adopted in 1964 (29 FR 12809, September 5, 1964) and required compliance with the single failure criteria for the entire airplane, as well as compliance with special provisions for turbopropeller airplanes. The most recent substantive change in the fail-safe provisions was the addition of a requirement in § 25.629(d) for freedom from flutter with any combination of failures not shown to be extremely improbable (Amendment 25–46, 43 FR 50578; October 30, 1978).

Part 25 has been continually upgraded with failure and damage requirements in other sections. Among these requirements are the criteria for complete loss of all engines in § 25.671, the empennage bird strike criteria of § 25.631, and the discrete source damage criteria of § 25.571(e). These sections generally require "no catastrophic failure" or "safe flight and landing" or similar provisions. These regulations have been interpreted to require flutter substantiation if the failure or damage event could have a significant effect on the flutter modes.

The design margin for the fail-safe design conditions has been the margin between design cruise speed, V_C/M_C and design dive speed, V_D/M_D. This margin originally was 25 percent, but has since been reduced by the incorporation of an upset criterion to establish V_D/M_D (§ 25.335(b)). This criterion generally results in a margin of between 15 and 20 percent on modern conventional transport airplanes at altitudes where V_C is not limited by Mach number.

While the scope of the flutter requirements was being widened by additional fail-safe criteria, the ability of the industry to substantiate freedom from flutter and other aeroelastic instability phenomena was continually improving. At the time the 20 percent margin was established, the analytical capability was minimal and unreliable without a large speed margin. Current analytical methods employ finite element solutions with advanced unsteady aerodynamic theories and can accommodate airplanes of complex configurations. In addition, model testing, ground vibration testing and flight flutter testing techniques have all undergone significant improvements. Complete airplane experimental modal analyses are now commonplace. Furthermore, the cost of these analytical methods and testing techniques has been kept reasonable by the advances in computer technology.

The requirements to withstand vibration and buffet, as contained in part 4b of the CAR at the time of recodification to part 25 of the FAR, were divided into two parts, (1) a flight demonstration requirement (section 4b.190) in subpart B "Flight" and (2) a design requirement (section 4b.308) in subpart C "Structure." As a result of the recodification, these requirements were combined into a single requirement in § 25.251 of subpart B "Flight." In addition, since § 4b.190 referred to both flutter and vibration, the fail-safe flutter requirements from section 4b.308 were also incorporated into § 25.251 by reference to the new § 25.629(d) which was the recodified section 4b.308(d). However, at the same time the reference to flutter was removed from § 25.251 and it became only a vibration and buffet regulation. As a result of the placement in subpart B, there is a tendency to interpret the vibration and buffet requirements as only flight requirements. Also, because of the reference to the fail-safe requirements of § 25.629(d), § 25.251 literally requires that freedom from excessive vibration be demonstrated with failure conditions. The rule also continued to reference the structural design dive speed V_D rather than a flight speed such as V_{DF}.

Discussion

The scope of this proposal is to revise § 25.629 "Flutter, deformation and fail-safe criteria" which includes several substantive changes, and to reorganize some requirements of § 25.251 "Vibration and buffeting," without substantive changes.

The proposed changes to § 25.251 involve the creation of a new § 25.305(e) to incorporate the design requirements for buffet and vibration of § 25.251(a) into § 25.305, creating a new § 25.305(e). This requirement is a structural design requirement and should be set forth in subpart C. Section 25.251(a) would be revised to require only a flight demonstration for freedom from vibration and buffet in any likely operating condition, including probable inadvertent excursions beyond the buffet boundaries. Furthermore, the third sentence of § 25.251(b) would be deleted. This would provide relief from the requirement that freedom from excessive vibration be demonstrated in flight for the failure and damage conditions of § 25.629(d). The speed referenced in § 25.251 would be changed to the flight speed V_{DF} while the corresponding structural requirements that are moved to § 25.305(e) would continue to reference the structural design dive speed V_D.

It is also proposed to relocate the requirement for the evaluation of loads resulting from forced structural vibration after failures in the automatic flight control system. This requirement is currently located in § 25.629(d)(4)(vi), although it is a structural loading condition for oscillatory failures rather than for aeroelastic instability. It is proposed that it be set forth in subpart C, specifically in § 25.305, creating a new paragraph § 25.305(f). Furthermore, it is proposed to clarify that the loads resulting from these forced structural vibrations are limit loading conditions.

Section 25.629 would be retitled "Aeroelastic stability requirements" to more accurately describe the objective of the revised section. Originally the regulation contained vibration, buffet requirements and oscillatory failure load requirements, as well as flutter,

divergence, control reversal and deformation instability requirements. However, as a result of this proposal and previous amendments, the rule would only contain flutter (including whirl flutter), divergence, control reversal, and deformation instability requirements, all of which can be considered aeroelastic instabilities.

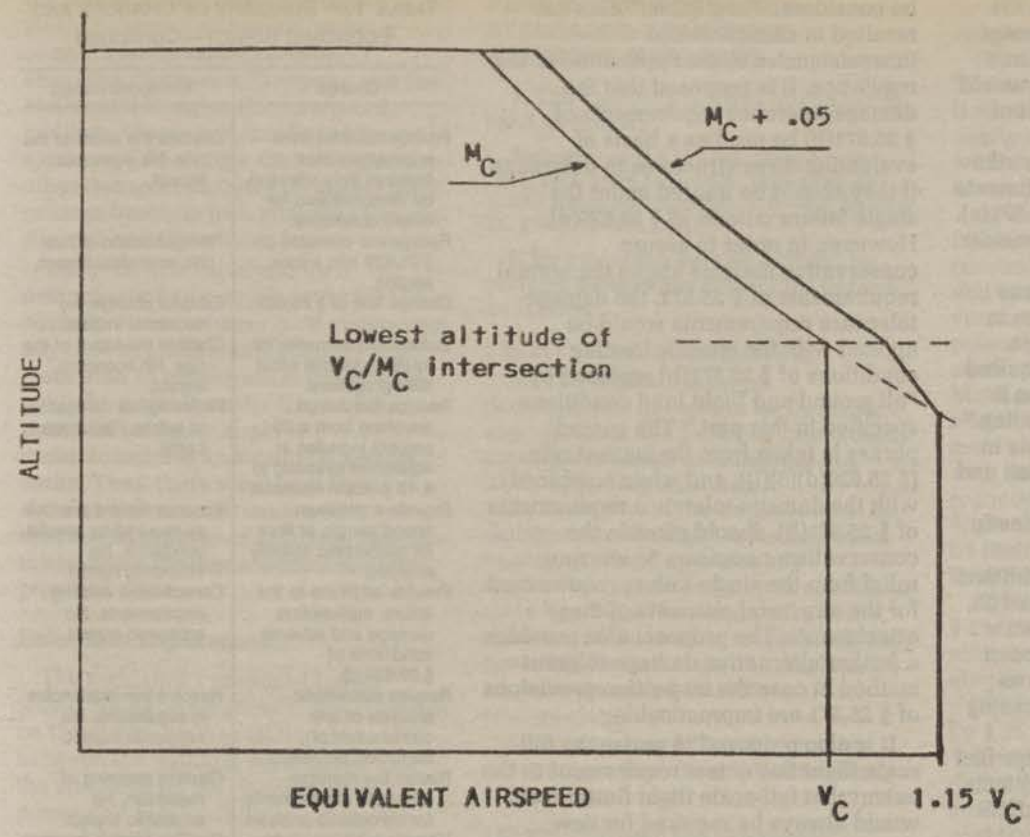
The references to propellers and turbopropellers in § 25.629 would be replaced by "propeller or rotating device that contributes significant dynamic forces" to encompass all types of rotating machinery which could influence the basic aeroelastic modes or create new "whirl modes." The general growth of compressors to large bypass fans and now to unducted fans has obscured the differences between propellers and other rotating machinery. The proposed rule would impose the requirements for the consideration of gyroscopic inertial forces and whirl flutter analysis on a more objective basis.

It is proposed to reduce the design envelope in which freedom from aeroelastic instability is to be shown for the normal (undamaged) airplane. The requirement for a 20 percent increase in equivalent airspeed at both constant altitude and constant Mach number would be reduced to a 15 percent increase. The principal purpose of the 20 percent margin has been for substantiation reliability. When the 20 percent margin was first established, flutter and divergence substantiation was in its infancy, and a large margin was needed because of the unreliability of the techniques. In addition, there were no failure or damage conditions at that time and the 20 percent margin, by virtue of the added stiffness, provided some degree of protection against damage and failure conditions as well as production and service variations. The transport airplane aeroelastic stability requirements, as provided in this proposal, and advances in aeroelastic substantiation techniques are now sufficient to justify a reduction in the substantiation margin. These provisions now require a complete program of analyses validated with test data and full-scale flight flutter testing. Furthermore, previous amendments, as well as the provisions of this proposal, have significantly amplified the specific fail-safe and damage conditions which must be considered with a separate fail-safe aeroelastic stability envelope. Since many transport airplanes serve both civil and military purposes, an added benefit of this proposal would be similarity with the military specifications which have used a 15 percent margin for many years without adverse service experience.

A further proposal affecting the normal envelope would be the inclusion of a general statement concerning aeroelastic stability criteria within the design envelope. The statement would require that, for the normal airplane without failures, malfunctions, or adverse conditions, there must be a proper margin of damping up to V_D/M_D and no large and rapid reduction in stability as V_D/M_D is approached. These words are currently in the rule but are stated as a condition required in order to allow the limiting of the aeroelastic stability substantiation envelope to Mach 1.0 when M_D is less than 1.0. This Mach 1.0 limitation would still be allowed, but the damping criteria would be a requirement in any case. Advisory Circular 25.629–1, Flutter Substantiation of Transport Category Airplanes, currently contains acceptable criteria for establishing a proper margin of damping.

It is also proposed that the fail-safe stability envelope be modified to provide a minimum speed margin. The margins between V_C/M_C and V_D/M_D have provided a sufficient margin in the past; however, with the advent of new types of propulsion systems, speed protection systems and unusual configurations, there is concern that this margin may be reduced to the point that it might not always serve as a sufficient margin for aeroelastic stability substantiation in the failed or damaged condition. Failures and damage conditions are typically substantiated by analyses or wind tunnel tests with very little flight test verification. The proposal would still require fail-safe aeroelastic stability substantiation within the structural design envelope, V_D/M_D; however, a minimum margin would be provided to ensure protection against substantiation unreliability if the V_D/M_D, envelope did not provide sufficient margin over V_C. The minimum margin would be a 15 percent increase in equivalent airspeed over design cruise speed, V_C, at all altitudes from sea level up to the altitude of the intersection of the extension of the constant cruise Mach number line, M_C, with 1.15 V_C. Then the minimum margin would be a linear variation in equivalent airspeed from that intersection to the point of intersection of the constant $M_C + .05$ line with the altitude of the lowest V_C/M_C intersection and a Mach increment of .05 over M_C at higher altitudes. Figure 1. shows the minimum flutter substantiation envelope for fail-safe conditions.

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Minimum Fail-safe Flutter Substantiation Envelope.

Figure 1.

BILLING CODE 4910-13-C

Also proposed are additions to the specified failure, malfunction, damage and adverse conditions specified in § 25.629(d). The list of conditions would be revised to add mismanagement of fuel not shown to be extremely improbable, the empennage bird strike requirement of § 25.631, and the discrete source damage conditions of § 25.571(e). Also included is a provision to consider inadvertent encounter with icing conditions, even though the airplane may not be approved for operation in icing conditions. Many of these are conditions that have generally required aeroelastic stability substantiation in order to show "safe flight and landing." This placement of the requirements in § 25.629(d) would make the margins and substantiation criteria of § 25.629 directly applicable to these aeroelastic stability substantiations.

The mismanagement of fuel condition is not specifically mentioned in part 25, although its consideration has been a practice for many years and has been required under general rules such as § 25.629(d)(1)(ii). There is an increasing complexity in fuel loading configurations including empennage fuel and automatic fuel distribution systems and these can have a significant effect on aeroelastic stability. Therefore, it is proposed to specifically require consideration of fuel mismanagement conditions, not shown to be extremely improbable, in order to provide a probability basis consistent with other fail-safe flutter conditions and to assure that this condition is not overlooked.

The combinations of feathered propellers in § 25.629(d) would also be revised to include any combination of feathered propellers (or rotating devices capable of significant dynamic forces) including all propellers feathered. The requirement in § 25.671 for the airplane to be controllable with all engines inoperative has made the current requirement inconsistent since the power failure requirement necessitates the feathering of all propellers.

The current § 25.629(d) requires single failures to be considered in engine mounts, other attachments of external bodies and engine structure supporting propeller shafts. Relief from this requirement for structural elements of these attachments is provided if "conservative static strength margins" or "sufficient fatigue strength" are shown. This provision was adopted in 1964 (29 FR 12609, September 5, 1964) and was intended to require design integrity of mounts and engine structures sufficiently above the normal design load and fatigue requirements so that the probability of their failure could be considered "negligible." This has resulted in confusion and inconsistencies in the application of the regulation. It is proposed that the damage-tolerance requirements of § 25.571(b) be used as a basis of evaluating these structures to determine if they should be treated under the single failure criteria of § 25.629(d). However, in order to assure conservative margins above the normal requirements of § 25.571, the damage-tolerance requirements would be applied with the specific loading conditions of § 25.571(b) replaced by "all ground and flight load conditions specified in this part." The quoted phrase is taken from the current rule (§ 25.629(d)(3)(i)), and when combined with the damage-tolerance requirements of § 25.571(b), should provide the conservatism necessary to warrant relief from the single failure requirement for the structural elements of these attachments. The proposal also provides a further alternative damage-tolerant method in case the inspection provisions of § 25.571 are impracticable.

It is also proposed to revise the full-scale flight flutter test requirement to the extent that full-scale flight flutter tests would always be required for new designs. Currently, flight flutter tests are specifically required if M_D is greater than .8. Indirectly, flight tests have always been necessary and required on transports, either as proof of freedom from flutter or as a means of validating the flutter analysis. The specific requirement for flight flutter testing on all new designs is considered necessary and consistent with the reduction of the normal flutter margins from 1.2 V_D to 1.15 V_D. It is also proposed to add a requirement that the flight test show a proper damping margin and that there be no large and rapid reduction in damping as V_{DF}/M_{DF} is approached.

Regulatory Evaluation

This section reviews the economic impact of the proposed regulatory changes. Table 1 below shows the proposed changes and their associated economic impact. Additional detail is contained in the regulatory evaluation that has been placed in the docket.

TABLE 1.— SUMMARY OF CHANGES AND ECONOMIC IMPACT

Change	Economic Impact
Changes to § 25.251. Incorporate design requirements § 25.251(a) into § 25.305.	Changes organization of regulations. No economic impact.
Provide for relief from requirement that freedom from vibration be demonstrated for failure conditions.	Clarifies the intent of the rule. No economic impact.
Reorganize contents of § 25.629 into a new section.	Reorganization of rule. No economic impact.
Change title of § 25.629....	Editorial change. No economic impact.
Include requirements for rotating devices other than propellers.	Clarifies the intent of the rule. No economic impact.
Reduce the design envelope from a 20 percent increase in equivalent airspeed to a 15 percent increase.	Relieving, no derogation of safety. Reduction in costs.
Provide a minimum speed margin or floor for aeroelastic stability analysis.	Ensures current practice as required by special conditions. No economic impact.
Provide additions to the failure, malfunction, damage and adverse conditions of § 25.629(d).	Consolidates existing requirements. No economic impact.
Require aeroelastic analysis of any combination of feathered propellers.	Resolve inconsistencies in regulations. No economic impact.
Revise the damage tolerance requirements for aeroelastic analysis.	Clarifies meaning of regulation. No economic impact.
Require full scale flight flutter tests for new designs.	Codifies what is currently required in practice. No economic impact.

Table 1 shows that most of the changes have no cost implications and the change relating to reducing the design airspeed margin from 20 percent to 15 percent will reduce costs.

International Trade Impact Analysis

The proposals are likely to have little impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the U.S. The proposals which do have an economic impact are relieving in nature and will reduce costs. If foreign nations do not adopt U.S. standards, their manufacturers may be at a disadvantage in the U.S. market. U.S. manufacturers selling abroad could continue to design to foreign standards which would also meet U.S. standards. However the impact is expected to be slight.

Regulatory Flexibility Determination

Under the criteria of the Regulatory Flexibility Act of 1980, the FAA has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Since the Act applies to U.S. entities, only U.S. manufacturers of transport category airplanes would be affected. In

the United States, there are two manufacturers that specialize in commercial transport category airplanes, the Boeing Company and the McDonnell Douglas Corporation. In addition, there are a number of general aviation (GA) entities that manufacture other transport category airplanes such as large business jets, including Cessna Aircraft and Gates Lear Jet.

The FAA size threshold for a determination of a small entity for U.S. airplane manufacturers is 75 employees; any U.S. airplane manufacturer with more than 75 employees is considered not to be a small entity. None of the transport category airplane manufacturers is known to be a small entity. Thus, there would not be a significant economic impact on a substantial number of small entities as the result of the implementation of this proposal.

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons given above, the FAA has determined that this proposed regulation is not considered to be major under Executive Order 12291, or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA certifies that this proposed rule, if promulgated, would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since none would be affected.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, the FAA proposes to amend part 25 of the Federal Aviation Regulations (FAR) 14 CFR part 25 as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a),1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983). 49 CFR 1.47(a).

2. By amending section § 25.251 by revising paragraphs (a) and (b) to read as follows:

§ 25.251 Vibration and buffeting.

(a) The airplane must be demonstrated in flight to be free from any vibration and buffeting that would prevent continued safe flight in any likely operating condition.

(b) Each part of the airplane must be demonstrated in flight to be free from excessive vibration under any appropriate speed and power conditions up to V_{DF}/M_{DF}. The maximum speeds shown must be used in establishing the operating limitations of the airplane in accordance with § 25.1505.

* * * * *

3. By amending § 25.305 by adding new paragraphs (e) and (f) to read as follows:

§ 25.305 Strength and deformation.

* * * * *

(e) The airplane must be designed to withstand any vibration and buffeting that might occur in any likely operating condition up to V_D/M_D, including stall and probable inadvertent excursions beyond the boundaries of the buffet onset envelope. This must be shown by analysis, flight tests, or other tests found necessary by the Administrator.

(f) Unless shown to be extremely improbable, the airplane must be designed to withstand any forced structural vibration resulting from any failure, malfunction or adverse condition in the flight control system. These must be considered limit loads and must be investigated at airspeeds up to V_C/M_C.

4. By revising § 25.629 to read as follows:

§ 25.629 Aeroelastic stability requirements.

(a) *General.* The aeroelastic stability evaluations required under this section include flutter, divergence, control reversal and any undue loss of stability and control as a result of structural deformation. The aeroelastic evaluation must include whirl modes associated with any propeller or rotating device that contributes significant dynamic forces. Compliance with this section must be shown by analyses, wind tunnel tests, ground vibration tests, flight tests, or other means found necessary by the Administrator.

(b) *Aeroelastic stability envelopes.* The airplane must be designed to be free from aeroelastic instability for all configurations and design conditions within the aeroelastic stability envelopes as follows:

(1) For normal conditions without failures, malfunctions, or adverse conditions, all combinations of altitudes and speeds encompassed by the V_D/M_D versus altitude envelope enlarged at all points by an increase of 15 percent in equivalent airspeed at both constant Mach number and constant altitude. In addition, a proper margin of stability must exist at all speeds up to V_D/M_D and, there must be no large and rapid reduction in stability as V_D/M_D is approached. The enlarged envelope may be limited to Mach 1.0 when M_D is less than 1.0 at all design altitudes, and

(2) For the conditions described in § 25.629(d) below, for all approved altitudes, any airspeed up to the greater airspeed defined by;

(i) The V_D/M_D envelope determined by § 25.335(b); or,

(ii) An altitude-airspeed envelope defined by a 15 percent increase in equivalent airspeed above V_C at constant altitude, from sea level to the altitude of the intersection of 1.15 V_C with the extension of the constant cruise Mach number line, M_C, then a linear variation in equivalent airspeed to $M_C+.05$ at the altitude of the lowest V_C/M_C intersection; then, at higher altitudes, up to the maximum flight altitude, the boundary defined by a .05 Mach increase in M_C at constant altitude.

(c) *Balance weights.* If concentrated balance weights are used, their effectiveness and strength, including supporting structure, must be substantiated.

(d) *Failures, malfunctions, and adverse conditions.* The airplane must be shown to be free from any aeroelastic instability that would preclude continued safe flight and landing within the fail-safe envelope described in paragraph (b)(2) of this section for each of the failures described in paragraph (d)(3) of this section.

(1) Safety following the failures, malfunctions, or adverse conditions of paragraph (d)(3) may be substantiated by showing that losses in rigidity or changes in frequency, made shape, or damping are within the parameter investigations.

(2) The structural failures described in paragraphs (d)(3)(iv) and (d)(3)(v) of this section need not be considered in showing compliance with this paragraph if a damage tolerance investigation,

using a conservative operating spectrum, shows that the structural element is designed with:

(i) Damage tolerance in accordance with § 25.571(b) using all the flight and ground loading conditions specified in this part in lieu of the loading conditions specified in § 25.571, or

(ii) If compliance with the inspection provisions of § 25.571(b) is shown to be impracticable, damage tolerance without inspections where analysis supported by tests shows that each critical structural element is capable of sustaining two lifetimes of slow crack growth starting with a 0.05 inch deep flaw and terminating with the maximum extent of damage at the limit load conditions specified in this part.

(3) The damage, failures, malfunctions, and adverse conditions which must be considered in showing compliance with this section are:

(i) Any critical fuel loading conditions, not shown to be extremely improbable, which may result from mismanagement of fuel.

(ii) Any single failure in any flutter damper system.

(iii) For airplanes not approved for operation in icing conditions, the maximum likely ice accumulation expected as a result of an inadvertent encounter.

(iv) Failure of any single element of the structure supporting any engine, independently mounted propeller shaft, large auxiliary power unit, or large externally mounted aerodynamic body (such as an external fuel tank).

(v) For airplanes with engines that have propellers or large rotating devices capable of significant dynamic forces, any single failure of the engine structure that would reduce the pitch or yaw rigidity of the rotational axis.

(vi) The absence of aerodynamic or gyroscopic forces resulting from the most adverse combination of feathered propellers or other rotating devices capable of significant dynamic forces. In addition, the effect of a single feathered propeller or rotating device must be coupled with the failures of paragraphs (d)(3)(iv) and (d)(3)(v) of this section.

(vii) Any single propeller or rotating device capable of significant dynamic forces rotating at the highest likely overspeed.

(viii) Any failure or malfunction, or combinations thereof, in the flight control system considered under §§ 25.671, 25.672, and 25.1309.

(ix) Any damage or failure condition, required or selected for investigation by § 25.571 or § 25.631, and

(x) Any other combination of failures, malfunctions, or adverse conditions not shown to be extremely improbable.

(e) Flight flutter testing. Full scale flight flutter tests at speeds up to V_{DF}/M_{DF} must be conducted for new type designs and for modifications to a type design unless they have been shown to have an insignificant effect on the aeroelastic stability. These tests must demonstrate that the airplane has a proper margin of damping at all speeds up to V_{DF}/M_{DF}, and that there is no large and rapid reduction in damping as V_{DF}/M_{DF} is approached. If a failure, malfunction, or adverse condition is simulated during flight test in showing compliance with paragraph (d) of this section, the maximum speed investigated need not exceed V_{FC}/M_{FC} if it is shown, by correlation of the flight test data with other test data or analyses, that the airplane is free from any aeroelastic instability at all speeds within the altitude-airspeed envelope described in paragraph (b)(2) of this section.

Issued in Washington, DC, on September 5, 1989.

Thomas E. McSweeny,

Acting Director, Aircraft Certification Service.

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federal register

Tuesday
September 12, 1989

Part IV

Department of Education

Office of Educational Research Improvement

National Research and Development Centers Competition; Solicitation of Written Public Comments

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement

National Research and Development Centers Competition; Solicitation of Written Public Comments

ACTION: Notice to solicit written public comments on a proposed research and development centers competition.

Purpose: The Secretary invites written public comments on twelve planned research and development centers and the potential lines of inquiry within each center. Written comments received in response to this notice will be carefully considered by the Office of Educational Research and Improvement (OERI) in preparation for an upcoming national research and development centers competition to be held during FY 1990, with awards to be made in FY 1991.

Deadline for transmittal of written comments: To be considered, all written comments must be received on or before October 31, 1989. Written comments received on or before this date will be considered in preparing final mission statements that will describe the Department's recommendations for the research areas, activities, and objectives of the national research and development centers.

Applicable regulations: The regulations for the Research and Development Centers Program, 34 CFR Parts 706 and 708.

SUPPLEMENTARY INFORMATION: The Secretary plans to compete twelve educational research and development centers. At a later date, an application notice will be published for the competition to be conducted in FY 1990 for the national research and development centers to be awarded in FY 1991.

Prior to this announcement, OERI has engaged in a series of activities designed to identify the kinds of research most likely to benefit learners in this society. Recommendations were solicited from organizations and individuals with a variety of perspectives on the present status of education and how educational research and development activities could improve education. Planning meetings were held with parents, practitioners, policymakers, researchers, and public officials. Written comments were received from the general public, from members of the National Academy of Education, and from representatives of various interest groups, including many education organizations. OERI considered this planning work the essential first step in the conduct of both educational research and disciplined inquiry in education theory and practice.

The recommendations received by OERI often called for substantially new initiatives. In contrast to the ideas and recommendations offered in previous years—which typically addressed how schools could improve on what they were already doing—current advice repeatedly suggested that "tinkering at the edges" and "business as usual" would not suffice. Instead, the following sorts of fundamental questions were voiced: What should children know? What should they be able to do? Does the increasing cultural diversity of today's school population mean that new educational strategies are needed to ensure that tomorrow's citizens are literate, knowledgeable in mathematics and science, active in the community, and committed to learning throughout life? If so, what are these strategies? What should teachers know, and how do they learn it? What State and district policies encourage parental and community involvement in education or more effective school organization, and does the implementation of such policies foster student learning? What policies discourage student learning? How can adults learn to read and write? At the same time as OERI was counseled to encourage sustained basic research whose benefits are not so predictable, OERI was urged to support a timely practical response to current needs.

As result of the planning meetings, written comments, staff analyses, and further consideration of national needs, the present status of education and education research, and the limited resources available, OERI concluded that twelve particular research and development centers should be established. The planned array of research centers includes support for ongoing lines of inquiry that continue to warrant investigation, redirection of some current research activity, and also fundamentally new directions for center research. The twelve planned centers are designed as a group to reflect a comprehensive approach to education, one that aims to improve teaching and learning across the broad span of ages from childhood to adulthood, across the broad spectrum of languages and cultures in schools, and across large and small, urban and rural, public and private schools. Finding imaginative ways to create educated graduates, accountable teachers and schools, productive workers, and knowledgeable citizens is vital to national well-being.

In addition to recommendations which informed the development of the twelve missions outlined below, OERI identified four pervasive themes among the ideas and comments offered during the planning process which deserve special attention: student and teacher engagement, cultural diversity, student transitions, and the middle grades and high school years.

Student and teacher engagement: Exploring the factors that enable students and teachers to be actively involved in the education process, especially understanding what leads them to persist in the active pursuit of educational goals.

Cultural diversity: Finding ways to make use of opportunities presented by the increasingly wide range of linguistic and cultural backgrounds found in American classrooms, and finding ways to surmount the educational challenges posed by this diversity.

Student transitions: Exploring the educational significance of the maturational changes children and young people undergo as they progress from one institutional setting to another, from home to school, from one school to the next, from school to work and family, and from job to job.

Middle grades and high school: Examining the serious mismatch between the organization and curriculum of the middle grades and high schools, on the one hand, and the needs and capabilities of young adolescents, on the other hand.

OERI plans to encourage prospective centers to propose activities that address these themes in constructive ways that are consistent with the centers' particular research missions. Also, based in part on the ideas and comments received during its planning activities, OERI plans to encourage collaboration among centers and the dissemination of research findings to audiences who can make good use of them.

Planned priorities: OERI plans to invite proposals to establish research and development centers concerning the subjects listed below. The numbers following each priority correspond to the priorities listed in the regulations for this program at 34 CFR 706.3(b).

(1) *Families, Communities, and Young Children's Learning.* (Learning (Priority 1); Home, family, cultural, and community influences on education, including parental choice and involvement in schooling (Priority 14); Early childhood education (Priority 23)).—Family, community, and culture are recognized as powerful influences on learning. There are serious research problems involved in studying these complex influences properly, but the potential benefits of understanding them

and how they may contribute positively to education cannot be denied. Important areas of inquiry include: (1) Studying not only how family structural characteristics and socio-economic condition affect children's education, but what practices families might engage in which support and contribute to children's intellectual and moral development; (2) developing and disseminating useful information and effective strategies to assist parents' efforts to improve their children's learning; (3) exploring the nature of the learning experiences of the young child from birth through preschool and the transition into formal education, to understand how that learning takes place and how the influence of various people and learning environments encountered affect the young child's learning; (4) understanding the relationships between family and community and school during the early school years; (5) investigating learning opportunities in communities, both formally organized activities—such as day care and preschool facilities, scouting and church groups, civic association activities, and community service programs—and informal activity, to identify and augment the crucial educational qualities of such experiences; and (6) examing the cultural influences of family and community on children's education, to develop ways to overcome practical problems and take advantage of opporunities to enhance learning.

(2) *Student Learning.* (Learning (Priority 1); Student achievement, including students' motivation to learn, their failure to learn, and their failure to attend school and graduate (Priority 13)).—Recent evidence indicates that large numbers of students are completing their years of formal schooling without having achieved proficiency in learning, reasoning, problem solving, and other higher order thinking skills. In our highly complex and rapidly changing technological world, such individuals are poorly prepared to cope with the everyday demands they will encounter throughout their lives, both as citizens and as workers. The impressive strides researchers have made in elucidating the nature of certain high order thinking skills, such as reading comprehension and arithmetic problem solving, have served as a basis for the design of teaching experiments that have led to substantial improvements in the percentage of students mastering such skills. Areas of inquiry critical to the continued creation of a knowledge base useful in teaching higher order thinking skills include: (1) Delineation of similarities and differences in the patterns of thinking fostered in different academic subjects; (2) exploration of the role of social interactions in promoting the acquisition of higher order thinking; (3) exploration of ways of restructuring the presentation of academic content to help students achieve integrated knowledge; (4) assessment of the effectiveness of alternative methods for teaching thinking skills, looking in particular at the special learning problems of low achieving students; and (5) the relationship between learning higher order thinking skills and student motivation.

(3) *Writing and Literacy.* (English literacy, including reading, writing, and language skills (Priority 19)).—Because writing proficiency is an integral part of the literacy skills students need for academic success, understanding the ways in which students acquire and develop writing skills is an important prerequisite for improving the literacy level of all learners. Areas of inquiry critical to promoting writing proficiency and related literacy skills include: (1) The intersections between writing, reading, and oral language; (2) writing assessment (that is, measure of writing competence based upon classroom practice and instructional goals); (3) writing as a learning tool (that is, writing strategies that facilitate the comprehension and learning of subject matter content as well as teach students how to think more effectively); (4) the acquisition of writing skills by students with different language backgrounds; (5) instructional strategies that include the use of technology to teach writing and take into account individual learning differences; and (6) early literacy learning.

(4) *Mathematics Teaching and Learning.* (Mathematics (Priority 20); Teaching (Priority 2); Learning (Priority 1)).—Improving student achievement in mathematics, especially in problem solving, reasoning, and higher order thinking, is imperative to meeting the demands of a rapidly changing society. Mathematics educators have completed important work in such areas as establishing curricular and evaluation standards and researching how students learn mathematics. Areas of inquiry that promise to improve the learning, teaching, and assessment of mathematics include: (1) Improving the skills, knowledge, and teaching practices of mathematics teachers; (2) expanding our knowledge of how students learn mathematics, especially at the middle and secondary grades, with particular attention to the influence of student engagement; (3) uncovering barriers to implementing curricular reform in mathematics; (4) identifying the contextual and organizational features of classrooms and schools that promote improved student achievement in mathematics; (5) learning how teaching and assessing mathematics can be aligned more closely; (6) improving the integration of mathematics with other curricular areas; and (7) determining how technology can improve the mathematical problem solving and reasoning skills of all students.

(5) *Science Teaching and Learning.* (Science (Priority 21); Learning (Priority 1); Teaching (Priority 2)).—It is imperative that all students become scientifically literate. Areas of inquiry for improving the science proficiency of all students include: (1) The relationships among science, mathematics, and other subjects and the inclusion of scientific ideas into other subjects; (2) the use of innovative techniques to accurately assess students' knowledge and skills; (3) applying research on students' cognition and motivation to problems of classroom instruction in science; (4) studying the ways in which school and classroom organization and policy affect student problem-solving and reasoning in the classroom; and (5) the incorporation of technology into the science curriculum.

(6) *Learning to Teach.* (Teaching (Priority 2); Teachers (Priority 34)).—The quality of teaching is central to students' learning. Research on learning to teach focuses on understanding the continuing development of teachers' expertise. In contrast, such questions as determining the best combination of subject matter knowledge and teaching techniques, or how to recruit competent teachers, adopt a comparatively static prespective in which teachers are thought to master discrete elements of teaching competence near the beginning of their professional careers, and subsequently need only to maintain or preserve that competence. Focusing on how people learn to teach implies that good teaching depends on special kinds of knowledge, and that the quality of teaching may change and improve as that knowledge develops. Relevant areas of inquiry include studying (1) How teachers acquire their expertise both at the beginning of teaching and over the course of their professional careers; (2) the content of teachers' learning, including subject matter and how to teach it, how to teach students from diverse populations, and how teaching responds to the various ways in which

students learn; and (3) the effects of innovative pedagogies (for example, case methods, computer technology) and nontraditional contexts (for example, professional development schools, teacher education in other countries, alternative routes to licensure) on teachers' learning.

(7) *Education in the Inner Cities.* (Education of special populations, including the educationally disadvantaged or students-at-risk, those with limited English proficiency, and immigrants (Priority 38); Secondary education (Priority 29); Early adolescent education (Priority 30); Home, family, cultural, and community influences on education, including parental choice and involvement in schooling (Priority 14)).—Inner cities pose formidable problems for education, both inside and outside of schools. Research in this area focuses on the distinctive characteristics of inner city education, taking into account the whole set of social, economic, cultural, and political conditions in which children and adolescents live and go to school. Developing constructive responses to the challenges of education in inner cities depends partly on knowing which problems are unique to education in inner cities, and which problems are common to other social contexts. Areas of inquiry include: (1) Studying how the educational system operates, for example, the functioning of its bureaucratic administration, the causes determining which students attend which of the different (public or private) schools, the allocation of resources among schools, and influences on the relationship between schools and other agencies; (2) examining how inner city conditions affect the features of schools, for example, the recruitment and retention of school personnel, the creation of school and classroom atmosphere, and examining what kinds of inner city schools and teachers are particularly successful, and why; (3) understanding how the cultural diversity of the inner city student population shapes students' educational experiences and interactions; and (4) studying both the beneficial and the detrimental effects of activities pursued by students outside of school.

(8) *Education Policies and Student Learning.* (Implementation and affects of educational policies (Priority 39); Learning (Priority 1); Improvement in education, including State and local reform initiatives (Priority 12)).—Teaching and learning take place within the context of Federal, State and local policies. In the past decade, new education policies have been developed at an unprecedented rate. For example, since 1980, 45 States have either specified for the first time or increased the number of courses a student must pass to graduate from high school. Similarly, more than 1,000 pieces of legislation regarding teachers were considered over this period, and a substantial number were passed. Virtually every State, enacted legislation to reform teacher education, licensing, or compensation during the decade of the 80's. Policymakers, such as governors, State legislators and members of State and local school boards, as well as concerned citizens, can be helped by studies that: (1) Describe the conceptual underpinnings of alternative policy approaches, (2) delineate the strengths and weaknesses of those alternative approaches, and (3) demonstrate which alternative approaches most effectively promote particular learner outcomes. Areas of inquiry include: (1) Examining such existing policies as raising student standards, changing teacher certification and compensation, increasing parental choice of schools, and moving education decisions to the school site level to study the impact of such policies on learning; (2) studying the development of innovative, promising policy approaches that have yet to be implemented, focusing on determining the type and nature of information that policymakers and concerned citizens need if they are to develop and implement policies that promote effective learning, and discovering the most effective means for delivering that information to those who need it.

(9) *Assessment, Evaluation, and Testing.* (Evaluation and indicator measures, including testing, measurement, and standards of performance (Priority 7)).—Assessment, evaluation, and testing processes and procedures have profound influences on what is taught and learned. Areas of inquiry include: (1) The interdisciplinary design of innovative assessments of student learning processes, student performance, and student products within and across content and skill areas—including higher order thinking and noncognitive development—for purposes of increasing the validity and usefulness of classroom and large-scale assessments; (2) the development of theories, models, and methodologies that support emerging assessment needs and practices and that accommodate an increasingly diverse student population; and (3) studies of the intended and unintended effects of assessment-related practices and reforms.

(10) *Adult Literacy.* (English literacy, including reading, writing, and language skills (Priority 19); Adult and continuing education (Priority 33); Postsecondary education (Priority 32)).—It is estimated that some 40–60 million adults in the United States are either illiterate or underliterate. Public and private programs, whether formal or informal, serve only 3–4 million adults. The instruction in these programs is often not very effective, and many people enrolled in such instruction gain only a year or two in reading ability before leaving the program. Areas of inquiry critical to adult learning and literacy include: (1) the identification of model programs with high enrollment; (2) the study of model programs with high rates of student persistence; (3) the assessment of the effectiveness of various programs; and (4) research on the effectiveness of basic skills training based upon new technologies.

(11) *Educational Quality of the Workforce.* (Education, work, and careers (Priority 15); Adult and continuing education (Priority 33); Postsecondary education (Priority 32)).—Being able to hire educated people who can be trained throughout their working lives has become a critical issue for the national economy. Areas of inquiry important to improving the educational quality of the workforce include: (1) The identification of the full range of threshold skills and competencies that workers need in order to be productive in modern work settings; (2) the identification of the factors that account for the differences in skills and competencies required across different jobs, firms, and industries; (3) the long-term effects of school and college achievement on labor market outcomes; and (4) the perceived, real, and projected career consequences of earned graduate degrees, and other post-baccalaureate education.

(12) *Postsecondary Learning and Teaching Assessment.* (Postsecondary education (Priority 32); Learning (Priority 1); Teaching (Priority 2); Evaluation and indicator measures, including testing, measurement, and standards of performance (Priority 7)).—Identifying effective teaching strategies and ways to enhance student learning, developing methods for assessing the quality of the undergraduate educational experience, and testing ways to incorporate new pedagogical approaches are essential prerequisites for improvng the quality of undergraduate education. Areas of inquiry critical to the improvement of postsecondary teaching and learning include: (1) An examination of instructional resources and support systems, faculty preparation and

pedagogical skills, educational delivery systems, learning environments, and student educational outcomes; (2) an examination of student backgrounds, study skills, levels of effort, learning styles, strategies, and motivation; (3) an exploration of general education and graduation requirements, along with the specific content of courses and majors; and (4) the identification, development, testing, and dissemination of effective indicators and methods for assessing instructional quality, student learning, and the outcomes of higher education.

Request for information: For additional information contact Dr. Joseph Conaty, U.S. Department of Education, OERI, Office of Research, Room 610, 555 New Jersey Avenue, NW., Washington, DC 20208–5573, (202) 357–6079.

Program Authority: 20 U.S.C. 1221e.

Dated: September 8, 1989.

Bruno V. Manno,

Acting Assistant Secretary for Educational Research and Improvement.

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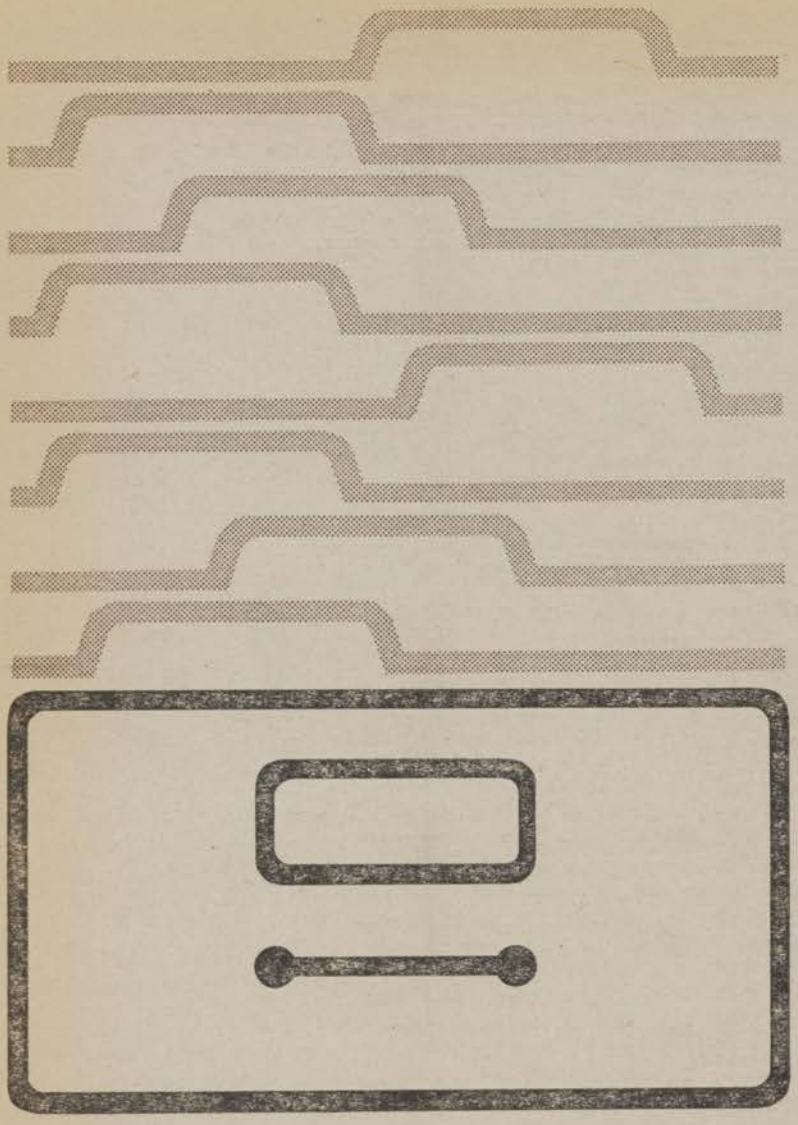
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