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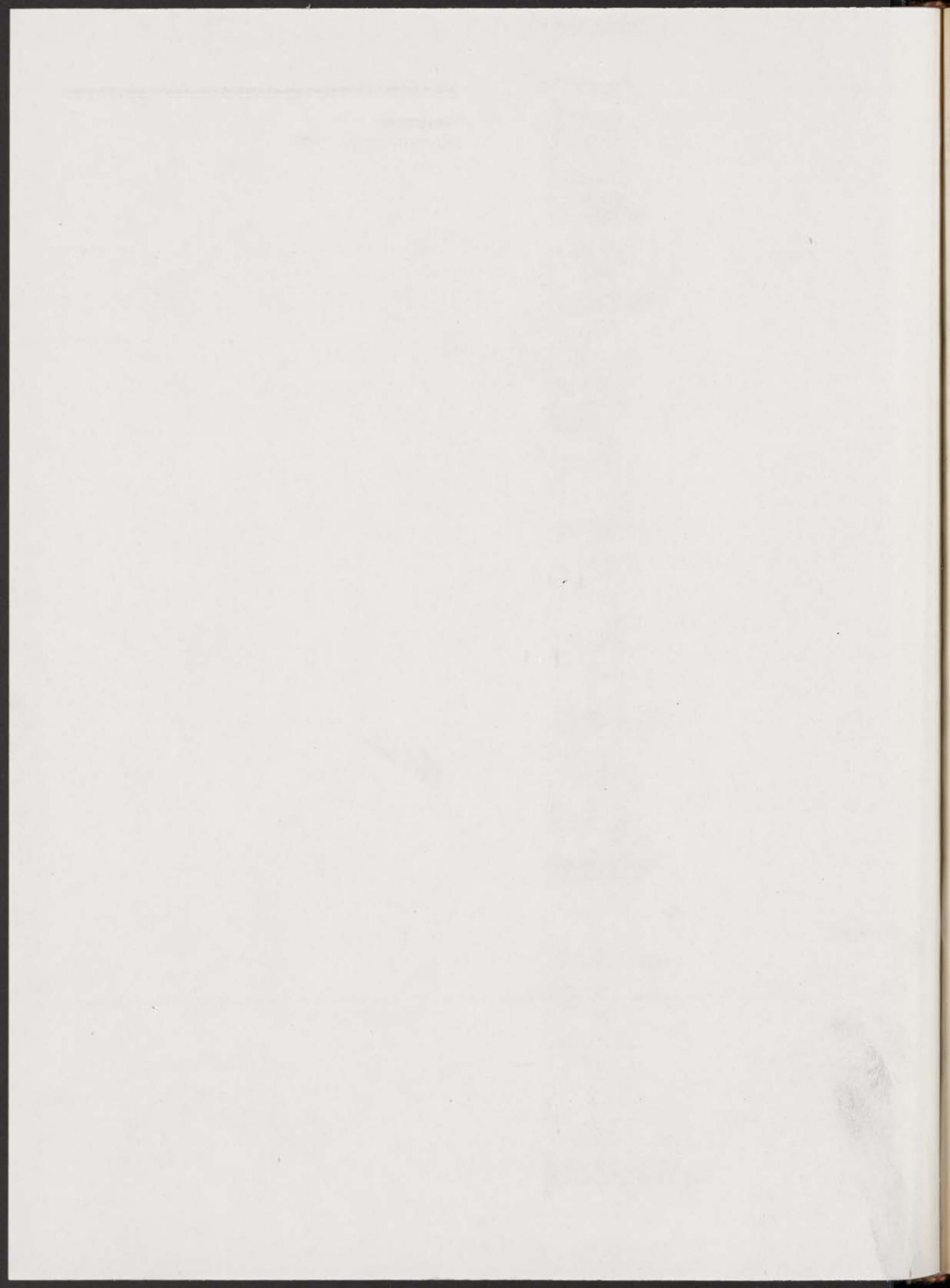
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Briefing on How To Use the Federal Register
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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

SAN FRANCISCO, CA

- WHEN:** November 29; at 9:00 a.m.
- WHERE:** Room 15138,
450 Golden Gate Avenue,
San Francisco, CA.
- RESERVATIONS:** Call Mary Walters at the San Francisco Federal Information Center, 415-556-6600.

SEATTLE, WA

- WHEN:** November 30; at 1:00 p.m.
- WHERE:** South Auditorium, 4th Floor,
915 2nd Avenue,
Seattle, WA.
- RESERVATIONS:** Call Carmen Meler or Peggy Groff at the Portland Federal Information Center on the following numbers:
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Contents

Federal Register

Vol. 54, No. 211

Thursday, November 2, 1999

Agency for International Development

NOTICES

Meetings:

International Food and Agricultural Development Board,
46313

Agricultural Marketing Service

RULES

Olives grown in California, 46221
Pork promotion, research, and consumer information
Correction, 46222

PROPOSED RULES

Raisins produced from grapes grown in California, 46269

Agriculture Department

See Agricultural Marketing Service; Forest Service

Arms Control and Disarmament Agency

NOTICES

Senior Executive Service:

Performance Review Board; membership, 46282

Army Department

See also Engineers Corps

NOTICES

Meetings:

Science Board, 46284

Arts and Humanities, National Foundation

See National Foundation on the Arts and the Humanities

Blackstone River Valley National Heritage Corridor Commission

NOTICES

Meetings; Sunshine Act, 46323

Centers for Disease Control

NOTICES

Meetings:

Restructured vessel sanitation program status and
program operations, 46304

Civil Rights Commission

NOTICES

Meetings; State advisory committees:

Vermont, 46282

Coast Guard

RULES

Outer Continental Shelf activities:

Santa Barbara Channel, CA; safety zone, 46230

NOTICES

Meetings:

Chemical Transportation Advisory Committee, 46317

Commerce Department

See National Oceanic and Atmospheric Administration;
Patent and Trademark Office

Defense Department

See also Army Department; Engineers Corps

RULES

Personnel:

Military equal opportunity program, 46227

NOTICES

Agency information collection activities under OMB review,
46284

Education Department

NOTICES

Meetings:

National Assessment Governing Board, 46285

Energy Department

See also Energy Information Administration; Federal Energy
Regulatory Commission

NOTICES

Natural gas exportation and importation:

Vermont Gas Systems, Inc., 46285

Energy Information Administration

NOTICES

Agency information collection activities under OMB review,
46287

Reporting and recordkeeping requirements, 46288

Engineers Corps

NOTICES

Environmental statements; availability, etc.:

North Coyote Valley Industrial Area Project, CA, 46284

Environmental Protection Agency

RULES

Air pollution; standards of performance for new stationary
sources:

Ammonia, mid- and high-calibration gas ranges, etc.,
46234

Sulfur (TRS) emissions, 46236

Air quality implementation plans; approval and
promulgation; various States:

Missouri, 46232

Wisconsin, 46233

PROPOSED RULES

Air quality implementation plans; approval and
promulgation; various States:

Illinois, 46271

NOTICES

Toxic and hazardous substances control:

Premanufacture exemption applications, 46297

Executive Office of the President

See Presidential Documents

Federal Aviation Administration

RULES

Terminal control areas and airport radar service areas;
correction, 46226

Federal Communications Commission

RULES

Radio stations; table of assignments:

Indiana, 46251

Iowa et al., 46250

Tennessee, 46251

PROPOSED RULES

Radio stations; table of assignments:

Kansas, 46274

Virginia, 46275

NOTICES

Agency information collection activities under OMB review,

46297, 46298

(2 documents)

Public safety radio communications plans:

Mississippi area, 46298

Television broadcasting:

Lower power television and television translator filing window, 46298

Federal Election Commission**NOTICES**

Meetings; Sunshine Act, 46323

Federal Emergency Management Agency**RULES**

Flood elevation determinations:

Alabama et al., 46248

Flood insurance; communities eligible for sale:

Michigan, 46245

Federal Energy Regulatory Commission**NOTICES**

Electric rate, small power production, and interlocking directorate filings, etc.:

American Electric Power Service Corp. et al., 46291

Meetings; Sunshine Act, 46323

Natural gas certificate filings:

Trunkline Gas Co. et al., 46293

Applications, hearings, determinations, etc.:

Caprock Pipeline Co., 46296

Equitrans, Inc., 46296

Northern Natural Gas Co., 46297

Federal Highway Administration**NOTICES**

Meetings:

Driver fatigue research, 46317

Federal Maritime Commission**RULES**

Maritime carriers in foreign commerce:

Shipping Act of 1984; section 16 exemption, etc.:

Cruise Lines International Association, 46249

PROPOSED RULES

Maritime carriers in foreign commerce:

Agreements subject to Shipping Act of 1984; membership size limitation; exemption in certain passenger vessel operator agreements, 46273

NOTICES

Agreements filed, etc., 46299, 46300

(2 documents)

Federal Reserve System**NOTICES**

Meetings; Sunshine Act, 46323

Applications, hearings, determinations, etc.:

Bacich, Barbara Lee, et al., 46301

Brotherhood Bancshares, Inc., et al., 46301

Norwest Corp., 46301

Federal Retirement Thrift Investment Board**NOTICES**

Meetings; Sunshine Act, 46323

Federal Trade Commission**NOTICES**

Premerger notification waiting periods; early terminations, 46302

Prohibited trade practices:

Outdoor World Corp., 46303

Fish and Wildlife Service**NOTICES**

Meetings:

Klamath Fishery Management Council, 46308

Food and Drug Administration**NOTICES**

Biological products:

Ex-vivo activated mononuclear leukocytes for administration to humans; points to consider in collection, processing, and testing; document availability, 46305

Forest Service**NOTICES**

Environmental statements; availability, etc.:

George Washington National Forest, VA and WV, 46280

Modoc National Forest, CA, 46281

General Services Administration**RULES**

Federal property management:

Transportation and traffic management—

Claims against United States, etc., 46244

Health and Human Services Department

See Centers for Disease Control; Food and Drug Administration; National Institutes of Health; Public Health Service

Health Resources and Services Administration

See Public Health Service

Housing and Urban Development Department**RULES**

Mortgage and loan insurance programs:

Single family mortgage instruments; effective dates; CFR correction, 46227

PROPOSED RULES

Low income housing:

Housing assistance payments (Section 8)—

Certificate, moderate rehabilitation, and housing voucher programs; family member participation in drug-related or violent criminal activities, application denial; correction, 46270

NOTICES

Agency information collection activities under OMB review, 46306, 46307

(2 documents)

Interior Department

See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service; Reclamation Bureau

International Development Cooperation Agency

See Agency for International Development

Land Management Bureau**NOTICES**

Classification of public lands:

Idaho; correction, 46308

Mineral interest applications:

Arizona, 46308

Oregon, 46309

Realty actions; sales, leases, etc.:

California, 46309

Idaho, 46309, 46310

(2 documents)

Oregon; correction, 46311

Survey plat filings:

Idaho, 46311

Oregon et al., 46311

Withdrawal and reservation of lands:

Arizona, 46312

Maritime Administration**NOTICES**

Merchant marine decorations and medals (World War II), 46317

Minerals Management Service**NOTICES****Meetings:**

Outer Continental Shelf Advisory Board, 46312

National Credit Union Administration**RULES****Credit unions:**

Nondiscrimination requirements, 46222

National Foundation on the Arts and the Humanities**NOTICES****Meetings:**

Folk Arts Advisory Panel, 46313

Opera-Musical Theater Advisory Panel, 46314

National Highway Traffic Safety Administration**RULES****Motor vehicle safety standards:**

Occupant crash protection—

Rear seat lap/shoulder safety belts, 46257

Vehicle identification number; basic requirements, 46253

Motor vehicle theft prevention standards:

Insurer reporting requirements, 46252

PROPOSED RULES**Motor vehicle safety standards:**

Roof crush protection; light trucks, 46275

NOTICES**Motor vehicle safety standards; exemption petitions, etc.:**

Conceptor Industries, Inc., 46318

Ferrari S.p.A., 46321

National Institute for Occupational Safety and Health*See Centers for Disease Control***National Institutes of Health****NOTICES****Meetings:**

Research Grants Division Advisory Committee, 46305

National Oceanic and Atmospheric Administration**RULES****Fishery conservation and management:**

Bering Sea and Aleutian Islands groundfish, 46268

NOTICES**Fishery conservation and management:**

Atlantic Ocean shark, 46283

National Park Service**NOTICES****Meetings:**

Kobuk Valley National Park and Cape Krusenstern

National Monument Subsistence Resource

Commissions, 46312

Patent and Trademark Office**RULES****Patent and trademark cases:**

Trademark Law Revision Act; implementation; amendments

Correction, 46231

Personnel Management Office**NOTICES**

Agency information collection activities under OMB review, 46314

Postal Rate Commission**NOTICES****Complaints filed:**

Advo-System, Inc., 46314

Presidential Documents**PROCLAMATIONS****Imports and exports:**

Generalized System of Preferences; amendments (Proc. 6058), 46348

Public Health Service*See also Centers for Disease Control; Food and Drug Administration; National Institutes of Health***NOTICES****Meetings:**

National Toxicology Program; Scientific Counselors Board, 46306

Reclamation Bureau**NOTICES**

Agency information collection activities under OMB review, 46313

Research and Special Programs Administration**NOTICES****Hazardous materials:**

Inconsistency rulings, etc.—

Reichhold Ltd., 46322

Securities and Exchange Commission**NOTICES***Applications, hearings, determinations, etc.:*

Union Tank Car Co., 46315

Tennessee Valley Authority**NOTICES**

Agency information collection activities under OMB review, 46315

Transportation Department*See also Coast Guard; Federal Aviation Administration;**Federal Highway Administration; Maritime**Administration; National Highway Traffic Safety**Administration; Research and Special Programs**Administration***PROPOSED RULES**

Alcohol abuse prevention program for transportation industry, 46326

NOTICES

- Aviation proceedings:
 - Cargo services matters; agreements among members of International Air Transport Association, 46316
 - Hearings, etc.—
 - Conquest Airlines Corp., 46316
- Meetings:
 - President's Commission on Aviation Security and Terrorism, 46316

Veterans Affairs Department

RULES

- Life insurance, National service:
 - Premium deduction actions; verbal authorization, 46231

PROPOSED RULES

- Adjudication; pensions, compensation, dependency, etc.:
 - Prisoner of war, former; definition
 - Correction, 46270

NOTICES

- Committees; establishment, renewal, termination, etc.:
 - Health-Related Effects of Herbicides Advisory Committee, 46322

Separate Parts In This Issue

Part II

- Department of Transportation, 46326

Part III

- The President, 46348

Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR		38 CFR	
Proclamations:		8.....	46231
6058.....	46348	Proposed Rules:	
7 CFR		3.....	46270
932.....	46221	40 CFR	
1230.....	46222	52 (2 documents).....	46232,
Proposed Rules:			46233
989.....	46269	60 (2 documents).....	46234,
12 CFR			46236
701.....	46222	Proposed Rules:	
14 CFR		52.....	46271
71.....	46226	41 CFR	
Proposed Rules:		101-40.....	46244
Ch. I.....	46326	44 CFR	
Ch. III.....	46326	64.....	46245
23 CFR		65.....	46248
Proposed Rules:		46 CFR	
Ch. I.....	46326	572.....	46249
Ch. II.....	46326	Proposed Rules:	
Ch. III.....	46326	Ch. I.....	46326
Ch. IV.....	46326	Ch. III.....	46326
24 CFR		572.....	46373
200.....	46227	47 CFR	
203.....	46227	73 (3 documents).....	46250,
204.....	46227		46251
213.....	46227	Proposed Rules:	
220.....	46227	73 (2 documents).....	46274,
221.....	46227		46275
222.....	46227	49 CFR	
234.....	46227	544.....	46252
235.....	46227	567.....	46253
240.....	46227	571 (2 documents).....	46253,
Proposed Rules:			46257
882.....	46270	Proposed Rules:	
887.....	46270	Subtitle A.....	46326
32 CFR		Ch. II.....	46326
51.....	46227	Ch. III.....	46326
33 CFR		Ch. IV.....	46326
147.....	46230	Ch. V.....	46326
Proposed Rules:		Ch. VI.....	46326
Ch. I.....	46326	571.....	46275
37 CFR		50 CFR	
1.....	46231	675.....	46268
2.....	46231		

Rules and Regulations

Federal Register

Vol. 54, No. 211

Thursday, November 2, 1989

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 932

[Docket No. FV-89-070FR]

Olives Grown in California; Change in Procedures for Nominating Producer Members To Serve on the California Olive Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes mail balloting procedures used to nominate producer members and alternate producer members to serve on the California Olive Committee (Committee). The change allows producers who are interested in serving on the Committee, but are unable to attend meetings at which candidates are selected for nomination, to submit their names to the Committee to be included on the mail ballot. Thus, more producers will be able to participate in the nomination process.

EFFECTIVE DATE: December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2530-S, Washington, DC 20090-6456, telephone (202) 475-3862.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 932 (7 CFR 932) regulating the handling of olives grown in California. 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 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 (RAF), 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 statutes have small entity orientation and compatibility.

There are approximately seven handlers of California olives regulated under this marketing order each season, and approximately 1,390 olive producers in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having 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. Most, but not all, of the olive producers and none of the olive handlers may be classified as small entities.

The Committee works with the Department in administering the marketing order. The Committee consists of 16 members and alternates. Eight members represent producers and eight members represent handlers.

The producer member positions are apportioned among four districts within the State of California. Four handler members represent handlers who are cooperative handler organizations, and four represent handlers who are not cooperative handler organizations.

Section 932.129 of the rules and regulations implementing the order (7 CFR 932.108-932.161) specifies that producer members and alternates may be nominated by mail ballot or at nomination meetings as the Committee may determine. When mail ballot voting is used in lieu of nominating meetings, the Committee is required to schedule a meeting in each producing district for the purpose of selecting candidates for member and alternate member nominations. The mail ballot voting

procedures set forth in paragraph (a)(1) of § 932.129 do not permit a producer who is not present at a candidate selection meeting and who is not recommended as a candidate by a producer in attendance at such a meeting to be included on a nomination ballot.

Experience has shown that there are instances where producers are unable to attend these meetings but would like to offer themselves as candidates for nomination. It is the Committee's view that all producers interested in serving on the Committee should be provided an opportunity to be considered by their fellow producers for nomination, and that circumstances preventing a producer from attending a meeting should not be cause for denying that producer a chance to be nominated to serve on the Committee.

At its June 6, 1989, meeting, the Committee unanimously recommended that provision be added to paragraph (a)(1) to allow producers who are unable to attend the candidate selection meeting in their respective districts to submit their name to the Committee office, no later than seven days after such meeting, to be placed on the ballot as a candidate for a member or an alternate member position. The change is made in § 932.129(a)(1) by redesignating paragraph (iv) as paragraph (v) and adding a new paragraph (iv) specifying that in the event a producer cannot attend a meeting but wishes to be included on the ballot, that producer may notify the Committee office in writing no later than 7 days after the date of the nomination meeting for the producer's district.

Notice of this action was published in the *Federal Register* on September 6, 1989 (54 FR 36985). The comment period ended October 6, 1989. No comments were received.

The change will not impose any additional costs on producers or handlers. Furthermore, the change is for the benefit of producers and will provide an opportunity for greater producer participation in the Committee nomination process. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant information presented, the Committee's recommendation and other available

information, it is found that this final rule will tend to effectuate the declared policy of the Act.

Lists of Subjects in 7 CFR Part 932

California, marketing agreements and orders, olives.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

Note: These sections will be published in the Code of Federal Regulations.

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

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

2. Paragraph (a)(1)(iv) of § 932.129 is redesignated as paragraph (a)(1)(v) and a new paragraph (a)(1)(iv) is added to read as follows:

§ 932.129 Nomination procedures for producer members.

(a) * * *

(1) * * *

(iv) In the event a producer cannot attend a meeting but wishes to be included on the ballot, that producer may notify the Committee office in writing no later than 7 days after the date of the nomination meeting for the producer's district and request that the producer's name be included on the ballot.

Dated: October 30, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-25847 Filed 11-1-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1230

[No. LS-104]

Pork Promotion and Research

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: AMS is correcting three numbers in the table listing assessments for Pork and Pork products which appeared in the September 21, 1989, Federal Register (54 FR 38813). The ninth number in the first column of the second table is revised to read 0203.29.20008; the 16th number in the first column of the second table is revised to read 0210.12.00404; and the 17th number in the first column of the second table is revised to read 0210.19.00005.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch—202/447-2650.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 89-22281, the Pork Promotion and Research final rule to decrease the amount of assessments per pound due on imported pork and pork products subject to assessment under the Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801-4819) published in the September 21, 1989, Federal Register (54 38813):

§ 1230.110 [Amended]

1. In § 1230.110, the following three numbers in the first column of the second table on page 38814 change as listed below:

The ninth number "0203.90.20008" changes to "0203.29.20008."

The 16th number "0201.12.00404" changes to "0210.12.00404."

The 17th number "0201.19.00005" changes to "0210.19.00005."

Done at Washington, DC, on October 27, 1989.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 89-25776 Filed 11-1-89; 8:45 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operation of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final amendments.

SUMMARY: The National Credit Union Administration ("NCUA") Board, as part of its periodic review of its regulations, is publishing the final amendments to § 701.31—Nondiscrimination Requirements. Section 701.31 summarizes the prohibitions on discrimination in real estate lending. Section 701.31 was not in need of major revision. The Board's final amendments simplify and clarify the regulation by making several technical changes as proposed. Changes to the Federal Fair Housing Act and the Department of Housing and Urban Development's regulations required minor amendments to § 701.31 and to NCUA's Equal Housing Lender poster.

EFFECTIVE DATE: December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Roy DeLoach, NCUA, Office of General Counsel, 1776 G Street, NW.,

Washington, DC 20456, telephone: (202) 682-9630.

SUPPLEMENTARY INFORMATION:

On May 22, 1989, the NCUA Board published proposed amendments to § 701.31 of the NCUA's Rules and Regulations—Nondiscrimination Requirements. (See 54 FR 21963.) Only minor changes to the regulation were proposed. The NCUA last amended § 701.31 on August 31, 1979 (See 44 FR 51191). Section 701.31 is designed to summarize in one place the prohibitions on discrimination in real estate lending activities contained in: (1) The Federal Fair Housing Act (42 U.S.C. 3601 et seq.) and Department of Housing and Urban Development regulations issued thereunder; and (2) the Equal Credit Opportunity Act (15 U.S.C. 1691) and the Federal Reserve Board's Regulation B (12 CFR Part 202) issued thereunder. NCUA is not required by either the Fair Housing Act or the Equal Credit Opportunity Act to promulgate regulations. However, the Board believes it helpful to Federal credit unions to have the nondiscrimination regulation in place. Comments were due on August 21, 1989. Five comment letters were received. Two national credit union trade associations, one state credit union league, one Federal credit union, and one savings and loan interest group commented. All five commenters agreed with the proposed changes.

In the interest of keeping this section simple to use and understand, the NCUA Board is making only minor technical changes and changes required by the Fair Housing Amendments Act of 1988 ("the Amendments Act") as proposed. The substantive changes required by the Amendments Act expand prohibited housing practices to include handicap and familial status (having children under the age of 18). These two classes have been added to paragraphs (b)(1), (b)(2), (c)(1), (c)(2) and (e)(1). The NCUA's Equal Housing Lender poster has also been revised to include these changes. (See paragraph (d)(3).) Lastly, current paragraph (e)(1) references two Supreme Court cases concerning discrimination. The Board believes the cited cases do not clarify nondiscrimination requirements for Federal credit unions and, as proposed, has deleted the references. The rest of the regulation remains unchanged.

Regulatory Procedures

This final rule makes no substantive changes to the current rule. Neither a Regulatory Flexibility Analysis nor Paperwork Reduction Act analysis are required.

Executive Order 12612

This regulation explains the law and sets forth previously established guidelines for Federal credit unions; it adds no new obligations. Although Federal statutes prohibiting discrimination (Fair Housing Act and Equal Opportunity Act) apply to state-chartered credit unions as well, this regulation does not apply to them.

List of Subjects in 12 CFR Part 701

Credit unions, Discrimination in real estate lending.

By the National Credit Union Administration Board on October 17, 1989.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends its regulation as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.31 is also authorized by 15 U.S.C. 3601-3610.

2. Section 701.31 is revised to read as follows:

§ 701.31 Nondiscrimination requirements.

(a) *Definitions.* As used in this part, the term:

(1) *Application* carries the meaning of that term as defined in 12 CFR 202.2(f) (Regulation B), which is as follows: "An oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested";

(2) *Dwelling* carries the meaning of that term as defined in 42 U.S.C. 3602(b) (Fair Housing Act), which is as follows: "Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any building, structure, or portion thereof"; and

(3) *Real estate-related loan* means any loan for which application is made to finance or refinance the purchase, construction, improvement, repair, or maintenance of a dwelling.

(b) *Nondiscrimination in Lending.* (1) A Federal credit union may not deny a real estate-related loan, nor may it discriminate in setting or exercising its rights pursuant to the terms or conditions of such a loan, nor may it

discourage an application for such a loan, on the basis of the race, color, national origin, religion, sex, handicap, or familial status (having children under the age of 18) of:

- (i) Any applicant or joint applicant;
- (ii) Any person associated, in connection with a real estate-related loan application, with an applicant or joint applicant;
- (iii) The present or prospective owners, lessees, tenants, or occupants of the dwelling for which a real estate-related loan is requested;
- (iv) The present or prospective owners, lessees, tenants, or occupants of other dwellings in the vicinity of the dwelling for which a real estate-related loan is requested.

(2) With regard to a real estate-related loan, a Federal credit union may not consider a lending criterion or exercise a lending policy which has the effect of discriminating on the basis of race, color, national origin, religion, sex, handicap, or familial status (having children under the age of 18). Guidelines concerning possible exceptions to this provision appear in paragraph (e)(1) of this section.

(3) Consideration of any of the following factors in connection with a real estate-related loan is not necessary to a Federal credit union's business, generally has a discriminatory effect, and is therefore prohibited:

- (i) The age or location of the dwelling;
 - (ii) Zip code of the applicant's current residence;
 - (iii) Previous home ownership;
 - (iv) The age or location of dwellings in the neighborhood of the dwelling;
 - (v) The income level of residents in the neighborhood of the dwelling.
- Guidelines concerning possible exceptions to this provision appear in paragraph (e)(2) of this section.

(c) Nondiscrimination in appraisals.

(1) A Federal credit union may not rely upon an appraisal of a dwelling if it knows or should know that the appraisal is based upon consideration of the race, color, national origin, religion, sex, handicap, or familial status (having children under the age of 18) of:

- (i) Any applicant or joint applicant;
- (ii) Any person associated, in connection with a real estate-related loan application, with an applicant or joint applicant;
- (iii) The present or prospective owners, lessees, tenants, or occupants of the dwelling for which a real estate-related loan is requested;
- (iv) The present or prospective owners, lessees, tenants, or occupants of other dwellings in the vicinity of the

dwelling for which a real estate-related loan is requested.

(2) With respect to a real-estate related loan, a Federal credit union may not rely upon an appraisal of a dwelling if it knows or should know that the appraisal is based upon consideration of a criterion which has the effect of discriminating on the basis of race, color, national origin, religion, sex, handicap, or familial status (having children under the age of 18). Guidelines concerning possible exceptions to this provision appear in paragraph (e)(1) of this section.

(3) A Federal credit union may not rely upon an appraisal that it knows or should know is based upon consideration of any of the following criteria, for such criteria generally have a discriminatory effect, and are not necessary to a Federal credit union's business:

- (i) The age or location of the dwelling;
- (ii) The age or location of dwellings in the neighborhood of the dwelling;
- (iii) The income level of the residents in the neighborhood of the dwelling.

(4) Notwithstanding paragraph (c)(3) of this section, it is recognized that there may be factors concerning location of the dwelling which can be properly considered in an appraisal. If any such factor(s) is relied upon, it must be specifically documented in the appraisal, accompanied by a brief statement demonstrating the necessity of using such factor(s). Guidelines concerning the consideration of location factors appear in paragraph (e)(3) of this section.

(5) Each Federal credit union shall make available, to any requesting member/applicant, a copy of the appraisal used in connection with that member's real estate-related loan application. The appraisal shall be available for a period of 25 months after the applicant has received notice from the Federal credit union of the action taken by the Federal credit union on the real estate-related loan application.

(d) Nondiscrimination in advertising—(1) Advertising notice of nondiscrimination compliance.

(i) No Federal credit union may directly or indirectly engage in any form of advertising of real estate-related loans which implies or suggests that the Federal credit union discriminates in violation of the provisions of the Fair Housing Act or of this section. Advertisements of such loans shall include a facsimile of the following:



EQUAL HOUSING LENDER

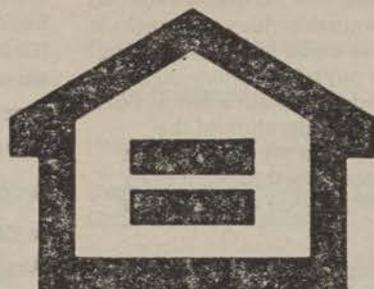
We Do Business in Accordance With the
Federal Fair Housing Law and the
Equal Credit Opportunity Act

(ii) Advertisements of real estate-related loans which are broadcast on the radio shall contain the following statement: "The (insert name) Federal Credit Union is an equal housing lender."

(2) *Lobby notice of nondiscrimination compliance.* Every Federal credit union which engages in real estate-related lending shall conspicuously display in the public lobby of such credit union and in the public area of each office where such loans are made, in a manner so as to be clearly visible to the general public entering such lobby or area, a notice that incorporates a facsimile of the logotype and notice appearing in paragraph (d)(3) of this section. Posters containing this notice and logotype may be obtained from the Regional Offices of the National Credit Union Administration.

(3) *Logotype and notice of nondiscrimination compliance.* The logotype and text of the notice required in paragraph (d)(2) of this section shall be as follows:

BILLING CODE 7535-01-M



**EQUAL HOUSING
LENDER**

**We Do Business In Accordance With
Federal Fair Lending Laws**

**UNDER THE FEDERAL FAIR HOUSING ACT, IT IS ILLEGAL, ON THE BASIS OF
RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, HANDICAP, OR FAMILIAL
STATUS (HAVING CHILDREN UNDER THE AGE OF 18), TO:**

- Deny a loan for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or deny any loan secured by a dwelling; or
- Discriminate in fixing the amount, interest rate, duration, application procedures or other terms or conditions of such a loan, or in appraising property.

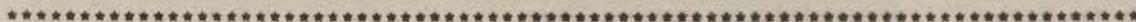
**IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED
AGAINST, YOU SHOULD SEND A COMPLAINT TO:**

**Assistant Secretary for Fair Housing and Equal Opportunity
Department of Housing & Urban Development
Washington, D.C. 20410**

**For processing under the Federal Fair Housing Act
and to:**

**National Credit Union Administration
Office of Examination and Insurance
Washington, D.C. 20456**

For processing under NCUA Regulations



**UNDER THE EQUAL CREDIT OPPORTUNITY ACT, IT IS ILLEGAL
TO DISCRIMINATE IN ANY CREDIT TRANSACTION:**

- On the basis of race, color, national origin, religion, sex, marital status, or age,
- Because income is from public assistance, or
- Because a right was exercised under the Consumer Credit Protection Act.

**IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED
AGAINST, YOU SHOULD SEND A COMPLAINT TO:**

**National Credit Union Administration
Office of Examination and Insurance
Washington, D.C. 20456**

NCUA 1582 (Rev. 3/88)

(e) *Guidelines.* (1) Compliance with the Fair Housing Act is achieved when each loan applicant's creditworthiness is evaluated on an individual basis, without presuming that the applicant has certain characteristics of a group. If certain lending policies or procedures do presume group characteristics, they may violate the Fair Housing Act, even though the characteristics are not based upon race, color, sex, national origin, religion, handicap, or familial status. Such a violation occurs when otherwise facially nondiscriminatory lending procedures (either general lending policies or specific criteria used in reviewing loan applications) have the effect of making real estate-related loans unavailable or less available on the basis of race, color, sex, national origin, religion, handicap, or familial status. Note, however, that a policy or criterion which has a discriminatory effect is not a violation of the Fair Housing Act if its use achieves a legitimate business necessity which cannot be achieved by using less discriminatory standards. It is also important to note that the Equal Credit Opportunity Act and Regulation B prohibit discrimination, either per se or in effect, on the basis of the applicant's age, marital status, receipt of public assistance, or the exercise of any rights under the Consumer Credit Protection Act.

(2) Paragraph (b)(3) of this section prohibits consideration of certain factors because of their likely discriminatory effect and because they are not necessary to make sound real estate-related loans. For purposes of clarification, the prohibited use of location factors in this section is intended to prevent abandonment of areas in which a Federal credit union's members live or want to live. It is not intended to require loans in those areas that are geographically remote from the FCU's main or branch offices or that contravene the parameters of a Federal credit union's charter. Further, this prohibition does not preclude requiring a borrower to obtain flood insurance protection pursuant to the National Flood Insurance Act and Part 760 of NCUA's Rules and Regulations, nor does it preclude involvement with Federal or state housing insurance programs which provide for lower interest rates for the purchase of homes in certain urban or rural areas. Also, the legitimate use of location factors in an appraisal does not constitute a violation of the provision of paragraph (b)(3) of this section, which prohibits consideration of location of the

dwelling. Finally, the prohibited use of prior home ownership does not preclude a Federal credit union from considering an applicant's payment history on a loan which was made to obtain a home. Such action entails consideration of the payment record on a previous loan in determining creditworthiness; it does not entail consideration of prior home ownership.

(3)(i) Paragraph (c)(3) of this section prohibits consideration of the age or location of a dwelling in a real estate-related loan appraisal. These restrictions are intended to prohibit the use of unfounded or unsubstantiated assumptions regarding the effect upon loan risk of the age of a dwelling or the physical or economic characteristics of an area. Appraisals should be based on the present market value of the property offered as security (including consideration of specific improvements to be made by the borrower) and the likelihood that the property will retain an adequate value over the term of the loan.

(ii) The term "age of the dwelling" does not encompass structural soundness. In addition, the age of the dwelling may be used by an appraiser as a basis for conducting further inspections of certain structural aspects of the dwelling. Paragraph (c)(3) of this section does, however, prohibit an unsubstantiated determination that a house over X years in age is not structurally sound.

(iii) With respect to location factors, paragraph (c)(4) of this section recognizes that there may be location factors which may be considered in an appraisal, and requires that the use of any such factors be specifically documented in the appraisal. These factors will most often be those location factors which may negatively affect the short range future value (up to 3-5 years) of a property. Factors which in some cases may cause the market value of a property to decline are recent zoning changes or a significant number of abandoned homes in the immediate vicinity of the property. However, not all zoning changes will cause a decline in property values, and proximity to abandoned buildings may not affect the market value of a property because the cause of abandonment is unrelated to high risk. Proper considerations include the condition and utility of the improvement and various physical factors such as street conditions, amenities such as parks and recreation areas, availability of public utilities and

municipal services, and exposure to flooding and land faults.

[FR Doc. 89-25035 Filed 11-1-89; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89-AWA-5]

Establishment of the Memphis Terminal Control Area and Revocation of the Memphis International Airport, Airport Radar Service Area; TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace description of Area B of the Memphis, TN, Terminal Control Area (TCA). The boundaries of Area B should begin at the Memphis VORTAC 037° radial 13-mile fix, in lieu of, "a point 13 miles northeast of the Memphis International Airport on the Memphis VORTAC 037° radial." This action corrects that error, which appeared in the final rule, published on September 22, 1989.

EFFECTIVE DATE: 0901 UTC, November 2, 1989.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 89-22410 was published on September 22, 1989, establishing the Memphis International Airport TCA and revoking the Memphis International Airport, Airport Radar Service Area (54 FR 39112). Due to an administrative error, the airspace description of the Area B boundaries of the Memphis TCA incorrectly began at a point 13 miles northeast of the Memphis International Airport on the Memphis VORTAC 037° radial. The boundary of Area B should begin at the Memphis VORTAC 037° radial 13-mile fix. Current charts depicting the Memphis International Airport TCA were described correctly using the Memphis VORTAC for Area B. No correction to

current TCA charts are necessary. Additionally, no additional airspace is added by this correction. This action corrects the aforementioned error.

Correction to Final Rule

§ 71.501 [Corrected]

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 89-22410, as published on page 39116 of the **Federal Register** on September 22, 1989, (54 FR 39112) is corrected as follows:

Memphis, TN [Corrected]

In Area B by removing the words "beginning at a point 13 miles northeast of the Memphis International Airport on the Memphis VORTAC 037° radial," and substituting the words "beginning at the Memphis VORTAC 037° radial 13-mile fix,".

Issued in Washington, DC, on October 26, 1989.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-25785 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 203, 204, 213, 220, 221, 222, 234, 235, and 240

[Docket No. R-88-1410, FR-2434]

Single Family Mortgage Instruments

CFR Correction

In Title 24 of the Code of Federal Regulations, Parts 200 to 499, revised as of April 1, 1989, the following sections were incorrectly followed by effective date notes:

§ 200.163	§ 213.501	§ 222.10
§ 203.17	§ 213.507	§ 234.1
§ 203.43c	§ 213.530	§ 234.25
§ 203.43h	§ 220.101	§ 234.70
§ 203.43i	§ 221.5	§ 235.20
§ 203.44	§ 221.60	§ 235.22
§ 203.251	§ 221.65	§ 240.16
§ 204.251		

The amendments to these sections were effective October 6, 1988, as published at 53 FR 40221, October 14, 1988.

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 51

[DoD Directive 1350.2]

Department of Defense Military Equal Opportunity Program

AGENCY: Military Equal Opportunity Policy Directorate.

ACTION: Final rule.

SUMMARY: 32 CFR part 51 (DoD Directive 1350.2), "The Department of Defense Military Equal Opportunity Program," establishes policy, procedures, and guidance for Equal Opportunity (EO) Programs within the Department of Defense. These policies and procedures as outlined in DoD Directive 1350.2, are applicable to all Military Departments.

The operations and support of the Defense Equal Opportunity Management Institute (DEOMI), to include facilities and staffing, are provided for by this part.

The Defense Equal Opportunity Council (DEOC) is a review board chaired by the Assistant Secretary of Defense for Force Management and Personnel (ASD(FM&P)) and serves to monitor the progress of program elements, advises the Secretary of Defense on policies for EO matters, assists in developing policy guidance for education and training in EO and human relations for DoD personnel.

The Board of Visitors (BOV) for DEOMI is established as an advisory body to the ASD(FM&P). The BOV serves as an external source of expertise to ensure periodic review of the objectives, policies, and operations of DEOMI.

EFFECTIVE DATE: December 23, 1988.

FOR FURTHER INFORMATION CONTACT: SFC D.A. Jeczala, Office of the Assistant Secretary of Defense (Force Management and Personnel), the Pentagon, Washington, DC 20301-4000, telephone (202) 697-6381.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 51

Civil rights; Education; Equal employment opportunity; Military personnel.

Accordingly, title 32, chapter I, is amended to add part 51 as follows:

PART 51—THE DEPARTMENT OF DEFENSE MILITARY EQUAL OPPORTUNITY PROGRAM

Sec.

- 51.1 Purpose.
- 51.2 Applicability and scope.
- 51.3 Definitions.
- 51.4 Policy.
- 51.5 Responsibilities.
- 51.6 Information requirements.

Appendix A—Military Equal Opportunity Reporting Requirements

Appendix B—Organizations and Functions

Authority: Pub. L. 92-261, sec. 301, 80 Stat. 379 (5 U.S.C. 301, 10 U.S.C. 133).

§ 51.1 Purpose.

This part:

- (a) Regulates the Department of Defense Military Equal Opportunity (EO) Program and assigns responsibilities for ensuring DoD-wide compliance with the broad program objectives outlined in DoD Human Goals Charter, March 21, 1988.
- (b) Provides for education and training in EO and human relations.
- (c) Prescribes the functions of the Defense Equal Opportunity Council (DEOC), the Defense Equal Opportunity Management Institute (DEOMI), and the Board of Visitors (BOV) to DEOMI.

§ 51.2 Applicability and scope.

This part:

- (a) Applies to all military members of the Office of the Secretary of Defense (OSD), the Military Departments (including their National Guard and Reserve components), the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.
- (b) Applies to DoD contracted organizations that provide services to military personnel and their families.
- (c) Does not apply to civilian personnel, except as noted in paragraph (b) of this section.

§ 51.3 Definitions.

Affirmative Action. Methods used to achieve the objectives of the EO program. Processes, activities, and systems designed to identify, eliminate, prevent, and work to overcome the effects of discriminatory treatment as it affects the upward mobility and quality of life for DoD personnel.

Discrimination. Illegal treatment of a person or group based on handicap, race, color, national origin, age, religion, or gender.

DoD Military Equal Opportunity (EO) Program. The DoD-wide military program of equal opportunity that is accomplished through efforts by DoD Components. It provides an environment in which every member of the total force is ensured an opportunity to rise to as high a level of responsibility as possible in the military profession, dependent only on merit, fitness, and capability.

Equal Opportunity (EO). The right of all persons to participate in and benefit from programs and activities for which they are qualified. These programs and activities shall be free from social, personal, or institutional barriers that prevent people from rising to as high a level of responsibility as possible. Persons shall be evaluated only on individual merit, fitness, and capability, regardless of race, color, gender, national origin, age, or handicap except as prescribed by statute, or DoD/Service policy.

Ethnic Group. A segment of the population that possesses common characteristics and a cultural heritage based to some degree on the following:

- (a) Common geographic origin;
- (b) Race;
- (c) Language or dialect;
- (d) Religious faith or faiths;
- (e) Shared traditions, values, or symbols;
- (f) Literature, folklore, or music;
- (g) An internal sense of distinctiveness; and/or
- (h) An external perception of distinctiveness.

Ethnic and Racial Categories. The basic racial and ethnic categories for DoD reporting are defined as follows:

- (a) **American Indian or Alaskan Native.** A person having origins in the original peoples of North America.
- (b) **Asian or Pacific Islander.** A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippine Islands, and Samoa.
- (c) **Black (Not of Hispanic Origin).** A person having origins in any of the original peoples of Africa.

(d) **Hispanic.** A person having origins in any of the original peoples of Mexico, Puerto Rico, Cuba, or Central or South America, or of other Spanish cultures, regardless of race.

(e) **White (Not of Hispanic Origin).** A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

National origin. An individual's or ancestor's place of origin. Also applies to a person who has the physical, cultural, or linguistic characteristics of a national group.

Race. A division of humans identified by the possession of traits that are transmissible by descent and that are sufficient to characterize as a distinctive human type.

Religion. A personal set or institutionalized system of attitudes, moral or ethical beliefs, and practices that are held with the strength of traditional religious views, characterized by ardor and faith, and generally evidenced through specific religious observances.

Sexual Harassment. A form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (a) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or
- (b) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or
- (c) Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

§ 51.4 Policy.

It is DoD policy to:

(a) Support the military EO program as an integral element in total force readiness, as defined in the Secretary of Defense Memorandum and enforce at all levels of activity the EO provisions of this part in developing operating EO policies and programs.

(b) Use the chain of command to promote, support, and enforce the military EO program. The chain of command is the primary and preferred channel for correcting discriminatory practices and for ensuring that human relations and EO matters are enacted.

(c) Ensure the Military Services (to include the Reserve components) maintain military EO and affirmative action programs. Discrimination that adversely affects persons or groups based on race, color, religion, gender, age, or national origin, and that is not supported legally, is contrary to good order and discipline, and is

counterproductive to combat readiness and mission accomplishment. Discrimination of this nature shall not be condoned or tolerated.

(d) Provide education and training in EO and human relations at installation and fleet unit commands, Military Service accession points, and throughout the professional military education (PME) system, as part of the overall effort to achieve equal opportunity.

(e) Provide for an environment that is free from sexual harassment by eliminating this form of discrimination in the Department of Defense.

(f) Ensure that all on-base activities and, to the extent of the ability of DoD, any off-base activities available to military personnel are open to all military personnel and their authorized family members regardless of race, color, religion, age, physical or mental handicap, gender, or national origin, as called for by the DoD Human Goals Charter.

(1) Organizations or activities that do not meet this requirement shall be denied the use of military facilities and resources in accordance with 32 CFR part 237. This policy applies equally to those organizations that may discriminate based on the content of their constitutions, bylaws, rules or regulations, as well as to those which, in the judgment of the responsible commander(s), are engaging in de facto discrimination regardless of the content of their constitutions, bylaws, rules or regulations.

(2) Organizations that use on-base facilities, whether on a reimbursable basis or otherwise, must satisfy the responsible area or activity commander that they do not discriminate through their actual membership practices or in any of their activities.

(g) Oppose discrimination in off-base housing directed against military personnel and their authorized family members. Each commander shall take actions to overcome such discrimination and to impose off-limits sanctions in housing cases, as required by 32 CFR part 301.

(h) Impose, as required, the off-limits sanction according to the Armed Forces Disciplinary Control Board as stated in the Joint Regulation, in cases of discrimination involving places of public accommodations outside military installations.

§ 51.5 Responsibilities.

(a) The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) shall:

(1) Represent and advise the Secretary of Defense in military EO matters consistent with 32 CFR part 384.

(2) Chair the Defense Equal Opportunity Council.

(3) Provide guidance on developing all DoD programs to ensure equal opportunity for military personnel in the total force.

(4) Develop, execute, and monitor the effectiveness of military EO policies in support of national security objectives.

(5) Ensure that DoD Components fulfill the requirements of this part.

(6) Provide policy direction to DEOMI and select the Commandant of DEOMI from Military Service nominations.

(7) Establish categories and monitor specific goals to be included in the affirmative action programs and annual military EO assessments of each DoD Component.

(8) Review and act on (or refer to appropriate Military Service) all complaints of discrimination arising under this part (to include sexual harassment) referred to the Secretary of Defense.

(9) Ensure fair, impartial and timely investigation, resolution, and follow-up of all complaints of discrimination arising under this part.

(10) Establish a program to recognize individuals and organizations for outstanding achievement in one or more of the major EO areas covered by this part.

(b) The *Heads of DoD Components* shall be responsible for equal opportunity within their respective jurisdictions (to include their Reserve components) and shall:

(1) Ensure that all DoD EO policies and programs are understood and executed at all levels of military command.

(2) Establish affirmative action programs that identify and resolve EO problems through formulating, maintaining, and reviewing affirmative action plans (AAPs) with established objectives and milestones and including accountability in personnel management consistent with DoD Instruction 1350.3.¹

(3) Forward a fiscal year report to the ASD(FM&P) outlining the progress being made to achieve the established military EO objectives of the AAP. This report shall be due each year on February 1, and is described further in DoD Instruction 1350.2.

(4) Establish policies that include specific actions to be taken against any

individual who commits an act of discrimination, as defined in § 51.3.

(5) Rewrite documents and change practices that discriminate against military personnel based on race, religion, color, gender, or national origin. This requirement does not apply to those Military Service documents that implement statutes or DoD/Service policy requiring different treatment of military personnel based on age or gender.

(6) Establish policies and procedures to prevent sexual harassment and to ensure that appropriate action is taken against individuals who commit sexual harassment offenses, in accordance with the Secretary of Defense Memorandums.

(7) Ensure that all military personnel, including command-selectees and flag and general officers, receive training in equal opportunity, human relations, and prevention of sexual harassment on a recurring basis, and at all levels of PME.

(8) Establish and fill sufficient full-time staff positions and allocate sufficient resources to conduct all EO programs. Equal opportunity staff personnel shall be placed at a level that enables them to communicate effectively the goals and objectives of the program and obtain the understanding, support, and commitment of the organization's leaders.

(9) Ensure that all discrimination complaints are investigated in a fair, impartial, and prompt manner.

(10) Ensure that consideration of EO program support is included in the instructions that guide rating officials in preparing efficiency reports and/or evaluations on their subordinates.

(11) Develop management information and reporting systems to determine the progress for each AAP goal consistent with DoD Instruction 1350.3.

(12) Establish EO awards programs to recognize individuals and organizational units for outstanding achievement in any of the EO areas covered by this part or Military Service-unique programs.

§ 51.6 Information requirements.

An annual report is required and is assigned Report Control Symbol DD-FM&P(A)1760. Reporting requirements are contained in appendix A to this part and further amplified in DoD Instruction 1350.3.

Appendix A—Military Equal Opportunity Reporting Requirements

Each DoD Component shall submit an annual Military Equal Opportunity Assessment (MEOA) for the period ending September 30 to the ASD(FM&P) no later than February 1 of the following year. The report shall include the following information:

A. An executive summary, providing an overall assessment of each DoD Component's AAPs and EO Programs.

B. An assessment of each affirmative action in the following 10 categories shall be made an enclosure to the report. The assessment in each category should include quantitative data in the basic race/ethnic classifications for officers and enlisted personnel broken down by gender.

1. Recruiting/Accessions
2. Composition
3. Promotions
4. Professional Military Education (PME)
5. Separations
6. Augmentation/Retention
7. Assignments
8. Discrimination/Sexual Harassment Complaints
9. Utilization of Skills
10. Discipline

C. Requirements are further explained in DoD Instruction 1350.3.

Appendix B—Organizations and Functions

1. *The Defense Equal Opportunity Council (DEOC) shall:*

- a. Coordinate policy and review the military and civilian EO programs.
- b. Monitor progress of program elements.
- c. Advise the Secretary of Defense on policies for EO matters.
- d. Assist in developing policy guidance for education and training in EO and human relations for DoD personnel.

2. *The DEOC is Chaired by the Assistant Secretary of Defense/Force Management and Personnel (ASD(FM&P)).* Other members are the Assistant Secretary of Defense for Reserve Affairs (ASD(RA)); the Assistant Secretary of the Air Force for Manpower and Reserve Affairs (ASAF(M&RA)); the Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA(MRA)); the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN(M&RA)); and the Director of Administration and Management, Office of the Secretary of Defense (DA&M, OSD).

3. *DEOMI is a DoD Field Activity Operating Under the Supervision, Direction, and Policy Guidance of the ASD(FM&P).*

Located as a tenant on an established military installation, DEOMI shall be supported administratively and logistically by the Military Department responsible for the host installation.

a. The mission of DEOMI is to enhance combat and/or operational readiness through improved leadership by functioning as the DoD center of excellence in all facets of military EO and human relations education and training to include the following:

(1) Providing primary training for all DoD military and civilian personnel assigned to military EO billets (to include the U.S. Coast Guard), and staff officers who directly manage EO and human relations programs.

(2) Performing EO and human relations research in conjunction with the Military Services and acting as a clearing house to monitor and disseminate research findings on EO and human relations.

(3) Providing assistance or consultation services in DoD organizations in developing

¹ Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1062, 5801 Tabor Avenue, Philadelphia, PA 19120.

specific curricula and training for EO and human relations education, and particular training for the PME systems within the Military Services; and serving in an advisory capacity to other Agencies in education, industry, and the private sector, as determined by the Commandant.

(4) Disseminating educational training materials to assist EO advisors and human relations instructors in remaining current in the EO subject area and in otherwise developing professionally.

(5) Performing special research-related projects in support of the DEOC.

(6) Operating and administering the Defense EO Electronic Bulletin Board to support EO advisors and specialists throughout the Military Services.

(7) Serving as a focal point and depository for data and research on the EO climate and sexual harassment in the Military Services.

b. The following applies to appointments to DEOMI:

(1) The Commandant shall be appointed by the ASD(FM&P). This position shall rotate among representatives nominated by the Departments of the Army, Navy, and Air Force.

(2) The ASD(FM&P) shall establish criteria for assigning officers and enlisted personnel from the Military Departments, including the Coast Guard, National Guard, and Reserves to faculty and staff positions at DEOMI.

4. The DEOMI BOV is an Advisory Body to the ASD(FM&P). The Board is established by charter and serves as an external source of expertise to ensure periodic review of the objectives, policies, and operations of DEOMI.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-25865 Filed 11-1-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CGD11 89-19]

Safety Zone Regulations; Outer Continental Shelf; Santa Barbara Channel

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Santa Barbara Channel around position 34-21-00.8N 120-16-44.7W. The zone is needed to protect the public and transiting vessels from safety hazards associated with the installation of oil platform Heritage. Entry into this zone is prohibited unless authorized by the Commander, Eleventh Coast Guard District.

EFFECTIVE DATES: This regulation becomes effective on October 13, 1989. It

terminates on March 1, 1990 unless extended or sooner terminated by the Commander, Eleventh Coast Guard District. Comments on this regulation must be received on or before December 15, 1989.

ADDRESS: Comments should be mailed to Commander(m), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822-5399. The comments will be available for inspection and copying in the Union Bank Building, Room 709, 400 Oceangate, Long Beach, California 90822-5399. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Commander Scott Porter, Eleventh Coast Guard District Marine Safety Division, Long Beach, California. Telephone number (213) 499-5330.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing a NPRM and delaying the regulation's effective date would be contrary to the public interest since immediate action is needed to minimize the hazards to vessels caused by the installation activity.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "ADDRESS" in this preamble. Commenters should include their name and address, identify the docket number (CGD11 89-19) for the regulation, and give reasons for their comments. Based upon the comments received, the regulation may be changed.

Drafting Information

The drafters of this regulation are Commander N.S. Porter, project officer for the Eleventh Coast Guard District Commander, and Lieutenant Commander G.R. Wheatley, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

On October 7, 1989 the jacket for oil platform Heritage was launched, upended, and positioned on the seabed in the Santa Barbara Channel off Gaviota, California. Over the next five months, Heerema Marine Contractors will continue the installation process by permanently affixing the platform to the

ocean floor. Installation of the platform jacket will involve extensive pile driving operations. A semi-submersible crane vessel and several pile barges and attendant tugs will support and/or conduct those operations. A number of offshore supply vessels will also be operating in the area. The crane vessel will be anchored by twelve wire cables which extend out in all directions. These cables will be above, at, and below the water surface. Furthermore, the tugs and barges will frequently be attached to each other and the crane vessel by the use of cables. All of these activities present significant safety risks to vessels which might enter the area. A safety zone of 500 meters is considered necessary to minimize these risks.

This regulation is issued pursuant to 43 U.S.C. 1333(d)(1) as set out in the authority citation for all of part 147.

List of Subjects in 33 CFR Part 147

Outer Continental Shelf, Marine Safety, Navigation (water), Safety measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, part 147 of title 33, Code of Federal Regulations, is amended as follows:

PART 147—[AMENDED]

1. The authority citation for Part 147 continues to read as follows:

Authority: 43 U.S.C. 1333(d)(1); 49 CFR 1.46.

2. A new § 147.T1192 is added to read as follows:

§ 147.T1192 Platform Heritage safety zone.

(a) *Description.* All waters of the Pacific Ocean enclosed by a line drawn 500 meters around position 34-21-00.8N 120-16-44.7W.

(b) *Effective dates.* This regulation becomes effective on October 13, 1989. It terminates on March 1, 1990 unless extended or sooner terminated by the Commander, Eleventh Coast Guard District.

(c) *Regulations.* No vessel may enter or remain in this safety zone except for the following: (1) An attending vessel as defined in 33 CFR 147.1101 or (2) a vessel authorized by the Commander, Eleventh Coast Guard District.

Dated: October 13, 1989.

J.W. Kime,

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

[FR Doc. 89-25777 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 90374-9181]

RIN 0651-AA38

Amendments to Patent and Trademark Rules To Implement Trademark Law Revision Act; Miscellaneous Trademark Rule Amendments

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule; correction.

SUMMARY: The Patent and Trademark Office is correcting errors in the final rule which appeared in the *Federal Register* on Monday, September 11, 1989 (54 FR 37562).

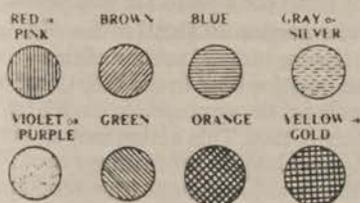
1. On page 37565, in the second column, fifth full paragraph, "914" should read "904".
2. On page 37573, in the second column, in the seventh line, "an amendment" should read "a statement".
3. On page 37577, in the second column, the third line from the bottom should read "applicants to pay an additional fee".
4. On page 37581, in the third column, in the 19th line, "of" should read "or".
5. On page 37584, in the second column, in paragraph (6) the ninth line should read "statement of use or prior to the expiration of the time".

§ 2.33 [Corrected]

6. In § 2.33 on page 37589, in the second column, in the eighth line of paragraph (b)(1) "entity" should read "entity".

§ 2.52 [Corrected]

7. In § 2.52 on page 37591, in the color chart in paragraph (e) in the center of the page, the lines within the circles representing "RED or PINK", "BROWN", and "GREEN" should be solid lines, as follows:



§ 2.53 [Corrected]

8. In § 2.53 on page 37591, in the first column, remove the colon after the word "Sheet" in the fourth line.

Dated: October 25, 1989.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 89-25697 Filed 11-1-89; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 8

RIN: 2900-AD75

National Service Life Insurance: Verbal Authorization of Premium Deduction Actions

AGENCY: Department of Veterans Affairs.

ACTION: Final regulation.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations to reflect that an insured under a National Service Life Insurance (NSLI) policy may verbally authorize VA to establish, adjust or cancel a monthly deduction of premiums from VA benefits or military service retired pay. Currently such action may only be taken pursuant to a written authorization from an insured. By amending regulations in this manner insured veterans will be able to utilize the VA Insurance Service's toll-free telephone service to expedite their premium deduction action reports.

EFFECTIVE DATE: December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Paul F. Koons, Assistant Director for Insurance, Department of Veterans Affairs Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, PA 19101, (215) 951-5360.

SUPPLEMENTARY INFORMATION: On page 18550 of the *Federal Register* (54 FR 18550) of May 1, 1989, VA published proposed regulatory amendments providing that insured veterans may verbally authorize the establishment, adjustment or discontinuance of a premium deduction from their VA benefits or military service retired pay. Interested parties were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulatory amendments.

One written comment was received during the comment period. The comment, dated May 22, 1989, agrees with the proposed regulations. The commenter suggests, however, that procedures be developed and put into place to verify the identity of callers.

The Insurance Service does in fact already have a verification process in place. In addition, all Insurance Service phone operators have received training in this area.

The Secretary hereby certifies that these final regulations will not have a significant impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b) these final regulations are, therefore, exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that these final regulations will affect only certain NSLI policyholders. They will, therefore, have no significant direct impact on small entities in terms of compliance costs, paperwork requirements or effects on competition.

VA has also determined that these final regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation. These regulations will not have a large effect on the economy, will not cause an increase of costs or prices, and will not otherwise have any significant adverse economic effects.

(The Catalog of Federal Domestic Assistance program number for this regulation is 64.101.)

List of Subjects in 38 CFR Part 8

Life insurance, Veterans.

Approved: October 6, 1989.

Edward J. Derwinski,
Secretary.

38 CFR Part 8, National Service Life Insurance, is amended to read as follows:

PART 8—[AMENDED]

1. In § 8.8, paragraphs (a) and (c) are revised and an authority citation is added at the end of the section to read as follows:

§ 8.8 Deduction of insurance premiums from compensation, retirement pay, or pension.

* * * * *

(a) The authorization may be made by an insured or the insured's legal representative. If the authorization is made by the insured's legal representative, it must be in writing over the signature of the representative and forwarded to the Department of Veterans Affairs along with a copy of the document which evidences the individual's authority to act on behalf of the insured. If an insured is incompetent and has no legal representative and has a spouse to whom benefits are being paid pursuant to section 3202(f) of title

38, United States Code, and § 13.57 of this chapter, the spouse may authorize payment of insurance premiums through the deduction system. If an insured is incompetent and has no legal representative and an institutional award has been made in his or her behalf, the authorization may be executed by the Director of the field facility in which the insured is hospitalized or receiving domiciliary care, and in appropriate cases by the chief officers of State hospitals or other institutions to whom similar awards may have been approved.

* * * * *

(c) The authorization may be cancelled by the insured at any time. Such cancellation will be effective on the first day of the month following the month in which it is received by the Department of Veterans Affairs.

* * * * *

(Authority: 38 U.S.C. 708)

2. Section 8.9 is revised and an authority citation is added to read as follows:

§ 8.9 Authorization for deduction of insurance premiums from compensation, retirement pay, or pension.

The authorization for deductions from disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension, to be acceptable for the payment of insurance premiums, must be received by the Department of Veterans Affairs while the insurance is not lapsed. Such an authorization will be effective against the benefit payment for the month in which it is received by the Department of Veterans Affairs, unless the insured elects to have the authorization become effective against the benefit payment for a succeeding month. However, the deduction made from the benefit payment for the month in which the authorization becomes effective shall be for the insurance premium due in the succeeding calendar month. When premium deductions are authorized in accordance with the provisions of Department of Veterans Affairs regulations, the Department of Veterans Affairs will make monthly deductions from the benefit payment due and payable to the insured of an amount sufficient to pay the monthly insurance premium. Such deductions will continue so long as the benefit payment due and payable to the insured is sufficient to pay the monthly insurance premium or until the authorization is revoked by the veteran or otherwise terminated.

(Authority: 38 U.S.C. 708)

[FR Doc. 89-25767 Filed 11-1-89; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3676-6]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving amendments to rule 10 CSR 10-2.230 as a revision to the Air Pollution Control State Implementation Plan (SIP) of the state of Missouri. The purpose of this rule is to control the emissions of volatile organic compounds (VOC) from industrial surface coating operations in the Kansas City area. VOCs react in the atmosphere to form ozone. A reduction in VOC emissions is necessary for the Kansas City area to meet the National Ambient Air Quality Standards for ozone. EPA's approval will make the rule requirements federally enforceable.

EFFECTIVE DATE: This action is effective December 4, 1989.

ADDRESSES: The state submittal and EPA's technical support document are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; Missouri Department of Natural Resources, Air Pollution Control Program, Jefferson State Office Building, 205 Jefferson Street, Jefferson City, Missouri 65101; Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at (913) 236-2893 (FTS 757-2893).

SUPPLEMENTARY INFORMATION: The state of Missouri has submitted amendments to rule 10 CSR 10-2.230 as a SIP revision. This rule controls VOC emissions from industrial surface coating operations in the Kansas City, Missouri ozone nonattainment area. EPA's approval of these rule amendments will provide federal enforceability, which will ensure progress toward attainment and maintenance of the ozone air quality standard in the Kansas City area.

On December 18, 1987, the state submitted corrections to its VOC control

rules applicable to the Kansas City area; corrections to the industrial surface coating rule, 10 CSR 10-2.230, were included in this submittal. On June 30, 1988, EPA published a proposal to approve the Kansas City VOC rule corrections (53 FR 24735). Subsequent to this proposal, however, the state adopted further amendments to the surface coating rule and submitted these amendments to EPA on December 19, 1988. Therefore, EPA prepared a new proposed rulemaking, addressing both the original and subsequent surface coating rule amendments, which was published on May 12, 1989 (54 FR 20613). For a complete discussion of the rule amendments, the reader is referred to the above mentioned May 12, 1989, Federal Register notice.

No public comments were received on EPA's May 12, 1989, proposal. EPA did receive surface coating comments on its June 30, 1988, proposal. The rule amendments in the state's December 19, 1988, submittal addressed the commenters' concerns. Because no comments were received on the May 12 proposal, the surface coating comments on EPA's previous proposal (June 30) are no longer pertinent and, therefore, are not addressed herein.

EPA Action

In today's notice, EPA takes final action to approve Missouri's December 18, 1987, and December 19, 1988, submittals of amendments to rule 10 CSR 10-2.230.

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.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by January 2, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: August 30, 1989.

Morris Kay,

Regional Administrator.

40 CFR Part 52, Subpart AA, is amended as follows:

PART 52—[AMENDED]**Subpart AA—Missouri**

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1320 is amended by adding paragraph (c)(70) to read as follows:

§ 52.1320 Identification of plan.

(c) * * *

(70) The Missouri Department of Natural Resources submitted amendments to rule 10 CSR 10-2.230 on December 18, 1987, and December 19, 1988. The rule controls volatile organic compound emissions from industrial surface coating facilities in the Kansas City area. EPA approves these rule amendments with the following interpretations. The New Source Performance Standards commitment in note (2) does not supersede a more stringent emission limit which might be required in accord with the state's new source review rule, 10 CSR 10-6.060. In rule 10 CSR 10-2.230, the test method for determining the volatile and solids content of the coatings is 40 CFR Part 60, Appendix A, Reference Method 24. Compliance with the emission limits in rule 10 CSR 10-2.230 can be demonstrated: on a daily weighted average per coating line basis; through equivalency using a daily weighted average of VOC per gallon of coating solids per coating line; and through an alternative compliance plan whereby compliance is determined by a daily weighted average of emissions from a single or combination of source operations. Any such alternative compliance plans must be submitted and approved by EPA as individual SIP revisions. In the absence of such approval, the enforceable requirements of the SIP would be the emission limits stated in the rules.

(i) Incorporation by reference.

(A) Revision to rule 10 CSR 10-2.230, Control of Emissions from Industrial

Surface Coating Operations, effective December 24, 1987, with amendments effective November 24, 1988.

[FR Doc. 89-25584 Filed 11-1-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[FRL-3673-3]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is approving a site-specific revision to the Wisconsin State Implementation Plan (SIP) for ozone. The revision provides for a compliance date extension from December 31, 1985, until December 31, 1987, for Union Camp Corporation's (Union Camp) Tomah facility, which is located in Monroe County, Wisconsin. This SIP revision allows Union Camp additional time to reformulate to low solvent inks for use on flexible packaging materials. Under this SIP revision, the Tomah facility must comply with the emission limits contained in Section NR 154.13(4)(l) by December 31, 1987. This action is taken in response to an April 7, 1986, request from the Wisconsin Department of Natural Resources (WDNR).

USEPA is approving this revision because: (1) The Tomah facility is located in an attainment area for ozone; and (2) approval of the extension will not affect the maintenance of the ozone standard.

EFFECTIVE DATE: This final rulemaking becomes effective on December 4, 1989.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V Office.)

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.

A copy of today's revision to the Wisconsin SIP is available for inspection at: U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Uylaine E. McMahan, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031, FTS 886-6031.

SUPPLEMENTARY INFORMATION: On April 7, 1986, the WDNR submitted a proposed site-specific SIP revision to its ozone SIP for VOC emissions from Union Camp's four flexographic printing presses at the Tomah facility, located in Monroe County, Wisconsin. This revision consists of a compliance date extension from December 31, 1985, to December 31, 1987, for meeting the VOC emission limits contained in Wisconsin SIP regulation, NR 154.13(4)(l). USEPA has reviewed Wisconsin's request with respect to whether the compliance date extension affects the attainment and maintenance of the ozone National Ambient Air Quality Standard¹ (NAAQS) in Monroe County, Wisconsin.

Union Camp is a diversified extruder and converter of flexible packaging materials. Numerous grades of polyethylene are extruded, printed, and converted for packaging such items as ice, produce, baby formula, and a wide variety of industrial products. In addition, a variety of purchased laminated and co-extruded films are printed and converted. These include various combinations of foil, paper, cellophane, polyester, polypropylene and polyethylene.

Under the existing federally-approved SIP, each flexographic printing press is subject to the control requirements contained in Section NR 154.13(4)(l) of the Wisconsin Administrative Code. Section NR 154.13(4)(l) limits the VOC content of any ink, as applied, to 25 percent or less by volume of the volatile content or 40 percent or less by volume of the total content. USEPA approved this rule as meeting the reasonably available control technology (RACT) requirements under Part D of the Clean Air Act (Act) for non-attainment areas on June 21, 1982 (47 FR 26622).

Union Camp is located in Monroe County, an area designated attainment for ozone (40 CFR 81.350) under Section 107 of the Act. Since approval of this proposed SIP revision will not cause an increase in actual emissions, maintenance of the NAAQS will not be affected by the compliance date extension. USEPA, is therefore,

¹ The NAAQS were established to protect public health and welfare under Section 109 of the Clean Air Act.

approving this SIP revision extending the compliance schedule.²

In a February 27, 1987, **Federal Register** (52 FR 6007), USEPA proposed to approve Union Camp's compliance date extension until December 31, 1987. The notice explained that the revision would constitute a RACT relaxation in an ozone attainment/unclassified area, which would result in the removal of the accommodative ozone SIP for Monroe County.

During the 30-day public period, Union Camp submitted comments on the notice of proposed rulemaking. These comments are summarized below and are followed by USEPA's response.

Comment 1: Union Camp states that the revision should be approved as a site-specific RACT determination rather than a relaxation from RACT, because Union Camp progressed as quickly as possible in the development of complying inks.

USEPA Response: In order for an area to retain its accommodative SIP, the State must demonstrate that it is implementing RACT as expeditiously as practicable. USEPA policy guidance for evaluating whether or not a compliance schedule is expeditious is contained in an August 7, 1986, memorandum dealing with compliance date extensions in nonattainment areas (see the Illinois Georgia-Pacific November 8, 1988, (53 FR 45103) **Federal Register** notice, Appendix A). Therefore, although this source is not strictly subject to the requirements of the August 7, 1986, policy, USEPA is using the criteria contained in that policy to determine whether this compliance schedule is expeditious. The present VOC emissions from Union Camp's flexographic printing operations do not indicate a RACT-level of control, nor has Union Camp demonstrated to USEPA's satisfaction that development of complying coatings has progressed as expeditiously as practicable.

Comment 2: Union Camp states that if the accommodative SIP must be removed for Monroe County, it should only be removed for the duration of the variance.

USEPA Response: Because the revision is a temporary relaxation, the accommodative SIP is being removed for the duration of the relaxation and will be reinstated once the source demonstrates compliance with the

² Since Monroe County is designated attainment for ozone, today's proposal is being evaluated primarily with respect to the Clean Air Act's requirement under Section 110 that a revision must assure the attainment and maintenance of the NAAQS.

RACT emission limits contained in Section NR 154.13(4)(1).

USEPA is approving this SIP revision as a temporary relaxation from RACT. Such a relaxation will eliminate the accommodative SIP for Monroe County for the period covered by the revision.

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

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 2, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental Protection, Air pollution control, Incorporation by Reference, Ozone, Hydrocarbons, Intergovernmental relations.

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

Dated: October 13, 1989.

William K. Reilly,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Wisconsin

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

Subpart YY—Wisconsin

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.2570 is amended by adding a new paragraph (c)(48) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(48) On April 7, 1986, the WDNR submitted a site-specific revision to its ozone SIP for VOC emissions from Union Camp's four flexographic printing presses at the Tomah facility, located in Monroe County, Wisconsin. It consists of a compliance date extension from December 31, 1985, to December 31, 1987, for meeting the VOC emission limits contained in Wisconsin SIP regulation, NR 154.13(4)(1).

(i) Incorporation by reference.

(A) January 8, 1986, RACT Variance Review for Union Camp Corporation 501

Williams Street, Tomah, Wisconsin 54660.

[FR Doc. 89-25476 Filed 11-1-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 60

[AD-FRL-3619-3]

Standards of Performance for New Stationary Sources; Appendix A—Reference Methods; Amendments to the Introduction and Methods 6, 6C, 7A, 8, and 10A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action amends the Introduction and Methods 6, 6C, 7A, 8, and 10A of Appendix A of 40 CFR part 60. Method 6 is amended by adding procedures for testing in the presence of ammonia; Method 6C is amended to expand the allowable ranges for the mid- and high-range calibration gases. Methods 7A and 10A are amended to revise inaccurate wording describing the sample storage times, and Method 8 is amended to add quality assurance (QA) and quality control (QC) procedures. These amendments will update portions of Appendix A to make them more applicable to current testing needs. These amendments were proposed in the **Federal Register** on October 31, 1988 (53 FR 33508).

DATES: *Effective date:* November 2, 1989.

Judicial Review: Under Section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* Docket No. A-88-21, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Room M-1500, 1st Floor, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Foston Curtis or Roger Shigehara, Emission Measurement Branch (MD-19), Technical Support Division, U.S.

Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-1063.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard. Rather, the rulemaking would simply amend existing test methods associated with emission measurement requirements that would apply irrespective of this rulemaking.

II. Public Participation

The opportunity to hold a public hearing on September 21, 1988 at 10:00 a.m. was presented in the proposal notice, but no one desired to make an oral presentation. The public comment period was from August 31, 1988 to November 14, 1988.

III. Significant Comments and Changes to the Proposed Rulemaking

No comment letters were received from the proposal of the rulemaking. Minor changes based on comments received by telephone were made to the Method 6 amendment. This change will add clarity to the new procedure for handling ammonia and will list a source for the needed probe filter which may be difficult to locate otherwise.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated test method revisions and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review [Section 307(d)(7)(A)].

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The Agency has, therefore, concluded

that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act (RFA) of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a RFA analysis in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, an analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will not have an impact on small entities because no additional costs will be incurred.

This rule does not change any information collection requirements currently approved by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Information requirements contained in 40 CFR part 60, Appendix A are cleared under OMB control number 2060-0022.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Petroleum refineries, Kraft pulp mills, Reporting and recordkeeping requirements, and Incorporation by reference.

Dated: October 2, 1989.

William K. Reilly,
Administrator.

PART 60—[AMENDED]

40 CFR part 60, Appendix A is amended as follows:

1. The authority for 40 CFR part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7601.

Appendix A—[Amended]

2. By revising the title of Appendix A from "Reference Methods" to read "Test Methods."

3. By amending the introduction which follows the list of test methods as follows:

a. By revising the first sentence of the second paragraph to read as follows:

Within each standard of performance, a section title "Test Methods and Procedures" is provided to: (1) Identify the test methods to be used as reference methods to the facility subject to the respective standard and (2) identify any special instructions or conditions to be followed when applying a method to the respective facility.

b. By revising the last sentence of the second paragraph to read as follows:

Similarly, for sources subject to emission monitoring requirements, specific instructions pertaining to any use of a test method as a reference method are provided in the subpart or in Appendix B.

c. By removing the word "reference" wherever it occurs, and in its place, inserting the word "test" in the following places:

(1) First paragraph, first and second sentences.

(2) Second paragraph, second sentence.

(3) Fourth paragraph, first sentence.

(4) Fifth paragraph, first, second, and fourth sentences.

(5) Sixth paragraph, first and fifth sentences, and second from last sentence.

4. By amending Method 6 as follows:

a. By removing the last sentence in Section 1.2 and inserting, in its place, the following sentence: "If free ammonia is present (this can be determined by knowledge of the process and the presence of white particulate matter in the probe and isopropanol bubbler), the alternative procedures in Section 7.2 shall be used."

b. In Section 3.1.1, by adding a sentence at the end of the section to read as follows:

"Unless otherwise specified, this water shall be used throughout this method."

c. By removing the words "deionized, distilled" or "distilled", wherever they occur in the following places:

(1) Section 3.1.2, first and third sentences.

(2) Section 3.1.3, first sentence.

(3) Section 3.1.4, first sentence.

(4) Section 3.2.2, first sentence.

(5) Section 3.3.3, first sentence.

(6) Section 3.3.4, first sentence.

(7) Section 4.2, fourth sentence.

(8) Section 4.3, second paragraph, first sentence.

d. By revising Section 3.2.1 to read as follows:

3.2.1 Water. Same as in Section 3.1.1.

e. By revising Section 3.3.1, to read as follows:

3.3.1 Water. Same as in Section 3.1.1.

f. By adding a new Section 3.3.7 to read as follows:

3.3.7 Hydrochloric Acid (HCl) Solution, 0.1 N (for use in Section 7.2). Carefully pipette 8.6 ml of concentrated HCl into a 1-liter volumetric flask containing water. Dilute to volume with mixing.

g. By adding new Sections 7.3 and 7.3.1 through 7.3.3 to read as follows:

7.3 Elimination of Ammonia Interference. The following alternative procedures shall be used in addition to those specified in the method when sampling at sources having ammonia emissions.

7.3.1 Sampling. The probe shall be maintained at 275 °C and equipped with a high-efficiency in-stack filter (glass fiber) to remove particulate matter. The filter material

shall be unreactive to SO₂. Whatman 934AH (formerly Reeve Angel 934AH) filters treated as described in Citation 10 of the Method 5 bibliography is an example of a filter that has been shown to work. Where alkaline particulate matter and condensed moisture are present in the gas stream, the filter shall be heated above the moisture dew point but below 225 °C.

7.3.2 Sample Recovery. Recover the sample according to Section 4.2 except for discarding the contents of the midget bubbler. Add the bubbler contents, including the rinsings of the bubbler with water, to the polyethylene bottle containing the rest of the sample. Under normal testing conditions where sulfur trioxide will not be present significantly, the tester may opt to delete the midget bubbler from the sampling train. If an approximation of the sulfur trioxide concentration is desired, transfer the contents of the midget bubbler to a separate polyethylene bottle.

7.3.3 Sample Analysis. Follow the procedures in Section 4.3, except add 0.5 ml of 0.1 N HCl to the Erlenmeyer flask and mix before adding the indicator. The following analysis procedure may be used for an approximation of the sulfur trioxide concentration. The accuracy of the calculated concentration will depend upon the ammonia to SO₂ ratio and the level of oxygen present in the gas stream. A fraction of the SO₂ will be counted as sulfur trioxide as the ammonia to SO₂ ratio and the sample oxygen content increases. Generally, when this ratio is 1 or less and the oxygen content is in the range of 5 percent, less than 10 percent of the SO₂ will be counted as sulfur trioxide. Analyze the peroxide and isopropanol sample portions separately. Analyze the peroxide portion as described above. Sulfur trioxide is determined by difference using sequential titration of the isopropanol portion of the sample. Transfer the contents of the isopropanol storage container to a 100-ml volumetric flask, and dilute to exactly 100 ml with water. Pipette a 20-ml aliquot of this solution into a 250-ml Erlenmeyer flask, add 0.5 ml of 0.1 N HCl, 80 ml of 100 percent isopropanol, and two to four drops of thion indicator. Titrate to a pink endpoint using 0.0100 N barium perchlorate. Repeat and average the titration volumes that agree within 1 percent or 0.2 ml, whichever is larger. Use this volume in Equation 6-2 to determine the sulfur trioxide concentration. From the flask containing the remainder of the isopropanol sample, determine the fraction of SO₂ collected in the bubbler by pipetting 20-ml aliquots into 250-ml Erlenmeyer flasks. Add 5 ml of 3 percent hydrogen peroxide, 100 ml of 100 percent isopropanol, and two to four drops of thion indicator, and titrate as before. From this titration volume, subtract the titrant volume determined for sulfur trioxide, and add the titrant volume determined for the peroxide portion. This final volume constitutes V₁, the volume of barium perchlorate used for the SO₂ sample.

5. By revising Sections 5.3.1 and 5.3.2 of Method 6C to read as follows:

5.3.1 High-Range Gas Concentration equivalent to 80 to 100 percent of the span.

5.3.2 Mid-Range Gas Concentration equivalent to 40 to 60 percent of the span.

6. In Method 7A, by deleting the word "analysis" in the last sentence of Section 4.2 and inserting, in its place, the word "recovery."

7. In Method 8, by adding new Sections 3.3.6, 4.4, 4.5, and 6.10 to read as follows:

3.3.6 Quality Assurance Audit Samples. Same as in Method 6, Section 3.3.6.

4.4 Quality Control Procedures. Same as in Method 5, Section 4.4.

4.5 Audit Sample Analysis. Same as in Method 6, Section 4.4.

6.10 Relative Error (RE) for QA Audit Samples. Same as in Method 6, Section 6.4.

8. In Method 10A, by deleting the word "month" in the last sentence of Section 1.5.3 and inserting, in its place, the word "week."

[FR Doc. 89-23962 Filed 11-1-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 60

[AD-FRL-3615-9]

Standards of Performance for New Stationary Sources; Appendix A—Reference Methods; Amendments to Methods 15 and 16

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action amends Methods 15 and 16 of Appendix A of 40 CFR Part 60 by revising obsolete portions and updating the test methods to reflect current technology. The revisions will add simplicity to total reduced sulfur testing at petroleum refineries and kraft pulp mills when these methods are used. These amendments were proposed in the *Federal Register* on September 7, 1988 (53 FR 34551).

DATES: *Effective Date:* November 2, 1989.

Judicial Review: Under Section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* Docket No. A-88-01, containing materials relevant to this

rulemaking, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Room M-1500, 1st Floor, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Foston Curtis or Roger Shigehara, Emission Measurement Branch (MD-19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-1063.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard. Rather, the rulemaking would simply amend two existing test methods associated with emission measurement requirements that would apply irrespective of this rulemaking.

II. Public Participation

The opportunity to hold a public hearing on October 24, 1988, at 10:00 a.m., was presented in the proposal notice, but no one desired to make an oral presentation. The public comment period was from September 7, 1988, to November 21, 1988.

III. Significant Comments and Changes to the Proposed Rulemaking

Three comment letters were received from the proposal of the rulemaking. The major comments and responses are summarized in this preamble. The comment letters contained multiple comments. The significant comments and subsequent method changes are listed here.

1. Several comments centered around the proposed repositioning of the scrubber behind the probe which would also serve as a moisture trap and allow deletion of the heated sample line and dilution system. It was felt that a variety of alternative methods of moisture removal such as the traditional heated sample system, dilution with dry air to lower the dew point, or permeation dryers should be included to preclude making the methods overly restrictive. One commenter suggested that references to sample dilution and moisture content in the procedures, diagrams, and calculations be retained for those testers who prefer to continue to use a dilution system.

The repositioning of the scrubber was intended to add sampling convenience

by eliminating unnecessary components which themselves could introduce sampling errors. In addition to its removal of interferences and moisture at an initial sampling point, the added benefits include neither having to heat the sample line, use a dilution system, nor determine moisture.

Notwithstanding, some testers, due to equipment that is already in place, may prefer the traditional practice of preventing moisture condensation during sampling with subsequent sample correction for its presence. This procedure is still acceptable. Alternative methods are also allowed provided other criteria within the methods are met. This is stated in the introductory paragraph to the method. To make this acceptability criteria more specific, the paragraph will be amended to require that alternative equipment and procedures meet the calibration and post-test criteria stated in each methods. References throughout the methods to sample dilution and moisture content will be deleted except where critical to sampling and calculation needs.

2. Two commenters thought the specifications for the citrate scrubber were unnecessarily restrictive and may be rigidly enforced by regulatory agency observers. It was felt that most scrubbers made with glass or Teflon impingers in series, with the first two containing citrate buffer, would be capable of removing interferences. The mention of monitoring the scrubber pH between 5.4 and 5.6 was thought to be unnecessary.

The introductory paragraphs to the methods allow acceptable variations to the scrubber design. It should be noted, however, that sample losses may be incurred from using glass impingers. Deviations from the prescribed scrubber volumes and impinger sizes may also hinder performance and result in unacceptable post-test checks. We agree that the statement mentioning pH monitoring should be deleted. The scrubber is normally replaced after each 3-hour run, and drastic pH variations are not anticipated for the duration of single run. Unusual cases of sample losses due to pH increase from alkali mist and moisture collection would be detected in the line-loss test after the run.

3. All commenters questioned the availability of "NBS-traceable" line-loss gas and "certified" permeation devices proposed for calibration. It was preferred that permeation devices "of known permeation rates" be used for calibration and line-loss gases be calibrated against these devices or by

the procedure in Section 7 of Method 16A.

We agree with the commenters on these points since no standardized NBS-traceable gases or certified permeation devices currently exist.

4. It was brought to our attention that passing diluent air over hydrogen sulfide (H_2S) permeation tubes causes oxidation of liquid H_2S inside the tubes. This, in turn, affects the measured permeation rate. It was also noted that calibration gases of H_2S in air are unstable. These will be remedied by specifying that nitrogen be used in place of air as the diluent for permeation devices and standard gases.

5. The revision to remove the need for recalibration if a subsequent line-loss test is 10 percent or less was criticized. It was felt that system recovery and instrument calibration drift should remain as separate measurements of system accuracy. This way, any periodic sample losses caused by component interactions and changes in analyzer sensitivity due to detector gas flows or column degradation can be separately accounted for. It was also recommended that the calibration drift specification cover periods shorter than 24 hours. This would prevent confusion and inaccuracy in those cases where recalibration is needed at shorter intervals.

We agree that calibration drift and line-loss tests should remain as separate tests. This would also eliminate the possibility of achieving an acceptable combined test when the individual drift and line-loss errors are unacceptable but of comparable magnitude and direction. It will be stated that calibration drift measurements be made after each run or series of runs within a 24-hour period.

6. The commenters felt the components used in the dilution system and rotary gas valves should be composed of inert materials instead of strictly Teflon. Although Teflon is relatively inert, it offers poor dimensional stability when used in the dilution system, especially when heated. This could potentially lead to leaks and changes in flow rates. Rotary valves made of Teflon were not believed to be commercially available.

This change will be made with the dilution system for the stated reasons. A study of the sample dilution system has indicated that glass and stainless-steel component parts are acceptable. Teflon-lined rotary valves are commercially available and should be used.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development

of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated test method revisions and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review [Section 307(d)(7)(A)].

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act (RFA) of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of an RFA analysis in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, an analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will not have an impact on small entities because no additional costs will be incurred.

This rule does not change any information collection requirements currently approved by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Information requirements contained in 40 CFR part 60, Appendix A are cleared under OMB Control Number 2060-0022.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Petroleum refineries, Kraft pulp mills, Reporting and recordkeeping requirements, and Incorporation by reference.

Dated: October 2, 1989.

William K. Reilly,
Administrator.

PART 60—[AMENDED]

40 CFR Part 60, Appendix A is amended as follows:

1. The authority for 40 CFR part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7601.

Appendix A—[Amended]

2. In Method 15 of Appendix A, the Introduction, Sections 3.1, 3.3, 4.2, 5.1, 5.1.1, 5.1.2, 5.1.3, 5.2, 5.3, 5.5.1, 5.5.2, 5.5.3, 9.2.2, and 11.3 are revised; new Sections 3.4, 3.5, 5.1.3.1, 5.1.3.2, 5.1.4, 5.1.5, 5.3.4.4, 5.5, 6.6, and 6.7 are added; Section 5.5.4 is removed, and a sentence is added to the end of the paragraphs in Sections 7.1.1 and 8.4 as follows:

Method 15—Determination of Hydrogen Sulfide, Carbonyl Sulfide, and Carbon Disulfide Emissions From Stationary Sources

Introduction

The method described below uses the principle of gas chromatographic separation and flame photometric detection (FPD). Since there are many systems or sets of operating conditions that represent useable methods of determining sulfur emissions, all systems which employ this principle, but differ only in details of equipment and operation, may be used as alternative methods, provided that the calibration precision and sample-line loss criteria are met.

* * * * *

3. * * * * *
 3.1 **Moisture Condensation.** Moisture condensation in the sample delivery system, the analytical column, or the FPD burner block can cause losses or interferences. This potential is eliminated by heating the probe, filter box, and connections, and by maintaining the SO₂ scrubber in an ice water bath. Moisture is removed in the SO₂ scrubber and heating the sample beyond this point is not necessary provided the ambient temperature is above 0°C. Alternatively, moisture may be eliminated by heating the sample line, and by conditioning the sample with dry dilution air to lower its dew point below the operating temperature of the GC/FPD analytical system prior to analysis.

* * * * *

3.3 **Elemental Sulfur.** The condensation of sulfur vapor in the sampling system can lead to blockage of the particulate filter. This problem can be minimized by observing the filter for buildup and changing as needed.

3.4 **Sulfur Dioxide (SO₂).** Sulfur dioxide is not a specific interferent but may be present in such large amounts that it cannot be effectively separated from the other compounds of interest. The SO₂ scrubber described in Section 5.1.3 will effectively remove SO₂ from the sample.

3.5 **Alkali Mist.** Alkali mist in the emissions of some control devices may cause a rapid increase in the SO₂ scrubber pH to give low sample recoveries. Replacing the SO₂ scrubber contents after each run will minimize the chances of interference in these cases.

4. * * * * *

4.2 **Calibration Drift.** The calibration drift determined from the mean of three injections made at the beginning and end of any run or series of runs within a 24-hour period shall not exceed ±5 percent.

* * * * *

5. * * * * *

5.1 **Sampling (Figure 15-1).**
 5.1.1 **Probe.** The probe shall be made of Teflon or Teflon-lined stainless steel and heated to prevent moisture condensation. It shall be designed to allow calibration gas to enter the probe at or near the sample point entry. Any portion of the probe that contacts the stack gas must be heated to prevent moisture condensation. The probe described in Section 2.1.1 of Method 16A having a nozzle directed away from the gas stream is recommended for sources having particulate or mist emissions. Where very high stack temperatures prohibit the use of Teflon probe components, glass or quartz-lined probes may serve as substitutes.

Note.—Mention of trade names or specific products does not constitute an endorsement by the Environmental Protection Agency.

5.1.2 **Particulate Filter.** 50-mm Teflon filter holder and a 1- to 2-micron porosity Teflon filter (available through Saville Corporation, 5325 Highway 101, Minnetonka, Minnesota 55343). The filter holder must be maintained in a hot box at a temperature of at least 120°C (248°F).

5.1.3 **SO₂ Scrubber.**
 5.1.3.1 **Three 300-ml Teflon segment impingers connected in series with flexible, thick-walled, Teflon tubing.** (Impinger parts and tubing available through Saville.) The first two impingers contain 100 ml of citrate buffer, and the third impinger is initially dry. The tip of the tube inserted into the solution should be constricted to less than 3-mm (1/8-in.) ID and should be immersed to a depth of at least 5 cm (2 in.). Immerse the impingers in an ice water bath and maintain near 0°C. The scrubber solution will normally last for a 3-hour run before needing replacement. This will depend upon the effects of moisture and particulate matter on the solution strength and pH.

5.1.3.2 **Connections between the probe, particulate filter, and SO₂ scrubber shall be made of Teflon and as short in length as possible.** All portions of the probe, particulate filter, and connections prior to the SO₂ scrubber (or alternative point of moisture removal) shall be maintained at a temperature of at least 120°C (248°F).

5.1.4 **Sample Line.** Teflon, no greater than 1.3-cm (1/2-in.) ID. Alternative materials, such as virgin Nylon, may be used provided the line loss test is acceptable.

5.1.5 **Sample Pump.** The sample pump shall be a leakless Teflon-coated diaphragm type or equivalent.

5.2 **Dilution System.** The dilution system must be constructed such that all sample contacts are made of Teflon, glass, or stainless-steel. It must be capable of approximately a 9:1 dilution of the sample.

5.3 **Gas Chromatograph (Figure 15-2).** The gas chromatograph must have at least the following components:

* * * * *

5.3.4.4 **Rotary Gas Valves.** Multiport Teflon-lined valves equipped with sample loop. Sample loop volumes shall be chosen to provide the needed analytical range. Teflon tubing and fittings shall be used throughout to present an inert surface for sample gas. The

gas chromatograph shall be calibrated with the sample loop used for sample analysis.

* * * * *

5.5 **Calibration System (Figure 15-3).** The calibration system must contain the following components.

5.5.1 **Flow System.** To measure air flow over permeation tubes within ±2 percent. Each flowmeter shall be calibrated after a complete test series with a wet-test meter. If the flow measuring device differs from the wet-test meter by more than 5 percent, the completed test shall be discarded.

Alternatively, the tester may elect to use the flow data that will yield the lowest flow measurement. Calibration with a wet-test meter before a test is optional. Flow over the permeation device may also be determined using a soap bubble flowmeter.

5.5.2 **Constant Temperature Bath.** Device capable of maintaining the permeation tubes at the calibration temperature within 0.1°C.

5.5.3 **Temperature Gauge.** Thermometer or equivalent to monitor bath temperature within 0.1°C.

6. * * * * *

6.0 **Citrate Buffer.** Dissolve 300 g of potassium citrate and 41 g of anhydrous citric acid in 1 liter of water. Alternatively, 284 g of sodium citrate may be substituted for the potassium citrate. Adjust the pH to between 5.4 and 5.6 with potassium citrate or citric acid, as required.

6.7 **Sample Line Loss Gas (Optional).** As an alternative, H₂S cylinder gas may be used for the sample line loss test. The gas shall be calibrated against permeation devices having known permeation rates or by the procedure in Section 7 of Method 16A.

7. * * * * *

7.1.1 * * * * * As an alternative to the initial leak-test, the sample line loss test described in Section 10.1 may be performed to verify the integrity of components.

* * * * *

8. * * * * *

8.4 * * * * * Alternatively, a least squares equation may be generated from the calibration data using concentrations versus the appropriate instrument response units.

* * * * *

9. * * * * *

9.2.2 **Observation for Clogging of Probe or Filter.** If reductions in sample concentrations are observed during a sample run that cannot be explained by process conditions, the sampling must be interrupted to determine if the probe or filter is clogged with particulate matter. If either is found to be clogged, the test must be stopped and the results up to that point discarded. Testing may resume after cleaning or replacing the probe and filter. After each run, the probe and filter shall be inspected and, if necessary, replaced.

* * * * *

11. * * * * *

11.3 **Average SO₂ Equivalent.** This is determined using the following equation. Systems that do not remove moisture from the sample but conditions the gas to prevent condensation must correct the average SO₂ equivalent for the fraction of water vapor present.

$$\text{Average SO}_2 \text{ equivalent} = \frac{\sum_{i=1}^N \text{SO}_2 \text{ equiv}_i}{N}$$

Eq. 15-3

where:

Average SO₂ equivalent = Average SO₂ equivalent in ppm, dry basis.

Average SO₂ equivalent_i = SO₂ in ppm as determined by Equation 15-2.

N = Number of analyses performed.

* * * * *

3. In Method 15, by removing "(approximately 0.05 to 1.0 ppm)" from the first sentence of Section 8.3 and adding in its place, "(approximately 0.5 to 10 ppm for a 1 = ml sample)".

4. In Method 15, by removing the word "four" in the first sentence of Section 8.3 and inserting in its place, "three."

5. In Method 15, by revising the seventh sentence in Section 10.1 to read as follows: "Alternatively, cylinders of hydrogen sulfide mixed in nitrogen and verified according to Section 6.7 may be used."

6. In Method 15, by removing Sections 12 and 12.1 through 12.4 and redesignating Sections 13 and 13.1 through 13.6 as Sections 12 and 12.1 through 12.6.

7. In Method 15, by revising Figure 15-1 as set forth below and placing it at the end of Section 5.2.

8. In Method 15, by transferring Figure 15-2 to the end of Section 5.3.4.3 and by transferring Figure 15-3 to the end of Section 5.5.4.

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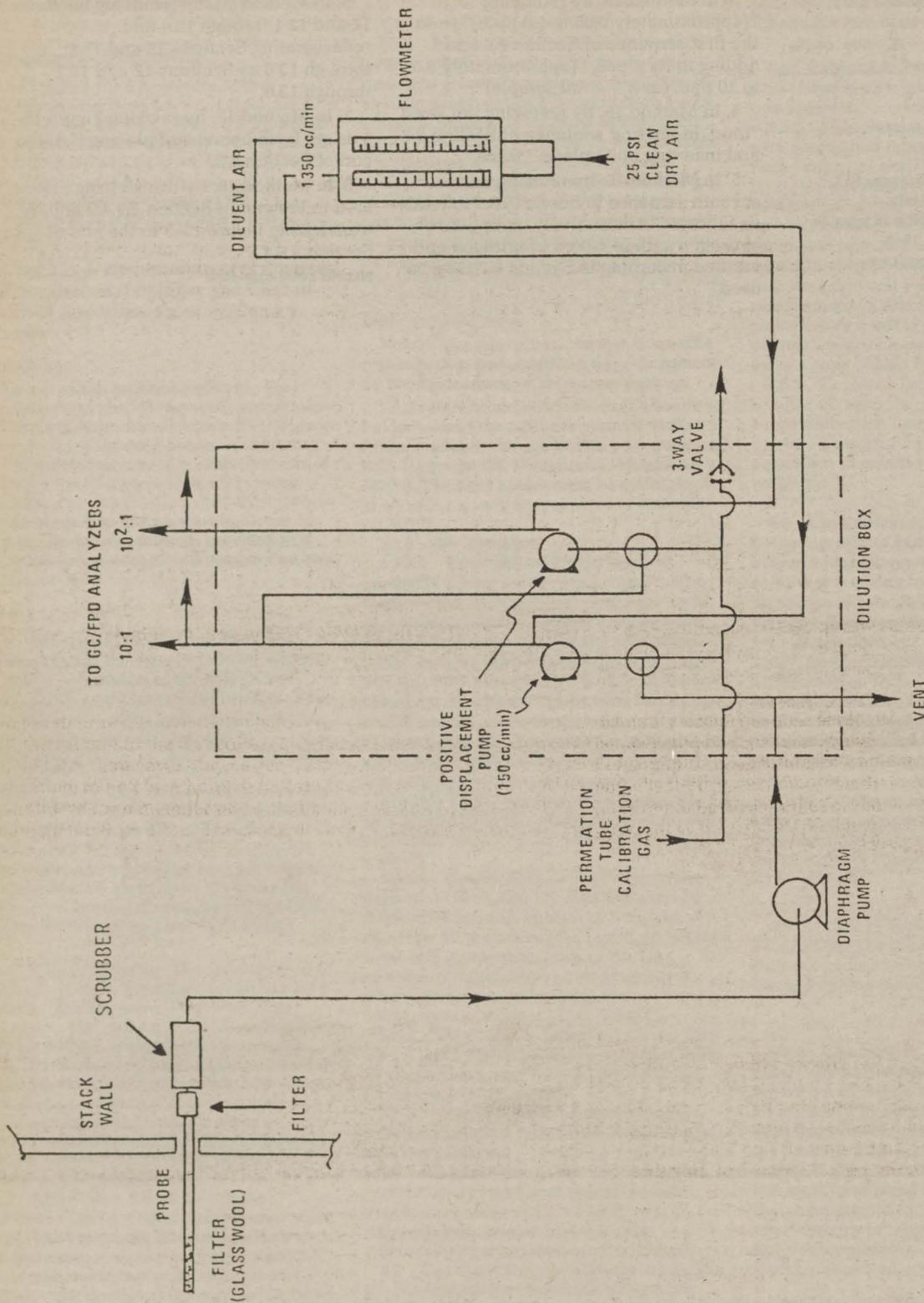


Figure 15-1. Sampling and dilution apparatus.

9. In Method 16, the Introduction, Sections 1.1, 2.1, 3.1, 3.4, 4.2, 5.1.1, 5.1.2, 5.1.3, 5.2, 6.4, 8.3, 9.1, 9.2, 9.2.2, and 10.2 are revised; new Sections 5.1.1.1, 5.1.1.2, 5.1.1.3, 5.1.3.1, 5.1.3.2, 5.1.4, 5.1.5, 5.4.4.4 and 6.7 are added; and new sentences are added to the end of the paragraphs in Sections 6.6, 7.1.1, and 8.4 as follows:

METHOD 16—SEMICONTINUOUS DETERMINATION OF SULFUR EMISSIONS FROM STATIONARY SOURCES

Introduction

The method described below uses the principle of gas chromatographic separation and flame photometric detection (FPD). Since there are many systems or sets of operating conditions that represent useable methods of determining sulfur emissions, all systems which employ this principle, but differ only in details of equipment and operation, may be used as alternative methods, provided that the calibration precision and sample line loss criteria are met.

1. * * *

1.1 *Principle.* A gas sample is extracted from the emission source and an aliquot is analyzed for hydrogen sulfide (H₂S), methyl mercaptan (MeSH), dimethyl sulfide (DMS), and dimethyl disulfide (DMDS) by gas chromatographic (GC) separation and flame photometric detection (FPD). These four compounds are known collectively as total reduced sulfur (TRS).

2. * * *

2.1 *Range.* The analytical range will vary with the sample loop size. Typically, the analytical range may extend from 0.1 to 100 ppm using 10 to 0.1-ml sample loop sizes. This eliminates the need for sample dilution in most cases.

3. * * *

3.1 *Moisture Condensation.* Moisture condensation in the sample delivery system, the analytical column, or the FPD burner block can cause losses or interferences. This is prevented by maintaining the probe, filter box, and connections at a temperature of at least 120°C (248°F). Moisture is removed in the SO₂ scrubber and heating the sample beyond this point is not necessary provided the ambient temperature is above 0°C. Alternatively, moisture may be eliminated by heating the sample line, and by conditioning the sample with dry dilution air to lower its dew point below the operating temperature of the GC/FPD analytical system prior to analysis.

3.4 *Sulfur Dioxide (SO₂).* Sulfur dioxide is not a specific interferent but may be present in such large amounts that it cannot be effectively separated from the other compounds of interest. The SO₂ scrubber described in Section 5.1.3 will effectively remove SO₂ from the sample.

4.2 *Calibration Drift.* The calibration drift determined from the mean of three injections made at the beginning and end of any run or series of runs within a 24-hour period shall not exceed ±5 percent.

* * * * *

5. * * *

5.1.1 *Probe.*

5.1.1.1 *Teflon or Teflon-lined stainless steel.* The probe must be heated to prevent moisture condensation. It shall be designed to allow calibration gas to enter the probe at or near the sample point entry. Any portion of the probe that contacts the stack gas must be heated to prevent moisture condensation.

5.1.1.2 Figure 16-1 illustrates the probe used in lime kilns and other sources where significant amounts of particulate matter are present. The probe is designed with the deflector shield placed between the sample and the gas inlet holes to reduce clogging of the filter and possible adsorption of sample gas. As an alternative, the probe described in Section 2.1.1 of Methods 16A having a nozzle directed away from the gas stream may be used at sources having significant amounts of particulate matter.

5.1.1.3 *Note:* Mention of trade names or specific products does not constitute an endorsement by the Environmental Protection Agency.

5.1.2 *Particulate Filter.* 50-mm Teflon filter holder and a 1- to 2-micron porosity Teflon filter (available through Saville Corporation, 5325 Highway 101, Minnetonka, Minnesota 55343). The filter holder must be maintained in a hot box at a temperature of at least 120 °C (248 °F).

5.1.3 *SO₂ Scrubber.*

5.1.3.1 Three 300-ml Teflon segmented impingers connected in series with flexible, thick-walled, Teflon tubing. (Impinger parts and tubing available through Saville.) The first two impingers contain 100 ml of citrate buffer and the third impinger is initially dry. The tip of the tube inserted into the solution should be constricted to less than 3-mm (1/8-in.) ID and should be immersed to a depth of at least 5 cm (2 in.). Immerse the impingers in an ice water bath and maintain near 0 °C. The scrubber solution will normally last for a 3-hour run before needing replacement. This will depend upon the effects of moisture and particulate matter on the solution strength and pH.

5.1.3.2 Connections between the probe, particulate filter, and SO₂ scrubber shall be made of Teflon and as short in length as possible. All portions of the probe, particulate filter, and connections prior to the SO₂ scrubber (or alternative point of moisture removal) shall be maintained at a temperature of at least 120 °C (248 °F).

5.1.4 *Sample Line.* Teflon, no greater than 1.3-cm (1/2-in.) ID. Alternative materials, such as virgin Nylon, may be used provided the line loss test is acceptable.

5.1.5 *Sample Pump.* The sample pump shall be leakless Teflon-coated diaphragm type or equivalent.

5.2 *Dilution System.* Needed only for high sample concentrations. The dilution system must be constructed such that all sample contacts are made of Teflon, glass, or stainless steel.

* * * * *

5.4.4.4 *Rotary Gas Valves.* Multiport Teflon-lined valves equipped with sample loop. Sample loop volumes shall be chosen to provide the needed analytical range. Teflon tubing and fittings shall be used throughout to present an inert surface for sample gas. The gas chromatograph shall be calibrated with the sample loop used for sample analysis.

* * * * *

6. * * *

6.4 *Diluent (If required).* Air containing less than 50 ppb total sulfur compounds and less than 10 ppm each of moisture and total hydrocarbons.

* * * * *

6.6. * * * Adjust the pH to between 5.4 and 5.6 with potassium citrate or citric acid, as required.

6.7 *Sample Line Loss Gas (Optional).* As an alternative to permeation gas, H₂S cylinder gas may be used for the sample line loss test. The gas shall be calibrated against permeation devices having known permeation rates or by the procedure in Section 7 of Method 16A.

7. * * *

7.1.1 * * * As an alternative to the initial leak-test, the sample line loss test described in Section 10.1 may be performed to verify the integrity of components.

* * * * *

8. * * *

8.3 *Calibration of Analysis System.* Generate a series of three or more known concentrations spanning the linear range of the FPD (approximately 0.5 to 10 ppm for a 1-ml sample) for each of the four major sulfur compounds. Inject these standards into the GC/FPD analyzer and monitor the responses. Three injects for each concentration must not vary by more than 5 percent from the mean of the three injections. Failure to attain this precision is an indication of a problem in the calibration or analytical system. Any such problem must be identified and corrected before proceeding.

8.4 * * * Alternatively, a least squares equation may be generated from the calibration data using concentrations versus the appropriate instrument response units.

* * * * *

9. * * *

9.1 *Sampling.* Insert the sampling probe into the test port making certain that no dilution air enters the stack through the port. Begin sampling. Condition the entire system with sample for a minimum of 15 minutes prior to commencing analysis.

9.2 *Analysis.* Aliquots of sample are injected into the GC/FPD analyzer for analysis.

9.2.1 * * *

9.2.2 *Observation for Clogging of Probe or Filter.* If reductions in sample concentrations are observed during a sample run that cannot be explained by process conditions, the sampling must be interrupted to determine if the probe or filter is clogged with particulate matter. If either is found to be clogged, the test must be stopped and the results up to that point discarded. Testing may resume after cleaning or replacing the probe and filter. After each run, the probe and filter shall be inspected and, if necessary, replaced.

10. Post-Test Procedures

10.1 * * *

10.2 *Recalibration.* After each run, or after a series of runs made within a 24-hour period, perform a partial recalibration using the procedures in Section 8. Only H₂S (or other calibration gas) need be used to recalibrate the GC/FPD analysis system (Section 8.3).

10. In Method 16, by deleting "9:1" from the first sentence in Section 3.2.

11. In Method 16, by revising the second sentence in Section 3.3 to read as follows: "This interference is eliminated by using the Teflon filter after the probe."

12. In Method 16, by revising the title of Section 4.1 to read as follows: "GC/FPD Calibration Precision."

13. In Method 16, by removing Section 5.3.

14. By redesignating Sections 5.4 through 5.4.4.4 as 5.3 through 5.3.4.4.

15. In Method 16, by redesignating Section 5.5 as 5.4 and revising the third sentence in the second paragraph of newly designated section 5.4 to read as follows: "Baseline separation is defined

as a return to zero ± 5 percent in the interval between peaks."

16. In Method 16, by redesignating Sections 5.6 and 5.6.1 as 5.5 and 5.5.1, respectively, and adding "(Figure 16-2)" to the end of the last sentence of newly designated Section 5.5.

17. In Method 16, by redesignating Section 5.6.2 as 5.5.2 and adding the following sentence to the end of the newly redesignated section 5.5.2: "Flow over the permeation device may also be determined using a soap bubble flowmeter."

18. In Method 16, by redesignating Sections 5.6.3 and 5.6.4 as 5.5.3 and 5.5.4, respectively.

19. In Method 16, by adding "(if applicable)" to the end of the first sentence in Section 8.1.

20. In Method 16, by removing Section 8.5.

21. In Method 16, by revising the first two sentences in the first paragraph of section 10.1 to read as follows:

A known concentration of hydrogen sulfide at the level of the applicable standard, ± 20 percent, must be introduced into the sampling system at the opening of the probe in sufficient quantities to ensure that there is an

excess of sample which must be vented to the atmosphere. The sample must be transported through the entire sampling system to the measurement system in the normal manner. (See figure 16-1).

22. In Method 16, by revising the fifth sentence in the second paragraph of Section 10.1 to read as follows:

Alternatively, cylinders of hydrogen sulfide mixed in nitrogen and certified according to Section 6.7 may be used.

23. In Method 16, by removing "wet basis" and adding "dry basis" in the line beginning "TRS=" of Section 11.2.

24. In Method 16, by redesignating Eq. 16-3 as Eq. 16-4.

25. In Method 16, by removing Sections 12 and 12.1 through 12.4.1.2 and redesignating Sections 13 and 13.1 through 13.6 as Sections 12 and 12.1 through 12.6.

26. In Method 16, Figure 16.1 is transferred to the end of Section 5.1.1.

27. In Method 16, by revising Figure 16-2 as set forth below and placing it at the end of Section 10.1.

28. In Method 16, by removing Figures 16-3 through 16-5.

BILLING CODE 6560-50-M

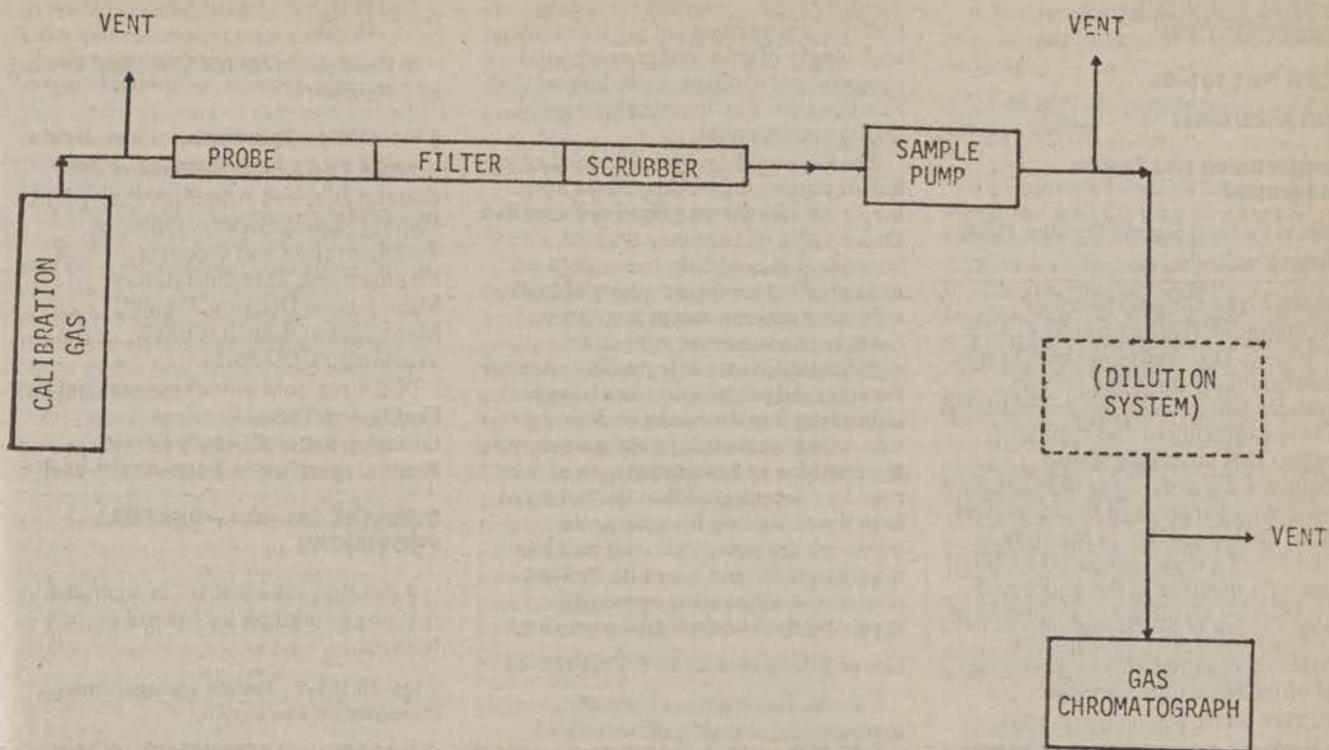


Figure 16-2. Determination of sample line loss.

* * * * *

[FR Doc. 89-23963 Filed 11-1-89; 8:45 am]

BILLING CODE 6560-50-C

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-40

[FPMR Amdt. G-92]

Transportation and Traffic Management

AGENCY: Federal Supply Service, GSA.
ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) amends 41 CFR part 101-40, Transportation and Traffic Management, by updating certain references which have become outdated due to organizational and regulatory changes. This amendment also implements the provisions of Public Law 100-565 which increased the maximum amount the United States may pay in settlement of a claim against the United States by a member of the uniformed services or by an officer or employee of the Government, and clarifies the contracting requirements in arranging local office relocation services.

EFFECTIVE DATE: November 2, 1989.

FOR FURTHER INFORMATION CONTACT: Boyce Steiner, Transportation Management Division, Freight Management Branch (FBXF), FTS 557-7978 or commercial 703-557-7978.

SUPPLEMENTARY INFORMATION: Section 201(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)), details GSA's responsibility (with respect to

executive agencies) for prescribing policies and methods of procurement and supply of personal property and nonpersonal services, including related functions such as transportation and traffic management.

The General Services Administration has determined that this rule is not a major rule for the purposes 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. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-40

Freight, Government property management, Moving of household goods, Office relocation, Transportation.

For the reasons set forth in the preamble, 41 CFR part 101-40 is amended as follows:

PART 101-40—TRANSPORTATION AND TRAFFIC MANAGEMENT

1. The authority citation for part 101-40 continues to read as follows:

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

2. Section 101-40.001 is revised to read as follows:

§ 101-40.001 Definitions.

"GSA Central Office" means the General Services Administration (GSA), Federal Supply Service, Office of Transportation and Property Management, Transportation Management Division, Freight Management Branch (FBXF), Washington, DC 20406.

"GSA regional office" means the GSA Traffic and Travel Services Zone Office(s), Federal Supply Service Bureau, specified in § 101-40.101-1(a).

SUBPART 101-40.1—GENERAL PROVISIONS

3. Section 101-40.101-1 is amended by revising paragraph (a) to read as follows:

§ 101-40.101-1 Freight transportation management assistance.

(a) Executive agencies may obtain traffic management assistance in the transportation of goods (other than household goods moving from, to, and between foreign countries) by contacting the following GSA zone offices serving agencies located within the jurisdictional areas noted:

Zone	Jurisdiction	Address and telephone
Eastern.....	AL, CT, DE, FL, GA, KY, MA, MD (note A), ME, MS, NC, NH, NJ, NY, PA, Puerto Rico, RI, SC, TN, VA (note B), Virgin Islands, WV.	GSA, Attn: 4FBT, 75 Spring Street, SW., Atlanta, GA 30303. FTS 242-5121, CML 404-331-5121.
Central.....	IA, IL, IN, KS, MI, MN, MO, NE, OH, WI.....	GSA, Attn: 6FBT, 4400 College Blvd., Suite 175, Overland Park, KS 66211. FTS 757-2510, CML 913-236-2510.
Southwestern.....	AR, CO, LA, MT, ND, NM, OK, SD, TX, UT, WY.....	GSA, Attn: 7FBT, 819 Taylor Street, Fort Worth, TX 76102. FTS 334-2737, CML 817-334-2737.
Western.....	AK, American Samoa, AZ, CA, GU, HI, ID, NV, Northern Mariana Islands, OR, Pacific Trust Territories, WA.	GSA, Attn: 9FBT, 525 Market Street, San Francisco, CA 94105. FTS 484-6012, CML 415-744-6012.
National Capital Region (NCR).	DC, MD (note C), VA (note D).....	GSA, Attn: WFBT, 7th & D Streets, SW., Washington, DC 20407. ¹ FTS 472-1626, ¹ CML 202-472-1626, ² FTS 472-1944, ² CML 202-472-1944.

¹ Other than household goods/office relocation.

² Household goods/office relocation only.

Note A—Except for counties under NCR jurisdiction as listed in note C.

Note B—Except for cities and counties under NCR jurisdiction as listed in note D.

Note C—Counties of Prince Georges and Montgomery only.

Note D—Cities of Alexandria, Fairfax, Manassas, and Manassas Park, and counties of Arlington, Fairfax, Loudoun, and Prince William only.

4. Section 101-40.109-2 is amended by revising paragraphs (a) and (b) to read as follows:

§ 101-40.109-2 Office relocation contracts.

(a) Prior to entering into office

relocation contracts, agencies should ensure they are complying with the provisions of FPMR Temp. Reg. D-73, or reissues thereof. (See 41 CFR Appendix to Subchapter D.) Compliance assistance may be obtained from the respective regional directors of the GSA Public Buildings Service, Real Estate Division.

(b) An agency may either enter into its own office relocation contracts or request the appropriate GSA regional office to enter into office relocation contracts on the agency's behalf. Requests to GSA should be made as soon as possible and at least 120 calendar days before the proposed date of the move for local office relocation

moves. The agency shall furnish the GSA such pertinent information concerning the proposed relocation as origin, destination, moving date, an itemized inventory of property to be moved, and the name and telephone number of the agency relocation coordinator.

(1) Arrangements for moving services, other than local office relocation moves, will be contracted for using competitive procedures or other appropriate relocation arrangements including Government tenders pursuant to section 10721 of the Interstate Commerce Act (49 U.S.C. 10721).

(2) Local office relocation moves must be acquired by contract, since such moves qualify as transportation within "commercial zones or terminal areas" and are excepted from rate regulation by the Interstate Commerce Commission. Neither the statutory exemption provided for in paragraph (3) of section 7 of the McNamara-O'Hara Service Contract Act of 1965 (Service Contract Act) (41 U.S.C. 351 *et seq.*) exempting "any contract for the carriage of freight or personnel * * * where published tariff rates are in effect" nor the administrative exemption for contracts for the carriage of freight or personnel subject to rates covered by section 10721 of the Interstate Commerce Act is applicable. (See 29 CFR 4.123.) The Service Contract Act applies to local office relocation moves where transportation costs (such as packing, crating, handling, loading, and/or storage of goods prior to or following line-haul transportation) are incidental to the principal purpose of the contract. (See 29 CFR 4.118.)

Subpart 101-40.2—Centralized Household Goods Traffic Management Program

5. Section 101-40.202 is revised to read as follows:

§ 101-40.202 The General Services Administration Household Goods Tender of Service (TOS) agreement.

As part of the centralized household goods traffic management program, GSA has developed a master household goods tender of service (TOS) agreement. This agreement establishes carrier service and performance standards which participating carriers agree to provide. Commercial carriers desiring to participate in this program must enter into individual TOS agreements with GSA, acting on behalf of executive agencies. Carriers that desire to enter into a TOS agreement or agencies desiring additional information

should contact the General Services Administration, Traffic and Travel Services Zone Office (6FBT), 4400 College Boulevard, Suite 175, Overland Park, KS 66211.

6. Section 101-40.203-3 is revised as follows:

§ 101-40.203-3 The commuted rate system.

The commuted rate system is the method whereby employees who are authorized to transport their household goods at Government expense make their own shipping arrangements and are reimbursed by the Government according to the commuted rate allowances published in the GSA Commuted Rate Schedule. In addition to transportation allowances, the commuted rate schedule includes allowances for various related accessorial expenses, such as packing and crating, storage-in-transit, carrier labor charges, appliance servicing, and piano/organ handling. Under the commuted rate system, employees shipping via commercial carriers are responsible for making all arrangements with the carrier, filing loss and damage claims with the carrier, and making payment to the carrier after the shipment has been completed. Under the commuted rate system, the shipment is moved using commercial documents, or employees may elect to transport their household goods in a rental vehicle or by private conveyance. The use of household goods rate tenders (see § 101-40.203-1) is not authorized when household goods are shipped under the commuted rate system.

7. Section 101-40.203-4 is amended by revising paragraph (a) to read as follows:

§ 101-40.203-4 Cost comparisons.

(a) Under the centralized household goods traffic management program, agencies shall obtain cost comparisons between the GBL method and the commuted rate system from the appropriate GSA regional office. Section 302-8.3(c)(4)(i) of the Federal Travel Regulation (41 CFR chapters 301 through 304) provides that the commuted rate system shall be used for individual employee transfers without consideration being given to the GBL method, except that the GBL method may be used if the actual transportation costs (including the costs of packing and other accessorial services) to be incurred by the Government are predetermined and can be expected to result in a real saving to the Government of \$100 or more.

8. Section 101-40.207 is amended by revising paragraph (b) to read as follows:

§ 101-40.207 Household goods loss and damage claims.

(b) Under 31 U.S.C. 3721 (the Military Personnel and Civilian Employees' Claims Act of 1964, as amended), employees who sustain a loss or damage to their household goods (transported incident to service) that exceeds the amount recovered from a carrier in settlement of a claim may file claim against the United States for the difference. Pursuant to Public Law 100-565, agencies may compensate employees up to \$40,000 on claims arising on or after October 31, 1988. When it is the policy of the agency not to compensate its employees under the Act, the agency should advise employees of the options available to them for insuring their household goods against greater monetary loss. (See § 101-40.206(b) of this subpart.)

Dated: October 16, 1989.

Richard G. Austin,
Acting Administrator of General Services.
[FR Doc. 89-25824 Filed 11-1-89; 8:45 am]
BILLING CODE 6820-24-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6852]

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

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program

(NFIP) at: Post Office Box 457, Lanham, Maryland 20706, Phone: (800) 838-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street SW., Room 417, Washington, DC 20472.

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

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by

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

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

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the

Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

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

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

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

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

§ 64.6 List of eligible communities.

State and location	Community No.	Effective date authorization/cancellation of sale of Flood Insurance in community	Current effective map date
New Eligibles—Emergency Program			
Michigan: Vernon, township of, Isabella County	260825	Sept. 7, 1989	
Arkansas: Beaver, town of, Carroll County	050595	Sept. 7, 1989, Emergency	
Louisiana: Sabine Parish, unincorporated areas	220368	Sept. 13, 1989	Jan. 24, 1978.
Kansas: Eskridge, city of, Wabaunsee County	200493	Sept. 15, 1989	Aug. 22, 1975.
Ohio: Senecaville, village of, Guernsey County	390858	Sept. 15, 1989, Emergency	Oct. 6, 1978.
Arkansas: Grant County, unincorporated areas	050434	Sept. 19, 1989	May 10, 1977.
Kentucky: Madison County, unincorporated areas	210342	Sept. 19, 1989, Emergency	Aug. 26, 1977.
Texas: Rocksprings, city of, Edwards County	481118	Sept. 19, 1989, Emergency	July 23, 1976.
Nebraska: Mitchell, city of, Scotts Bluff County	310390	Sept. 20, 1989	
West Virginia: Gauley Bridge, town of, Fayette County	540294	Sept. 22, 1989	
Michigan: Coldwater, township of, Branch County	260826	Sept. 26, 1989	
Texas: Kaufman County, unincorporated areas	480411	Sept. 26, 1989, Emergency	Nov. 13, 1981.
New Eligibles—Regular Program			
California:			
Solana Beach, city of, San Diego County	060725	Sept. 19, 1989	June 3, 1988.
Mission Viejo, city of, Orange County	060735	Sept. 26, 1989	Sept. 15, 1989.
Dana Point, city of, Orange County	060736	Sept. 26, 1989, Emergency	Do.
Reinstatements—Regular Program			
Oklahoma: Taft, town of Muskogee County	400128	June 24, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Aug. 25, 1987, Rein.	Aug. 1, 1987.
Colorado: San Juan County, unincorporated areas	080267	Oct. 25, 1974, Emerg.; Sept. 1, 1978, Reg.; June 19, 1989, Susp.; Sept. 1, 1989, Rein.	Sept. 1, 1978.
Kentucky: California, city of, Campbell County	210036	July 3, 1975, Emerg.; Apr. 3, 1978, Reg.; Sept. 30, 1988, Susp.; Sept. 6, 1989, Rein.	Apr. 3, 1978.
Wyoming:			
Saratoga, town of Carbon County	560012	Aug. 1, 1975, Emerg.; Oct. 1, 1986, Reg.; Aug. 15, 1989, Susp.; Sept. 7, 1989, Rein.	Oct. 1, 1986
New Castle, town of, Weston County	560057	Apr. 17, 1975, Emerg.; May 1, 1986, Reg.; Aug. 15, 1989, Susp.; Sept. 7, 1989, Rein.	May 1, 1986.
Pine Bluffs, town of, Laramie County	560031	Mar. 25, 1975, Emerg.; May 1, 1986, Reg.; Aug. 15, 1989, Susp.; Sept. 7, 1989, Rein.	Do.
New York:			
Millport, village of, Chemung County	360155	Aug. 26, 1975, Emerg.; June 15, 1988, Reg.; June 15, 1988, Susp.; Sept. 8, 1989, Rein.	June 15, 1988.
Round Lake, village of, Saratoga County	360726	July 29, 1975, Emerg.; Jan. 5, 1984, Reg.; June 15, 1988, Susp.; Sept. 8, 1989, Rein.	Jan. 5, 1984.
Fair Haven, village of, Cuyuga County	360109	Apr. 20, 1989, Emerg.; Feb. 1, 1978, Reg.; Sept. 16, 1988, Susp.; Sept. 8, 1989, Rein.	Feb. 1, 1978.
Oklahoma: Maysville, town of, Garwin County	400402	Feb. 27, 1978, Emerg.; Sept. 30, 1981, Reg.; Sept. 30, 1981, Susp.; Sept. 13, 1989, Rein.	Sept. 3, 1981.
Wisconsin: Montreal, city of, Iron County	550184	Apr. 3, 1975, Emerg.; Nov. 4, 1988, Reg.; Nov. 4, 1988, Susp.; Sept. 13, 1989, Rein.	Nov. 4, 1988.
Montana: Browning, town of, Glacier County	300030	Apr. 28, 1975, Emerg.; Mar. 18, 1986, Reg.; July 17, 1989, Susp.; Sept. 15, 1989, Rein.	Mar. 18, 1986.

State and location	Community No.	Effective date authorization/cancellation of sale of Flood Insurance in community	Current effective map date
North Dakota: Souris, city of, Bottineau County	380010	Aug. 12, 1977, Emerg.; Mar. 18, 1986, Reg.; July 4, 1989, Susp.; Sept. 18, 1989, Rein.	Do.
Ohio:			
Wapakoneta, city of, Auglaize County	390023	June 17, 1975, Emerg.; Sept. 6, 1989, Reg.; Sept. 6, 1989, Susp.; Sept. 19, 1989, Rein.	Sept. 6, 1989.
McDonald, village of, Trumbull County	390538	July 7, 1975, Emerg.; Aug. 8, 1979, Reg.; Aug. 3, 1989, Susp.; Sept. 19, 1989, Rein.	Aug. 8, 1979.
Madison, village of, Lake County	390316	Aug. 26, 1975, Emerg.; Dec. 4, 1979, Reg.; July 4, 1989, Susp.; Sept. 19, 1989, Rein.	Dec. 4, 1979.
Oregon: Wheeler County, unincorporated areas	410245	Sept. 25, 1975, Emerg.; July 17, 1989, Reg.; July 17, 1989, Susp.; Sept. 21, 1989, Rein.	July 17, 1989.
Montana: Circle, town of, McCove County	300108	Apr. 9, 1976, Emerg.; Apr. 15, 1986, Reg.; July 17, 1989, Susp.; Sept. 21, 1989, Rein.	Apr. 15, 1986.
South Dakota: Westport, town of, Brown County	460011	Mar. 21, 1978, Emerg.; Aug. 5, 1986, Reg.; Sept. 6, 1989, Susp.; Sept. 21, 1989, Rein.	Aug. 5, 1986.
Utah: Spanish Fork, city of, Utah County	490241	May 4, 1983, Emerg.; Feb. 19, 1986, Reg.; Aug. 15, 1989, Susp.; Sept. 25, 1989, Rein.	Feb. 19, 1986.
Maryland: Secretary, town of, Dorchester County	240123	June 13, 1975, Emerg.; Dec. 19, 1980, Reg.; May 4, 1989, Susp.; Sept. 27, 1989, Rein.	Dec. 19, 1980.
Pennsylvania:			
Berwick, borough of, Columbia County	420338	June 20, 1975, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp.; Sept. 27, 1989, Rein.	Aug. 3, 1989.
Curwensville, borough of, Clearfield County	420302	Apr. 7, 1975, Emerg.; July 4, 1989, Reg.; July 4, 1989, Susp.; Sept. 27, 1989, Rein.	July 4, 1989.
West Virginia: Ceredo, town of, Wayne County	540232	Sept. 25, 1975, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.; Sept. 27, 1989, Rein.	May 17, 1989.
New York: Mamaroneck, town of, Westchester County	360917	May 12, 1972, Emerg.; Dec. 1, 1977, Reg.; Sept. 15, 1989, Susp.; Sept. 25, 1989, Rein.	Sept. 15, 1989.
Tennessee: Martin, city of, Weakley County	470202	Jan. 28, 1975, Emerg.; Sept. 15, 1989, Reg.; Sept. 15, 1989, Susp.; Sept. 22, 1989, Rein.	Do.
Regular Program Conversions—Suspension Withdrawn			
Region III			
Pennsylvania:			
Barnesboro, borough of, Cambria County	420227	Sept. 15, 1989, suspension withdrawn	Do.
Hopewell, borough of, Bedford County	420120	.....do.....	Do.
Virginia: Appalachia, town of, Wise County	510319	.....do.....	Do.
Region IV			
Georgia: Burke County, unincorporated areas	130022	.....do.....	Do.
Mississippi:			
Lawrence County, unincorporated areas	280272	.....do.....	Do.
Leake County, unincorporated areas	280293	.....do.....	Do.
Mt. Olive, town of, Covington County	280048	.....do.....	Do.
Neshoba County, unincorporated areas	280276	.....do.....	Do.
Pike County, unincorporated areas	280278	.....do.....	Do.
Region VI			
Oklahoma: Goldsby, town of, McClain County	400102	.....do.....	Do.
Region IX			
California:			
Cypress, city of, Orange County	060217	.....do.....	Do.
Napa County, unincorporated areas	060205	.....do.....	Do.
Region X			
Idaho: Cascade, city of, Valley County	160161	.....do.....	Do.
Oregon:			
Paisley, city of, Lake County	410117	.....do.....	Do.
Wasco, city of, Sherman County	410195	.....do.....	Do.
Region II			
New York:			
Middlesex, town of, Yates County	360960	Sept. 29, 1989, suspension withdrawn	Sept. 29, 1989.
St. Johnsville, village of, Montgomery County	360457	.....do.....	Do.
Region III			
Virginia: Floyd County, unincorporated areas	510199	.....do.....	Do.
Region IV			
Alabama:			
Houston County, unincorporated areas	010098	.....do.....	Do.
St. Clair County, unincorporated areas	010290	.....do.....	Do.
Georgia:			
Cartersville, city of, Bartow County	130209	.....do.....	Do.
Millen, city of, Jenkins County	130119	.....do.....	Do.
Kentucky:			
Ballard County, unincorporated areas	210268	.....do.....	Do.
Hartford, city of, Ohio County	210357	.....do.....	Do.
Ohio County, unincorporated areas	210183	.....do.....	Do.
Mississippi:			
Adams County, unincorporated areas	280209	.....do.....	Do.
Lauderdale County, unincorporated areas	280224	.....do.....	Do.
Marion, town of, Lauderdale County	280095	.....do.....	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of Flood Insurance in community	Current effective map date
Vicksburg, city of, Warren County.....	280176	do.....	Do.
Region V			
Illinois:			
Clinton, city of, DeWitt County.....	170193	do.....	Do.
DeWitt County, unincorporated areas.....	170192	do.....	Do.
Michigan:			
Vassar, city of, Tuscola County.....	260208	do.....	Do.
Darke County, unincorporated areas.....	390137	do.....	Do.
Fulton County, unincorporated areas.....	390182	do.....	Do.
Gallia County, unincorporated areas.....	390185	do.....	Do.
Greenville, city of, Darke County.....	390139	do.....	Do.
Lawrence County, unincorporated areas.....	390325	do.....	Do.
Wisconsin:			
Barron County, unincorporated areas.....	550568	do.....	Do.
Barron, city of, Barron County.....	550010	do.....	Do.
Brodhead, city of, Green County.....	550160	do.....	Do.
Rosendale, village of, Fond Du Lac County.....	550141	do.....	Do.
Region VII			
Missouri: Independence, city of, Clay and Jackson Counties.....	290172	do.....	Do.
Region VIII			
Colorado:			
Dolores, town of, Montezuma County.....	080122	do.....	Do.
Gunnison County, unincorporated areas.....	080078	do.....	Do.
Logan County, unincorporated areas.....	080110	do.....	Do.
Monument, town of, El Paso County.....	080064	do.....	Do.
Morgan County, unincorporated areas.....	080129	do.....	Do.
Pueblo County, unincorporated areas.....	080147	do.....	Do.
Routt County, unincorporated areas.....	080156	do.....	Do.
Sterling, city of, Logan County.....	080294	do.....	Do.
Medora, city of, Billings County.....	380006	do.....	Do.
Tooele, city of, unincorporated areas.....	490145	do.....	Do.
Region IX			
Arizona:			
Litchfield Park, city of, Maricopa County.....	040128	do.....	Do.
Maricopa County, unincorporated areas.....	040037	do.....	Do.
Wickenburg, town of, Maricopa County.....	040056	do.....	Do.
California:			
Butte County, unincorporated areas.....	060017	do.....	Do.
Hesperia, city of, San Bernardino County.....	060733	do.....	Do.
Highland, city of, San Bernardino County.....	060732	do.....	Do.
Redding, city of, Shasta County.....	060360	do.....	Do.
Shafter, city of, Kern County.....	060082	do.....	Do.
Nevada:			
Clark County, unincorporated areas.....	320003	do.....	Do.
Region X			
Washington:			
Auburn, city of, King County.....	530073	do.....	Do.
Kent, city of, King County.....	530080	do.....	Do.
King County, unincorporated areas.....	530071	do.....	Do.
Redmond, city of, King County.....	530087	do.....	Do.
Renton, city of, King County.....	530088	do.....	Do.

¹ The reinstatement for the town of Taft was erroneously omitted from publication in August 1987. Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: October 17, 1989.

Harold T. Duryee,
Administrator, Federal Insurance
Administration.

[FR Doc. 89-25106 Filed 11-1-89; 8:45 am]

BILLING CODE 6718-21-M

Federal Insurance Administration

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency
Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

DATES: The effective dates for these modified base flood elevations are indicated on the following table and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are

available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed on the following table.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newspaper(s) of local

circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the FIRMs for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR part 65.

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management measures required by 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains.

1. The authority citation for part 65 continues to read as follows:

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

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State	County	Location	Date and name of the newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama	Jefferson (Docket No. FEMA-6961).	Unincorporated Areas.	June 10, 1989, June 17, 1989.	The Honorable David Orange, President, Jefferson County Board of Commissioners, Jefferson County Courthouse, 716 North 21st Street, Birmingham, Alabama 35263-0005.	June 2, 1989	010217
Kansas	Sedgwick (Docket No. FEMA-6958).	Unincorporated Areas.	June 15, 1989, June 22, 1989, <i>The Daily Reporter</i> .	The Honorable Paul W. Hancock, Chairman, Board of County Commissioners, Sedgwick County, 525 North Main, 3rd Floor, Wichita, Kansas 67203.	May 31, 1989	200321
Kansas	Sedgwick (Docket No. FEMA-6958).	City of Wichita	June 15, 1989, June 22, 1989, <i>The Daily Reporter</i> .	The Honorable Sheldon Kamen, Mayor, City of Wichita, City Hall, 455 North Main Street, Wichita, Kansas 67202.	May 31, 1989	200328
Texas	Comal and Guadalupe (FEMA Docket No. 6958).	City of New Braunfels.	May 26, 1989, June 2, 1989, <i>New Braunfels Herald Zeitung</i> .	The Honorable Douglas Miller, Mayor of the City of New Braunfels, P.O. Box 311596, New Braunfels, Texas 78131.	May 15, 1989	485493

Issued: October 11, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-24947 Filed 11-1-89; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Petition No. P2-89; Docket No. 89-22]

Cruise Lines International Association; Application for Section 16 Exemption

Served: October 30, 1989.

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This exempts membership changes in certain passenger vessel operator agreements from the notice and waiting period requirements of section 6 of the Shipping Act of 1984 and the Information Form, notice and waiting period requirements of 46 CFR part 572. This exemption, which was requested by Cruise Lines International Association, will enable such membership changes to become effective upon filing with the Federal Maritime Commission.

EFFECTIVE DATE: November 2, 1989.

FOR FURTHER INFORMATION CONTACT: Austin L. Schmitt, Director, Bureau of

Trade Monitoring, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5787.

SUPPLEMENTARY INFORMATION: On July 11, 1989, Cruise Lines International Association ("CLIA")¹ filed an Application for an exemption pursuant to section 16 of the Shipping Act of 1984, 46 U.S.C. app. 1715 ("1984 Act") and the implementing regulations of the Federal Maritime Commission ("Commission").

¹ CLIA is a cooperative working agreement (Federal Maritime Commission Agreement No. 003-010071) among passenger vessel operators to meet and discuss matters of common interest, including marketing strategies for ocean cruise travel, and to train, bond and deal with travel agents.

46 CFR 572.301. CLIA seeks an exemption from the notice and waiting period requirements of section 6 of the 1984 Act, 46 U.S.C. app. 1705, and the Information Form, notice and waiting period requirements of 46 CFR Part 572, for membership changes to passenger vessel discussion agreements open to all passenger vessels of a class defined in the agreements and consisting of 15 or more members, which do not contain ratemaking, pooling or joint service authority. The exemption would enable membership changes in such agreements to become effective upon filing with the Commission.

By Notice published in the *Federal Register* on July 25, 1989 (54 FR 30939), the Commission announced CLIA's Application and requested comments from interested persons. No comments on CLIA's Application were received. After consideration of CLIA's Application, the Commission has determined to grant the essential exemption requested by CLIA, with some modifications.

The scope of the exemption sought by CLIA is limited to exclude membership changes in passenger vessel operator agreements containing ratemaking, pooling or joint service authority. However, CLIA's Application did not address the proposed exemption's treatment of membership changes in passenger vessel operator agreements containing sailing or space chartering authority. The passenger vessel operator agreements currently on file with the Commission do not contain sailing or space chartering authority. However, were any such agreement to become effective under the 1984 Act, the Commission believes that membership changes should be reviewed under the 1984 Act's standards before they become effective, as is now the case with membership changes in non-passenger vessel operator agreements containing such authority. Accordingly, the scope of this rule's exemption has been further limited to exclude membership changes in passenger vessel operator agreements containing sailing or space chartering authority, in addition to those containing ratemaking, pooling or joint service authority. Other, less substantive changes have also been made to the text proposed by CLIA to improve the exemption's clarity and definiteness.

In accordance with section 16 of the 1984 Act, the Commission finds that the exemption granted herein will not substantially impair effective regulation by the Commission, be unjustly

discriminatory, result in a substantial reduction in competition, or be detrimental to commerce.

The Commission has determined that this Final Rule is not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because it will not result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (3) Significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Acting Chairman of the Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental jurisdictions. The primary economic impact of this rule will be on passenger vessel operating ocean common carriers, which generally are not small entities. A secondary impact may fall on passengers and travel agents, some of whom may be small entities, but that impact is not considered to be significant.

The Commission has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental assessment or environmental impact statement was prepared.

The Paperwork Reduction Act, 44 U.S.C. 3501-3520, does not apply to this Final Rule because the amendment to part 572 of title 46, Code of Federal Regulations, does not impose any additional reporting or recordkeeping requirements or change the collection of information from members of the public which require the approval of the Office of Management and Budget.

The Commission has determined that this rule is excepted from the 30-day effective date requirement of 5 U.S.C. 553 because it grants an exemption and relieves a restriction from existing requirements.

Lists of Subjects in 46 CFR Part 572

Antitrust, Contracts, Maritime carriers, Administrative practice and procedure, Rates and fares.

Therefore, pursuant to 5 U.S.C. 553,

and sections 5, 16 and 17 of the Shipping Act of 1984, 46 U.S.C. 1704, 1715, 1716, in order to exempt membership changes in certain passenger vessel discussion agreements from certain requirements of the 1984 Act, and the Commission's implementing regulations thereof, part 572 of Title 46 of the Code of Federal Regulations is amended as follows:

PART 572—[AMENDED]

1. The authority citation to Part 572 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701-1707, 1709-1710, 1712 and 1714-1717.

2. Section 572.309 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 572.309 Miscellaneous modifications to agreements—exemptions.

- (a) * * *
- (2) * * *

(i) *Article 3*—Parties to the agreement (limited to conference agreements, and discussion agreements among passenger vessel operating ocean common carriers which are open to all ocean common carriers operating passenger vessels of a class defined in the agreements and consisting of 15 or more members, which do not contain ratemaking, pooling, joint service, sailing or space chartering authority).

* * * * *

By the Commission.

Joseph C. Polking,
Secretary.

[FR Doc. 89-25867 Filed 11-1-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-29, RM-5594; RM-5885]

Radio Broadcasting Services; Fort Madison, IA; Louisiana, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Talley Broadcasting Company, substitutes Channel 269C2 for Channel 269A at Fort Madison, Iowa, and modifies its license for Station KBKB(FM) to specify operation on the higher powered channel. In addition, Channel 271A is substituted for Channel 269A at Louisiana, Missouri, and the license of Foxfire Communications, Inc. is modified accordingly. Channel 269C2

can be allotted to Fort Madison, Iowa, in compliance with the Commission's minimum distance separation requirements and can be used at Station KBKB(FM)'s present transmitter site. The coordinates for this allotment are North Latitude 40-39-30 and West Longitude 91-16-20. This allotment requires Good News Broadcasters, Inc. to amend its pending application for Channel 266A at Augusta, Illinois, to specify a non-shortsaced transmitter site. Channel 271A can be allotted to Louisiana, Missouri, in compliance with the Commission's minimum distance separation requirements and can be used at Station KJFM's present transmitter site. The coordinates for Channel 271A at Louisiana, Missouri, are North Latitude 39-26-29 and West Longitude 91-02-19. With this action, the proceeding is terminated.

EFFECTIVE DATE: December 11, 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. 87-29, adopted September 29, 1989, and released October 27, 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.

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 for Fort Madison, Iowa, by removing Channel 269A and adding Channel 269C2. The entry for Louisiana, Missouri, is amended by removing Channel 269A and adding Channel 271A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-25855 Filed 11-1-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-597, RM-5675 and RM-6309]

Radio Broadcasting Services; Haysville and Santa Claus, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 277A to Santa Claus, Indiana, as that community's first FM service, in response to comments and a counterproposal filed by Santa Claus Radio Company. Coordinates used for Channel 277A at Santa Claus are 38-09-41 and 86-58-47. With this action, the proceeding is terminated.

DATES: Effective December 11, 1989; The window period for filing applications on Channel 277A at Santa Claus, will open on December 12, 1989, and close on January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Ordee Pearson, (202) 634-6530. Questions related to the window application filing process at Santa Claus, 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 in MM Docket No. 87-597, adopted September 29, 1989, and released October 27, 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 Allotments, is amended under Indiana by adding Santa Claus, Channel 277A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-25854 Filed 11-1-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-42; RM-6508]

Radio Broadcasting Services; Bolivar, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 234A to Bolivar, Tennessee, as that community's second local FM service, at the request of Opel J. Shaw. See 54 FR 8767, March 2, 1989. Channel 234A can be allotted to Bolivar in compliance with the Commission's minimum distance separation requirements at the city reference coordinates, which are 35-15-30 and 88-59-30. With this action, this proceeding is terminated.

DATES: Effective December 11, 1989. The window period for filing applications will open on December 12, 1989, and close on January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-42, adopted September 29, 1989, and released October 27, 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. § 73.202(b), the Table of FM Allotments is amended under Tennessee, by adding Channel 234A at Bolivar.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-25853 Filed 11-1-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety
Administration

49 CFR Part 544

[Docket No. T86-01; Notice 9]

RIN 2127-AC32

Insurer Reporting Requirements; List
of Insurers Required To File Reports in
October 1989

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

SUMMARY: Title VI of the Motor Vehicle Information and Cost Savings Act requires each passenger motor vehicle insurer to file annual reports with NHTSA, unless the agency exempts the insurer from filing such reports. The law stipulates that NHTSA can exempt those insurance companies whose market share is below certain percentages in each individual State and for the nation as a whole. To carry out these statutory provisions, the agency has exempted those insurance companies that are lawfully eligible to be exempted and is hereby publishing an updated listing of those insurance companies subject to the reporting requirements. Those insurance companies included on the list are required to file reports for the 1988 calendar year not later than October 25, 1989. Any insurance company omitted from this list is not required to file a report for the 1988 calendar year.

EFFECTIVE DATE: The final rule on this subject will be effective December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Barbara A. Kurtz, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Kurtz's telephone number is (202) 366-4808.

SUPPLEMENTARY INFORMATION:**Background**

Section 612 of the Motor Vehicle Information and Cost Savings Act (the Act)(15 U.S.C. 2032) requires each insurer to file an annual report with NHTSA unless the agency exempts the insurer from filing such reports. The reports include information about thefts and recoveries of motor vehicles, the rating rules used by the insurers to establish premiums for comprehensive coverage, the actions taken by insurers to reduce such premiums, and the actions taken by insurers to reduce or deter theft.

Section 612(a)(5) provides that the agency shall exempt small insurers from

the reporting requirements if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information collected and compiled in the reports, either nationally or on a State-by-State basis. The term "small insurer" is defined in section 612(a)(5)(C) as an insurer whose premiums account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a "small insurer," but accounts for 10 percent or more of the total premiums for all forms of motor vehicle insurance issued by insurers within a particular State, such an insurer must report the required information about its operations in that State.

To implement these statutory criteria for exempting small insurers, NHTSA has used the data voluntarily supplied by insurance companies to A.M. Best to determine the insurer's market shares nationally and in each State. The A.M. Best data base was chosen because it is both accurate and timely, and because its use imposes no additional burdens on any party.

After examining the A.M. Best data, NHTSA has determined, first, that the report data to be provided by the large insurance companies will be sufficient for NHTSA to carry out its activities and responsibilities under title VI of the Act, and, second, that exempting all those insurance companies that qualify as small insurers will not affect the validity and usefulness of the information collected and compiled under this section, either nationally or on a State-by-State basis.

In the final rule for insurer reports published January 2, 1987, (52 FR 59), the agency listed, as Appendix A, the 20 insurance companies that had premiums that accounted for 1 percent or more of all motor vehicle insurance premiums paid nationally. Those companies were required to report on their operations for every State in which they did business. In Appendix B, the agency listed the eleven insurance companies with premiums that accounted for 10 percent or more of the total motor vehicle insurance premiums within a particular State or States. Such companies were required to report on their operations only for those States in which their premiums accounted for 10 percent or more of the total premiums.

The market shares for each of the insurance companies listed in the January 2, 1987, final rule were derived from the A.M. Best data for 1984, the most recent year for which the A.M. Best data were available as of the date

the final rule was published. In issuing the rule, NHTSA stated that it would update the appendices as revised listings become available. Since that time, A.M. Best data for more recent calendar years have become available.

Accordingly, the agency published a Notice of Proposed Rulemaking (NPRM) on May 30, 1989 (54 FR 22921), proposing an updated listing of insurance companies that must provide annual insurer reports to the agency for the 1988 calendar year. That NPRM used the A.M. Best data for 1987 to determine which insurance companies are statutorily required to file reports by October 25, 1989. The notice proposed that all insurance companies that were statutorily eligible for an exemption from these reporting requirements should be exempted.

No comments were received on the proposed rule. For the reasons set forth above and in the NPRM, this final rule adopts the proposed listings for both Appendix A and Appendix B.

This rule is effective 30 days after publication in the Federal Register. As noted earlier in this preamble, section 612 of the Cost Savings Act (15 U.S.C. 2032) imposes a statutory duty on insurers that were not exempted from these reporting requirements to file a report for the 1988 calendar year no later than October 25, 1989.

Regulatory Impacts*1. Costs and Other Impacts*

NHTSA has analyzed this rule and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. This final rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. On the other hand, those companies that are not statutorily eligible for an exemption are expressly required to file reports.

NHTSA does not believe that this rule, reflecting more current A.M. Best data, affects the impacts described in the final regulatory evaluation prepared for 49 CFR part 544. Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. Using the cost estimates in the final regulatory evaluation for part 544, the agency estimates that it will cost any company that is added to Appendix B about \$20,000. Therefore, the net total impact of these changes is estimated to be a cost increase of approximately

\$20,000 for insurance companies. This is well below the threshold of \$100 million for classifying a rulemaking action as "major" under the Executive Order.

As noted above, a full regulatory evaluation was prepared for the final rule establishing 49 CFR part 544. Interested persons may wish to examine that evaluation in connection with this rule. Copies of that evaluation have been placed in Docket No. T86-01; Notice 2. Any interested person may obtain a copy of this evaluation by writing to NHTSA, Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590, or by calling at (202) 366-4949.

2. Paperwork Reduction Act

The information collection requirements in this rule have been submitted to and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements have been approved through July 31, 1990 (OMB approval number 2127-0547).

3. Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Section 612(a)(5)(C) defines "small insurer" in part as any insurer whose premiums for motor vehicle insurance account for less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States, or any insurer whose premiums within any State, account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the State. None of the 28 companies listed in Appendices A or B is a self-insured motor vehicle rental or leasing company and all these companies exceed the "small insurer" standards outlined in section 612(a)(5)(C). Therefore, I certify that the final rule will not have a significant economic impact on a substantial number of small entities.

4. Federalism

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

5. Environmental Impacts

In accordance with the National Environmental Policy Act, NHTSA has considered the environmental impacts of

this rule and determined that it will not have a significant impact on the quality of the human environment.

List of Subjects in 49 CFR Part 544

Crime insurance, insurance, insurance companies, motor vehicles, reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 544 is amended as follows:

PART 544—[AMENDED]

1. The authority citation for part 544 would continue to read as follows:

Authority: 15 U.S.C. 2032; delegation of authority at 49 CFR 1.50.

2. Appendix A to part 544 is revised to read as follows:

Appendix A—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business

State Farm Group
Allstate Insurance Group
Farmers Insurance Group
Nationwide Group
Aetna Life & Casualty Group
Liberty Mutual Group
Travelers Insurance Group
Hartford Insurance Group
USAA Group
United States F & G Group
Geico Corporation Group
American International Group
CIGNA Group
Continental Group
Fireman's Fund Group
CNA Insurance Companies
California State Auto Association
American Family Group
Progressive Group
Crum & Forster Companies

3. Appendix B to part 544 is revised to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

Alfa Insurance Group (Alabama)
Island Insurance Group (Hawaii)
Kentucky Farm Bureau Group (Kentucky)
Commercial Union Assurance Group (Maine)
Auto Club of Michigan Group (Michigan)
Southern Farm Bureau Group (Mississippi)
Amica Mutual Insurance Company (Rhode Island)
Concord Group Insurance Company (Vermont)

Issue date: October 27, 1989.

Jeffrey R. Miller,

Acting Administrator.

[FR Doc. 89-25781 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Parts 567 and 571

[Docket No. 88-08; Notice 2]

RIN: 2127-AC65

Motor Vehicle Safety Standards; Vehicle Identification Number; Basic Requirements

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

ACTION: Final rule.

SUMMARY: In this final rule, NHTSA changes vehicle identification number and certification requirements for motor vehicles that were not originally manufactured for sale in this country, do not comply with the Federal motor vehicle safety standards, and are imported into the United States by businesses unaffiliated with the original manufacturer. This final rule would make it clear that the importer of such vehicles would be required to use one of the unique coding identifiers that the original manufacturer assigned to the vehicle, in lieu of using the 17-character U.S. vehicle identification number (VIN) required to be placed on vehicles originally manufactured for sale in this country. The direct importer must place the original manufacturer's identifier on a plate that would appear inside the passenger compartment of the motor vehicle, so that the number may be observed through the glazing, and adjacent to the left windshield pillar.

EFFECTIVE DATE: The changes made in this rule become effective December 4, 1989 for vehicles imported after that date.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Rutland, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Mr. Rutland's telephone number is (202) 366-5267.

SUPPLEMENTARY INFORMATION:

Background

Under section 108(b)(3) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1397(b)(3)), a vehicle that does not conform with applicable safety standards may nonetheless enter the United States under "such terms and conditions" as the Secretaries of Transportation and Treasury prescribe. Title 19 CFR 12.80 is a joint Transportation/Treasury regulation setting forth those terms and conditions. Subparagraph (b)(1)(iii) of that regulation requires that a person seeking to bring a nonconforming import (direct import vehicle) into the United States file a declaration that the vehicle

will be modified so as to conform with applicable Federal Motor Vehicle Safety Standards. Among those Standards is 115, *Vehicle Identification Number—Basic Requirements*.

In order to comply with Standard 115 requirements, many direct importers have been applying a "homemade" VIN plate to their imported vehicles. The VINs added by direct importers are so different in appearance from VINs on similar vehicles manufactured for sale in the United States that law enforcement officials have mistaken them for altered VINs. Other concerns presented by these "homemade" VIN plates are identification problems that have been created for insurance investigators and encoding errors that compromise the integrity of the VIN system.

This rulemaking arose when the agency granted a petition submitted by the National Automobile Theft Bureau (NATB or petitioner) to amend Standard 115 to address problems arising when direct importers create a VIN and a VIN plate using an identification number and plate production process other than the ones which the original vehicle manufacturer uses. Among problems noted by the NATB were an increased prospect of encoding errors in a homemade VIN, law enforcement officials mistaking homemade VIN plates for altered plates, and the resulting risk that individuals lawfully possessing direct import vehicles may be subjected to criminal charges.

The petitioner recommended that NHTSA take action to prevent the direct importer from creating its own VIN. In place of its own VIN, the importer would be required to follow one of two alternative means of identifying a vehicle. First, if the original manufacturer had placed any kind of identification number plate in the passenger compartment where Standard 115 would otherwise require a 17-character VIN plate, the importer would retain the original manufacturer's plate as the vehicle's VIN plate. Among the original-manufacturer identification numbers that one might use in place of the United States VIN are the European vehicle identification number (EuroVIN), the World Market vehicle identification number (WorldVIN), the chassis number, or the vehicle serial number. Second, if the original manufacturer had not affixed a plate of the type and in the location described at S4.6 of Standard 115 (49 CFR 571.115), then the importer would be required to affix a plate in that location stating that the vehicle is "partially exempt" from Standard 115. This plate would refer a person to the driver's door post, where the importer

would be required to affix a label with information that cited the joint Transportation/Treasury regulation under which a person directly imports a noncomplying vehicle, identified the location on the vehicle of the original manufacturer's number to be used in lieu of the 17 character VIN, gave the name and address of those bringing the vehicle into compliance with Standard 115, stated the date of importation and of certification, and gave the name and address of the person who made the certification.

Notice of Proposed Rulemaking

In the notice of proposed rulemaking (NPRM) published May 13, 1988 (53 Federal Register 17088), the agency acknowledged the problems with VINS on direct import vehicles and proposed to amend Standard 115 so that a direct importer need not create a VIN or VIN plate in order to comply with United States vehicle identification requirements under Standard 115. NHTSA could not agree that any extant original manufacturer identifier in the S4.6 location would obviate the need for some notice that the vehicle is partially exempt from Standard 115.

The agency believed it would be a relatively simple matter to affix a plate informing an interested person that a vehicle is partially exempt, and refer the person to another label on the door post that would specify the unique identifying number for the vehicle. The agency therefore proposed to require such a plate on any vehicle that did not have the 17-character United States VIN. Because of this proposed approach, the agency believed it was unnecessary to consider NATB's suggestion that a EuroVIN, WorldVIN, chassis, or serial number be exempted from the readability and location requirements in S4.6.

A second way in which NHTSA's proposal varied from the NATB petition was that the agency did not propose to require a lengthy label with a citation to 19 CFR 12.80, and information about the person performing work to bring the vehicle into compliance with Standard 115. The agency proposed instead to require a simplified label that stated where an interested person could find the unique manufacturer identifying number that would be used in lieu of the United States VIN. Further, for consistency, the agency proposed to include labeling requirements under Part 567. It was proposed that paragraph (k) of section 567.4 be deleted and that sections 567.5, 567.6 and 567.7 be redesignated as sections 567.6, 567.7, and 567.8, respectively. Under a new section 567.5 (for the most part former

section 567.4(k)), the language regarding labeling requirements for high theft lines imported into the United States would be retained, with minor changes, as section 567.5(a). The proposed section 567.5(b) outlined a requirement for a label for direct import vehicles that would be affixed in one of three locations. This label would state: "Original Manufacturer's Identification Number Substituting for U.S. VIN is located," and direct the reader to the location on the vehicle where the original manufacturer's identification number, placed by the original manufacturer, could be found.

NHTSA also sought comment, particularly from law enforcement officials, on two issues:

(1) Whether the proposed changes could, in some circumstances, increase the fraudulent use of VINs or impede law enforcement actions. As an example, the agency noted that in certain circumstances, vehicles with the proposed FMVSS 115 exemption label would no longer have a VIN visible through the glazing. NHTSA requested comment on whether this situation would create a law enforcement problem by precluding the inspection of VINs on parked and locked vehicles.

(2) Whether the proposal could lead to improper use of VIN exemption plates (e.g., replacing a legitimate VIN), since, under certain circumstances, it would allow an exemption plate where the VIN would be if it had been a passenger car built for the U.S. market.

The Comments and the Agency Response

The agency received eight responses to the NPRM. Four commenters addressed the first question presented in the NPRM, concerning using an exemption plate in lieu of a VIN or other identification number in the S4.6 location. The Automobile Importers of America, Inc. (AIA), Porsche, the International Association of Auto Theft Investigators (IAATI), and the National Automobile Theft Bureau (NATB) recommended that NHTSA require each vehicle to have an identification number visible from the outside of the vehicle. In response to these comments, the agency has adopted a requirement for a plate or label containing the original manufacturer's identification number in the S4.6 location, with a reference to Standard 115.

The agency believes that this solution addresses the agency's initial concern about the possibility of transcription errors while at the same time maintaining an identification number in the place where law enforcement

officials are accustomed to see it. In cases where the original manufacturer's identification number is in the S4.6 location and does not conform to part 565, the presence of the identifying notice alongside it will serve to inform law enforcement personnel that the vehicle is a direct import vehicle that has been modified to conform to U.S. safety standards. Any transcription errors would be immediately evident, since the number on the identifying notice should be identical to the original number alongside it. Where the original manufacturer's identification is located elsewhere, the identifying notice will provide the number and also alert an investigating officer that the number is a substitute for the number ordinarily required by FMVSS 115.

Further investigation by the agency has not found any evidence indicating that direct importers have been using a 17-character VIN that they have created themselves; conformity bonds are not released if they do. However, they do create another plate using the original manufacturer's identification number that they install behind the windshield, in the S4.6 location. In the interest of clarity and to the extent direct imports have been a problem to theft investigators and other interested parties, the requirement is being amended. Also, in the NPRM, the notice in the S4.6 location was proposed to read: "FMVSS 115 EXEMPT VEHICLE. SEE DRIVER'S SIDE DOOR POST." After reevaluation, the agency has determined that the wording "FMVSS 115 EXEMPT VEHICLE" may imply that direct importers are being exempted from all aspects of FMVSS 115. It is more accurate to state that the original manufacturer's identification number is used as a substitute for a VIN, required by FMVSS 115.

The following language will therefore be required in the final rule:

SUBSTITUTE FOR U.S. VIN:

SEE FMVSS 115.

With this alternative, law enforcement officials would also know that the passenger car in question does not have a U.S. VIN.

The second question raised in the NPRM, whether the proposal would lead to improper use of VIN exemption plates, was addressed by one commenter. The NATB expressed a belief that it would be very important to prevent any VIN exemption plate from being overlaid on the original manufacturer's identifier in the S4.6 position. NATB commented: "Unless there is a specific anti-overlay provision included in FMVSS 115 it is a virtual certainty that organized theft

perpetrators will take advantage of the situation and affix the VIN exemption notice over the location of the legitimate VIN plate." NATB suggested that the notice be required to be affixed in a location other than the location used by the vehicle's original manufacturer for affixing VIN plates in the same or similar vehicle lines. The agency agrees, and has accordingly adopted the following language in the final rule as paragraph S4.9(c) to ensure the original manufacturer's identification number will not be covered, obscured, or overlaid:

(c) The plate or label required by (b) shall be permanently affixed in a location that conforms to S4.6, in such manner as not to cover, obscure, or overlay any part of any identification number affixed by the original manufacturer, and shall conform to S4.7 and S4.8.

Two commenters expressed concern about the lack of a check digit in the original manufacturer's identification number. Besides noting that lack of a check digit could be a problem, AIA cited errors in transcription which are not caught despite a check digit system, resulting in vehicles with incorrect VINs. AIA suggested that the solution to this problem is to ensure that all entries are transcribed correctly, and that all other regulations are complied with.

In noting that original manufacturer's identification numbers from various makes would not have the benefit of a check digit, Porsche asserted that "[t]his lack of a check-digit negates another of the prime features of the current VIN—the ability to rapidly check for transcription mistakes." Although the agency believes that a check-digit is useful in preventing transcription errors, it regards the risk of error from "home made" VINs as significantly greater. It has therefore concluded that the original manufacturer's identification number should be retained by the direct importer.

Besides the comments summarized above, AIA pointed out to the agency that there is no concept of "model year" in Europe. AIA believed that for this reason, "gray market importers cannot possibly discern a model year to put on the label." NHTSA has accepted this comment from AIA. Accordingly, § 567.4(k)(4)(i) has been amended to read: "Model year (if applicable) or year of manufacture, and line of the vehicle as reported by the manufacturer that produced or assembled the vehicle." Also included is a statement that "Model year" is used as defined in § 565.3(h) of this chapter.

IAATI also recommended a separate label that would provide information on

the person who performed the work bringing the vehicle into compliance with Standard 115. The rationale for this recommendation is that it would give an investigator a starting point to trace the vehicle through the person performing the compliance work and back to the original manufacturer. The agency believes it is already requiring enough information, on as many as three labels at the door post or alternate positions, without requiring this information also. In the few instances where law enforcement officers or other investigators need this information, they would obtain information about who did the compliance work by contacting the direct importer or NHTSA.

In addition to the comments recommending specific changes in the final rule, the agency also received several comments from Allstate Insurance Company and the Highway Loss Data Institute in general support of the rulemaking. The National Automobile Dealers Association supported the NHTSA proposal and urged NHTSA "to consider the need to readily and clearly identify these vehicles as being direct imports." They believed that the proposed amendments to the VIN standards would "serve to establish a nationally recognized gray market identifier on each vehicle."

Volkswagen of America, Inc. encouraged NHTSA to "promote enforcement of the safety standards for all vehicles regardless of who the manufacturer or importer may be." They noted that although the proposal would eliminate encoding errors in "homemade" VINs, the same result could be had by enforcement of the existing regulation requiring display of the correct VIN on all vehicles.

The agency is aware that this rule will be more effectual for original manufacturer identifiers utilizing Roman letters or Arabic numerals than for manufacturer identifiers which may be used in countries with non-Roman letters. If the use of non-Roman letters becomes a source of confusion, the agency may undertake further remedial action.

Other Changes in the Final Rule

Redesignation of Sections in Part 567

The NPRM proposed that § 567.4(k) be dropped, that §§ 567.5, 567.6, and 567.7 be redesignated as §§ 567.6, 567.7, and 567.8, respectively, and that a new § 567.5 *Special requirements for motor vehicles admitted under 19 CFR 12.80* be added. Upon reevaluation, the agency has decided that rather than redesignating existing provisions in part

567, and adding new sections with whole paragraphs that are identical to old paragraphs, the same end would be accomplished more simply by adding a new § 567.4(1) (that would require identification on the vehicle of the original manufacturer's number) after § 567.4(k). This new § 567.4(1) is the same in substance as § 567.5(b) in the notice of proposed rulemaking.

High Theft Lines

49 CFR Part 541 requires that 14 major parts of designated passenger motor vehicle lines be marked with Vehicle Identification Numbers, even if the vehicle was not originally manufactured for the U.S. market. FMVSS 115 does not exempt importers of vehicles not manufactured for sale in the U.S. from complying with the parts-marking requirements of 49 CFR Part 541 for the car lines listed in Appendix A to Part 541. As a result of the agency's decision to require retention of the original manufacturer's VIN, the fourteen designated major parts (§ 541.5(a)) must be marked with the original VIN assigned to the car by its original manufacturer. The subject vehicle *must* be in compliance with the theft prevention standard before it is imported into the United States. The markings must be affixed or inscribed in accordance with the target area requirements designated by the manufacturer that is the original producer who installs or assembles the covered major parts on a line.

Section 567.5(k) applies to direct import high theft lines. § 567.5(1) refers to direct import vehicles without 17-character U.S. VINs. Therefore, if there should be high theft lines that are brought to the U.S. by direct importers, they would have to have three labels in the positions in the passenger car designated in § 567.4(c), namely, the certification label required by § 567.4(a), the compliance with Federal motor vehicle theft prevention standard label required by § 567.4(k), and the label designating where the original manufacturer's identification number may be found, as required by § 567.4(1).

Impact Assessments

A. Executive Order 12291

NHTSA has considered costs and other factors associated with this rule, and concludes that this rule is non-major under Executive Order 12291. The agency expects this rule to affect a small segment of the automotive community: those who import nonconforming vehicles into the United States under a promise to bring them into compliance. NHTSA estimates that there will be

fewer than 3000 vehicles imported per year that will be subject to this rule.

The amendment requires a plate or label on the dash in lieu of the 17-character VIN plate the Standard previously required, and a statement informing an interested person where to look for the original manufacturer's unique identifying number that is used in place of the 17 character United States VIN. NHTSA estimates that the per vehicle cost of implementing this amendment will not be significant, i.e., the amount expended by importers for the labels designating where the original manufacturer's identification number may be found, as required by § 567.4(1).

The rule therefore would not have an annual effect on the economy of \$100 million; would not result in a major increase either in motor vehicle production costs or prices; and would not have significant adverse impacts on competition or market incentives.

B. Department of Transportation Procedures for Improving Government Regulations

For the reasons set out in the preceding discussion, the agency has determined that this rule is not significant under DOT procedures. Further, the costs associated with this final rule, would be so minimal that preparation of a full regulatory evaluation is unwarranted.

C. Small Business Impact

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. A substantial number of direct importers are individuals importing cars for their own use. There are small entities in the direct import business. However, NHTSA finds that when this rule goes into effect, it will not create a new net cost increase since under existing regulations, importers must create a plate with a vehicle identification number. Therefore, the final rule should not result in other than nominal costs either to small direct import businesses, or to small entities that may purchase vehicles from any such business. For the preceding reasons, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Environmental Impact

Under the National Environmental Policy Act of 1969, NHTSA has considered the environmental impact of this final rule, and has determined that this final rule would not be a major

Federal action significantly affecting the quality of the human environment.

E. Executive Order 12612

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

F. Paperwork Reduction Act

The information collection requirements in this rule have been submitted to and approved by the Office of Management and Budget (OMB), pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The OMB control number is 2127-0510, and the information collection authority has been approved through November 30, 1991.

List of Subjects

49 CFR Part 567

Labeling, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, title 49 CFR part 567, *Certification*, and 49 CFR part 571, *Federal Motor Vehicle Safety Standards*, are amended as follows:

PART 567—[AMENDED]

1. The authority citation for part 567 is revised to read as follows:

Authority: 15 U.S.C. 1392, 1397, 1401, 1403, and 1407; 15 U.S.C. 1912 and 1915; 15 U.S.C. 2021, 2022, and 2026; delegation of authority at 49 CFR 1.50.

2. Paragraph (k)(4)(i) of § 567.4 is revised to read as follows:

§ 567.4 [Amended]

* * * * *

(k) * * *

(4) * * *

(i) Model year (if applicable) or year of manufacture and line of the vehicle, as reported by the manufacturer that produced or assembled the vehicle. "Model year" is used as defined in § 565.3(h) of this chapter. "Line" is used as defined in § 541.4 of this chapter.

* * * * *

3. A new paragraph (l) is added to § 567.4 as follows:

* * * * *

(l)(1) In the case of a passenger car imported into the United States under 19

CFR 12.80(b)(1)(iii) or 49 CFR part 591 which does not have an identification number that complies with paragraph S4.2, S4.3, and S4.7 of 49 CFR 571.115 at the time of importation, the importer shall permanently affix a label to the vehicle in such a manner that, unless the label is riveted, it cannot be removed without being destroyed or defaced. The label shall be in addition to the label required by paragraph (a) of this section, and shall be affixed to the vehicle in a location specified in paragraph (c) of this section.

(2) The label shall contain the following statement, in the English language, lettered in block capitals and numerals not less than three thirty-seconds of an inch high, with the location on the vehicle of the original manufacturer's identification number provided in the blank: ORIGINAL MANUFACTURER'S IDENTIFICATION NUMBER SUBSTITUTING FOR U.S. VIN IS LOCATED _____

PART 571—[AMENDED]

4. The authority citation for part 571 would continue to read as follows:

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

§ 571.115 [Amended]

5. S.2 is amended by adding the words "or 49 CFR 591" after the words "19 CFR 12.80(b)(1)(iii)."

6. A new paragraph S4.9 is added to § 571.115 to read as follows:

S4.9(a) A passenger car imported into the United States under 19 CFR 12.80(b)(1)(iii) or 49 CFR part 591 shall retain any identification number affixed by the original manufacturer.

(b) A vehicle described in paragraph (a) of this section shall have a plate or label that contains the following statement in characters with a minimum height of 4 mm, with the identification number assigned by the original manufacturer provided in the blank: SUBSTITUTE FOR U.S. VIN: _____ SEE FMVSS 115.

(c) The plate or label required by paragraph (b) of this section shall be permanently affixed in a location that conforms to S4.6, in such manner as not to cover, obscure, or overlay any part of any identification number affixed by the original manufacturer, and shall conform to S4.7 and S4.8.

Issued on: October 26, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.
[FR Doc. 89-25782 Filed 11-1-89; 8:45 am]
BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 87-08; Notice 5]

RIN 2127-AD12

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Final rule.

SUMMARY: This rule establishes a new requirement for lap/shoulder safety belts to be installed in all forward-facing rear outboard seating positions in convertible passenger cars, light trucks and multipurpose passenger vehicles (e.g., passenger vans and utility vehicles), and small buses. Rear-seat lap/shoulder belts are estimated to be even more effective than rear-seat lap-only belts in reducing fatalities and moderate-to-severe injuries. As safety belt use in the rear seat of these vehicle types increases, the greater effectiveness of rear-seat lap/shoulder belts should yield progressively greater safety benefits. NHTSA also anticipates that this rule will achieve benefits by helping to increase safety belt use in rear seating positions of these vehicle types, by providing rear-seat occupants with maximum safety protection when they buckle up.

This rule also establishes a requirement for lap/shoulder belts to be installed at the driver's seat and at any other front outboard seating position in small buses. NHTSA believes that lap/shoulder safety belts in these small buses will offer the same benefits as lap/shoulder belts in those positions offer to occupants of passenger cars, light trucks, and light multipurpose passenger vehicles.

DATES: The amendments of S7.1.1.3 and S7.1.1.5 are effective on September 1, 1991. All the other amendments made by this rule take effect on May 1, 1990. These requirements apply to convertible passenger cars, light trucks, light multipurpose passenger vehicles, and small buses manufactured on or after September 1, 1991. Convertible passenger cars, light trucks, light multipurpose passenger vehicles, and small buses manufactured before September 1, 1991 may also comply with these requirements.

Any petitions for reconsideration of this rule must be received by NHTSA no later than December 4, 1989.

ADDRESS: Any petitions for reconsideration should refer to Docket No. 87-08; Notice 5 and be submitted to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard Strombotne, Chief, Crashworthiness Division, NRM-12, Room 5320, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-366-2264).

SUPPLEMENTARY INFORMATION:

Background

On January 1, 1968, the initial Federal Motor Vehicle Safety Standards took effect. One of those standards was Standard No. 208, Occupant Crash Protection (49 CFR 571.208), which required the installation of lap/shoulder safety belts at the driver's and right front passenger's seating positions of passenger cars, and either lap-only or lap/shoulder safety belts at every other designated seating position. Another of the initial safety standards that took effect on January 1, 1968 was Standard No. 210, Seat Belt Assembly Anchorages (49 CFR 571.210), which specified location and strength requirements for the anchorages used to hold the safety belts to the passenger car during a crash. Standard No. 210 required passenger car manufacturers to provide anchorages for lap/shoulder belts for each forward-facing front and rear outboard seating position in all cars other than convertibles. NHTSA subsequently amended both of these standards to extend their applicability to trucks, multipurpose passenger vehicles (MPVs), and buses. However, when Standard No. 210 was extended to these additional vehicle types, NHTSA did not require the manufacturers to provide upper torso (i.e., shoulder belt) anchorages for rear outboard seating positions in these other vehicle types or in convertible passenger cars.

Studies of occupant protection from 1968 forward show that the lap-only safety belts installed in rear seating positions are effective in reducing the risk of death and injury. See, for example, the studies cited in the ANPRM on this subject; 52 FR 22820, June 16, 1987. However, the agency believes that rear-seat lap/shoulder safety belts would be even more effective. NHTSA estimates that rear-seat lap-only belts reduce the risk of death by 24-40 percent, while rear seat lap/shoulder belts reduce that risk by 32-50 percent. The somewhat greater effectiveness of lap/shoulder belts vs. lap-only belts in the rear seat results in progressively greater actual safety benefits for rear-seat occupants, to the extent that those safety belts are, in fact, used. As recently as 1981-82, only two percent of rear-seat occupants used their safety belts. At that level of belt use, there are very few safety benefits from

requiring rear-seat lap/shoulder belts instead of lap-only belts. However, belt use in the rear seat has steadily risen, with 16 percent of rear seat occupants buckling up in 1987. As rear-seat belt use continues to rise, the incremental benefits of rear-seat lap/shoulder belts can be realized.

The increase in belt use in rear seats was one of the factors reflected in the agency's decision to grant a petition by the Los Angeles Area Child Passenger Safety Association asking NHTSA to establish a requirement for rear-seat lap/shoulder safety belts. After granting this petition, NHTSA published an advance notice of proposed rulemaking (ANPRM) on June 16, 1987 (52 FR 22818). Thirty-four commenters responded to the ANPRM's request for comments on the need for rulemaking action to require lap/shoulder safety belts in rear seating positions.

After considering these comments, NHTSA concluded that several factors had changed since the agency had previously examined this issue and determined that it was appropriate to give vehicle manufacturers the option of installing either lap-only belts or lap/shoulder belts in rear seats. Among the changed factors were the substantial increase in rear seat safety belt use and the substantial decrease in costs of a requirement for rear-seat lap/shoulder belts, because of manufacturers voluntarily equipping more and more of their vehicles with rear seat lap/shoulder belts. After analyzing the effects of these changed factors and the comments on the ANPRM, NHTSA tentatively determined that a requirement for lap/shoulder belts would now be appropriate. Accordingly, NHTSA published a notice of proposed rulemaking (NPRM) on November 29, 1988 (53 FR 47982).

This NPRM was a comprehensive proposal that proposed requirements for passenger cars and light trucks, MPVs, and small buses to be equipped with lap/shoulder safety belts at all forward-facing rear outboard seating positions. Additionally, the NPRM proposed that these lap/shoulder safety belts be equipped with a particular type of retractor, that such belts be integral (i.e., the shoulder belt could not be detachable from the lap belt), and that such belts comply with some of the comfort and convenience requirements specified in section S7.4 of Standard No. 208.

More than 70 comments were received on this NPRM. The issue of whether passenger cars other than convertibles should be equipped with rear seat lap/shoulder belts was straightforward and noncontroversial, with only two

commenters suggesting some modifications of the agency's proposal to require all 1990 and subsequent model year passenger cars to be equipped with rear seat lap/shoulder belts. To ensure the earliest possible implementation of a requirement for rear-seat lap/shoulder belts in passenger cars, on June 14, 1989, NHTSA published a final rule addressing only those vehicles (54 FR 25275). That rule requires rear-seat lap/shoulder belts in all passenger cars manufactured on or after December 11, 1989.

This rule addresses all of the other issues that were presented in the November, 1988 NPRM on this topic. For the convenience of the reader, this rule uses the same organization and format as the NPRM did.

Requirements of this Rule

1. Seating Positions Subject to These Requirements

The NPRM proposed that lap/shoulder belts be required in rear seats at outboard seating positions only. Some commenters suggested that technologies and designs are available to provide lap/shoulder belts at rear center seating positions, and that NHTSA should further examine this issue. The agency explained in the NPRM that there are more technical difficulties associated with any requirement for lap/shoulder belts at center rear seating positions, and that lap/shoulder belts at center rear seating positions would yield small safety benefits and substantially greater costs, given the lower center seat occupancy rate and the more difficult engineering task. Accordingly, this rulemaking excluded further consideration of a requirement for center rear seating positions. None of the commenters presented any new data that would cause the agency to change its tentative conclusion on this subject that was announced in the NPRM.

The NPRM also noted that seating positions adjacent to aisles in some vans might not be "outboard designated seating positions" as defined at 49 CFR 571.3, because those aisle seats could be more than 12 inches from the inside of the vehicle. General Motors (GM) stated its belief that this discussion showed the agency's intent to exclude seats that border aisles from the lap/shoulder belt requirement. GM suggested that the reasons for excluding these seating positions from the lap/shoulder belt requirement were the costs and/or practical difficulties that would be presented if aisleway seating positions were required to be equipped with lap/shoulder belts. Specifically, GM stated

that locating the anchorage for the upper end of the shoulder belt on the aisle side of the vehicle would stretch the shoulder belt across the aisleway and cause entry and exit problems for occupants of seating positions to the rear of the aisleway seating position. To avoid such difficulties, the anchorage for the upper end of the shoulder belt could be moved to the roof of the vehicle. However, roof structural modifications would have to be made to accommodate the anchorage, and these modifications would impose disproportionately high costs. GM stated in its comments that these reasons would apply with equal force to all seats adjacent to aisleways, regardless of whether such seats were more than or less than 12 inches from the inside of the vehicle.

NHTSA has determined that these comments have merit. The agency did not mean to suggest that shoulder belts should be required at seating positions where they would obstruct an aisle designed to give access to rear seating positions. Accordingly, this rule has been modified from the proposal to specify that these rear-seat lap/shoulder belt requirements apply to rear outboard seating positions except any outboard seating positions that are adjacent to a walkway located between the seat and the side of the vehicle to allow access to more rearward seating positions. Of course, in those cases where manufacturers are able to design and install lap/shoulder belts at seating positions adjacent to aisleways without interfering with the aisleway's purpose of allowing access to more rearward seating positions, NHTSA encourages the manufacturers to do so. It should also be noted that those rear seating positions at which lap/shoulder belts are not installed voluntarily or in response to a regulatory requirement are required by Standard No. 208 to be equipped with lap-only safety belts, which have been proven effective in reducing the risk of death and injury.

2. Types of Rear Seats Subject to These Requirements

The NPRM proposed limiting these requirements to forward-facing rear outboard seats, because the agency is unaware of any data showing that occupants of center-facing or rear-facing seating positions would be significantly better protected by lap/shoulder belts than by lap-only belts. The NPRM also referred to an April 8, 1988 letter to Mr. Ohdaira of Isuzu Motors, in which NHTSA stated that S7.1.1 of Standard No. 208 requires safety belts on swivel seats installed at front outboard seating positions to adjust to fit occupants "with

the seat in any position." Because the same regulatory language would apply to swivel seats installed at rear outboard seating positions if the proposal were adopted as a final rule, the NPRM proposed to add express regulatory language to S7.1.1 to codify the interpretation.

Three commenters responded to this discussion in the NPRM. Ford, Nissan, and Toyota raised substantially the same points in their comments. These commenters all suggested that the agency ought to require swivel seats to provide lap/shoulder belts for occupants when the seats are forward-facing, but permit occupants to be restrained by lap-only belts when the swivel seats are adjusted to some position other than forward-facing. These manufacturers argued that the overall protection of upper torso restraints (i.e., shoulder belts) on occupants of center-facing seating positions is unclear. For example, in certain instances, the design standard in Australia prohibits manufacturers from providing upper torso restraints at center-facing seating positions. Further, these manufacturers stated that they knew of no crash data suggesting the need for such a requirement. According to these commenters, the absence of demonstrable safety benefits associated with such a requirement combined with the demonstrable technological problems and costs associated with such a requirement should lead the agency to require only lap belts when swivel seats are adjusted to a position other than forward-facing.

NHTSA was persuaded by these comments. Indeed, as Ford noted in its comments, just as the NPRM stated that no data show that occupants of center-facing or rear-facing seats would be significantly better protected by lap/shoulder belts instead of lap-only belts, no data show that occupants of swivel seats adjusted to the center-facing or rear-facing positions would be significantly better protected by lap/shoulder belts instead of lap-only belts. Accordingly, this final rule adds language to Standard No. 208 that requires swivel seats to provide lap/shoulder belts for occupants when the seat is adjusted to the forward-facing position and permits swivel seats to provide lap-only belts for occupants when the seat is adjusted to some position other than forward-facing. The Ohdaira interpretation is, therefore, overruled to the extent that it is inconsistent with this new language in Standard No. 208.

In its comments, Ford indicated that it would be appropriate for this preamble

to discuss a type of seat Ford is considering installing in future vehicle models. This seat was described as a bench seat that converts from forward-facing to rear-facing. Under the language added to Standard No. 208 by this rule, all seats that can be adjusted to a forward-facing position and some other position, regardless of whether such seats are swivel seats, convertible seats of the sort described in Ford's comment, or any other such seat, must provide lap/shoulder belts when in the forward-facing position and may provide lap-only belts when adjusted to some position other than forward-facing.

3. Vehicle Types Subject to These Requirements

a. Passenger Cars

In the NPRM, the agency proposed to make the requirement for rear seat lap/shoulder belts apply to all passenger cars, including convertibles. As previously discussed, the requirements for passenger cars other than convertibles were published in a June 14, 1989 final rule (54 FR 25275). The NPRM proposed that rear seat lap/shoulder belts be required on convertible passenger cars manufactured on or after September 1, 1991.

In its comments, Volkswagen asked for an additional year of leadtime, until September 1, 1992, before rear seat lap/shoulder belts must be installed in convertible passenger cars. According to this commenter, the convertible version of its Golf model (the Cabriolet) is not currently equipped with rear seat lap/shoulder belts, was not originally designed to accommodate such belts, and will need substantial modifications to its current design if the car is to accommodate such belts.

No change has been made in response to this comment. The NPRM noted that it was more difficult to install rear seat lap/shoulder belts in convertibles than in other passenger cars, but that, in spite of these difficulties, at least three different manufacturers had rear-seat lap/shoulder belts in their 1988 model year convertibles. Accordingly, the agency proposed to require convertible passenger cars to be equipped with rear seat lap/shoulder belts, but to allow two years more leadtime than was proposed for other passenger cars, in recognition of the greater technical difficulties. Volkswagen's comment appears to be that more than two years of additional leadtime is needed to overcome the greater technical difficulties associated with convertibles, although the comment does not include any explanation or analysis of why this is so. A

manufacturer's unsubstantiated desire for additional leadtime is not a sufficient basis for the agency to postpone the proposed September 1, 1991 effective date for rear seat lap/shoulder belts in convertibles. Therefore, this rule adopts the proposed requirement.

b. Light Multipurpose Passenger Vehicles

This vehicle type consists primarily of passenger vans with a seating capacity of 10 persons or less and utility vehicles and other off-road vehicles. None of the commenters suggested any particular problems that a requirement for rear-seat lap/shoulder belts would impose on MPVs in general. Toyota repeated its position that the voluntary installation of rear-seat lap/shoulder belts by manufacturers in all vehicle types made it unnecessary for NHTSA to proceed with this rulemaking. NHTSA responded at length to similar comments by the vehicle manufacturers in the preamble to the NPRM; see 53 FR 47984.

Ford did not object to the proposed general requirement for rear-seat lap/shoulder belts in light MPVs, but asked that open-body type MPVs be excluded from the requirement. Ford explained its comment by stating that its Bronco II utility vehicle has a removable roof over the rear passenger and cargo area. According to Ford's comments, "Because the removable roof on this vehicle extends below the shoulder reference point, it would be impossible to obtain a good shoulder belt fit if the shoulder belt anchorages were to be located on the non-removable side panels of the vehicle." For these reasons, Ford suggested that open-body type MPVs be exempted from these requirements or that the proposed requirements be revised to make clear that rear-seat lap/shoulder belts are not required in open-body type MPVs when the roof is removed.

NHTSA agrees with Ford's assertions that open-body type MPVs present greater technical difficulties for the installation of rear seat lap/shoulder belts than other MPVs or convertible passenger cars. For example, the rear seats are closer to the rear of the vehicle and the rear seats are higher in relation to the vehicle floor and sides in most open body type MPVs than in most convertible passenger cars. The agency concurs with Ford's assertion that these factors tend to make the shoulder belt geometry more difficult in open-body type MPVs. However, the agency does not believe that these factors present insurmountable engineering difficulties. Instead, NHTSA believes that these problems can be solved in a relatively

straightforward manner. While manufacturers cannot use the exact same designs used for convertible passenger cars on open-body type MPVs, the convertible passenger car designs can be modified for use in open-body type MPVs. NHTSA concludes that if it is practicable to offer the increased protection of shoulder belts at rear outboard seating positions, and the added costs are comparable to the costs for other MPVs and convertible passenger cars, there is no reason to exclude open-body type MPVs from the requirement for rear seat lap/shoulder belts in MPVs. Hence, no change has been made to the proposed requirements for MPVs in response to this comment by Ford.

The agency notes that this means that lap/shoulder belts will be required in the rear outboard seats of open-body type MPVs, while lap-only belts will be permitted in front outboard seats of those vehicles. (In practice, however, manufacturers have voluntarily provided front-seat lap/shoulder belts in these vehicles.) NHTSA is in the process of re-examining the occupant protection requirements for the front seating positions in open-body type MPVs and other light trucks and vans, with particular consideration of whether automatic occupant protection should be required in these vehicles. NHTSA will address the discrepancy between the regulatory requirements for front and rear seat occupant protection in open-body type MPVs in the course of that re-examination.

c. Light Trucks and Small Buses

All commenters that addressed the proposed requirements for rear-seat lap/shoulder belts in light trucks supported the proposal. Similarly, no commenters raised any objections to the proposed rear seat lap/shoulder belt requirements in small buses other than school buses. Thus, those proposed requirements are adopted, for the reasons explained in the NPRM.

However, several commenters, primarily school bus manufacturers and operators, objected to the proposed requirements for rear-seat lap/shoulder belts in small school buses. Thomas Built, a school bus manufacturer, questioned the effectiveness of rear-seat lap/shoulder belts in certain small school buses ("body on chassis" buses). The Connecticut Operators of School Transportation Association (COSTA) also questioned the effectiveness of lap/shoulder belts in small school buses, by voicing concerns about how the additional stress on the side walls of a small school bus would affect its compliance with Standard No 221,

School Bus Body Joint Strength (49 CFR 571.221). Thomas Built also raised the issue of different levels of safety protection for passengers on small school buses, with lap/shoulder belts for outboard seating positions and lap-only belts for the inboard seating positions. The National School Transportation Association (NSTA) likewise objected to the different levels of occupant protection that would result if some seating positions were equipped with lap/shoulder belts while others were equipped with lap-only belts. Blue Bird, another school bus manufacturer, raised similar objections, claiming that NHTSA occupant protection standards for school buses are "disorganized and confusing," and suggested that the agency undertake rulemaking to separate the occupant protection requirements for school buses from the occupant protection standards for passenger cars and light trucks. Additionally, Blue Bird argued the requirements proposed in the NPRM would require too many varieties of occupant protection for small school buses.

NHTSA is concerned if Blue Bird or any other school bus manufacturer is having difficulty understanding the occupant protection requirements applicable to the different types of vehicles that can be used to transport school children. A brief summary of those requirements might be helpful. If school systems use a nine or fewer passenger vehicle to transport school children, that vehicle is not a "school bus" for the purposes of the Federal motor vehicle safety standards. Accordingly, that vehicle is not subject to any of the requirements in Standard No. 222, School Bus Passenger Seating and Crash Protection (49 CFR 571.222). Instead, that vehicle would have to comply with the applicable requirements in Standard No. 208. As a result of this rule published today and the agency's previous rulemakings, all front and rear outboard seating positions in nine-passenger light vehicles must be equipped with lap/shoulder safety belts, irrespective of whether the nine-passenger light vehicle is classified as a passenger car, truck, or an MPV.

If the vehicle used to transport school children can accommodate 10 or more passengers, the vehicle is a "school bus" for the purposes of the Federal motor vehicle safety standards. Every vehicle that is a "school bus" must comply with the occupant protection requirements of Standard No. 222. In the case of school buses with a gross vehicle weight rating (GVWR) of more than 10,000 pounds, no

safety belts are required at seating positions other than the driver's seat. Instead, Standard No. 222 sets forth requirements that protect occupants of rear seating positions in large school buses by means of a concept called "compartmentalization." Persons interested in learning more about the concept of compartmentalization and occupant protection in large school buses may wish to review the agency's notice terminating rulemaking to specify installation requirements for voluntarily installed safety belts on large school buses. This notice was published March 22, 1989 at 54 FR 11765.

In the case of school buses with a GVWR of 10,000 pounds or less, Standard No. 222 requires that occupants be protected both by safety belts at seating positions other than the driver's seat and by most of the features of compartmentalization. This double means of occupant protection reflects the more severe "crash pulse" or deceleration experienced by lighter vehicles as compared with heavier vehicles in similar collisions. Section S5(b) of Standard No. 222 requires that small school buses meet the requirements of Standard No. 208 as those requirements apply to MPVs. The provisions of Standard No. 208 currently require MPVs (and small school buses, since the requirements for these two vehicle types are linked) to be equipped with lap/shoulder safety belts at front outboard seats and either lap/shoulder belts or lap-only belts at all other seating positions.

Upon further consideration, NHTSA has determined that the occupant protection requirements for small school buses should be considered separately, not as an aspect of this rulemaking action. In the past, NHTSA has recognized the special importance of issues related to school buses by examining many of those issues in rulemaking actions focused exclusively on school buses, instead of examining those issues as one part of a rulemaking addressing many types of vehicles. This policy has allowed both the agency and the public to consider fully the implications of any proposed action on school bus safety. NHTSA believes it is appropriate to continue following this policy. Accordingly, this rule continues to permit small school buses to be equipped with either lap-only or lap/shoulder safety belts at all rear seating positions, but small school buses must also comply with most of the compartmentalization requirements for large school buses. All other small buses will be required to be equipped with rear-seat lap/shoulder safety belts, but

will not be required to comply with the compartmentalization requirements.

The NPRM acknowledged that small buses other than school buses are not currently required to have lap/shoulder safety belts at front outboard seating positions, even though front seats generally present a more hostile crash environment than rear seats. As noted above, small school buses are subject to the occupant protection requirements for MPVs, and small MPVs have long been required to have lap/shoulder safety belts at front outboard seating positions. No commenters suggested any reasons why front-seat lap/shoulder belts should not be required in small buses, just as they are required in small school buses. This rule adopts such a requirement.

4. Vehicle Types Not Subject to These Requirements

a. Vehicles with a GVWR of More Than 10,000 Pounds

NHTSA has traditionally used GVWRs as dividing lines for the purposes of applying occupant crash protection standards. These groupings reflect the differences in the vehicles' functions and crash responses and exposure. The NPRM proposed to use such a dividing line by limiting the rear seat lap/shoulder belt requirements to vehicles with a GVWR of 10,000 pounds or less. No commenters addressed this issue, and this rule adopts the proposal.

b. Motor Homes

The NPRM proposed to exclude vehicles that are "motor homes" from the rear-seat lap/shoulder belt requirements, because lap/shoulder belts at rear seating positions might interfere with the residential purposes of those seats and because the agency had no evidence of significant potential benefits from lap/shoulder belts, instead of the currently permitted option for lap/shoulder or lap-only belts, at these seating positions. The NPRM also proposed a specific definition of "motor home." These proposed requirements are adopted in this rule.

5. Retractor Types Required for Rear Seat Lap/Shoulder Belts

Retractors at driver's seat in small buses. The NPRM proposed to require that the lap/shoulder belt assembly installed at the driver's seating position of small buses include an anti-cinch automatic locking retractor (ALR) on the lap belt portion. Both Ford and Chrysler objected to this proposed requirement, stating that it would preclude the use of the continuous loop lap/shoulder belt system in small buses. The continuous loop system, currently used on most

manual lap/shoulder belt systems in passenger cars, uses a single emergency locking retractor (ELR) on one end of the belt system and the other end of the belt system is fixed. The ELR then retracts both the lap and shoulder belt portions of the belt system. Ford and Chrysler each commented that they currently use a continuous loop system for the lap/shoulder belts that they voluntarily install at the front outboard seating positions of their small buses, and that they knew of no safety justification for a requirement that would prohibit the use of continuous loop system in small buses, as the proposed requirement for an ALR for the lap belt would have the effect of doing. NHTSA was persuaded by these comments. This rule has been amended to permit the belt systems at front outboard seating positions in small buses to be equipped with either an ELR or an anti-cinch ALR for the lap belt portion.

Retractors for rear seats and child safety seats. The NPRM contained a detailed discussion of the agency's previous statements on this subject, and repeated the agency's previous conclusion that only ELRs should be permitted as the retractor for the lap belt portion of the lap/shoulder belt system. See 53 FR 47987-47989; November 29, 1988. The agency's conclusion was based on the fact that ELRs for the lap belt made the belt system more comfortable and convenient for adult occupants, thereby tending to increase use of the belt system. Although active children can make some child restraint systems unstable if the child restraint is secured by a lap belt that incorporates an ELR, NHTSA knew of no data to show that this potential instability would affect the safety performance of the child restraint in motor vehicle crashes. Those parents that wanted to eliminate the potential instability of child restraints, even if the instability did not have any demonstrable effect on safety, could purchase locking clips. These locking clips can prevent movement of belts equipped with an ELR.

NHTSA received many comments on this discussion and the accompanying proposal. Many pediatricians and other medical professionals, as well as advocates of child safety, associations representing the insurance industry, and manufacturers of child safety seats, commented that it was important that the belt system in the vehicle be capable of tightly securing a child seat, without resort to any additional hardware like locking clips. The commenters suggested differing means of achieving this end. Some of these commenters advocated that this rule should specify the use of

only ALRs in the lap belt portion, because ALRs automatically tighten down to secure the child seat. Other of these commenters, such as the Los Angeles Area Child Passenger Safety Association, urged the agency to draft this rule to require the use of convertible retractors similar to those installed in some General Motors vehicles. These convertible retractors function as ELRs normally, to ensure comfort for adult occupants. When the belt webbing is fully extended, however, the retractors convert to ALRs, to tightly secure child seats. Other of these commenters suggested that the agency could ensure that these rear-seat lap/shoulder belt systems would tightly secure child seats by following the course of action being considered for recommendation by a Society of Automotive Engineers (SAE) Task Force. That task force may recommend that safety belts which incorporate ELRs in the lap belt or lap belt portion of a belt assembly shall include a means for locking the lap belt when it is used with a child seat. Instead of specifying the use of some specific technology, like ALRs or convertible retractors, this approach sets forth the desired goal and permits manufacturers to use any available technology to achieve that goal.

Some of the vehicle manufacturers, such as Nissan and Toyota, believe that there is no need for any further requirements. According to these commenters, any persons wishing to secure a child seat at a seating position whose lap belt is equipped with an ELR can cause the retractor to perform like an ALR simply by using a locking clip. Volvo commented that the agency ought to permit the use of a continuous loop lap/shoulder belt. Volvo asserted that its design of the continuous loop system uses friction at the loop in the buckle to achieve an effect similar to that which would be obtained by using a locking clip. In Volvo's opinion, this lap/shoulder belt system is the best means of both securing child safety seats and ensuring comfort for other occupants of the belt system. Chrysler commented that it was considering modifications to the buckle latchplate as a means of accomplishing the same effect as would locking clips for its belt assemblies equipped with ELRs.

NHTSA has reached the following conclusions after reexamining the available information in light of these comments. Nothing in these comments or the available information shows that low-speed movement of child safety seats actually reduces to any significant extent the effectiveness of those seats in crashes. However, the low-speed

movement of child safety seats held by lap belts that use an ELR seems to have given rise to questions and concerns about the safety and effectiveness of child seats when used with a belt that incorporates an ELR. Even if these questions and concerns have not been substantiated, the public may not be as likely to use child safety seats if there are perceived questions about the effectiveness of those seats. NHTSA has concluded that it is appropriate to take action to remove these perceived questions, so as to maintain public trust and confidence in the efficacy of child seats.

The agency was persuaded by the comments asserting that it would be unnecessarily restrictive to require the use of ALRs on the lap belt portion of rear seat lap/shoulder belts, because there are design features other than incorporating an ALR that are as effective in ensuring that the belt system can tightly secure a child safety seat and because such a feature could reduce safety belt use by adult occupants. NHTSA has devised an approach in this final rule that will ensure comfort for adult occupants and tight securing of child safety seats. First, this rule requires that any lap belt or lap belt portion of a lap/shoulder belt installed at an outboard designated seating position in compliance with Standard No. 208 shall be equipped with an ELR. This requirement will take effect on September 1, 1991 for passenger cars, as well as the vehicle types addressed in this rule.

Second, this final rule requires that safety belts that incorporate an ELR in the lap belt or lap belt portion of a lap/shoulder belt shall provide some means other than an external device that requires manual attachment or activation that will prevent any further webbing from spooling out until that means is released or deactivated. This requirement will also take effect on September 1, 1991 for passenger cars and the vehicle types addressed in this rule. The purpose of this requirement is to ensure that child safety seats can be tightly secured. This requirement will not allow vehicle manufacturers to provide "locking clips" to comply with this requirement. However, any means that can function without additional manual actions can satisfy this requirement. For instance, the convertible retractors on some GM vehicles would comply with this requirement. Additionally, devices like Volvo's are acceptable if those devices do not require any further manual actions to prevent webbing spool out. This approach is intended to allow

vehicle manufacturers the freedom to choose whatever approach they prefer to prevent webbing spool out for ELRs, while ensuring that whatever approach is chosen will be effective.

6. The Requirements With Which Rear Seat Lap/Shoulder Belts Must Comply

The NPRM did not propose to require any crash testing requirements for rear-seat lap/shoulder belts, for several reasons. First, neither dummy positioning procedures nor testing procedures for rear seat occupants have yet been developed. In fact, the rear seats are generally removed from vehicles when conducting compliance testing for occupant protection for the front seating positions, to allow the specified weight distribution to be more easily achieved and to permit the installation of additional instrumentation. Second, the rear seating positions offer a generally more benign crash environment than the front seating positions. Accordingly, the agency concluded that it could not justify delaying a proposal for rear-seat lap/shoulder belts until it was able to propose a requirement for dynamic testing of those safety belts. Several commenters stated that they agreed with the agency's decision not to delay this rulemaking, but suggested that the agency ought to move expeditiously to establish crash testing requirements for rear seat occupants. NHTSA will consider these comments when it establishes its priorities for future activities in the area of occupant protection.

As an adjunct to the decision not to require crash testing of rear-seat lap/shoulder belts, the agency proposed to require that rear-seat lap/shoulder belts be integral. Section S4.1.2.3.1 of Standard No. 208 specifies that manual safety belts installed at front outboard seating positions must be either (a) integral lap/shoulder belts or (b) crash-tested lap-only belts such that the car complies with the occupant protection requirements with test dummies restrained only by the lap belts. However, since the agency cannot at this time promulgate any crash testing requirements for rear-seat safety belts, NHTSA believes it is appropriate to require that rear-seat lap/shoulder belts installed in compliance with this rule be integral; i.e., the lap belt must not be detachable from the shoulder belt.

Several commenters suggested that the requirement for integral lap/shoulder belts should not apply to certain types of seats or vehicles, because of special difficulties posed for those seats or vehicles. In response to these comments, NHTSA has carefully

reexamined its proposal to require that all rear seat lap/shoulder belts installed in compliance with this rule be integral. The agency prefers to retain the proposed requirement, for the same reasons that the requirement was proposed. That is, to the extent that the lap belt is detachable from the shoulder belt and the lap belt is used without the shoulder belt, the enhanced safety protection offered by lap/shoulder belts will not be achieved. The agency's responses to the comments suggesting that there are some seating positions or vehicles in which rear outboard lap/shoulder belts should not be required to be integral are as follows:

a. *Convertible Passenger Cars.* ASC, Inc., a company that converts hardtops into convertibles, commented that it did not believe that rear-seat lap/shoulder belts installed in convertibles should be required to be integral. According to ASC's comments, a detachable shoulder belt that is not buckled would still offer the occupant the protection of the lap-only belt. While this comment is true, the purpose of this rulemaking is to ensure that rear-seat occupants will enjoy even greater safety protection than is afforded by lap-only belts. Detachable shoulder belts would not serve this purpose.

ASC's comment then asserted that "the detachability feature is essential for ASC to continue to manufacture at a competitive price a majority of its present convertible production which is already equipped with three point lap-shoulder safety belts." Accordingly, ASC believed that a requirement for integral rear-seat lap/shoulder belts would have a "significant negative impact on its business." The agency has previously stated that it is typically more difficult to install rear-seat lap/shoulder belts in convertibles than in sedans or coupes. However, the 1988 convertible models produced by BMW, Mercedes-Benz, and Saab were all equipped with integral lap/shoulder belts at rear outboard seating positions. These voluntary actions by convertible manufacturers showed that the technical difficulties associated with integral rear seat lap/shoulder belts in convertibles can be overcome. It may well cost ASC, Inc. or other converters more to equip a convertible with integral rear-seat lap/shoulder belts than it would cost a high volume manufacturer. However, ASC provided no data or cost estimates that would permit the agency to estimate the cost differential for rear-seat lap/shoulder belts installed by high volume manufacturers and converters. Based on the available information, NHTSA concludes that it is unlikely that any

such cost differential would have more than an insignificant effect on the demand for convertibles produced by converters.

NHTSA repeats its previous acknowledgements that that it will cost manufacturers more to equip convertibles with integral rear seat lap/shoulder belts than it will cost to equip sedans and coupes with those safety belts. In its comments, Volkswagen stated that it would have to incur tooling costs of \$1.2 million to install integral rear-seat lap/shoulder belts in its convertibles, with variable costs of an additional \$60 per vehicle to install integral lap/shoulder belts instead of lap-only belts. NHTSA estimates that these costs would result in a consumer cost increase of \$90 per vehicle. Even accepting these costs as accurate, NHTSA does not believe that a \$90 cost increase for convertibles, which already cost substantially more than the hardtop version of the same vehicle, will have any significant negative impacts on the demand for convertibles, even those produced by converters.

To the extent that these costs result in some relatively minor economic impacts, the agency concludes that those costs and impacts are reasonable. The occupants of rear seating positions in convertibles are exposed to at least the same degree of risk of death and injury in a motor vehicle crash as occupants of rear seating positions in other light vehicles. In these circumstances, NHTSA has concluded it is appropriate to provide those occupants with the same amount of safety protection. Therefore, a requirement that convertible passenger cars manufactured on or after September 1, 1991 be equipped with integral lap/shoulder belts at rear outboard seating positions is adopted as proposed.

Fiat filed comments on behalf of Ferrari to the effect that it was possible to comply with the requirement for integral lap/shoulder belts for convertibles that were designed to include those safety belt systems. However, Fiat asserted that the steps needed to modify an existing convertible design to accept the upper anchorages for rear seat lap/shoulder belts "would be financially intolerable." Fiat asked that this final rule be structured to provide an exemption for at least two years for existing convertible designs "which cannot be made to comply without extreme economic and technical hardships." NHTSA has not done so. Section 123 of the Safety Act (15 U.S.C. 1410) and 49 CFR part 555 set forth procedures for obtaining temporary

exemptions from any of the generally applicable requirements set forth in the safety standards. If Fiat is statutorily eligible for such an exemption and can make the requisite showings, it can obtain the temporary exemption it seeks in accordance with those statutory and regulatory requirements.

b. *Readily Removable Seats.* In the NPRM for this rule, the agency summarized Ford's comment to the ANPRM asserting that lap/shoulder belts installed for readily removable seats should be permitted to be nonintegral, since that would be more convenient for persons using the vehicle especially with the seats removed. NHTSA concurred with this assertion, but noted that permitting detachable shoulder belts would result in lower usage of the shoulder belts and lower safety benefits for this rule. The agency suggested that manufacturers are capable of designing an integral lap/shoulder belt system that is nearly as convenient as safety belt systems with nonintegral shoulder belts. The NPRM suggested: "For instance, a shoulder belt that is readily detachable at the anchorage could be used for the outboard seating positions." 53 FR 47990, November 29, 1988.

Both Ford and GM suggested in their comments that permitting belts to be detachable at the upper anchorage would ease the problems of providing integral lap/shoulder belts at outboard seating positions of readily removable seats. However, both these commenters also stated that a March 1, 1985 interpretation letter from NHTSA's Chief Counsel to Mr. Hiroshi Shimizu of Tokai Rika Co. appeared to state that the provisions of Standard No. 208 forbid the use of a lap/shoulder safety belt that is detachable at the upper anchorage.

Mr. Shimizu provided a diagram with his letter that illustrated the safety belt design in question. This diagram showed two reasons why this design would not comply with the requirements of Standard No. 208. First, because of the location of the retractor and the separate buckles for the lap and shoulder belt portions of this belt system, an occupant could release the shoulder belt buckle and use this system solely as a lap belt with no dangling shoulder belt webbing to alert the occupant to the need to fasten the shoulder belt buckle. Alternatively, an occupant could release the lap belt buckle and use the system solely as a shoulder belt with no dangling webbing to alert the occupant to the need to fasten the lap belt buckle. NHTSA stated that this design would not satisfy

the requirement in S4.1.2.3.1 and S4.2.2 of Standard No. 208 that nondetachable shoulder belts be provided on some belt assemblies.

Second, section S7.2 of Standard No. 208 requires that the latch mechanism of seat belt assemblies shall release both the lap and shoulder belt simultaneously and release at a single point by a pushbutton action. When both the lap and shoulder belt portions of Mr. Shimizu's design were buckled, the occupant would have to release both buckles to get out of the belt system. Hence, this belt system could not comply with Standard No. 208 because the release from the lap and shoulder belt would not be simultaneous, nor would it be at a single point.

NHTSA does not believe that the Shimizu interpretation forecloses all safety belt system designs that detach at the upper anchorage. The language of section S7.2 plainly requires that any such safety belt system must use a single, pushbutton buckle that releases the occupant from the lap belt and shoulder belt simultaneously. There is nothing inherent in the design of a safety belt system detachable at the upper anchorage that makes it impossible to comply with these requirements. Similarly, a shoulder belt could be detachable at the upper anchorage without incorporating an additional point at which the belt could be released by the seat occupant, such as the buckle in Mr. Shimizu's design. For example, manufacturers could install some type of spring operated "dog leash" device that would not be equipped with a push button release mechanism. By a "dog leash" device, NHTSA is referring to a device that does not use any form of push button release. Such devices rely on other actions such as a slide button or slide collar to mechanically uncouple the belt system from the upper anchorage. Such a design would not be prohibited by Standard No. 208 nor anything in the Shimizu interpretation. To make this more clear, this rule adopts language in Standard No. 208 expressly stating that vehicles with readily removable rear seats may use a shoulder belt that detaches at the upper anchorage point to meet the requirements for an integral rear-seat lap/shoulder belt.

c. *Swivel seats.* As previously noted, swivel seats and other seats that can be adjusted to be forward-facing and to face some other direction will be required to provide lap/shoulder belts only when in the forward-facing position and may provide lap-only belts when adjusted to face other directions. The agency had to consider the question of

what requirements should be specified for the detachable shoulder belt. NHTSA could have required those belts to be detachable at the upper anchorage point, by establishing requirements such as were established for readily removable seats. However, that would have left the occupant of the swivel seat with webbing in his or her lap every time the occupant adjusted the seat to some position other than forward-facing. The shoulder belt webbing could become soiled, so that the occupant of the swivel seat would not use either the lap belt alone or the belt as a lap/shoulder belt.

To prevent this, NHTSA has decided that seats that adjust to be forward-facing and to face in some other direction are the only rear outboard seating positions that will not be required to be equipped with integral lap/shoulder belts. Instead, those seating positions may be equipped with a shoulder belt that is detachable at the latchplate.

However, this rule establishes an additional requirement that any such non-integral shoulder belt portion be equipped with an ELR, so that the shoulder belt portion will be available for use by all occupants of the seat in its retracted position, and will be less likely to become soiled. This will ensure that those occupants of adjustable seating positions that want the added protection of a lap/shoulder belt in these seating positions will have that protection.

The agency acknowledges that this requirement is likely to result in lower shoulder belt use at these seating positions than at other rear outboard seating positions. However, the agency concludes that belt use at these adjustable seating positions would be lower still if the agency were to require that the lap/shoulder belts be integral and the shoulder belt webbing were in the occupant's lap or on the floor of the vehicle. On balance, the agency concludes that the interests of occupants of adjustable rear seating positions will be best served by permitting the shoulder belt portion of the lap/shoulder belt system to be detachable at the buckle, i.e., non-integral, while including a requirement for a shoulder belt retractor so that a lap/shoulder belt will always be available for those persons.

7. Comfort and Convenience

The NPRM stated that compliance with the provisions in S7.4.2(a), S7.4.3, S7.4.4, and S7.4.5 of Standard No. 208 is determined with reference to a test dummy for the front seating positions. As noted above, there are no dummy positioning procedures for the rear seating positions, so the agency cannot

determine compliance with the comfort and convenience provisions with reference to a test dummy. Additionally, the NPRM announced that the agency has not yet developed any alternative surrogate measurements for comfort and convenience in rear seating positions. As was the case with crash testing requirements discussed above, NHTSA did not believe it would be appropriate to delay this rulemaking to allow the agency to develop a full set of comfort and convenience requirements.

NHTSA noted that the requirements in S7.4.6 for seat belt guides and hardware would apply to rear-seat lap/shoulder belts without proposing any changes to accomplish that. No commenters objected to this result, so safety belts installed in compliance with this rule are subject to those requirements.

The remaining issue in this area concerned tension-relieving devices on rear-seat lap/shoulder belts. In the NPRM, the agency expressed its tentative conclusion that the same considerations should apply to rear seating positions with tension-relieving devices on safety belts as already apply to front seating positions with tension-relieving devices on the safety belts. That is, tension-relieving devices are permitted to be installed on front seat safety belts if vehicles that have tension-relieving devices at those seating positions comply with certain special conditions intended to reduce the likelihood of misuse of the tension-relieving devices. Those special conditions are set forth in S7.4.2 as follows:

1. The vehicle owner's manual must include an explanation of how the tension-relieving device works and recommend a maximum amount of slack that should be introduced into the belt under normal circumstances (S7.4.2(b));
2. The vehicle must comply with the injury criteria specified in S5.1 of Standard No. 208 during a barrier crash test with the shoulder belt webbing adjusted to introduce the maximum amount of slack recommended by the manufacturer (S7.4.2(a)); and
3. The vehicle must have an automatic means to cancel any shoulder belt slack introduced into the belt system by a tension-relieving device (S7.4.2(c)).

The NPRM explained that the second requirement listed above could not be applied to rear-seat lap/shoulder belts, because the agency could not develop dynamic testing procedures for the rear seating positions at this time. However, the notice proposed to apply the other two requirements listed above to rear-seat lap/shoulder belts equipped with tension-relieving devices.

None of the commenters addressed the proposal to require the vehicle

owner's manual to include an explanation of how the tension-relieving device works and a recommendation of the maximum amount of slack to be introduced into the safety belt. Hence, that requirement is adopted as proposed, for the reasons explained in the NPRM.

In its comments, GM objected to the proposed requirement for automatic cancellation of slack. GM indicated that automatic cancellation of slack in front-seat lap/shoulder belts is accomplished by either of two means. If the retractor is mounted on the floor or on the pillar near the adjacent door, the manufacturer generally uses a simple cable, which operates when the door is opened to cancel the slack. If there are dual spool retractors on the safety belt system, a simple mechanical device triggered by retraction of the lap belt is used to cancel the slack in the shoulder belt. According to GM, "cable routing concerns" make it difficult to use a cable and the current size of dual spool retractors precludes the use of that technology in rear seating positions. This comment concluded by alleging that only "complex, expensive mechanisms" could be used for slack cancellation in rear seating positions. Ford also suggested in its comments that it would be very complex to develop an automatic means for slack cancellation. Ford stated that all of its slack cancellation mechanisms are activated by opening the adjacent door. Ford also stated that electric slack cancellation mechanisms would be impracticable for rear-seat lap/shoulder belts.

In response to these comments, NHTSA has reexamined its proposal. That proposal was that slack be automatically cancelled either when the belt is unbuckled or when the adjacent door is opened. Although not expressly stated by either GM or Ford, the manufacturers' concern appears to be that there is no adjacent door for rear seating positions in many of the vehicles that will be subject to these requirements. The effect of the proposal, then, would be to force manufacturers that chose to install tension-relieving devices in rear-seat lap/shoulder belts for passenger vans, extended cab pickups, and the like, to cancel the slack every time the latchplate was unbuckled, because there is no door adjacent to those seating positions.

The agency did not intend such a result. Instead, the agency's intent was to permit the slack to be cancelled either every time the latchplate was unbuckled or each time the door is opened that is designed to allow the occupant of the seating position in question entry and egress to and from the seat. Thus, if a

passenger van has a sliding door on the right side of the vehicle that is designed as the means of entry and egress for all rear seat passengers, slack for rear-seat lap/shoulder belts in that van must be cancelled either when that sliding door is opened or when the belt latchplate is unbuckled. Similarly, if a two-door convertible has tension-relieving devices for its rear-seat lap/shoulder belts, slack in the rear-seat lap/shoulder belts must be cancelled either when the latchplate is unbuckled or when the door is opened on the same side of the vehicle as the rear outboard seating position.

This approach will permit manufacturers to use, with appropriate modifications, the same slack cancellation mechanism that is activated by the opening of an adjacent door in seating positions that are not immediately adjacent to the door. The agency is not aware of any reasons why cable routing concerns would present any insuperable difficulties for slack cancellation for rear seat lap/shoulder belt systems that are not adjacent to a door. Accordingly, S7.4.2(c) of Standard No. 208 has been amended to provide that slack must be cancelled automatically either when the latchplate is unbuckled or when the door that is designed to provide entry and egress for that seating position is opened.

Both Ford and GM also commented that there was no safety need for automatic cancellation of slack in rear-seat lap/shoulder belts. GM stated that it was not aware of any data showing a safety need for automatic slack cancellation. Ford commented that there was no possibility of safety belts getting tangled in the door when there was no door adjacent to the seating position at which the tension-relieving device is installed.

NHTSA has previously explained the safety need for automatic slack cancellation in belts equipped with tension-relieving devices. Persons interested in reviewing those discussions may examine 50 FR 14580; April 12, 1985 and 54 FR 29047; July 11, 1989. Ford and GM did not raise any new arguments that have not already been considered and rejected by the agency. Accordingly, this rule incorporates a requirement for automatic slack cancellation. NHTSA notes that it is currently reviewing a petition that asks the agency to prohibit tension-relieving devices altogether.

8. Relationship of This Rule to Standard No. 210

As noted in the NPRM, section S4.1.1 of Standard No. 210 provides that seat belt anchorages for a Type 2 seat belt

assembly (lap/shoulder belt) shall be installed for each forward-facing outboard designated seating position in passenger cars other than convertibles, and for each designated seating position for which a Type 2 seat belt assembly is required by Standard No. 208 in vehicles other than passenger cars. The NPRM proposed to delete Standard No. 210's exemption for convertibles, because the agency was proposing to amend Standard No. 208 to require rear-seat lap/shoulder belts in convertibles. Obviously, there would be lesser benefits from requiring rear-seat lap/shoulder belts in convertibles if those lap/shoulder belts are not required to be effectively anchored to the vehicle. No commenter objected to this proposal, so it is adopted as proposed.

No amendment is needed to ensure that the rear-seat lap/shoulder belts required in other vehicle types covered by this rule will be effectively anchored to the vehicle. As explained above, the existing language of S4.1.1 of Standard No. 210 automatically requires anchorages for lap/shoulder belts to be provided at seating positions required by Standard No. 208 to have lap/shoulder belts.

9. Timing for Applying These New Requirements

Some of the requirements specified in this rule apply to both the vehicle types addressed exclusively in this rule (convertible passenger cars, light trucks, MPVs, and small buses) and to the vehicle type previously addressed in NHTSA's June 14, 1989 final rule (passenger cars other than convertibles). These requirements include the types of retractors that can be installed on rear-seat lap/shoulder belts and special performance requirements for tension-relieving devices installed on rear seat-lap/shoulder belts.

The NPRM proposed that these general requirements, as well as the new requirement that rear-seat lap/shoulder belts be installed, apply to the vehicle types addressed exclusively in this rule for all such vehicles manufactured on or after September 1, 1991. None of the commenters has provided any evidence demonstrating that amount of leadtime would be inadequate. Accordingly, the requirements in this rule will apply to convertible passenger cars, light trucks, MPVs, and small buses as of September 1, 1991, as was proposed. Earlier compliance is also permitted and encouraged.

With respect to passenger cars, the June 14, 1989 final rule established certain general requirements applicable to cars manufactured on or after September 1, 1990. These general

requirements included a requirement that rear-seat lap/shoulder belts be integral and that the upper anchorage for the rear-seat lap/shoulder belt comply with the location requirements of Standard No. 210. The general requirements of this rule for rear-seat lap/shoulder belts (retractor type and special requirements for tension-relieving devices) will apply on or after September 1, 1991, the same date as the other requirements mandated by this rule take effect. The general requirements of this rule will require greater changes, and thus longer leadtime, than the general requirements announced in the June 14, 1989 rule. Accordingly, passenger cars manufactured on or after September 1, 1991 must comply with the retractor type and tension-relieving device requirements set forth in this rule.

Economic and Other Impacts of This Rule

NHTSA has analyzed this rule and determined that it is not major within the meaning of Executive Order 12291, but that it is significant within the meaning of the Department of Transportation regulatory policies and procedures because of the public interest in this rule. Because the rule is significant, NHTSA has prepared a Final Regulatory Evaluation (FRE), and a copy of the FRE has been placed in the docket for this rulemaking action. A copy of the FRE may be obtained by writing to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW., Washington, DC 20590.

Additionally, the agency has analyzed the effects of this rule on small entities, in accordance with the Regulatory Flexibility Act. Based on this analysis, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. To the extent that any vehicle manufacturers qualify as small entities, their number would not be substantial. These requirements will not affect the manufacturing process of any safety belt manufacturers that are small entities, nor will it significantly affect the retail price of vehicles purchased by any small organizations or small governmental units.

The agency has also analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant effect on the human environment.

This rule has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that this rule does not have sufficient

federalism implications to warrant the preparation of a Federalism Assessment.

As noted in the NPRM, the requirements for vehicle owner's manuals to include information about tension-relieving devices on rear seat lap/shoulder belts are information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. Pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the information collection requirements in this rule have been submitted to and approved by OMB. The approval number is OMB #2127-0541, and the approval is valid through March 31, 1992.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

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

PART 571—[AMENDED]

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

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

571.208 [Amended]

2. S4.1.4 of Standard No. 208 is revised to read as follows:

S4.1.4 *Passenger cars manufactured on or after September 1, 1989.*

S4.1.4.1 Except as provided in S4.1.4.2, each passenger car manufactured on or after September 1, 1989 shall comply with the requirements of S4.1.2.1. Any passenger car manufactured on or after September 1, 1989 and before September 1, 1993 whose driver's designated seating position complies with the requirements of S4.1.2.1(a) by means not including any type of seat belt and whose right front designated seating position is equipped with a manual Type 2 seat belt so that the seating position complies with the occupant crash protection requirements of S5.1, with the Type 2 seat belt assembly adjusted in accordance with S7.4.2, shall be counted as a vehicle complying with S4.1.2.1. A vehicle shall not be deemed to be in noncompliance with this standard if its manufacturer establishes that it did not know in the exercise of due care that such vehicle is not in conformity with this standard.

S4.1.4.2 (a) Each passenger car, other than a convertible, manufactured before December 11, 1989 may be equipped with, and each passenger car, other than a convertible, manufactured on or after December 11, 1989 and before September 1, 1990 shall be equipped

with a Type 2 seat belt assembly at every forward-facing rear outboard designated seating position. Type 2 seat belt assemblies installed pursuant to this provision shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1.1 of this standard.

(b) Except as provided in S4.1.4.2.1, each passenger car other than a convertible manufactured on or after September 1, 1990 and each convertible passenger car manufactured on or after September 1, 1991 shall be equipped with an integral Type 2 seat belt assembly at every forward-facing rear outboard designated seating position. Type 2 seat belt assemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

S4.1.4.2.1 Any rear outboard designated seating position with a seat that can be adjusted to be forward-facing and to face some other direction shall either:

(i) Meet the requirements of S4.1.4.2 with the seat in any position in which it can be occupied while the vehicle is in motion; or

(ii) When the seat is in its forward-facing position, have a Type 2 seat belt assembly with an upper torso restraint that conforms to S7.1 and S7.2 of this standard and that adjusts by means of an emergency locking retractor that conforms with Standard No. 209 (49 CFR 571.209), which upper torso restraint may be detachable at the buckle, and, when the seat is in any position in which it can be occupied while the vehicle is in motion, have a Type 1 seat belt or the pelvic portion of a Type 2 seat belt assembly that conforms to S7.1 and S7.2 of this standard.

S4.1.4.2.2 Any rear outboard designated seating position with a readily removable seat (that is, a seat designed to be easily removed and replaced by means installed by the manufacturer for that purpose) shall meet the requirements of S4.1.4.2 and may use an upper torso belt that detaches, at the upper anchorage point to meet those requirements.

3. A new S4.2.4 is added to Standard No. 208, to read as follows:

S4.2.4 *Trucks and multipurpose passenger vehicles manufactured on or after September 1, 1991 with a GVWR of*

10,000 pounds or less. Except as provided in S4.2.4.2, each truck and each multipurpose passenger vehicle, except a motor home, manufactured on or after September 1, 1991 that has a gross vehicle weight rating of 10,000 pounds or less shall be equipped with an integral Type 2 seat belt assembly at every forward-facing rear outboard designated seating position. Type 2 seat belt assemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

S4.2.4.1 As used in this section—

(a) *Motor home* means a motor vehicle with motive power that is designed to provide temporary residential accommodations, as evidenced by the presence of at least four of the following facilities: cooking; refrigeration or ice box; self-contained toilet; heating and/or air conditioning; a potable water supply system including a faucet and a sink; and a separate 110-125 volt electrical power supply and/or an LP gas supply.

(b) *Rear outboard designated seating position* means any "outboard designated seating position" (as that term is defined at 49 CFR 571.3) that is rearward of the front seat(s), except any designated seating positions adjacent to a walkway located between the seat and the side of the vehicle, which walkway is designed to allow access to more rearward seating positions.

S4.2.4.2 Any rear outboard designated seating position with a seat that can be adjusted to be forward-facing and to face some other direction shall either:

(i) Meet the requirements of S4.2.4 with the seat in any position in which it can be occupied while the vehicle is in motion; or

(ii) When the seat is in its forward-facing position, have a Type 2 seat belt assembly with an upper torso restraint that conforms to S7.1 and S7.2 of this standard and that adjusts by means of an emergency locking retractor that conforms with Standard No. 209 (49 CFR 571.209), which upper torso restraint may be detachable at the buckle, and, when the seat is in any position in which it can be occupied while the vehicle is in motion, have a Type 1 seat belt or the pelvic portion of a Type 2

seat belt assembly that conforms to S7.1 and S7.2 of this standard.

S4.2.4.3 Any rear outboard designated seating position with a readily removable seat (that is, a seat designed to be easily removed and replaced by means installed by the manufacturer for that purpose) shall meet the requirements of S4.2.4, and may use an upper torso belt that detaches at the upper anchorage point to meet those requirements.

4. A new S4.4.3 is added to Standard No. 208, to read as follows:

S4.4 Buses.

S4.4.3 Buses manufactured on or after September 1, 1991.

S4.4.3.1 Each bus with a gross vehicle weight rating of more than 10,000 pounds shall comply with the requirements S4.4.2.1 or S4.4.2.2.

S4.4.3.2 Except as provided in S4.4.3.2.2, each bus with a gross vehicle weight rating of 10,000 pounds or less, except a school bus, shall be equipped with an integral Type 2 seat belt assembly at the driver's designated seating position and at the front and every rear forward-facing outboard designated seating position, and with a Type 1 or Type 2 seat belt assembly at all other designated seating positions. Type 2 seat belt assemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

S4.4.3.2.1 As used in this section, a "rear outboard designated position" means any "outboard designated seating position" (as that term is defined at 49 CFR 571.3) that is rearward of the front seat(s), except any designated seating positions adjacent to a walkway located between the seat and the side of the vehicle, which walkway is designed to allow access to more rearward seating positions.

S4.4.3.2.2 Any rear outboard designated seating position with a seat that can be adjusted to be forward-facing and to face some other direction shall either:

(i) Meet the requirements of S4.4.3.2 with the seat in any position in which it can be occupied while the vehicle is in motion; or

(ii) When the seat is in its forward-facing position, have a Type 2 seat belt

assembly with an upper torso restraint that conforms to S7.1 and S7.2 of this standard and that adjusts by means of an emergency locking retractor that conforms with Standard No. 209 (49 CFR 571.209), which upper torso restraint may be detachable at the buckle, and, when the seat is in any position in which it can be occupied while the vehicle is in motion, have a Type 1 seat belt or the pelvic portion of a Type 2 seat belt assembly that conforms to S7.1 and S7.2 of this standard.

S4.4.3.2.3 Any rear outboard designated seating position with a readily removable seat (that is, a seat designed to be easily removed and replaced by means installed by the manufacturer for that purpose) shall meet the requirements of S4.4.3.2, and may use an upper torso belt that detaches at the upper anchorage point to meet those requirements.

S4.4.3.3 Each school bus with a gross vehicle weight rating of 10,000 pounds or less shall be equipped with an integral Type 2 seat belt assembly at the driver's designated seating position and at the right front passenger's designated seating position (if any), and with a Type 1 or Type 2 seat belt assembly at all other designated seating positions. Type 2 seat belt assemblies installed in compliance with this requirement shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. The lap belt portion of a Type 2 seat belt assembly installed at the driver's designated seating position and at the right front passenger's designated seating position (if any) shall include either an emergency locking retractor or an automatic locking retractor, which retractor shall not retract webbing to the next locking position until at least 3/4 inch of webbing has moved into the retractor. In determining whether an automatic locking retractor complies with this requirement, the webbing is extended to 75 percent of its length and the retractor is locked after the initial adjustment. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

5. S7.1.1 of Standard No. 208 is amended by revising S7.1.1.3 and by adding a new S7.1.1.5, to read as follows:

S7.1 Adjustment.

S7.1.1.3 A Type 1 lap belt or the lap belt portion of any Type 2 seat belt

assembly installed at any outboard designated seating position of a vehicle with a gross vehicle weight rating of 10,000 pounds or less to comply with a requirement of this standard, except walk-in van-type vehicles and school buses, shall meet the requirements of S7.1 by means of an emergency locking retractor that conforms to Standard No. 209 (49 CFR 571.209).

S7.1.1.5 Seat belt assemblies installed at a seating position other than the driver's position that incorporate an emergency locking retractor in the lap belt or the lap belt portion of a Type 2 seat belt assembly shall provide some means other than an external device that requires manual attachment or activation to lock the lap belt or lap belt portion, by preventing additional webbing from spooling out, so that the seat belt assembly can be used to tightly secure a child restraint system.

6. S7.4.2 of Standard No. 208 is amended by revising the introductory text and S7.4.2(c), to read as follows:

S7.4.2 Webbing tension-relieving device. Each vehicle with an automatic seat belt assembly or with a Type 2 manual seat belt assembly that must meet the occupant crash protection requirements of S5.1 of this standard installed at a front outboard designated seating position, and each vehicle with a Type 2 manual seat belt assembly installed at a rear outboard designated seating position in compliance with a requirement of this standard, that has either automatic or manual tension-relieving devices permitting the introduction of slack in the webbing of the shoulder belt (e.g., "comfort clips" or "window-shade" devices) shall:

(c) Have, except for open-body vehicles with no doors, an automatic means to cancel any shoulder belt slack introduced into the belt system by a tension-relieving device. In the case of an automatic safety belt system, cancellation of the tension-relieving device shall occur each time the adjacent vehicle door is opened. In the case of a manual seat belt required to meet S5.1, cancellation of the tension-relieving device shall occur, at the manufacturer's option, either each time the adjacent door is opened or each time the latchplate is released from the buckle. In the case of a Type 2 manual seat belt assembly installed at a rear outboard designated seating position, cancellation of the tension-relieving device shall occur, at the manufacturer's option either each time the door designed to allow the occupant of that

seating position entry and egress of the vehicle is opened or each time the latchplate is released from the buckle. In the case of open-body vehicles with no doors, cancellation of the tension-relieving device may be done by a manual means.

§ 571.210 [Amended]

7. S4.1.1 of Standard No. 210 is revised to read as follows:

S4.1.1 Seat belt anchorages for a Type 2 seat belt assembly shall be installed for each forward-facing outboard designated seating position in passenger cars other than convertibles and for each designated seating position for which a Type 2 seat belt assembly is required by Standard No. 208 (49 CFR 571.208) in vehicles other than passenger cars. Seat belt anchorages for a Type 2 seat belt assembly shall be installed for each rear forward-facing outboard designated seating position in convertible passenger cars manufactured on or after September 1, 1991.

§ 571.222 [Amended]

8. S5(b) of Standard No. 222 is revised to read as follows:

S5. Requirements. * * *

(b) Each vehicle with a gross vehicle weight rating of 10,000 pounds or less shall be capable of meeting the following requirements at all seating positions other than the driver's seat:

(1)(A) In the case of vehicles manufactured before September 1, 1991, the requirements of §§ 571.208, 571.209, and 571.210 as they apply to multipurpose passenger vehicles; or

(B) In the case of vehicles manufactured on or after September 1, 1991, the requirements of S4.4.3.3 of § 571.208 and the requirements of §§ 571.209 and 571.210 as they apply to school buses with a gross vehicle weight rating of 10,000 pounds or less; and

(2) The requirements of S5.1.2, S5.1.3, S5.1.4, S5.1.5, and S5.3 of this standard. However, the requirements of §§ 571.208 and 571.210 shall be met at W seating positions in a bench seat using a body block as specified in Figure 2 of this standard, and a particular school bus passenger seat (i.e., a test specimen) in that weight class need not meet further requirements after having met S5.1.2 and S5.1.5, or after having been subjected to either S5.1.3, S5.1.4, or S5.3 of this standard or § 571.210.

Issued on October 27, 1989.

Jeffrey R. Miller,

Acting Administrator.

[FR Doc. 89-25801 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 81131-9019]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of rescinding prohibition on receipt of groundfish.

SUMMARY: NOAA announces the rescission of the closure to directed fishing for rock sole by joint venture processing (JVP). This action, taken under provisions of the fishery management plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), is necessary to assure optimum use of groundfish in that area. It is a conservation and management measure intended to promote fishery objectives of the North Pacific Fishery Management Council (Council).

DATES: This notice is effective October 27, 1989. Comments will be accepted through November 13, 1989.

ADDRESSES: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP is implemented by rules appearing at 50 CFR 611.93 and part 675.

Earlier this year, NOAA announced the prohibition of receipt by foreign processors of rock sole taken in a directed fishery (54 FR 7933, February 24, 1989). A later action (54 FR 37112, September 7, 1989) apportioned sufficient amounts of rock sole (25,000 metric tons) to JVP to provide bycatch amounts for additional amounts of pollock, yellowfin sole, and "other flatfish" which were apportioned to JVP by the same action. The prohibition of receipt by foreign processors of rock sole taken in a directed fishery remained in effect.

During the fall joint venture fishery, the bycatch rate of rock sole in the yellowfin sole and "other flatfish"

fisheries has averaged about 10 percent. However, recently joint venture vessels have moved into areas where they have encountered rates as high as 40 percent. Under the definition of directed fishing, vessels cannot retain on board an amount of rock sole equal to or greater than 20 percent of the total amount of fish or fish products on board (as calculated in round weight equivalents). As a result, large amounts of rock sole are being discarded and wasted by vessels which receive groundfish catches composed of more than 20 percent rock sole. This wastage is contrary to Council and NMFS policy.

To date, only 48,557 metric tons of the originally specified total allowable catch (TAC) for rock sole (90,762 metric tons) has been taken by domestic processing (DAP) and JVP fisheries combined. Allowing foreign processors to receive rock sole taken in directed fisheries will not result in overfishing of rock sole stocks because more than sufficient tonnage remains in TAC to provide for anticipated catches by DAP and JVP fisheries during the remainder of the year.

Therefore, foreign processors may receive rock sole taken in directed fisheries, effective noon, Alaska Daylight Time, October 27, 1989.

Classification

This action is taken under the authority of 50 CFR 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to avoid wastage of amounts of rock sole discarded in order to avoid the threshold established for directed fishing. However, interested persons are invited to submit comments in writing to the address through November 13, 1989.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 27, 1989.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-25764 Filed 10-27-89; 4:14 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 54, No. 211

Thursday, November 2, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[FV-89-111PR]

1989-90 Expenses and Assessment Rate Under Marketing Order No. 989 Raisins Produced From Grapes Grown In California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 989 for the 1989-90 fiscal year established under the federal marketing order for raisins produced from grapes grown in California. Authorization of this budget would allow the Raisin Administrative Committee (Committee) to incur reasonable and necessary expenses to administer the marketing order program. Funds for the program would be derived from assessments on handlers of California raisins.

DATE: Comments must be received by November 13, 1989.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, F&V, AMS, USDA, P.O. Box 96456, Room 2525-S, 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: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, Room 2525-S, F&V, AMS, USDA, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3920.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Order No. 989 (7 CFR Part 989), both as amended, regulating the handling of raisins produced from grapes grown in California. The agreement and order 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 proposed 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 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 an estimated 23 handlers of California raisins subject to regulation under this marketing order and approximately 5,000 producers of California raisins. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having 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 minority of handlers and the majority of producers of raisins may be classified as small entities.

The federal marketing order for California raisins requires that the assessment rate for a particular marketing year shall apply to all assessable raisins handled from the beginning of such year. An annual budget of expenses is prepared by the Committee and submitted to the U.S. Department of Agriculture (Department) for approval. The members of the Committee are handlers and producers of regulated raisins. They are familiar with the Committee's needs and with the costs for goods, services, and

personnel in their local area and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings, so that all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by expected shipments of assessable raisins. That rate is applied to actual shipments to produce sufficient income to pay the Committee's expected expenses. The budget of expenses and rate of assessment are usually recommended by the Committee shortly after the season starts. Expenses are incurred on a continuous basis; therefore, the budget of annual expenses and assessment rate approval must be expedited so that the Committee will have funds to meet its obligations.

The Committee met on October 5, 1989, as required by the marketing order, and unanimously recommended 1989-90 marketing order expenditures of \$483,405 and an assessment rate of \$1.50 per assessable ton of raisins. In comparison, 1988-89 marketing year budgeted expenditures were \$435,000, and the assessment rate was 1.50 per ton. Assessment income for 1989-90 is estimated at \$483,405 based on 322,270 tons of assessable raisins.

While this action would impose some additional costs on handlers of California raisins, including small entities, the costs are in the form of uniform assessments on all handlers. Any costs to handlers are expected to be more than offset by benefits derived from the operation of the marketing order. Therefore, the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget and assessment rate approval for this program needs to be expedited. The Committee must have sufficient funds to pay its expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 989

California, Marketing agreements and orders, Raisins.

For the reasons set forth in the preamble, it is proposed that § 989.340 be added as follows:

1. The authority citation for 7 CFR part 989 continues to read as follows:

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

2. Section 989.340 is added to read as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

§ 989.340 Expenses and assessment rate.

Expenses of \$483,405 by the Raisin Administrative Committee are authorized and an assessment rate payable by each handler in accordance with § 989.90 of \$1.50 per ton of assessable raisins is established for the crop year ending July 31, 1990. Any unexpended funds from that crop year shall be credited or refunded to the handler from whom collected.

Dated: October 30, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-25948 Filed 11-1-89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 882 and 887

[Docket No. R-89-1452; FR-2662-C-02]

RIN 2502-AE70

Section 8 Certificate Program, Moderate Rehabilitation Program and Housing Voucher Program; Correction

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

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the public comment due date for the proposed rule concerning the denial or termination of assistance for drug-related or violent criminal activities, which was published on October 26, 1989, at 54 FR 43594, to provide a 30-day comment period instead of a 60-day comment period. The corrected public comment due date is November 27, 1989.

DATE: Comment due date: November 27, 1989.

ADDRESS: Interested persons are invited to submit comments regarding this rule

to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500.

Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 755-2575. (This is not a toll-free number.) Only public comments of six or fewer total pages will be accepted via the FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk, ((202) 755-7084). (This is not a toll-free number.)

FOR FURTHER INFORMATION CONTACT:

Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-8000, telephone (202) 755-5720. Hearing- or speech-impaired individuals may call HUD's TDD number, (202) 426-0015. (These telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On October 26, 1989, the Department published a proposed rule (54 FR 43594), which proposed to revise the Certificate Program, Moderate Rehabilitation Program, and Housing Voucher Program regulations to permit a Public Housing Agency (PHA) (including an Indian Housing Authority) to deny or terminate assistance to applicants and participants in these programs if family members are engaging in drug-related criminal activities or in violent criminal activities. Because the purpose of this proposed rule is to further the government's war against drugs and violent crime, and to ensure the provision of decent and safe housing for eligible families and for individuals residing near assisted families, it is in the public interest to promulgate a final effective rule as rapidly as possible. Accordingly, it was the Department's intention to provide an abbreviated 30-day public comment period. The proposed rule, as published, however, inadvertently provided the normal 60-day comment period.

Accordingly, FR Doc. 89-25236, published in the Federal Register issue of Thursday, October 26, 1989 (54 FR 43594), is corrected as follows:

1. The respective authority citations for part 882 and part 887 would continue to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. The public comment due date which was December 26, 1989, is corrected to read as follows:

Date: Comment due date: November 27, 1989.

Dated: October 27, 1989.

Peter Monroe,

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

[FR Doc. 89-25796 Filed 11-1-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AD71

Definition of Former Prisoner of War

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule; correction.

SUMMARY: The Department of Veterans Affairs (VA) is correcting previously published information concerning the definition of former prisoner of war.

FOR FURTHER INFORMATION CONTACT: Bill Leonard, Consultant, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, (202) 233-3005.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 3, 1989, (54 FR 40686), VA published a proposed amendment to its adjudication regulation defining former prisoner of war (POW) and establishing criteria for deciding such status. In that proposed regulation a word was inadvertently misspelled and is hereby corrected.

List of Subjects in 38 CFR Part 3

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

Donald R. Howell,

Acting Chief, Directives Management Division.

§ 3.1 [Corrected]

For the foregoing reason, the Department of Veterans Affairs hereby corrects FR Doc. 89-23249 in the issue of October 3, 1989, to read as follows:

1. On page 40687, first column, paragraph (y)(2)(i), 7th line, change the word "detailed" to "detained".

2. On page 40687, second column, paragraph (y)(2)(ii), 3rd and 6th lines, change the word "detailed" to "detained".

[FR Doc. 89-25768 Filed 11-1-89; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3677-3]

Federal Assistance Limitations; State of Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: USEPA proposes to limit certain Federal highway funding assistance for Cook, Lake, Kane, and DuPage Counties, Illinois. These limitations apply to funds provided under Title 23 of the United States Code. The USEPA is taking action pursuant to Section 176(a) of the Clean Air Act (Act), because the State of Illinois has failed to adopt and submit to USEPA a vehicle inspection and maintenance (I/M) program commensurate with the severity of the ozone problem in the Chicago area. USEPA believes that enhancement of the existing I/M program is necessary to help bring the area into attainment of the ozone National Ambient Air Quality Standard (NAAQS) and that such an I/M program is a critical component of the "reasonable efforts" Illinois must make under Section 176(a). Thus, USEPA has concluded that the conditions under which the Agency must propose to impose Federal highway funding restrictions under Section 176(a) have been met in Cook, Lake, Kane, and DuPage Counties, Illinois.

DATES: USEPA will schedule a public hearing on its proposed actions regarding Federal highway funding restrictions in the future. A notice of this public hearing will be published in the Federal Register. The public comment period will remain open until 30 days after the public hearing.

ADDRESSES: Copies of all materials related to USEPA's proposed action may

be inspected during normal business hours at the following addresses: (It is recommended that you telephone Randolph O. Cano at (312) 886-6036 before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.)

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

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6036.

SUPPLEMENTARY INFORMATION

A. Background

Congress amended the Clean Air Act in 1977 to address the major health problems posed by the States' failures to attain the National Ambient Air Quality Standards (NAAQS) for criteria pollutants. Congress required States to revise their State Implementation Plans (SIPs) to provide for attainment of the standards by December 31, 1982, and to submit the revised plans to USEPA by January 1, 1979. Provisions for an extension to December 31, 1987, were available if a State could demonstrate that, despite the implementation of all reasonably available control measures, the December 31, 1982, attainment deadline could not be met for ozone and/or carbon monoxide (CO). (See Section 172(a)). In return for this extension, Congress required the States to submit additional air pollution control measures in their 1979 SIP revisions (Section 172(b)(11)). One such additional measure was a commitment to implement an I/M program on an expeditious schedule.

To ensure that Federal funds do not further contribute to the already serious air pollution problems, and to encourage State cooperation, Congress also adopted Section 176(a). Section 176(a) of the Act prohibits the Administrator of USEPA and the Secretary of Transportation from awarding certain

Federal assistance funds under certain circumstances. These circumstances include where: (1) an area has not attained a primary ambient air quality standard; (2) transportation control measures are necessary to attain that primary ambient air quality standard; and (3) the USEPA Administrator determines that the State has failed to submit, and is not making reasonable efforts to submit, a plan which considers each of the elements of Section 172 of the Act, including the requirement for I/M. On April 10, 1980 (45 FR 24692), after prior notice and public comment, USEPA and the Department of Transportation (DOT) published final policies and procedures for imposing funding restrictions under Section 176(a).

In the case of Illinois, in June 1979 the State of Illinois submitted its 1979 ozone and CO plan for the Chicago area.¹ As part of this plan, Illinois requested an extension of the ozone attainment deadline to 1987 for Cook, Lake, Kane, and DuPage Counties. USEPA approved this request on February 21, 1980 (45 FR 11472). The State subsequently implemented an I/M program on May 1, 1986.²

¹ The original Illinois ozone nonattainment counties for the Chicago area consisted of all of Air Quality Control Region 67, i.e., Cook, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties. See 43 FR 8962 (March 3, 1978), and 43 FR 45993 (October 5, 1978). On May 16, 1983 (48 FR 21947), USEPA redesignated Grundy, Kankakee, Kendall, McHenry and Will counties to attainment. On June 6, 1988 (53 FR 20722), USEPA proposed to redesignate Grundy, Kendall, McHenry, and Will Counties to nonattainment for ozone under the provisions of the Mitchell-Conte Amendment of December 22, 1987, (while renewing the ozone nonattainment designations of Cook, DuPage, Kane, and Lake Counties). This proposal was based on the concept that all portions of a Consolidated Metropolitan Statistical Area (CMSA) contribute to an ozone problem, and all of these Illinois counties are within the Chicago CMSA.

² Illinois' I/M program is a contractor operated, centralized network of testing facilities for gasoline powered vehicles and trucks registered in all of Cook County, the eastern third of Lake County and the eastern half of DuPage County. Vehicles are tested for hydrocarbon and CO emissions. A probe is inserted into the vehicle tailpipe and the exhaust is analyzed for emissions. If the vehicle passes the test, and annual sticker is issued that indicates compliance with the law. If the vehicle fails to pass the test, the vehicle owner is required to make necessary repairs and submit the vehicle for a retest. If the vehicle is unable to pass the retest, a 1 year waiver is available under certain conditions.

Enforcement of the program is accomplished through a combination of computerized matching and sticker enforcement. The primary enforcement mechanism is the suspension of the drivers' licenses of vehicle owners and suspension of the vehicles' registrations. The suspensions are made automatically by a computer system which tracks vehicles required to be tested and actual test data.

Continued

The December 31, 1987, ozone attainment deadline has now passed, and the Chicago area still has not attained the ozone NAAQS. Because the State's ozone SIP did not provide for attainment of the NAAQS by that date or any near-term date thereafter, on October 17, 1988, USEPA announced in the *Federal Register* its disapproval of the Chicago portion of the Illinois Ozone SIP (53 FR 40415). On January 18, 1989, the United States District Court for the Eastern District of Wisconsin ordered USEPA to promulgate Federal Implementation Plans (FIPs) for this area and for northwestern Indiana within 14 months, or by March 18, 1990.³ In a July 11, 1989 (54 FR 29063), Advance Notice of Proposed Rulemaking (ANPR), USEPA gave advance notice of several elements of the FIPs. Among those elements were the emissions inventory for the area and the required degree of emission reduction to attain and maintain the ozone NAAQS. Mobile sources account for approximately 50 percent of the Illinois volatile organic compound (VOC) emissions inventory. Further, USEPA stated that it believes a 72 percent reduction in VOC emissions from 1988 levels is necessary to bring the area into attainment of the ozone NAAQS *Id.*

Motorists are also subject to fines based on operating a vehicle with an expired or missing sticker.

USEPA's evaluation of the State's I/M program is contained in technical support documents dated June 6, 1986, February 18, 1987, October 20, 1987, and June 5, 1989. These documents are available from the Region V Office listed above. On April 24, 1989 (54 FR 16372), USEPA proposed to approve the Illinois I/M program as meeting current USEPA policy requirements for 1982 ozone SIP approval. USEPA will take final action on this program in a future FEDERAL REGISTER notice.

³ In April 1987 the State of Wisconsin filed a suit under Section 304 of the Act in the United States District Court for the Eastern District of Wisconsin against Lee M. Thomas, then USEPA Administrator (Civil Action No. 87-C-395, now *Wisconsin v. Reilly*). Two counts of the complaint alleged that USEPA had failed to perform a non-discretionary duty to approve or disapprove the greater Chicago area ozone SIPs of Illinois and Indiana. Two other counts requested the Court to order USEPA to develop FIPs for the northeastern Illinois and northwestern Indiana portions of the Chicago-Gary-Lake County (IL), IL-IN-WI Consolidated Metropolitan Statistical Area (CMSA) within 6 months. The complaint also sought an injunction compelling USEPA to impose and enforce a moratorium on the construction and modification of major stationary sources in the Illinois and Indiana portions of the CMSA. While the litigation was in progress, USEPA published final disapprovals of the ozone SIP for Illinois on October 17, 1988, and for Indiana on November 18, 1988, thereby making the construction moratorium effective as to VOC sources in both areas. The Court, on January 18, 1989, ordered USEPA to develop FIPs for the Illinois and Indiana portions of the Chicago area within 14 months. USEPA is in the process of developing such FIPs.

USEPA has been evaluating available control measures necessary to bring the Chicago area into attainment of the ozone primary NAAQS. Obviously, transportation control measures will be a necessary component of any plan designed to obtain a 72 percent emission reduction and assure attainment and maintenance of the ozone standard in the Chicago area. Additionally, USEPA believes that enhancement of the current I/M program is an available and essential element of any attainment plan for the Chicago area,⁴ and hence is a critical component of the "reasonable efforts" Illinois must make under Section 176(a) to avoid the imposition of Federal highway funding restrictions for the nonattainment counties of Cook, Lake, Kane, and DuPage. Enhancement of the I/M program is a control measure USEPA has identified at the current time as a critical component of "reasonable efforts".

USEPA has been required by the Court to develop a plan to bring the Chicago area into attainment of the health based ozone NAAQS. In addition, under the Act, the State of Illinois is under a continuing obligation to create its own plan. USEPA believes it is reasonable and necessary for the State of Illinois to implement enhancements to its I/M program at this time. The level of enhancements Illinois should implement has already been

⁴ An appropriate level of performance which could be achieved through changes to the I/M program would be that which is equivalent in performance (but not necessarily identical) to an enhanced I/M program containing the following features:

- centralized biennial inspection;
 - 20 model years of passenger cars and light trucks;
 - 20 percent stringency for pre-1981 vehicles;
 - idle tests;
 - 207(b) emission standards for 1981 and newer vehicles
 - catalyst, inlet, and lead deposit inspections on 1981 and newer vehicles;
 - five percent waiver on the emission short test.
- The computer model Mobile 4 must be used to show equivalency in performance to the above design by using national or local inputs of tampering/misfueling rates, vehicle type mix, average speed, etc.

Possible enhancements Illinois could implement to achieve the level of performance of the above enhanced I/M program design would be to require the inspection of the gas cap, fuel inlet restrictor, and catalytic converter. If the fuel inlet restrictor test is failed the catalytic converter must be replaced. In addition to this enhancement, the geographic coverage of the I/M program could be expanded or other program changes such as reducing the waiver rate could be made to achieve the performance standard. All of these measures have been successfully implemented in other I/M programs; therefore, USEPA considers them available for implementation. Any program design, that USEPA determines is equivalent in performance level to the enhanced I/M program outlined above would be acceptable.

implemented in Wisconsin's I/M program, and the State of Indiana has enacted legislation requiring the implementation of the enhancements beginning in January 1990.

In the Chicago area, continuing violations of the ozone NAAQS are occurring, transportation control measures will be necessary in any plan designed to achieve attainment and maintenance of the ozone standard, and Illinois has failed to submit an I/M program commensurate with the severity of the ozone problem in the Chicago area, which is a critical component of the "reasonable efforts" Illinois must make under Section 176(a). Thus, the criteria listed under Section 176(a) have been met, and for this reason USEPA is proposing imposition of Federal highway funding restrictions in Cook, Lake, Kane, and DuPage Counties.

On August 4, 1989, USEPA notified the State and the Federal Highway Administration (FHWA) that the USEPA/DOT procedures for imposing the funding limitations under Section 176(a) were being initiated.⁵ These letters initiated the 30-day consultation period outlined in the April 10, 1980 (45 FR 24692), *Federal Register* guideline for the Section 176(a) process. If the State enacts and implements adequate enhancements to its I/M program which achieve a level of performance equivalent to the enhanced I/M program design cited above, then USEPA would not impose sanctions for this reason.

The consultation period ended September 4, 1989. A description of all further correspondence and meetings which have occurred after August 4, 1989, follows.

In an August 31, 1989, letter to the Regional Administrator, Illinois requested a consultation meeting. On September 26, 1989, a consultation meeting was held. Representative from the Illinois Environmental Protection Agency (IEPA), the Illinois Department of Transportation, the Regional and District Offices of FHWA, USEPA's Office of Mobile Sources, and Region V of USEPA were present.

During the meeting, Region V discussed the rationale for pursuing Federal highway funding restrictions in Illinois. Representatives from the State of Illinois posed several questions related to enhancement of the State's I/M program and expressed their view on

⁵ The USEPA Region V Regional Administrator, Valdas V. Adamkus, notified the FHWA Regional Administrator, Herbert R. Teets, and the Governor of Illinois, by letters, that the State of Illinois had failed to submit an ozone attainment plan which considers each element of Section 172 of the Act.

various enhancements. The State representatives pointed out that they would have to obtain direction and authorization from the legislature before any enhancements could be implemented. The representatives indicated their intent to provide more information regarding specific enhancements at a future time.

USEPA discussed the procedures which would be followed regarding imposition of Federal highway funding restrictions. USEPA informed the State that it would proceed with the process to propose the imposition of funding restrictions and would hold a public hearing regarding the proposed action. USEPA also notified the State that the State legislature would have an opportunity to enact measures to enhance the I/M program before a final decision is made on whether to impose the funding restrictions.

On October 6, 1989, IEPA submitted several enhanced I/M program alternatives for review by USEPA. These alternatives were intended to meet USEPA's performance standard for enhanced I/M. The submittal included possible enhanced I/M scenarios, the MOBILE 4 printouts from which the vehicle emission rates were derived, and a discussion of the input parameters used by IEPA in the model runs. IEPA committed to develop a formal enhanced I/M proposal by October 30, 1989, based on USEPA's response.

B. Proposed Findings and Actions

One available measure that USEPA has identified which Illinois could implement to help bring the area into attainment of the ozone NAAQS is to enhance the existing I/M program. Because USEPA believes that the State of Illinois has not used reasonable efforts to submit all measures necessary to attain and maintain the ozone NAAQS in the Chicago area,⁶ USEPA proposes to impose Federal highway funding restrictions in Cook, Lake, Kane, and DuPage Counties under Section 176(a) of the Act.

During the public comment period, USEPA will consider any comments on this issue. If Illinois fails to remedy this situation before USEPA takes final action, the resulting funding limitations become effective on the date that the final rulemaking is published in the Federal Register. Upon final rulemaking, the Secretary of Transportation will not approve any projects or award any grants in Cook, Lake, Kane, and DuPage Counties under Title 23 of the United

States Code, except for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance.

C. Opportunity for Public Hearing

USEPA will schedule a public hearing on its proposed actions regarding Federal highway funding restrictions in the future. A notice of this public hearing will be published in the Federal Register.

D. Request for Public Comment

Interested parties are invited to comment on all aspects of the proposed findings including USEPA's proposed action to impose Federal highway funding restrictions. USEPA will consider all testimony received at the public hearings. Additionally, USEPA is keeping the public comment period open for 30 days after the public hearing date, to provide an opportunity for submission of rebuttal information and supplementary information.

E. Regulatory Impact

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. Under 5 U.S.C. 605(b), this requirement may be waived if the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdictions over populations of less than 50,000.

If USEPA takes final action and finds that the State has failed to submit, and is not making reasonable efforts to submit, a SIP that considers each of the elements required by Section 172, certain highway construction funds under Title 23 of the United States Code will be withheld. Thus, some small entities may be affected by final USEPA action.

USEPA cannot reliably predict the impact of Clean Air Act restrictions under Section 176(a) because of the exemptions authorized for certain highway projects. Careful review and evaluation of each project is necessary to determine whether or not a project is exempt. Consequently, USEPA is making no quantified assessment of the potential economic impact on small entities that may result from today's proposal.

Furthermore, although USEPA believes that a final action might have some impact on small entities this impact cannot affect the Agency's actions. Under the Clean Air Act, the

imposition of the funding restrictions in Section 176(a) is automatic and mandatory whenever the USEPA determines that a State has not submitted, or is not making reasonable efforts to submit, a SIP which considers each of the elements of Section 172.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to USEPA, and any USEPA response, are available for public inspection at the USEPA Region V office listed above.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Environmental Protection, Hydrocarbons, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401-7642.

Dated: September 5, 1989.

Valdas V. Adamkus,
Regional Administrator.

[FR Doc. 89-25780 Filed 11-1-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Docket No. 89-23]

Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rule.

SUMMARY: The Federal Maritime Commission proposes to remove the membership size limitation in its exemption of membership changes in certain passenger vessel operator agreements from the notice and waiting period requirements of section 6 of the Shipping Act of 1984 and the Information Form, notice and waiting period requirements of 46 CFR part 572. This will enable such membership changes to become effective upon filing with the Federal Maritime Commission, regardless of the membership size of the involved agreement.

EFFECTIVE DATE: Comments due by December 4, 1989.

ADDRESSES: Comments (original and 15 copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Austin L. Schmitt, Director, Bureau of Trade Monitoring, Federal Maritime

⁶ On October 17, 1988, USEPA disapproved the Chicago portion of the Illinois Ozone SIP (53 FR 40415).

Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5787.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission ("Commission"), in a separate order issued concurrently with this notice, has revised 46 CFR 572.309(a)(2)(i) to exempt membership changes in certain passenger vessel operator agreements from certain procedural requirements of the Shipping Act of 1984, 46 U.S.C. app. 1701, *et seq.* ("1984 Act") and the Commission's rules thereunder, 46 CFR part 572. The exemption allows such membership changes to become effective upon filing with the Commission. Petition No. P2-89, *Cruise Lines International Association—Application for Section 16 Exemption* (Docket No. 89-22). This exemption is being granted in response to an Application filed by Cruise Lines International Association ("CLIA"), which requested that membership changes in passenger vessel operator discussion agreements open to all passenger vessels of a class defined in the agreements and consisting of 15 or more members, which do not contain ratemaking, pooling or joint service authority, be exempted from the notice and waiting period requirements of section 6 of the 1984 Act, and the Information Form, notice and waiting period requirements of 46 CFR part 572.

The Commission is granting the essential exemption requested by CLIA, with some modifications to narrow the exemption's scope to also exclude membership changes in passenger vessel operator agreements containing sailing or space chartering authority and to otherwise improve the exemption's clarity and definiteness.

The Commission has also determined to propose an expansion of the exemption's scope to remove the membership size limitation, thus, affording uniform treatment of membership changes in all passenger vessel discussion agreements, regardless of the size of the agreement's membership. The membership size limitation issue was outside the scope of Petition No. P2-89 and could not, therefore, be addressed in that proceeding. It appears that the expanded exemption will comply with the requirements of section 16 of the 1984 Act in that it would be unlikely to substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce.

The Commission has determined that this rule is not a "major rule" as defined in Executive Order 12291 dated

February 17, 1981, because it will not result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (3) Significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Acting Chairman of the Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental jurisdictions. The primary economic impact of this rule will be on passenger vessel operating ocean common carriers, which generally are not small entities.

The Commission has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental assessment or environmental impact statement was prepared.

The Paperwork Reduction Act, 44 U.S.C. 3501-3520, does not apply to this Proposed Rule because the amendment to part 572 of Title 46, Code of Federal Regulations, does not impose any addition reporting or recordkeeping requirements or change the collection of information from members of the public which require the approval of the Office of Management and Budget.

List of Subjects in 46 CFR Part 572

Antitrust, Contracts, Maritime carriers, Administrative practice and procedures, Rates and fares.

Therefore, pursuant to 5 U.S.C. 553, and sections 5, 16 and 17 of the Shipping Act of 1984, 46 U.S.C. 1704, 1715, 1716, in order to exempt membership changes in certain passenger vessel discussion agreements from certain requirements of the 1984 Act, and the Commission's implementing regulations thereof, the Commission proposes to amend part 572 of title 46 of the Code of Federal Regulations as follows:

PART 572—[AMENDED]

1. The authority citation to part 572 continues to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701-1707, 1709-1710, 1712 and 1714-1717.

2. Section 572.309 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 572.309 Miscellaneous modifications to agreements—exemptions.

(a) * * *

(2) * * *

(i) *Article 3*—Parties to the agreement (limited to conference agreements, and discussion agreements among passenger vessel operating ocean common carriers which are open to all ocean common carriers operating passenger vessels of a class defined in the agreements, which do not contain ratemaking, pooling, joint service, sailing or space chartering authority).

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89-25868 Filed 11-1-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-460, RM-6982]

Radio Broadcasting Services; Minneapolis, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a proposal filed by Ruby J. Hoeflicker, requesting the allotment of FM Channel 224A to Minneapolis, Kansas, as that community's first FM broadcasting service. The coordinates for Channel 224A are 39-07-30 and 97-42-18.

DATES: Comments must be filed on or before December 7, 1989, and reply comments on or before December 22, 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: Tom W. Davidson, Sidley & Austin, 1722 Eye Street NW., Washington, DC 20006.

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 Rule Making, MM Docket No. 89-460, adopted October 2, 1989, and released October 16, 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 22037.

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 Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *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. 89-25821 Filed 11-1-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-464, RM-6859]

Radio Broadcasting Services; Lynchburg, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by CRS Communications, Inc., licensee of Station WXYU(FM), Channel 269A, Lynchburg, Virginia, proposing the substitution of Channel 269C3 for Channel 269A at Lynchburg, and the modification of its station's license to specify operation on the higher powered channel. A site restriction of 20.1 kilometers (12.5 miles) east of the city is proposed. The coordinates are 37-25-37 and 78-55-00. The proposal could provide the Lynchburg with its first wide coverage area FM service.

DATES: Comments must be filed on or before December 7, 1989, and reply comments on or before December 22, 1989.

ADDRESSES: 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: Jerry V. Haines, Esquire, Edward A. Yorkgitis, Jr., Wiley, Rein & Fielding, 1776 K Street NW., Washington, DC 20006 (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 Rule Making, MM Docket No. 89-464, adopted September 26, 1989, and released October 16, 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 Rule Making 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. 89-25822 Filed 11-1-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 89-22; Notice 01]

RIN 2127-AD13

Federal Motor Vehicle Safety Standards; Roof Crush Resistance

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend Federal Motor Vehicle Safety Standard No. 216, Roof Crush Protection—Passenger Cars, to extend its requirements to light trucks. (For the purpose of this notice, the term "light trucks" includes vans and other multipurpose passenger vehicles (MPV's), as well as trucks and buses, with a gross vehicle weight rating of 10,000 pounds or less.) This proposal is part of the agency's effort to ensure that occupants of light trucks are adequately protected, particularly in rollover events. NHTSA notes that the sales of light trucks are increasing and that those vehicles are being used increasingly to transport people instead of or in addition to property.

DATES: Comment closing date:

Comments on this notice must be received by NHTSA not later than January 2, 1990.

Proposed effective date: NHTSA proposes to apply these requirements to multipurpose passenger vehicles, trucks and buses that have a gross vehicle weight rating of 10,000 pounds or less, manufactured on or after September 1, 1991.

ADDRESS: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are 9:30 a.m. to 4:00 p.m. Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Mr. Gary R. Woodford, Room 5320, NHTSA, 400 Seventh St., SW., Washington, DC 20590. Telephone: (202) 366-4804.

SUPPLEMENTARY INFORMATION:

Background

Standard No. 216 is intended to reduce deaths and injuries due to the crushing of the roof into the passenger compartment in rollover crashes. To that end, the standard currently establishes strength requirements for the forward portion of the roof (i.e., the area most likely to sustain severe damage in a rollover crash) of passenger cars, to increase the resistance of the roof to intrusion and crush. The roof of a stationary vehicle is subjected to a force of 1½ times the unloaded weight of the vehicle or 5,000 pounds, whichever is less. This force is gradually applied by a rigid test device in a static test. During the test, the device may not depress the roof structure more than five inches.

In addressing light truck safety, including the possible extension of roof crush resistance requirements to light trucks, buses and multipurpose passenger vehicles, the agency submitted two reports to Congress. The first of these is entitled, "Light Truck and Van Safety," (May 1987). The second, an April 1988 update to the 1987 report, is entitled, "Safety Programs for Light Trucks and Multipurpose Passenger Vehicles." As noted in the following discussion, these reports set forth much of the agency's view of light truck safety.

Standard No. 216 currently applies to passenger cars, but not to light trucks, for the reasons set forth in NHTSA's April 1988 light truck report to Congress:

In the early years of NHTSA's existence, the regulatory and research approach was based on a clear distinction between the design and intended purpose of passenger cars and light trucks. Unlike passenger cars, light trucks were designed and used primarily as cargo carrying vehicles rather than as people-carrying vehicles. In addition, because light trucks were structurally different than passenger cars, the agency anticipated that occupants of light trucks would not be as vulnerable to injuries as passenger car occupants. Also, car occupants suffered far more deaths and injuries than did occupants of light trucks. Thus, the initial standards concentrated on requirements for passenger cars so that the agency could reduce deaths and injuries in those vehicles. (April 1988, page two.)

From 1967 to 1982, the number of light trucks being used to transport passengers, instead of or in addition to property, significantly increased. The Census Bureau's "Truck Inventory and Use Survey" shows that the percentage of pickup truck use for personal transportation purposes increased from 51 percent in 1967 to 66 percent in 1982 and that the percentage of use for agricultural purposes decreased from 26 percent to 12 percent in the same time period. NHTSA's May 1987 Light Truck and Van Safety report to Congress found that, in general, light trucks and vans have been capturing an increased share of the light duty market (including passenger cars), rising from 14.9 percent in 1971 to 23.7 percent in 1985. The report also found that (1) in 1977, only 10.2 percent of light truck sales were compact vehicles, while in 1985, the figure was 52.6 percent; (2) pickup trucks were a declining portion of light truck sales, dropping from 86.8 percent in 1977 to 59.3 percent in 1985; (3) van sales slightly increased from 21.3 percent of light truck sales to 22.7 percent; and (4) there was a large shift within the population of new vans from conventional cargo vans toward compact passenger vans. The agency

noted that the greater use of light trucks as passenger carrying vehicles was leading to increases in the number of light trucks and vans on the road, the number of persons transported in such vehicles, and consequently, the number of persons exposed to crashes in those vehicles.

Safety Need

There has thus been a convergence between light trucks and passenger cars, both in their structure (with many trucks in the compact size range) and in their use (with many trucks used for personal transportation rather than cargo). These changes point strongly toward the need to reevaluate the standards applicable to light trucks. NHTSA has responded to these changes regarding light trucks by evaluating the degree to which occupant safety in light trucks can be improved through the extension of existing standards to those vehicles. In conducting this evaluation, this agency was mindful that it is required by the National Traffic and Motor Vehicle Safety Act to ensure that each standard is appropriate for the vehicle type to which it applies.

In the case of Standard No. 216, the agency has observed a significantly greater incidence of rollover crashes per registered vehicle involving light trucks, compared to passenger cars. NHTSA believes that rollover protection requirements are especially important for light trucks in view of traffic crash data which show that the light truck fatality rate (per registered vehicle) in rollovers is approximately twice that for passenger cars. As the agency stated in its April 1988 report to Congress:

In rollover crashes, the multipurpose passenger vehicle fatality rate was 196 percent (1985) and 153 percent (1986) above the average fatality rate for all light trucks and passenger cars combined. The fatality rate for small pickups was 118 percent (1985) above average and is 107 percent (1986) above average. The standard pickup rate was 51 percent (1985) above average and is 47 percent (1986) above average. Higher fatality rates for the above vehicles are largely a consequence of their greater propensity for rollover as compared to passenger cars; state accident data indicate pickups roll over 1.5 times more often than passenger cars, and multipurpose passenger vehicles roll over two to three times more often. (April 1988, p. 10.)

An update of these data for 1987 and 1988 indicated that in rollover crashes, the multipurpose passenger vehicle fatality rate was 137 percent (1987) and 98 percent (1988) above the average for light trucks and passenger cars combined. The fatality rate for small pickups was 103 percent (1987) and 104 percent (1988) above average. The

standard pickup fatality rate was 63 percent (1987) and 65 percent (1988) above average. While the fatality rates for multipurpose passenger vehicles and small pickups have shown declines since 1985, the rates are still generally above the average light duty vehicle rate.

Crash data indicate that during the period 1985-1988, the number of fatalities involved in light truck rollover events were 2,995 (1985); 3,387 (1986); 3,658 (1987); and 3,815 (1988). The agency believes that the number of light truck occupants killed in rollover crashes can be significantly reduced by reducing the number of occupants ejected in those crashes. This belief is based on the finding in NHTSA's May 1987 light truck and van safety report that a principal cause of the high fatality rate in light truck rollover crashes is occupant ejection; over two thirds of light truck rollover fatalities are ejectionees. Accordingly, increased use of safety belts and improvements to other features (e.g., glazing) may reduce rollover fatalities by reducing ejection and holding occupants in place within the passenger compartment during rollovers.

However, the agency believes that the benefits from these ejection-prevention measures will be fully realized only if adequate protection is provided to guard against the collapse of the passenger compartment roof in a rollover crash. NHTSA tentatively concludes that amending Standard No. 216 to set roof-crush requirements for light trucks will complement regulatory actions that are directed toward reducing ejections and the accompanying risk of injury and fatality in rollovers. NHTSA also notes that this agency is currently conducting research on ways to reduce the likelihood of rollover involvement.

NHTSA is proposing to require light trucks to withstand a force 1½ times their weight, without the 5,000-pound limit applicable to passenger cars. The agency included the 5,000-pound ceiling for cars primarily to avoid requiring the redesign of large cars that could not meet the limits on roof crush when tested at 1½ times their weight. At that time, the agency believed that requiring the redesign of large cars would be unnecessary in view of their lower rollover tendency.

NHTSA has tentatively determined that there is no equivalent reason why there should be a 5,000-pound limit on the force that light truck roofs must withstand. In light of their high rollover involvement and fatality rates, NHTSA tentatively concludes that light trucks should meet a force crush limit of 1½

times their weight and that a force ceiling should not be provided. NHTSA believes this action will help ensure the crashworthiness of light trucks in rollover crashes. However, the agency requests comments from the industry and public regarding the advantages and disadvantages of a weight ceiling for light trucks.

NHTSA also specifically requests comments relating to the possible impacts of this proposed rule on final-stage manufacturers and alterers, and whether those impacts should be reduced by applying the standard only to MPV's and trucks having a GVWR of 8,500 pounds or less. This issue is further discussed in NHTSA's preliminary regulatory evaluation for this proposal, copies of which have been placed in the agency's rulemaking docket. (A copy of the evaluation can be obtained by writing to: Docket Section, NHTSA, Room 5109, 400 Seventh St., SW., Washington, DC 20590.)

This proposed extension of Standard No. 216 excludes school buses from the category of light truck to which this NPRM is addressed. The reason for this is that school buses must already comply with their own roof crush and other rollover crash protection requirements which generally are the same as the requirements proposed in this notice. Standard No. 220, School Bus Rollover Protection (49 CFR 571.220), limits roof crush to not more than 5½ inches upon the application of vertical downward force to the bus roof of 1½ times the vehicle's unloaded weight. Similar to the rule proposed in this notice, Standard No. 220 does not set a 5,000-pound or other weight limit on the applied force, other than limiting the force to 1½ times the unloaded weight. Given the similarity in requirements of Standards 220 and 216, NHTSA believes school bus safety would not be significantly improved by extending Standard No. 216 to those vehicles.

Voluntary Compliance

NHTSA obtained information from light truck manufacturers showing that there appears to be widespread voluntary compliance with the requirements set forth in Standard No. 216 for cars. (This information has been placed in Docket No. 87-11, Notice 1.) Information available to NHTSA also indicates that the majority of light trucks meet the roof crush displacement limits of the standard when tested at 1½ times the vehicle's unloaded vehicle weight, even though the resulting force may exceed the 5,000 pound limit for passenger cars.

In past regulatory matters involving widespread voluntary compliance, the

agency has generally concluded that there is no compelling safety need for it to act when vehicle manufacturers are voluntarily taking the desired steps absent any Federal requirement to do so. In those circumstances, NHTSA has frequently determined that rulemaking would impose a burden on the agency by requiring it to develop appropriate requirements, conduct a rulemaking proceeding, and use some of its enforcement budget to monitor compliance. Such rules would also impose additional paperwork burdens on the manufacturers, even though they would take the desired action in any case. Those burdens would be imposed without a commensurate safety benefit for the public, and would therefore represent unnecessary burdens.

However, on occasion, the agency proceeds with rulemaking in such situations, particularly when a standard of major importance is involved. For example, NHTSA recently issued a final rule requiring installation of lap/shoulder belts in the rear seats of cars, although most models were already voluntarily slated to be so equipped within the next few years.

NHTSA tentatively concludes that it is similarly appropriate to extend Standard No. 216 to light trucks, notwithstanding the current level of apparent voluntary compliance. The roof-crush protection represented by the standard is clearly important for light truck occupant safety, given the rollover rate for many of them. Further, although most manufacturers believe that their vehicles would comply with the standard's requirements for passenger cars, and information available to the agency indicates that most light trucks can comply when tested to 1½ times the unloaded vehicle weight, some manufacturers apparently do not meet the proposed standard for their entire light truck fleet. As light trucks continue to grow in popularity and sales, NHTSA believes it is important to ensure that all such vehicles meet at least the minimum standards specified in Standard No. 216. Moreover, the agency believes it is important to ensure that any new entrants to the light truck market will follow the lead of their competitors in meeting the proposed requirements. NHTSA therefore tentatively concludes that amending Standard No. 216 as proposed in this notice will satisfy a safety need by ensuring uniform safety performance for all affected vehicles.

Leadtime

NHTSA proposes that the requirements for light trucks become effective September 1, 1991. The agency tentatively concludes that the

widespread voluntary compliance with Standard No. 216 demonstrates the availability of the engineering and manufacturing resources needed to implement this proposal by that date. Comments are requested on the leadtime necessary to comply with the proposal, if a final rule is adopted.

Costs and Benefits

NHTSA has analyzed this proposal and determined that it is not "major" within the meaning of Executive Order 12291. Given the already substantial level of voluntary compliance with the proposed requirements, adoption of those requirements would have limited cost implications. NHTSA estimates this cost would be well below the \$100 million costs that are needed to classify a rule as "major" under Executive Order 12291.

However, the costs of altering light trucks to meet the proposed requirements are not definitely known. A 1982 NHTSA evaluation of changes made to passenger cars in 1974 indicated that the cost for component changes in some models was \$11 in 1988 dollars. However, it is uncertain whether this estimate would be applicable to light trucks. Potentially more costs may be incurred for vehicles that are built on chassis by final-stage manufacturers for commercial or recreational use, and for vehicles that are modified by alterers for these uses. Because of the proliferation of vehicle types, these manufacturers and alterers could face higher compliance costs. Based on previous tests conducted for NHTSA, an FMVSS 216 certification test should cost approximately \$1,500 per test. Because of the need for more specific cost information, comments are requested from the industry and public regarding: (1) The number of vehicles that would not meet the standard; (2) the costs and weight increases associated with bringing these vehicles up to the standard; (3) the number of vehicles that would have to be tested; and (4) the total cost of testing and certification.

This proposal is "significant" within the meaning of the Department of Transportation's regulatory policies and procedures because of the public interest in this rule. As noted above, NHTSA has prepared a preliminary regulatory evaluation for this proposed rule, which can be obtained from NHTSA's Docket Section.

Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. NHTSA has examined the potential impacts of this

rule on small entities and has described those possible impacts in the preliminary regulatory evaluation, a portion of which contains the discussion required of an initial regulatory flexibility analysis. To summarize that evaluation, there are a number of final-stage manufacturers, many of whom are small businesses, which install truck bodies and/or work-related equipment on chassis. These manufacturing processes may involve the roof structure on vehicles. Also, there are a number of alterers involved in modifying (e.g., raising) the roof structure. The potential impact of this proposed rule on these entities depends on the number of different models that are produced by them, the amount of testing done to determine compliance with the roof crush standard, and the ability of vehicles to conform with the standard. NHTSA tentatively believes that the task which these manufacturers and alterers would face in certifying compliance of their vehicles or alteration to the proposed requirements would not differ significantly from the tasks they face currently in certifying compliance with other standards. However, the agency believes it will be able to further analyze the impacts of the rule on small entities after receiving comments on the potential costs and other impacts of the proposed rule.

Small organizations and governmental units would not be significantly affected. While there might be a relatively small price increase for those vehicles which have to be modified to achieve compliance, NHTSA does not anticipate any significant impacts for any small entity interested in purchasing such vehicles.

Environmental effects

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

Federalism

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

Regulatory Information Number

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory

Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

Comments

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

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

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

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

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

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

PART 571—[AMENDED]

1. The authority citation for part 571 would continue to read as follows:

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

§ 571.216 [Amended]

2. The title of the heading of Standard No. 216, Roof Crush Resistance—Passenger Cars, would be revised to read as follows: "Standard No. 216; Roof Crush Resistance".

3. Paragraph S3 would be revised to read as follows:

S3. *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less. However, it does not apply to school buses. It also does not apply to vehicles that conform to the rollover test requirements (S5.3) of Standard No. 208 (§ 571.208) by means that require no action by vehicle occupants. This standard also does not apply to convertibles, except for optional compliance with the standard as an alternative to the rollover test requirements in S5.3 of Standard No. 208.

4. Paragraph S4 would be revised to read as follows:

S4. *Requirements.*
S4.1 Passenger cars. A test device as described in S5 shall not move more than 5 inches, measured in accordance with S6.4, when it is used to apply a force of 1½ times the unloaded vehicle weight of the vehicle or 5,000 pounds, whichever is less, to either side of the forward edge of a vehicle's roof in accordance with the procedures of S6. Both the left and right front portions of the vehicle's roof structure shall be capable of meeting the requirements, but a particular vehicle need not meet further requirements after being tested at one location.

S4.2 Multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less, manufactured on or after September 1, 1991. A test device as described in S5 shall not move more than 5 inches, measured in accordance with S6.4, when it is used to apply a force of 1½ times the unloaded vehicle weight of the vehicle to either side of the forward edge of a vehicle's roof in accordance with the procedures of S6. Both the left and right front portions of the vehicle's roof structure shall be capable of meeting the requirements, but a

particular vehicle need not meet further requirements after being tested at one location.

5. Paragraph S6.3 would be revised to read as follows:

S6.3.1 Passenger cars. Apply force in a downward direction perpendicular to the lower surface of the test device at a rate of not more than one-half inch per second until reaching a force of 1½ times the unloaded vehicle weight of the tested vehicle or 5,000 pounds, whichever is less. Complete the test

within 120 seconds. Guide the test device so that throughout the test it moves, without rotation, in a straight line with its lower surface oriented as specified in S6.2(a) through S6.2(d).

S6.3.2 Multipurpose passenger vehicles, trucks and buses with a CVWR of 10,000 pounds or less, manufactured on or after September 1, 1991. Apply force in a downward direction perpendicular to the lower surface of the test device at a rate of not more than one-half inch per second until

reaching a force of 1½ times the unloaded vehicle weight of the tested vehicle. Complete the test within 120 seconds. Guide the test device so that throughout the test it moves, without rotation, in a straight line with its lower surface oriented as specified in S6.2(a) through S6.2(d).

Issued on October 27, 1989:

Barry Felice,

Associate Administrator for Rulemaking,
[FR Doc. 89-25800 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register

Vol. 54, No. 211

Thursday, November 2, 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

Revision to the George Washington National Forest Land and Resource Management Plan, Alleghany, Amherst, Augusta, Bath, Botetourt, Frederick, Highland, Nelson, Page, Rockbridge, Rockingham, Shenandoah, and Warren Counties, Virginia, and Hampshire, Hardy, Monroe, and Pendleton Counties, West Virginia

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare a draft and final environmental impact statement to revise the George Washington National Forest Land and Resource Management Plan pursuant to 16 U.S.C. 1604(f)(5) and 36 C.F.R. 219.12.

The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice that a full environmental analysis and decisionmaking process will occur on the proposal so that interested and affected people are aware of how they may participate in, and contribute to, the final decision.

DATE: Comments concerning the scope of the analysis should be received in writing by December 15, 1989, to ensure timely consideration.

ADDRESSES: Send written comments to George W. Kelley, Forest Supervisor, George Washington National Forest, PO Box 233, Harrison Plaza, Harrisonburg, VA 22801.

FOR FURTHER INFORMATION CONTACT: Steve Parsons, Planning Staff Officer (703) 433-2491.

SUPPLEMENTARY INFORMATION: The George Washington National Forest Land and Resource Management Plan (LRMP) was approved September 9, 1986. There were 18 administrative appeals of the decision to select Alternative 7 as the

LRMP to be implemented. On August 6, 1987, the Regional Forester directed the Forest Supervisor to perform a supplemental analysis based on issues raised in the appeals by interested and affected publics.

On October 9, 1987, at the request of the Regional Forester, the Chief suspended the unresolved appeals until August 1, 1989, to allow the Forest to conduct supplemental analysis to resolve the issues. The Notice of Intent to prepare a significant amendment to the George Washington National Forest LRMP was published in the Federal Register on March 9, 1988, (53 FR 7545; hereby cancelled) inviting comments on the scope of the analysis and stating the draft supplement would be available for review in August 1989 and the final in April 1990. Due to delays in the process, on August 1, 1989, the Regional Forester requested an extension to complete the supplemental analysis. On September 6, 1989, Forest Service Chief F. Dale Robertson denied the request for extension and directed the Regional Forester to revise the Plan. The Chief believed the need to address certain issues warranted revision to the Plan.

The Forest Plan as approved on September 9, 1986, will remain in effect and continue to be implemented, as modified by the Chief's September 6, 1989, letter. The following interim direction will be effective until the revised Plan is issued: (1) The annual timber sales offered may not exceed 38 million board feet per fiscal year. This figure is based on a review of the GWNF's sold and planned data for fiscal years 1986 to 1990; (2) The use of either even-aged or uneven-aged management in the harvesting of timber will be determined and documented during project-level analysis. This determination will be based on the management area goals and objectives as stated in the Plan. Management prescriptions that prescribe the silvicultural system will be revisited with each timber sale (or group of sales). Clearcutting may be selected as the appropriate harvest method only when it is determined to be the optimum method. Additional management direction on clearcutting can be found in the Chief's letter of September 8, 1988. In that letter, the Chief directed the Regional Foresters to "seek opportunities to reduce clearcutting when other alternatives will meet our

land management objectives;" and (3) Notify all appellants, and give them an opportunity to comment, on proposed surface-disturbing projects involving timber sales and road building. The Forest Supervisor must consider any comments and whether the project decision should be postponed until the LRMP revision is completed.

Since October 1987, public participation activities have included presentations to various public groups, individual meetings and phone calls, and requests for written comments on various planning documents. During environmental impact statement preparation for the LRMP revision, public involvement will continue. The Forest proposes to have periodic public meetings at various locations. The interested and affected people will be notified in advance through letters and news releases of the times and locations.

The following issues will be addressed in the environmental analysis, as well as those significant issues identified during the scoping process: (1) What primitive recreation opportunities should the Forest provide and possible locations; (2) how much all-terrain vehicle (ATV) use will be allowed and possible locations for that use; (3) what level of wildlife emphasis will be allowed, including what standards and guidelines are necessary for wildlife management; (4) what type of transportation system for the Forest is necessary; (5) how much timber should the Forest offer; (6) how can the timber sale program be managed more efficiently; (7) what should be the mix of uneven-aged and even-aged management systems to produce timber and where will each be permitted; (8) what lands should be identified as suited for timber production; and (9) what rivers will be recommended for inclusion in the Wild and Scenic Rivers System.

In preparing the environmental impact statement, the Forest Service will develop, as a minimum, a range of alternatives that: (1) increase and/or decrease timber harvest and road construction levels, analyze various mixes of timber harvest methods, and analyze various mixes of nontimber and timber activities for producing recreation and wildlife benefits; (2) provide timber harvesting at levels where direct timber revenues exceed

direct costs, as well as alternatives where timber harvesting is economically efficient considering the contribution harvesting makes to providing other resource benefits; (3) emphasize different mixes of recreation, wildlife, and timber resources which may or may not meet demand for those resources; and (4) provide recommendations for different rivers to be included in the Wild and Scenic Rivers System.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available for public review by March 1991. At that time EPA will publish a notice of availability of the draft environmental impact statement in the Federal Register.

The comment period on the draft environmental impact statement will be 90 days from the date the EPA notice of availability appears in the Federal Register. It is very important that those interested in the management of the George Washington National Forest participate at that time. To be most helpful, comments on the draft environmental impact statement 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 draft environmental impact statements 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). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc., v. Harris*, 490 F. Supp. 1334, (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 final.

After the comment period ends on the draft environmental impact statement, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement. The final environmental impact statement is scheduled to be completed by October 1991. In the final environmental impact

statement 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 environmental impact statement, 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 a Record of Decision. That decision will be subject to appeal under 36 CFR 217.

The responsible official is John E. Alcock, Regional Forester, Southern Region, 1720 Peachtree Road NW., Atlanta, Georgia 30367.

October 23, 1989.

Marvin C. Meier,

Deputy Regional Forester.

[FR Doc. 89-25614 Filed 11-1-89; 8:45 am]

BILLING CODE 3410-11-M

Modoc National Forest; Hayden Hill Gold Mine Operation

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, as a cooperating agency with the Bureau of Land Management, Department of Interior, will prepare an environmental impact statement for the proposed open pit gold mine operation located in the Hayden Hill area of the Big Valley Ranger District of the Modoc National Forest. The lead Federal Agency will be the Susanville District of the Bureau of Land Management. In addition, Lassen County will be jointly preparing an environmental impact report, as directed by the California Environmental Quality Act, (CEQA). 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 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 January 15, 1990.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Thomas Harbour, District Ranger, Big Valley Ranger District, P.O. Box 159, Adin, California 96006.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to Joyce Coakley, District Resource Officer, Big Valley Ranger

District Office, P.O. Box 159, Adin, California 96006 or phone 916-299-3210.

SUPPLEMENTARY INFORMATION: Hayden Hill Operating Company, a joint venture of AMAX Gold and U.S. Gold, has filed a plan of operation with the Bureau of Land Management, for an open pit gold mine in the Hayden Hill area. The project area is approximately 1200 acres and consists of an open pit, waste rock disposal site processing plants, heap leach systems, mill and tailing ponds, gold recovery processing plant and ancillary facilities and access roads. The present plan of operation proposes the waste rock site and tailings pond to be adjacent to National Forest System lands. The plan proposes to have access and some ancillary facilities on National Forest System Lands. The Forest Service will issue an approval of the plan of operation or permits, for those activities occurring on National Forest System Lands, based upon the Record of Decision.

In preparing the environmental impact statement, the Forest Service will identify and consider a range of alternatives for this site. One of these will be no development of the site. Other alternatives will consider relocation of the access route, waste rock and or tailing ponds.

Douglas C. Smith, Forest Supervisor, Modoc National Forest, Alturas, California, is the responsible 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 preparation of the draft environmental impact statement (DEIS). The scoping processing 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).

The Forest Service and the Bureau of Land Management will hold a public scoping meeting at the Adin Community Hall, Adin, California, from 3 p.m. till 9:30 p.m., Thursday, November 30, 1989.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by May 1990. At that time EPA will publish a notice of availability of the DEIS in the *Federal Register*.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the *Federal Register*. It is very important that those interested in the management of the Hayden Hill 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 draft EIS's 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 final environmental impact statement. *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 final.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement. The final EIS is scheduled to be completed by July 1990. In the final EIS 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 under 36 CFR part 217.

Dated: October 24, 1989.

Douglas G. Smith,
Forest Supervisor.

[FR Doc. 89-25815 Filed 1-1-89; 8:45 am]

BILLING CODE 3410-11-M

ARMS CONTROL AND DISARMAMENT AGENCY

Performance Review Board; Membership

AGENCY: Arms Control and Disarmament Agency.

ACTION: Notice of membership of Performance Review Board.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the U.S. Arms Control and Disarmament Agency announces the appointment of Performance Review Board members.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy Aderholdt, Director of Personnel, U.S. Arms Control and Disarmament Agency, Washington, DC 20451, (202) 647-2034.

The following are the names and present titles of the individuals appointed to the register from which Performance Review Boards will be established by the U.S. Arms Control and Disarmament Agency during the period beginning on the effective date of this notice and ending when a new register is published in approximately one year. Specific Performance Review Boards will be established as needed from this register.

These appointment supercede those in the announcement published at 53 FR 49338 on December 7, 1988.

Name and Title

Stephen Read Hanmer, Jr.—Deputy Director
Mariner G. Cox—Executive Assistant
Manfred Eimer—Assistant Director, Verification and Intelligence Bureau
Robert Summers—Chief, Verification Division, Verification and Intelligence Bureau
Alfred Lieberman—Chief, Operations Analysis Division, Verification and Intelligence Bureau
Kathleen Bailey—Assistant Director, Nuclear and Weapons Control Bureau
Norman Wulf—Deputy Assistant Director, Nuclear and Weapons Control Bureau
Robert Rochlin—Chief Scientist, Nuclear and Weapons Control Bureau
Michael Rosenthal—Chief, International Nuclear Affairs Division, Nuclear and Weapons Control Bureau
Joerg Menzel—Chief, Nuclear Safeguards and Technology Division, Nuclear and Weapons Control Bureau
David Clinard—Deputy Assistant Director, Multilateral Affairs Bureau
O. James Sheaks—Chief, Science and technological Policy Division, Multilateral Affairs Bureau
R. Lucas Fischer—Deputy Assistant Director, Strategic Programs Bureau
Stanley Riveles—Chief, Strategic Affairs Division, Strategic Programs Bureau
Karin Lawson—Chief, Threatener Affairs Division, Strategic Programs Bureau

Michael Guhin—Counselor
William Montgomery—Administrative Director
Thomas Graham, Jr.—General Counsel
Mary Elizabeth Hoinkes—Deputy General Counsel
Norman Clyne—Deputy for Long Range Planning
William Staples—Deputy for Policy Analysis
Albert M. Christopher—Special Counsel
William Shepard—Director of Congressional Affairs
Edward Lacey—Principal Deputy of the On-Site Inspection Agency.
William J. Montgomery,
Administrative Director.

[FR Doc. 89-25812 Filed 11-1-89; 8:45 am]

BILLING CODE 6820-32-M

COMMISSION ON CIVIL RIGHTS

Vermont Advisory Committee to the United States Commission On Civil Rights Agenda and Notice Of Public Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will be convened at 7:15 p.m., on November 30, 1989, in Room 413 of the Waterman Building, University of Vermont, Prospect and College Streets, Burlington, Vermont. The purposes of the meeting include the holding of a forum to examine the topic, "Civil Rights Issues Related to Recruiting and Hiring the Aged."

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Eloise R. Hedbor (802/372-6917) or John I. Binkley, Director of the Eastern Regional Division at (202/523-5264, TDD 202/376-8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, DC, October 26, 1989.

Melvin L. Jenkins,
Acting Staff Director.

[FR Doc. 89-25816 Filed 11-1-89; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Shark Fishery for the Atlantic Ocean

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of a draft fishery management plan, notice of scheduled public hearings on the plan, and requests for comments.

SUMMARY: NOAA issues this notice that NMFS, acting on behalf of the Secretary of Commerce (Secretary), has developed a draft Fishery Management Plan for the Shark Fishery of the Atlantic Ocean (FMP) and request comments.

DATES: Written comments will be accepted until December 31, 1989. See "SUPPLEMENTARY INFORMATION" for dates, times, and locations of the hearings.

ADDRESS: Comments should be sent to Paul J. Leach, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702. Mark envelope "Shark Fishery". Copies of the draft FMP may be obtained from NMFS at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Paul J. Leach, 813-893-3322.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) provides for the preparation of a fishery management plan by the Secretary when a fishery requires conservation and management and the appropriate Regional Fishery Management Council(s) cannot prepare a plan in a reasonable period of time. The five Councils covering the east coast, Gulf of Mexico, and the Caribbean areas requested the Secretary to prepare the FMP because of the identified need for immediate management measures to protect shark resources and their acknowledgement of the significant amount of time required for preparing a Council FMP.

Public comments on the draft FMP are requested at the public hearings either in written or verbal form. NMFS will consider the public comments in preparing a final FMP. The final FMP and proposed implementing regulations will also be available for public comment before final Secretarial adoption and promulgation of final regulations. The notice of availability of the final FMP and proposed implementing rule will also be published in the *Federal Register*.

Shark resources are valuable to many user groups—including consumers of shark meat in the United States,

consumers of sharkfin soup in the Orient, recreational fishermen who enjoy catching sharks on rod and reel, commercial fishermen whose income is dependent to varying degrees on a shark fishery, and medical researchers using shark-derived substances in studying cancer. Shark resources are in need of conservation and management primarily because of a combination of the unique aspects of shark biology and the intensive fishing pressures. Sharks, unlike most fish, are generally slow-growing, take many years to reach maturity, and produce few young (2-25 pups per year) after long gestation periods. Many species of sharks are highly migratory, ranging extensively across wide ocean areas and crossing state and national jurisdictional boundaries. Stocks of shark are fished by many nations. The maximum sustainable yield (MSY) in U.S. waters (the exclusive economic zone and State waters) covering the east coast, Gulf of Mexico, and Caribbean, is estimated to be 16,250 metric tons (mt) yearly. Over the past 10 years, total shark mortality in U.S. waters has exceeded the MSY by approximately 5,900 mt annually. The total fishing mortality is attributable to fish caught in a growing commercial fishery serving an expanding market for shark meat and fins, dead sharks discarded in commercial fisheries for swordfish, tuna, and shrimp, and fish caught and not released alive in the recreational fishery. If the intense fishing pressures are not controlled, the east coast and Gulf shark fisheries could collapse as has occurred in other overexploited shark fisheries. If a fishery collapse occurs, it could take decades before the shark resources will recover to healthy levels capable of sustaining recreational and commercial fisheries. Such a fishery collapse has not yet occurred despite high exploitation levels, probably because of the large unexploited biomass existing prior to the period of rapidly growing interest in sharks.

FMP management measures are proposed to achieve four major objectives: (1) Prevent overfishing; (2) encourage management of shark stocks throughout their ranges; (3) establish a data collection, research, and monitoring program; and (4) optimize the benefits to the United States from shark resources while minimizing resource waste. Specific measures proposed would: (1) Establish an annual quota for commercial landings of 5,800 mt; (2) establish a recreational bag limit of one shark per person per day; (3) establish a procedure for adjusting annual commercial quotas and bag limits for recreational fishermen; (4) prohibit

"finning" by allowing fins to be landed only in proportion to carcasses, (i.e., no more than four fins per carcass); (5) prohibit sale of sharks caught under the bag limit; (6) require annual permits for commercial fishermen and dealers; and (7) require monthly data reports by permitted fishermen and dealers and by persons conducting shark fishing tournaments. In summary, the intended effects of the FMP are to reduce fishing mortality on sharks and to increase understanding of the condition of the shark resources and shark fishery.

NMFS will hold 22 public hearings on the draft FMP in order to obtain public comments. The dates, times, and locations are scheduled as follows:

- November 16, 1989, 7:00 p.m.
Sonesta Inn, 157 High Street, Portland, Maine.
- November 28, 1989, 7:00 p.m.
Howard Johnson, Downtown, 250 Spring Street, Charleston, South Carolina.
- November 29, 1989, 7:00 p.m.
Florida Community College, 501 W. State Street, 4th Floor, Administration Building, Jacksonville, Florida.
- November 30, 1989, 7:00 p.m.
City Hall, 300 Municipal Drive, Madeira Beach, Florida.
- December 4, 1989, 7:00 p.m.
Community Center, 408 N. Alister, Port Arkansas, Texas.
- December 5, 1989, 7:00 p.m.
Holiday Inn, Pavilion Room, 400 E. First Street, Thibodaux, Louisiana
- December 6, 1989, 7:00 p.m.
Holiday Inn, Airport Boulevard, Mobile, Alabama.
- December 7, 1989, 7:00 p.m.
Holiday Inn, 2001 Cove Boulevard, Mail Room A&C, Panama City, Florida.
- December 11, 1989, 7:00 p.m.
Commission Chambers, 2300 Virginia Avenue, 3rd Floor, New Administration Building, Ft. Pierce, Florida.
- December 12, 1989, 7:30 p.m.
Freeport Yacht Club, Guy Lombardo Avenue, Freeport, Long Island, New York.
- December 13, 1989, 7:00 p.m.
City Commission Chambers, 525 Angela Street, Key West, Florida.
- December 13, 1989, 7:30 p.m.
Holiday Inn, Exit 72, Long Island Expressway & Route 25, Riverhead, Long Island, New York.
- December 15, 1989, 1:00 p.m.
Hotel Villa Parguera, La Parguera, Puerto Rico.
- December 15, 1989, 7:00 p.m.
Dutch Inn, Great Island Road, Galilee, Rhode Island.

December 18, 1989, 7:00 p.m.
Wall Township Fire Hall, West
Atlantic Avenue at Route 34, Wall,
New Jersey.

December 18, 1989, 7:00 p.m.
Legislature Building, Beside Ft.
Christian Museum, St. Thomas,
Virgin Islands.

December 19, 1989, 7:00 p.m.
Cape May Extension Office, Cape
May Court House, Dennisville
Road, Cape May, New Jersey.

December 20, 1989, 7:00 p.m.
Sheraton Ocean Park Inn, Route 6,
Eastham, Massachusetts.

December 21, 1989, 7:00 p.m.
Skipper Motor Inn, Route 6,
Fairhaven, Massachusetts.

December 27, 1989, 7:00 p.m.
Carousel Hotel, 118th Street, Coastal
Highway, Ocean City, Maryland.

December 28, 1989, 7:00 p.m.
Radisson Hotel, 700 Settler Landings
Road, Hampton Virginia.

December 29, 1989, 7:00 p.m.
Duke Auditorium, Duke Marine Lab,
Pivers Island, Beaufort, North
Carolina.

Dated: October 27, 1989.

Richard H. Schaefer,

Director of Office of Fisheries Conservation
and Management, National Marine Fisheries
Service.

[FR Doc. 89-25763 Filed 10-27-89; 4:14 pm]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

Action: Notice.

The Department of Defense 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).

*Title, Applicable Form, and
Applicable OMB Control Number:*
Government Industry Reference Data
Edit and Review (GIRDER); DLSC Form
1690; and OMB Control 0704-0135.

Type of Request: Reinstatement.
*Average Burden Hours/Minutes Per
Response:* 22.7 hours.

Frequency of Response: Annually.

Number of Respondents: 100

Annual Burden Hours: 2,270.

Annual Responses: 100

Needs and Uses: The GIRDER report
is the only method available to verify
manufacturers' names and part numbers
which are associated with National
Stock Numbers (NSNs) in the Federal
Catalog System (FSC). This FSC
maintenance avoids erroneous

invitations to bid and erroneous NSN
assignment and is in consonance with
the intent of title 10, U.S. Code, chapter
145.

Affected Public: Businesses or other
for profit; Small businesses or
organizations.

Frequency: Continuing.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Dr. J. Timothy
Sprehe.

Written comments and
recommendations on the proposed
information collection should be sent to
Dr. J. Timothy Sprehe at Office of
Management and Budget, Desk Officer,
Room 3235, New Executive Office
Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl
Rascoe-Harrison.

Written request for copies of the
information collection proposal should
be sent to Ms. Rascoe-Harrison, WHS/
DIOR, 1215 Jefferson Davis Highway,
Suite 1204, Arlington, Virginia 22202-
4302.

Dated: October 30, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 89-25850 Filed 11-1-89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of
the Federal Advisory Committee Act
(Pub. L. 92-463), announcement is made
of the following Committee Meeting:

Names of the committee: Army
Science Board (ASB), Army, DOD.

Date of Meeting: 27-29 November
1989.

Time of Meeting: 1300-1700 hours, 27
November; 0730-1700 hours, 28
November; 0730-1300 hours, 29
November.

Place: Fort Bliss, Texas, 27 November;
Fort Huachuca, Arizona, 28-29
November.

Agenda: The Army Science Board Ad
Hoc Subgroup on Software in the Army
will meet for discussions focused on
problems facing the Army in software
development and to review past and
ongoing efforts to improve the process.
This meeting is open to the public. Any
interested person may attend, appear
before, or file statements with the
committee at the time and in the manner
permitted by the committee. The ASB
Administrative Officer, Sally Warner,

may be contacted for further
information at (202) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-25817 Filed 11-1-89; 8:45 am]

BILLING CODE 3710-8-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed North Coyote Valley Industrial Area Project, Regulatory Permit Application No. 16507S92, Santa Clara, CA.

AGENCY: San Francisco District, U.S.
Army Corps of Engineers, Department of
Defense.

ACTION: Notice of intent to prepare a
DEIS.

SUMMARY:

1. Proposed Action

The City of San Jose, California has
applied for a Department of the Army
permit under Section 404 of the Clean
Water Act (33 U.S.C. 1344) to develop an
industrial park in the northern end of
Coyote Valley, San Jose, California. The
project consists of 1,500 gross acres with
1215 net acres to be developed into a
low intensity use industrial park
characterized by large parcel sizes for
individual users and a campus-like
setting. The San Francisco District,
Corps of Engineers and the City of San
Jose will prepare a joint federal/state
environmental impact document
(Environmental Impact Report/
Environmental Impact Statement (EIR/
EIS)) for the proposed project pursuant
to the National Environmental Policy
Act and the California Environmental
Quality Act.

2. Alternatives

The alternatives being considered by
the City of San Jose at this time are:

- Applicant's preferred plan as
described in "1" above.
- Reduced project plan on-site.
- Alternative land use on-site.
- Alternative site.
- No action (permit denial).

Additional alternatives identified
during the scoping process would also
be considered in the EIR/EIS.

3. Scoping Process

a. A scoping meeting will be held on
Wednesday, December 6, 1989 at the
City Council Chambers, City Hall, 2nd
Floor, 801 North 1st Street, San Jose,
California, at 7 p.m. Public and private
interest groups, and the public are
invited to participate in the scoping
process by attending the evening

scoping meetings. The purpose of the scoping meetings is to identify significant issues and alternatives to be considered in the EIR/EIS.

Any person may also participate in the scoping process by submitting written comments to the Corps of Engineers. Comments should be addressed to the District Engineer, San Francisco District, Corps of Engineers, 211 Main Street, San Francisco, California, 94105-1905 and received within 30 days of the date of this notice.

b. The significant issues which have been identified to date and which would be analyzed in the EIR/EIS include impacts on:

- (1) Water quality and hydrology
- (2) Flood control
- (3) Air quality
- (4) Wildlife and habitat
- (5) Noise conditions
- (6) Aesthetics
- (7) Traffic conditions
- (8) Land Use
- (9) Cultural Resources
- (10) Growth Inducement

Additional significant issues identified during the scoping process would also be analyzed in the EIR/EIS.

c. Environmental review and consultation as required by Section 401 and 404 of the Clean Water Act, as amended (33 U.S.C. 1341 AND 1344); Section 307 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)); the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); Executive Order 11988, "Floodplain Management", 24 May 1977; Executive Order 11990, "Protection of Wetlands", 24 May 1977; and other applicable statutes or regulations will be conducted concurrently with the EIR/EIS process.

Dated: 27 October 1989.

Jack E. Farless,

Deputy District Engineer, Project Manager

[FR Doc. 89-25798 Filed 11-1-89; 8:45 am]

BILLING CODE 3710-FS-M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference meeting of

the Analysis and Dissemination Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a) (2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: Wednesday, November 15, 1989.

TIME: 10:00 a.m. (e.s.t.) until adjournment.

PLACE: National Assessment Governing Board, Suite 7322, 1100 L Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Roy Truby, Executive Director, National Assessment Governing Board, Suite 7322, 1100 L Street, NW., Washington, DC, 20005-4013, Telephone: (202) 357-6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III-C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100-297), (20 U.S.C. 1221e-1).

The Board is established to advise the Commissioner of the National Center for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Educational Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons.

The Analysis and Dissemination Committee of the National Assessment Governing Board will meet via teleconference on Wednesday, November 15, 1989 from 10:00 a.m. until the completion of business. Because this is a teleconference meeting, facilities will be provided so the public will have access to the Committee's deliberations. The proposed agenda includes discussion of the plans for the Press Conference to release the results of the reading and writing assessments, consideration of the recommendations from the State by State panel regarding the comparison of States' performance on the NAEP tests and other matters pertaining to the Committee's charge.

Records are kept of all Board proceedings and are available for public

inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 7322, 1100 L Street, NW., Washington, DC from 8:30 a.m. to 5:00 p.m.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 89-25783 Filed 11-1-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 89-68-NG]

Vermont Gas Systems, Inc.; Application To Amend Authorization To Import Natural Gas From Canada and Issuance of an Emergency Order Granting Interim Authority To Increase the Volume Being Imported

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application to amend authorization to import Canadian natural gas and issuance of an emergency order granting interim authority to increase the volume being imported.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on October 4, 1989, of an application filed by Vermont Gas Systems, Inc. (Vermont Gas), to amend its existing authorization to import Canadian natural gas by increasing the maximum daily import volumes to 32,000 Mcf for the remainder of the import term and extending the expiration date of its authority for one year from October 31, 1991, to October 31, 1992. No new facilities will be needed for the importation and transportation of gas under the proposed amendments.

Vermont Gas requested waiver of the DOE's notice requirements (10 CFR 590.205(a)) to the extent necessary to assure that the requested authorization would be issued by October 30, 1989. Alternatively, Vermont Gas requested that if a final order could not be issued by October 30, 1989, it be given temporary emergency authority to import the additional volumes beginning on that date, and continuing until a final decision on the application is made so that there are sufficient gas supplies to meet the expected winter heating season requirements of its customers.

The application is filed pursuant to 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.

By this notice, the DOE is establishing a 30-day comment period to provide all interested persons the opportunity to submit comments in response to Vermont Gas' request to amend its import authorization. The DOE also gives notice at this time of its decision to issue an emergency interim order, under 10 CFR 590.403, authorizing Vermont Gas to import the additional volumes, on which comments may be filed within the same 30-day public comment period.

DATE: Protests, motions to intervene, notices of interventions, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., December 4, 1989.

ADDRESS: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Lot Cooke, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8116;

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Vermont Gas is a local distribution company that receives its total supply of natural gas from TransCanada PipeLines Limited (TransCanada) under a gas purchase contract dated November 28, 1985, as amended (1985 contract). The delivery point is at the international boundary near Highgate Springs, Vermont. Vermont Gas sells and distributes this gas supply entirely within the State of Vermont. Vermont Gas cannot obtain any domestic natural gas supplies since it is not connected to any other pipelines than TransCanada.

In DOE Opinion and Order No. 143, issued September 5, 1986 (1 ERA Para. 70,666), Vermont Gas was authorized to increase incrementally from 25,600 Mcf per day to 32,000 Mcf per day the firm volumes of gas imported from TransCanada over a three-year period ending October 31, 1989. Beginning November 1, 1989, absent approval of this application, Vermont Gas' authorized import quantity would revert to 25,600 Mcf per day in accordance with DOE Opinion and Order No. 39 (Order 39), issued March 1, 1982 (1 ERA Para. 70,544). Order No. 39 expires October 31, 1991.

On May 1, 1989, Vermont Gas entered into a letter of agreement with Western Gas Marketing Limited (WGML), TransCanada's affiliate (acting on its own behalf and as agent for TransCanada), concerning a new contract for the purchase of gas on a firm, long-term basis after October 31, 1989. Subsequently, on July 31, 1989, Vermont Gas applied in FE Docket No. 89-50-NG to amend its import authorization to incorporate the terms contained in the May 1, letter of agreement. However, the new contract was not executed because it failed to receive approval by the producers of the gas and the earlier application was withdrawn contemporaneously with the filing of the present application.

Absent the new contract, Vermont Gas and WGML agreed on September 29, 1989, subject to producer approval, to amend the quantity and pricing provisions of the 1985 contract for the remaining term of that contract which expires October 31, 1992. Specifically, the maximum daily contract demand under the 1985 contract would be increased to 32,000 Mcf. In addition, the September 29, agreement provides that commencing November 1, 1989, the import price would consist of a demand and commodity charge. The monthly demand charge would be equal to the monthly demand toll per Mcf for transportation of the gas on TransCanada's system from the Province of Alberta to the point of delivery at Highgate Springs, Vermont. The demand charge would be subject to certain credits during the summer months (April through October) for any excess capacity that TransCanada or WGML may be able to use for sales to other parties. The commodity charge would be computed under a formula starting with a base price of \$1.92 (U.S.) per MMBtu for gas that is delivered to Vermont Gas' firm customers and \$1.55 (U.S.) per MMBtu for gas delivered to interruptible customers. The commodity charge would be recalculated annually on November 1 based on changes in the published average price of No. 2 fuel oil and No. 6 residual oil in Albany, New York. In an October 13 letter, Vermont Gas indicated that at 100 percent load factor the average delivered price at the international border for November 1989 would be \$2.79 (U.S.) per Mcf.

The 1985 contract provides for price renegotiation at regular intervals during the contract period and for arbitration if the parties are unable to agree. The September 29 agreement redefines when renegotiation may be requested, adds a further basis for renegotiation in the event of certain market events, and

establishes new criteria to be used in the event of any arbitration.

In support of its application, Vermont Gas states that the terms of the 1985 contract, as amended by the September 29 agreement, provide for a secure supply of natural gas at a price which is competitive with alternate fuels in Vermont. Vermont Gas asserts that the continued importation of up to 32,000 Mcf of gas per day, as was authorized to be imported over the past year, is needed to meet its firm market requirements.

To avoid the adverse consequences of having an insufficient supply to meet the demand for gas in its service area during the upcoming winter heating season, Vermont Gas requested that authorization be granted by October 30, 1989. In the event a final order could not be issued by that time, Vermont Gas requested an emergency interim import authorization. It is clear that the DOE could not extend a full 30-day comment period and still issue a permanent decisional order in this docket by the end of October. In view of the above considerations and the facts asserted by Vermont Gas, the DOE concluded that issuing an emergency interim order is not inconsistent with the public interest. This order, DOE/FE Opinion and Order No. 344, issued October 26, 1989, amends Order 39 to authorize Vermont Gas to import a maximum of 32,000 Mcf of gas per day, in accordance with the provisions of the September 29 agreement between Vermont Gas and WGML, until a final determination is made on the application.

The decision on this application 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 6884, 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. The applicant asserts that this import arrangement is in the public interest because it is competitive, needed, and its gas source will be secure. 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, including the interim order, 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 action to be taken on the application. All protests, motion to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590.

Protest, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that 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 the 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 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 an oral presentation should identify the substantial question or 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 Vermont Gas' application is available for inspection and copying from the Office of Fuels Programs Docket Room, 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 October 26, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-25759 Filed 11-1-89; 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 for review by the Office of Management and Budget.

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 within 30 days of publication of this notice. 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.)

ADDRESS: 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 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-519
3. 1902-0082
4. Disposition of Facilities, Mergers, and Acquisitions of Securities
5. Reinstatement
6. On occasion
7. Mandatory
8. Businesses or other for-profit
9. 30 respondents
10. 30 responses annually
11. The estimated average hours per response for each of the respondents is 85 burden hours
12. The estimated total reporting hours are 2,550
13. The FPA requires that public utilities file for approval of dispositions of

jurisdictional facilities, mergers of such facilities with other such facilities owned by another person, or acquisitions of securities of other public utilities. Supporting data is required to determine if transactions are consistent with public interest.

Statutory 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.

Issued in Washington, DC, October 26, 1989.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 89-25760 Filed 11-1-89; 8:45 am]

BILLING CODE 6450-01-M

Inventory of Current DOE Reporting and Record-Keeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of inventory of current Department of Energy energy information collections, including reporting and record-keeping requirements.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice to respondents, and other interested parties, of an inventory of current energy information collections (including reporting and record-keeping requirements) which are approved by the Office of Management and Budget (OMB). Management and procurement collections are the responsibility of DOE's Office of Management and Administration and are not included in these notices.

The listing that follows this notice includes energy information collections that have OMB approval, as of October 1, 1989. Part I lists, for each information collection utilizing a structured form, the current DOE control or form number, the title of the requirement, the OMB control number, and the OMB approval expiration date. Part II lists those information collections (including reporting or record-keeping requirements) not utilizing structured forms and the appropriate Code of Federal Regulations citations.

FOR FURTHER INFORMATION CONTACT: Etta Harris (EI-73), Energy Information Administration, Mail Stop 1H-023,

Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2165. Information on the availability of single, blank information copies of those collections utilizing structured forms can be obtained by contacting the National Energy Information Center, EI-231, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, (202) 586-8800.

SUPPLEMENTARY INFORMATION: In an effort to keep respondents, users, and other interested parties informed concerning the status of these information collections, which are subject to clearance by the OMB under the Paperwork Reduction Act, the EIA will publish a Notice of Change to the Inventory in the *Federal Register* on a quarterly basis throughout the current fiscal year.

Statutory 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.

Issued in Washington, DC, October 26, 1989.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

October 1, 1989 Inventory PART I.—DOE ACTIVE INFORMATION COLLECTIONS

(utilizing structured forms)

DOE No.	Title	OMB Control No.	Expiration date
Civilian Radioactive Waste Management			
NWPA-830R-G	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—Quarterly Report—Standard Remittance Advice—Annex A.	19010250	12/31/89
RW-859	Nuclear Fuel Data.....	19010287	12/31/90
Conservation and Renewable Energy			
CE-63A/B	Annual Solar Thermal Collector Manufacturers Survey and Annual Photovoltaic Module Manufacturers Survey.....	19010292	12/31/89
Economic Regulatory Administration			
ERA-424D	Tertiary Project Annual Prepaid Expenses Report Form.....	19030069	03/31/90
Energy Information Administration			
EIA-1	Weekly Coal Monitoring Report—General Industries and Blast Furnaces (Standby).....	19050167	03/31/92
EIA-3	Quarterly Coal Consumption Report—Manufacturing Plants.....	19050167	03/31/92
EIA-4	Weekly Coal Monitoring Report—Coke Plants (Standby Form).....	19050167	03/31/92
EIA-5	Coke Plant Report—Quarterly.....	19050167	03/31/92
EIA-6	Coal Distribution Report.....	19050167	03/31/92
EIA-7A	Coal Production Report.....	19050167	03/31/92
EIA-14	Refiners' Monthly Cost Report.....	19050174	09/30/90
EIA-20	Weekly Telephone Survey of Coal Burning Utilities (Standby Form).....	19050167	03/31/92
EIA-23	Annual Survey of Domestic Oil and Gas Reserves.....	19050057	12/31/91
EIA-23P	Oil and Gas Well Operator List Update Report.....	19050057	12/31/91
EIA-28	Financial Reporting System.....	19050149	12/31/90
EIA-64A	Annual Report of the Origin of Natural Gas Liquids Production.....	19050057	12/31/91
EIA-176	Annual Report of Natural and Supplemental Gas Supply and Disposition.....	19050175	12/31/90
EIA-182	Domestic Crude Oil First Purchase Report.....	19050174	09/30/90
EIA-191	Underground Natural Gas Storage Report.....	19050175	12/31/90
EIA-213	Typical Net Monthly Bills.....	19050129	12/31/89
EIA-254	Semiannual Report on Status of Reactor Construction.....	19050160	06/30/91
EIA-412	Annual Report of Public Electric Utilities.....	19050129	12/31/89
EIA-457A	Residential Energy Consumption Survey—Housing Unit Record Sheet.....	19050092	05/31/90
EIA-457B	Residential Energy Consumption Survey—Household Questionnaire.....	19050092	05/31/90

PART I.—DOE ACTIVE INFORMATION COLLECTIONS—Continued

(utilizing structured forms)

DOE No.	Title	OMB Control No.	Expiration date
EIA-457C	Residential energy Consumption Survey—Rental Agents.....	19050092	05/31/90
EIA-457D	Residential Energy Consumption Survey—Liquefied Petroleum Gas Suppliers.....	19050092	05/31/90
EIA-457E	Residential Energy Consumption Survey—Electric Utilities.....	19050092	05/31/90
EIA-457F	Residential Energy Consumption Survey—Natural Gas Suppliers.....	19050092	05/31/90
EIA-457G	Residential Energy Consumption Survey—Fuel Oil Suppliers.....	19050092	05/31/90
EIA-627	Annual Quantity and Value of Natural Gas Report.....	19050175	12/31/90
EIA-714	Annual Electric Power System Report.....	19050161	12/31/90
EIA-759	Monthly Power Plant Report.....	19050129	12/31/89
EIA-782A	Monthly Petroleum Product Sales Report.....	19050174	09/30/90
EIA-782B	Reseller/Retailer's Monthly Petroleum Product Sales Report.....	19050174	09/30/90
EIA-782C	Monthly Report of Petroleum Products Sold into States for Consumption.....	19050174	09/30/90
EIA-800	Weekly Refinery Report.....	19050165	04/30/92
EIA-801	Weekly Bulk Terminal Report.....	19050165	04/30/92
EIA-802	Weekly Product Pipeline Report.....	19050165	04/30/92
EIA-803	Weekly Crude Oil Stocks Report.....	19050165	04/30/92
EIA-804	Weekly Imports Report.....	19050165	04/30/92
EIA-806	Weekly Crude Watch Report.....	19050165	04/30/92
EIA-810	Monthly Refinery Report.....	19050165	04/30/92
EIA-811	Monthly Bulk Terminal Report.....	19050165	04/30/92
EIA-812	Monthly Product Pipeline Report.....	19050165	04/30/92
EIA-813	Monthly Crude Oil Report.....	19050165	04/30/92
EIA-814	Monthly Imports Report.....	19050165	04/30/92
EIA-816	Monthly Natural Gas Liquids Report.....	19050165	04/30/92
EIA-817	Monthly Tanker and Barge Movement Report.....	19050165	04/30/92
EIA-818	International Energy Agency Imports/Stocks-at-Sea Report.....	19050165	04/30/92
EIA-820	Annual Refinery Report.....	19050165	04/30/92
EIA-821	Annual Fuel Oil and Kerosene Sales Report.....	19050174	09/30/90
EIA-825	Petroleum Facility Operator Identification Survey.....	19050165	04/30/92
EIA-826	Monthly Electric Utility Sales and Revenue Report with State Distributions.....	19050129	12/31/89
EIA-846A/D	Manufacturing Energy Consumption Survey.....	19050169	04/30/91
EIA-851	Domestic Uranium Mining Production Report.....	19050160	06/30/91
EIA-853	Monthly Foreign Crude Oil Acquisition Report.....	19050174	09/30/90
EIA-857	DOE Monthly Report of Natural Gas Purchases and Deliveries to Consumers.....	19050175	12/31/90
EIA-858	Uranium Industry Annual Survey.....	19050160	06/30/91
EIA-860	Annual Electric Generator Report.....	19050129	12/31/89
EIA-861	Annual Electric Utility Report.....	19050129	12/31/89
EIA-863	Petroleum Product Sales Identification Survey.....	19050174	09/30/90
EIA-871A/F	Commercial Buildings Energy Consumption Survey.....	19050145	05/31/92
EIA-876A/C	Residential Transportation Energy Consumption Survey.....	19050068	09/30/90
Environment, Safety and Health			
EIA-767(2)	Steam Electric Plant Operation and Design Report.....	19010267	12/31/89
Federal Energy Regulatory Commission			
EIA-714(1)	Annual Electric Power System Report.....	19020140	12/31/90
EIA-767(1)	Steam-Electric Plant Operation and Design.....	19020034	12/31/89
FERC-1	Annual Report of Major Electric Utilities, Licensees, and Others.....	19020021	09/30/90
FERC-1-F	Annual Report of Nonmajor Public Utilities and Licensees.....	19020029	09/30/90
FERC-2	Annual Report for Major Natural Gas Companies.....	19020028	09/30/90
FERC-2A	Annual Report of Nonmajor Natural Gas Companies.....	19020030	09/30/90
FERC-6	Annual Report of Oil Pipeline Companies.....	19020022	09/30/90
FERC-8	Underground Gas Storage Report.....	19020026	06/30/92
FERC-11	Natural Gas Pipeline Company Monthly Statement.....	19020032	06/30/90
FERC-15	Interstate Pipeline's Annual Report of Gas Supply.....	19020037	08/31/90
FERC-16	Report of Gas Supply and Requirements.....	19020025	09/30/92
FERC-73	Service Life Data.....	19020019	10/31/89
FERC-121	Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act of 1978.....	19020038	10/31/91
FERC-423	Monthly Report of Cost and Quality of Fuels for Electric Plants.....	19020024	09/30/90
FERC-531	Gas Producer Certificates: New Service/Amendments.....	19020052	09/30/92
FERC-561	Annual Report of Interlocking Positions.....	19020099	07/31/92
FERC-580	Fuel Purchase Practices.....	19020137	03/31/90
FPC-14	Annual Report for Importers and Exporters of Natural Gas.....	19020027	09/30/92
Fossil Energy			
FE-166	Public Utility Regulatory Policies Act (PURPA) Annual Report on Electric and Gas Utilities.....	19010293	04/30/91
FE-748	Enhanced Oil Recovery Annual Report.....	19010291	06/30/92
FE-781R	Annual Report of International Electrical Export/Import Data.....	19010296	08/31/91
International Affairs and Energy Emergencies			
IE-411	Coordinated Regional Bulk Power Supply Program Report.....	19010286	07/31/90
IE-417R	Major Electric Power System Emergency Report.....	19010288	05/31/92

October 1, 1989 Inventory

PART II.—DOE ACTIVE INFORMATION COLLECTIONS

(not utilizing structured forms)

DOE No.	Title	OMB Control No.	Expiration Date	CFR Citations
Civilian Radioactive Waste Management				
NWPA-830R.....	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—Contract.	19010260	12/31/89	10 CFR 961.
NWPA-830R-A-F...	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste—Annual Report.	19010260	12/31/89	10 CFR 961.
Economic Regulatory Administration				
ERA-766R.....	Recordkeeping Requirements of DOE's General Allocation and Price Rules.....	19030073	09/30/90	10 CFR 210.1, 211.69, 213.6, 221.36.
Federal Energy Regulatory Commission				
FERC-16A.....	Monitoring (Omnibus) Report (stand-by authority).....	19020105	10/31/89	By FERC Order.
FERC-16AT.....	Interstate Pipeline Curtailment (Telephone) Survey.....	19020139	11/30/89	By FERC Order.
FERC-80.....	Licensed Hydropower Development Recreation Report.....	19020106	11/30/89	18 CFR 8.11, 141.14.
FERC-314A.....	Application For Small Producer Exemption.....	19020006	02/28/91	18 CFR 157.40(b)(4), 250.10.
FERC-500.....	Application For License for Hydropower Projects Greater Than 5MW.....	19020058	08/31/92	18 CFR 4.30, 4.32, 4.33, 4.38, 4.40, 4.41, 4.50, 4.51, 4.200-202.
FERC-505.....	Application for License for Water Projects 5MW or Less.....	19020115	08/31/92	18 CFR 4.61, 4.71, 4.92, 4.93, 4.107, 4.108, 4.112, 4.113, 4.201-202.
FERC-510.....	Application for Surrender of Electric License.....	19020068	11/30/91	18 CFR 6.1, 6.3.
FERC-511.....	Application for Transfer of Electric License.....	19020069	10/31/91	18 CFR 9.1, 9.2, 9.10.
FERC-512.....	Application for Preliminary Permit.....	19020073	07/31/91	18 CFR 4.31-33, 4.81-82.
FERC-515.....	Hydropower License—Declaration of Intention.....	19020079	07/31/91	18 CFR 24.1.
FERC-516.....	Electric Rate Schedule Filings.....	19020096	04/30/92	18 CFR 35, Subpart A, 35.12-16, 35.26, 35.30, 35.31, 292, 301.
FERC-521.....	Headwater Benefits.....	19020087	07/31/92	18 CFR 11.16, 11.26-11.31, 13.1.
FERC-523.....	Application for Authorization of The Issuance of Securities or the Assumption of Liabilities.....	19020043	10/31/89	18 CFR 20, 34, 38, 131.43 and 131.50.
FERC-525.....	Financial Audits.....	19020092	03/31/92	18 CFR 101, 201.
FERC-530.....	Gas Producer Certificate: Abandonment/Termination.....	19020051	09/30/90	18 CFR 2.64, 157.30, 250.7.
FERC-532.....	Gas Producer Rate: Filing.....	19020055	03/31/91	18 CFR 2.56(a), 154.91-.110, 157.301, 250.8-9, 250.14.
FERC-534.....	Gas Producer Rates: Application for Production-Related Costs.....	19020057	07/31/92	18 CFR 154.94(K), 270.271 (Subpart K).
FERC-537.....	Gas Pipeline Certificates: Construction, Acquisition & Abandonment.....	19020060	04/30/92	18 CFR 2.79, 157.5-21, .100, .201-218, 159.1, 284.107, .127, .221.
FERC-538.....	Gas Pipeline Certificate: Initial Service.....	19020061	12/31/90	18 CFR 156.3-5.
FERC-541.....	Gas Pipeline Certificate: Curtailment Plan.....	19020066	03/31/91	18 CFR 2.78, 281.
FERC-542A.....	Tracking and Recovery of Alaska Natural Gas Transportation System.....	19020129	12/30/90	18 CFR 154.201-154.213.
FERC-543.....	Gas Pipeline Rates: Purchased Gas Adjustment Tracking.....	19020152	01/31/91	18 CFR 154.38.
FERC-544.....	Gas Pipeline Rates: Rate Change (Formal).....	19020153	02/28/91	18 CFR 154.63-154.67.
FERC-545.....	Gas Pipeline Rates: Rate Change (Non-Formal).....	19020154	04/30/90	18 CFR 154.62-154.67.
FERC-546.....	Gas Pipeline Rates: Certificated Rate Filings.....	19020155	02/22/91	18 CFR 154.62-154.67.
FERC-547.....	Gas Pipeline Rates: Refund Obligations.....	19020084	03/31/91	18 CFR 154, 270, 273.
FERC-548.....	Staff Adjustment Under Natural Gas Policy Act Section 502(c).....	19020085	10/31/91	18 CFR 270-277, 281, 282, 284, 365, Subpart K.
FERC-549.....	Gas Pipeline Rates: Natural Gas Policy Act Title III Transactions.....	19020086	06/30/91	18 CFR 284 Sub. A/D/E/F/H, 284.7-11, .102, .105, .106, .122, etc.
FERC-550.....	Oil Pipeline Rates: Tariff Filings.....	19020089	08/31/89	18 CFR 340-345 and 347.
FERC-555.....	Records Retention Requirements.....	19020098	05/31/92	18 CFR 125, 158, 160.1, 225, 276.108, 277.210 and 356.
FERC-556.....	Cogeneration and Small Power Production.....	19020075	10/31/91	18 CFR 292.
FERC-557.....	PURPA Section 133: Cost of Service Data.....	19020042	10/31/89	18 CFR 290.
FERC-558.....	Format of Contract Summary for Applications for Certificates of Public Convenience and Necessity.....	19020109	07/31/90	18 CFR 250.5.
FERC-559.....	Independent Producer Rate Change or Initial Billing Statement.....	19020036	06/30/90	18 CFR 250.14.
FERC-566.....	Report of Utility's Twenty Largest Purchasers.....	19020114	02/29/92	18 CFR 46.3.
FERC-567.....	Gas Pipeline Certificates: Annual Reports of System Flow Diagrams and System Capacity.....	19020005	09/30/90	18 CFR 260.8, 284.12.
FERC-568.....	Well Category Determinations.....	19020112	01/31/90	18 CFR 271.703, 274, 275.
FERC-569.....	Establishment of Deadlines for 1st Sellers to Make and Report Refunds Refund Obligation (producers).....	19020111	10/31/90	18 CFR 270.101(e), 271.805(f), 273.302.

PART II.—DOE ACTIVE INFORMATION COLLECTIONS—Continued

(not utilizing structured forms)

DOE No.	Title	OMB Control No.	Expiration Date	CFR Citations
FERC-570.....	Recordkeeping Requirements for Certain Sales of Natural Gas.....	19020124	10/31/91	18 CFR 271.503, 271.603, 271.903.
FERC-574.....	Gas Pipeline Certificates—Hinshaw Exemption.....	19020116	12/31/89	18 CFR 152.
FERC-576.....	Report by Certain Natural Gas Companies on Service Interruptions.....	19020004	06/30/92	18 CFR 260.9.
FERC-577.....	Gas Pipeline Certificates: Environmental Impact Statement.....	19020128	07/31/92	18 CFR 2.80, 2.82, 157.14.
FERC-581.....	Management and Procurement Reporting and Recordkeeping Requirements.....	19020130	02/28/90	48 CFR Subtitle A, Chapter 9.
FERC-582.....	Oil, Gas, and Electric Fees and Annual Charges.....	19020132	08/31/90	18 CFR 381.106, 382.105(A), 382.201(B)(4).
FERC-583.....	Hydroelectric Fees and Annual Charges.....	19020136	06/30/90	18 CFR 11.01-.04, 11.06, 11.20-.22, 11.24, 131.70.
FERC-585.....	Reporting of Electric Energy Shortages & Contingency Plans Under PURPA 206.....	19020138	09/30/90	18 CFR 294.
FERC-588.....	Emergency Natural Gas Sale, Transportation and Exchange Transactions.....	19020144	06/30/91	18 CFR 284, Subpart I.
FERC-590.....	Wellhead Pricing: Pricing Investigations.....	19020147	09/30/92	None.
FERC-592.....	Marketing Affiliates of Interstate Pipelines.....	19020157	13/31/89	18 CFR 161, 250.
Fossil Energy				
FE-329R.....	Regulatory Reporting and Recordkeeping Requirements Pursuant to 10 CFR 500, 501, 503, and 504.	19010297	03/31/92	10 CFR 500, 501, 503, 504, 505, 508, 515.
FE-746R.....	Imports and Exports of Natural Gas.....	19010294	01/31/90	10 CFR 205, 590.
FE-750R.....	Annual compilation of Proposed and Final List of Utilities Covered by Public Utility Regulatory Policies Act and National Energy Conservation Policy Act.	19010295	04/30/91	10 CFR 463.

[FR Doc. 89-25761 Filed 11-1-89; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER90-26-000, et al.]

American Electric Power Service Corp., et al.; Electric rate, Small power production, and interlocking Directorate filings

Take notice that the following filings have been made with the Commission:

1. American Electric Power Service Corp.

[Docket No. ER90-26-000]
October 24, 1989.

Take notice that American Electric Power Service Corp. on October 18, 1989 tendered for filing a Transmission and Unit Power Supply Agreement, requesting the Commission designate it an Initial Rate Schedule on behalf of its affiliates, Appalachian Power Company, and Indiana Michigan Power Company (AEP) parties, affiliated operating subsidiaries of the American Electric Power Company.

The Transmission and Unit Power Supply Agreement among Appalachian Power Company (APCO), Indiana Michigan Power Company (I&M), and Carolina Power & Light Company (CP&L), dated December 14, 1988, provides for two new interconnections

between APCO and CP&L and Unit Power service from I&M to CP&L. The new interconnections between APCO and CP&L are planned for completion in 1992 and 1997. The Unit Power service arrangement for a nominal 250 MW of capacity is based on I&M's cost for Rockport Unit No. 2, and is to begin on the later of January 1, 1990 or upon commercial operation of Rockport Unit No. 2.

AEP has requested an effective date of January 1, 1990.

Copies of the filing were served upon the Indiana Utility Regulatory Commission, the Michigan Public Service Commission, the State Corporation Commission of Virginia, the Public Service Commission of West Virginia, the North Carolina Utilities Commission, the South Carolina Public Service Commission, and the Tennessee Public Service Commission.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. AEP Generating Company

[Docket No. ER89-470-000]
October 24, 1989.

Take notice that on October 19, 1989, AEP Generating Company (AEGCO) filed with the Commission, in compliance with the Commission's order of September 22, 1989 in Docket No. ER89-470-000, an equity reopener provision applicable to a unit power agreement between AEGCO and Indiana Michigan Power Company, and two related unit power agreements.

The change is proposed to be effective upon the commercial operation date of Rockport 2, presently expected to occur in December, 1989. Copies of the filing were served upon the public service commissions on the states of Kentucky, Indiana and Michigan and the parties in Docket No. ER89-470-000.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Arkansas Power & Light Company

[Docket No. ER90-28-000]
October 24, 1989.

Take notice that Arkansas Power & Light Company (AP&L) filed on October 19, 1989 a Transmission Service Agreement with the City of Hope, Arkansas, requesting an effective date of October 1, 1989. The Agreement provides the basis upon which AP&L will wheel power from Southwestern Electric Power Company to Hope's North Substation.

The proposed Agreement supercedes AP&L's FERC Rate Schedule No. 100, whose cancellation was accepted by the Commission on August 15, 1989.

Copies of the Transmission Service Agreement and supporting workpapers were served on the City of Hope, Arkansas. Copies also were served on the Arkansas Public Service Commission.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Tucson Electric Power Company

[Docket No. ER90-25-000]

October 24, 1989.

Take notice that on October 10, 1989, Tucson Electric Power Company (Tucson) tendered for filing a notice of cancellation of Rate Schedule FERC No. 73 between Tucson and Arizona Public Service Company (Arizona).

Tucson requests an effective date of October 1, 1989.

Comment date: November 9, 1989, in accordance with Standard Paragraph E end of this notice.

5. Canal Electric Company

[Docket No. ER90-29-000]

October 24, 1989.

Take notice that on October 20, 1989 Canal Electric Company (Canal) tendered for filing a Power Contract (the Power Contract) between itself, Cambridge Electric Light Company and Commonwealth Electric Company and a Capacity Acquisition Commitment (the "Commitment"). The Power Contract implements the terms of the Capacity Acquisition Agreement (FERC Rate Schedule No. 21) and the Commitment. Such Power Contract recognizes the purchase of demand and energy by Canal from Connecticut Light and Power Company, a subsidiary of Northeast Utilities, and from United Illuminating Company over the time period October 1, 1989 to April 30, 1990 and the sale of such power to Cambridge Electric Light Company and Commonwealth Electric Company. Canal has requested that the Commission's notice requirements with respect to the Power Contract and the Commitment be waived pursuant to Section 35.11 of the Commission's regulations in order to allow the tendered Power Contract to become effective as of October 1, 1989.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Indianapolis Power & Light Company

[Docket No. ER90-30-000]

October 24, 1989.

Take notice that Indianapolis Power & Light Company on October 20, 1989, tendered for filing Modification No. 8 to the Interconnection Agreement dated December 2, 1968, (the 1968 Agreement) between Indianapolis Power & Light Company (IPL) and Southern Indiana Gas and Electric Company (SIGECO). The 1968 Agreement is designated as Rate Schedule FPC No. 6.

Modification No. 8 provides equitable compensation as between IPL and SIGECO for the delivery of emergency service, interchange energy, short term

power and energy, limited term power, and specific transmission services.

Copies of the filing were mailed to Southern Indiana Gas and Electric Company, Inc. and to the Indiana Utility Regulatory Commission.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. UNITIL Power Corp.

[Docket No. ER89-607-000]

October 24, 1989.

Take notice that on October 4, 1989, UNITIL Power Corp. (UNITIL) filed with the Commission a revision of its Electric Tariff No. 3, Sale of Electric Generating Capacity and Energy, for the sale of capacity and associated energy from UNITIL's excess capacity entitlements in various generating plants, filed with the Commission on August 15, 1989.

UNITIL states that it is revising its original filing by submitting Revised Sheet No. 2 and Second Revised Sheet No. e for the tariff and Second Revised page 1 of Attachment A (Service Agreement). The purpose of the revision is to specify the rate, and the derivation thereof, more clearly in the tariff and to eliminate any reference to a specific rate from the Service Agreement.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Georgia Power Company

[Docket No. ER89-618-000]

October 24, 1989.

Take notice that on October 20, 1989, Georgia Power Company (Georgia Power) tendered for filing additional information in support of a Coordination Services Agreement (the "Agreement") dated as of August 21, 1989, between Georgia Power and Oglethorpe Power Corporation (An Electric Membership Generation & Transmission Corporation) (OPC).

Georgia Power states that the Agreement has been executed to facilitate a power purchase by OPC from Big Rivers Corporation. Georgia Power seeks waiver of the Commission's notice requirements and seeks an effective date of August 21, 1989. The Agreement will terminate on May 31, 1992. The additional information allegedly justifies Georgia Power's scheduling fee of \$15.00 per hour per transaction.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Public Service Corporation

[Docket No. ER90-27-000]

October 24, 1989.

Take notice that Wisconsin Service Corporation (the "company") on October 17, 1989, tendered for filing an executed service agreement to transfer, effective January 10, 1990, its all requirements customer, the Washington Island Electric Cooperative, Wisconsin, from all requirements service under a contract (FERC Rate Schedule Number 40) to the same service under the company's all requirements tariff, Original Volume no. 2. The filing does not affect the rate charged to the Washington Island Electric Cooperative, nor the revenues paid by the cooperative to the company. The company makes this change so that service will be under a tariff which is generally applicable to all customers.

Copies of the filing were served upon the Washington Island Electric Cooperative and the Public Service Commission of Wisconsin.

Comment date: November 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Kansas Gas and Electric Company

[Docket No. ES90-3-000]

October 25, 1989.

Take notice that on October 16, 1989, Kansas Gas and Electric Company filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to Section 204 of the Federal Power Act, to issue not more than 1,500,000 shares of its common stock, without par value, pursuant to its Long-Term Incentive Plan.

Comment date: November 15, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Chevron U.S.A. Inc.

[Docket No. QF90-9-000]

October 25, 1989.

On October 12, 1989, Chevron U.S.A. Inc., (Applicant) of P.O. Box 3725, Houston, Texas 77253-3725, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Ewa Beach, Hawaii. The facility will consist of three (3) combustion gas turbine generators and three (3) heat recovery steam generators. Thermal Energy recovered from the facility will be consumed in refinery process equipment, such as heaters, reboilers, vaporizers,

distillation columns and pumps. The electric power production capacity will be 9,100 kilowatts. The primary energy source will be refinery process gas. Construction of the facility began in September 1989 and start-up is scheduled to begin in July 1990.

Comment date: Thirty days from publication in the **Federal Register** 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. 89-25771 Filed 11-1-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-102-000 et al.]

Trunkline Gas Company, et al.; Natural Gas Certificate Filings

October 26, 1989.

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Company

[Docket No. CP90-102-000]

Take notice that on October 23, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-102-000, 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 for Texpar Energy, Inc. (Texpar), a shipper and marketer of natural gas, under Trunkline's blanket certificate issued in Docket No. CP 86-586-000 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.

Trunkline States that pursuant to a Transportation Agreement (Agreement) dated July 17, 1989, between Trunkline

and Texpar, it would transport up to 100,000 dekatherms (Dt.) per day equivalent of natural gas, on an interruptible basis, for Texpa. Trunkline indicates that the Agreement provides for Trunkline to receive the natural gas from various existing points of receipt in the states of Illinois, Louisiana, Tennessee and Texas, from the Panhandle Eastern Pipe Line Company (Panhandle) receipt point at Douglas County, Illinois and from the areas of offshore Louisiana and offshore Texas. Trunkline would then transport and redeliver the natural gas, less fuel and unaccounted-for line loss, to Panhandle in Douglas County, Illinois.

Trunkline States that the estimated daily and estimated annual quantities that would be transported would be 100,000 Dt. and 36,500,000 Dt., respectively.

Trunkline states that it commenced the transportation of natural gas for Texpar on September 1, 1989, as reported in Docket No. ST90-5-000 for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Panhandle Eastern Pipe Line Company

[Docket No. CP90-104-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company, (Panhandle) P.O. Box 1642, Houston, Texas, 77251-1642 filed in Docket No. CP89-104-000 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 Boyd Rosene and Associates, Inc. (Boyd Rosene), under its blanket authorization 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 which is on file with the Commission and open to public inspection.

Panhandle would perform the proposed interruptible transportation service for Boyd Rosene, a shipper and marketer of natural gas, pursuant to a transportation agreement for firm service under Rate Schedule PT dated September 1, 1989 (Contract No. P-PLT-2997). The term of the transportation agreement is for a primary term of one year from the initial date for service and shall continue in effect until terminated by Panhandle or Boyd Rosene upon at least six months prior notice to the other party. Panhandle proposes to transport on a peak day up to 19,815 dekatherm equivalent; on an average day up to

19,815 dekatherm equivalent; and on an annual basis 7,232,475 dekatherm equivalent of natural gas for Boyd Rosene. Panhandle proposes to receive gas from the firm point of receipt located in Haven Pool Point, Reno County, Kansas. Panhandle would then transport and redeliver the subject gas, less fuel used and unaccounted for line loss, Mich-Con Detroit in Wayne County, Michigan. Panhandle avers that no new facilities nor expansion of existing 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. Panhandle commenced such self-implementing service on September 1, 1989, as reported in Docket No. ST89-4788-000.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP90-86-000]

Take notice that on October 23, 1989,¹ Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-86-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of one or more portable compressors to be used from time to time at various locations on Tennessee's mainline, all as more fully detailed in the application which is on file with the Commission and open to public inspection.

Tennessee proposes to install and operate the portable compressor(s) for short periods of time as a substitute for existing compressors that are temporarily out of service because they require repairs or maintenance. It is stated that there would be no increase in actual operating horsepower. It is further stated that the proposal would not involve any increase in service to Tennessee's customers. It is asserted that the portable compressor(s) would be installed within the boundaries of existing rights-of-way or compressor station sites.

¹ The application was tendered for filing on October 20, 1989; however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until October 23, 1989. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

Comment date: November 16, 1989, in accordance with Standard Paragraph F at the end of this notice.

4. Trunkline Gas Company

[Docket No. CP89-101-000]

Take notice that on October 23, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-101-000 a request pursuant to § 157.205(b) and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis for Enron Gas Marketing, Inc. (Enron), a shipper and marketer of natural gas, under its 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 on file with the Commission and open to public inspection.

Trunkline states that the maximum daily, average daily and annual quantities that it would transport for Enron would be 75,000 dt equivalent of natural gas, 75,000 dt equivalent of natural gas and 27,375,000 dt equivalent of natural gas, respectively.

Trunkline states that it would transport natural gas for Enron from various receipt points in Illinois, Louisiana, offshore Louisiana, Texas, offshore Texas and Tennessee to a delivery point in Vermillion Parish, Louisiana.

Trunkline indicates that in a filing made with the Commission in Docket ST90-8, it reported that transportation service for Enron commenced on September 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Panhandle Eastern Pipe Line Company

[Docket No. CP90-99-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251, filed in Docket No. CP90-99-000 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. 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 to public inspection.

Panhandle proposes to transport natural gas on a firm basis for Eli Lilly and Company (Eli Lilly). Panhandle

explains that service commenced September 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-4779. Panhandle explains that the peak day quantity would be 150 Dt., the average daily quantity would be 150 Dt., and that the annual quantity would be 54,750 dekatherms. Panhandle explains that it would receive natural gas for Eli Lilly's account at firm points of receipt located in Kansas and Oklahoma. Panhandle states that it would also receive gas on an interruptible basis, pursuant to § 6.13 of Rate Schedule PT-Firm, at various points of receipt on its system. Panhandle states that it would redeliver the gas to Citizens Gas & Coke in Marion County, Indiana.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Texas Gas Transmission Corporation

[Docket No. CP90-122-000]

Take notice that on October 24, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90-122-000 an application pursuant to Section 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 Bishop Pipeline Corporation (Bishop), 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 which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport, on an interruptible basis, up to 50,000 MMBtu per day for Bishop. Texas Gas states that construction of facilities would not be required to provide the proposed service.

Texas Gas further states that the maximum day, average day, and annual transportation volumes would be approximately 50,000 MMBtu, 15,000 MMBtu and 5,475,000 MMBtu respectively.

Texas Gas advises that service under § 284.223(a) commenced September 6, 1989, as reported in Docket No. ST89-4733.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Texas Gas Transmission Corporation

[Docket No. CP90-81-000]

Take notice that on October 24, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in

Docket No. CP90-81-000 an application pursuant to Section 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 Brooklyn Interstate Natural Gas Corporation (Brooklyn), 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 which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport, on an interruptible basis, up to 100,000 MMBtu per day for Brooklyn. Texas Gas states that construction of facilities would not be required to provide the proposed service.

Texas Gas further states that the maximum day, average day, and annual transportation volumes would be approximately 100,000 MMBtu, 30,000 MMBtu and 10,950,000 MMBtu respectively.

Texas Gas advises that service under § 284.223(a) commenced September 7, 1989, as reported in Docket No. ST89-4734.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Texas Gas Transmission Corporation

[Docket No. CP90-80-000]

Take notice that on October 19, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90-80-000 a request pursuant to Section 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 Fina Oil and Chemical Company (Fina), under the 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 that is on file with the Commission and open to public inspection.

Texas Gas states that pursuant to a transportation agreement dated July 20, 1989, it proposes to transport up to 10,000 MMBtu per day equivalent of natural gas for Fina. Texas Gas states that it would transport the gas from multiple receipt points as shown in Exhibit "B" of the transportation agreement and would deliver the gas at delivery points in High Island 573 "B" offshore Texas, as shown in Exhibit "C" of the agreement.

Texas Gas advises that service under § 284.223(a) commenced September 8, 1989, as reported in Docket No. ST90-12. Texas Gas further advises that it would

transport 6,000 MMBtu on an average day and 2,555,000 MMBtu annually.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Panhandle Eastern Pipe Line Company

[Docket No. CP90-98-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77251-1642, filed in Docket No. CP90-98-000 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 for Gulf Ohio Corporation (Gulf Ohio), a shipper and marketer of natural gas, pursuant to Panhandle's blanket certificate issued in Docket No. CP86-585-000 and 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 for public inspection.

Specifically, Panhandle requests authority to transport up to 2,500 Dt. per day on an interruptible basis on behalf of Gulf Ohio pursuant to a Transportation Agreement dated July 20, 1989 between Panhandle and Gulf Ohio (Agreement). The Agreement provides for Panhandle to receive gas from various existing points of receipt located in Colorado, Illinois, Kansas, Michigan, Ohio, Oklahoma, Texas and Wyoming. Panhandle will then transport and redeliver subject gas, less fuel used and unaccounted for line loss, to CIPS-Mattoon in Douglas County, Missouri.

The shipper states that the estimated daily and estimated annual quantities would be 250 Dt. and 73,000 Dt., respectively. Service under § 284.223(a) commenced on September 1, 1989, as reported in Docket No. ST89-4805-000.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Panhandle Eastern Pipe Line Company

[Docket No. CP90-107-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77152-1642, filed an application with the Commission in Docket No. CP90-107-000 pursuant to 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas for Sunnybrook Transmission, Inc. (Sunnybrook), a natural gas marketer and shipper, under Panhandle's blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the

NGA, all as more fully set forth in the application which is open to public inspection.

Panhandle proposes an interruptible natural gas transportation service for Sunnybrook of up to 20,000 dt equivalent on peak and average days, and 300,000 dt equivalent per year. Panhandle states that it would receive gas for Sunnybrook's account at various Colorado, Kansas, Oklahoma, and Texas receipt points and deliver equivalent volumes for Sunnybrook's account to Haven Pool in Reno County, Kansas. Panhandle also states that it would use existing facilities to provide the proposed service. Panhandle advises that it commenced transporting natural gas for Sunnybrook on September 1, 1989, under § 284.223(a) of the Regulations as reported in Docket No. ST90-22.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Panhandle Eastern Pipe Line Company

[Docket No. CP90-105-000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77152-1642, filed an application with the Commission in Docket No. CP90-105-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas for Entrade Corporation (Entrade), a natural gas marketer and shipper, under Panhandle's blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the NGA, all as more fully set forth in the application which is open to public inspection.

Panhandle proposes an interruptible natural gas transportation service for Entrade of up to 100,000 dt equivalent per peak day, 75,000 dt equivalent per average day, and 36,500,000 dt equivalent per year. Panhandle states that it would receive gas for Entrade's account at various Colorado, Illinois, Kansas, Michigan, Ohio, Oklahoma, Texas, and Wyoming receipt points and deliver equivalent volumes for Entrade's account to Michigan Gas Storage in Oakland County, Michigan. Panhandle also states that it would use existing facilities to provide the proposed service. Panhandle advises that it commenced transporting natural gas for Entrade on September 1, 1989, under § 284.223(a) of the Regulations as reported in Docket No. ST89-4807.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Trunkline Gas Company

[Docket No. CP90-103-000]

Take notice that on October 23, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-103-000 a request pursuant to §§ 157.205(b) and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis for Associated Natural Gas, Inc. (Associated), a shipper and marketer of natural gas, under its 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 on file with the Commission and open to public inspection.

Trunkline states that the maximum daily, average daily and annual quantities that it would transport for Associated would be 50,000 dt equivalent of natural gas, 50,000 dt equivalent of natural gas and 18,250,000 dt equivalent of natural gas, respectively.

Trunkline states that it would transport natural gas for Associated from various receipt points in Illinois, Louisiana, offshore Louisiana, Texas, offshore Texas and Tennessee to a delivery point in Douglas County, Illinois.

Trunkline indicates that in a filing made with the Commission in Docket ST90-9, it reported that transportation service for Associated commenced on September 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. ANR Pipeline Company

[Docket No. CP90-118-000]

Take notice that on October 24, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-118-000 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 gas on an interruptible basis for Equitable Resources Marketing Company (Equitable), a marketer, 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 states that pursuant to an agreement dated July 3, 1989, it proposes to transport up to 200,000 dt equivalent

of natural gas per day for Equitable. ANR states it would receive the gas at specified points located both offshore and onshore Louisiana and redeliver the gas at specified points in Louisiana, Indiana, Illinois, Kentucky, Ohio, and Michigan. ANR estimates that the maximum and average day volumes would be 200,000 dt equivalent of natural gas, and that the annual volumes would be 73,000,000 dt equivalent of natural gas. It is stated that on September 1, 1989, ANR initiated a 120-day transportation service for Equitable under § 284.233(a), as reported in Docket No. ST90-59-000.

ANR further states that no facilities need be constructed to implement the service. ANR indicates that the primary term of the transportation agreement would expire on July 31, 1990, but that the service would continue on a month-to-month basis until terminated by either party on 30 days written notice. ANR proposes to charge rates and abide by the terms and conditions of its Rate Schedule ITS.

Comment date: December 11, 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 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 view 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 (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. 89-25772 Filed 11-1-89; 8:45 am]

BILLING CODE 6717-01-M

Docket No. TM90-1-84-001

Caprock Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 26, 1989.

Take notice that on October 23, 1989, Caprock Pipeline Company (Caprock) tendered for filing the following substitute tariff sheets to revise its Revised Original Volume No. 3 of its FERC Gas Tariff to be effective as noted. These tariff sheets are submitted to replace those originally filed on October 3, 1989, in this same docket.

Substitute Third Revised Sheet No. 4

Substitute Third Revised Sheet No. 5

Caprock states that these tariff sheets are being filed solely to modify Caprock's ACA surcharge provision to reflect changes consistent with Caprock's discussions with Commission Staff.

Any person desiring to be heard or to protest this 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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or

protests should be filed on or before November 2, 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. 89-25773 Filed 11-1-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-24-001]

Equitrans, Inc.; Proposed Changes in FERC Gas Tariff

October 26, 1989.

Take notice that Equitrans, Inc. (Equitrans) on October 20, 1989, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, effective October 1, 1989:

Eleventh Revised Sheet No. 10

Tenth Revised Sheet No. 14

In accordance with the Commission's Letter Order and Staff request the rates filed in Docket No. TM90-1-24-000 have been revised to comply with the conditions of the August 31, 1989 Letter Order. These rates were based on Equitrans' Annual Purchased Gas Adjustment (PGA) filing in Docket No. TA89-1-24-000 and Interim Purchased Gas Adjustment filing in Docket No. TF89-3-24-000 which were subject to refund and subject to Equitrans refiling its tariff sheets as mandated in the Commission's Letter Order issued August 31, 1989.

Equitrans states that a copy of its filing has been served upon its purchasers, interested state commissions, and upon each party on the service list of Docket No. CP86-676-000.

Any person desiring to be heard or to protest this 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 Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 2, 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 persons 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. 89-25774 Filed 11-1-89; 8:45 am]
BILLING CODE 6717-01-M

Docket Nos. CP89-1227-000 and CP89-1951-000

Northern Natural Gas Co., a Division of Enron Corp.; Informal Settlement Conference.

October 26, 1989.

Take notice that a conference will be convened in the above-captioned proceeding on November 7 and 8, 1989, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Andrew S. Katz at (202) 357-8458 or Donald Williams at (202) 357-5743.

Lois D. Cashell,
Secretary.

[FR Doc. 89-25775 Filed 11-1-89; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59277; FRL-3662-2]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices; Test Market Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing

purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application(s) for exemption, provides a summary, and requests comments on the appropriateness of granting this exemption.

DATES:

Written comments by:

T 89-27, October 20, 1989.

ADDRESS: Written comments, identified by the document control number "(OPTS-59277)" and the specific TME number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Room L-100, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT:

Michael M. Stahl, Director, Environmental Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M Street, SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 89-27

Close of Review Period. November 3, 1989.

Manufacturer. Confidential.

Chemical. (G) Rosin, polymer with dibasic, ester with polyols.

Use/Production. (S) Ink resin. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 5.0 g/kg species (Rat). Skin irritation: negligible species (Rabbit).

Dated: October 30, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-25860, Filed 11-1-89; 8:45am]

BILLING CODE 6560-50-D

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 23, 1989

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: 3060-0370

Title: Part 32—Uniform System of Accounts for Telecommunications Companies.

Action: Revision.

Respondents: Businesses or other for-profit.

Frequency of Response: Recordkeeping requirements and on occasion.

Estimated Annual Burden: 239 Responses; 68 Recordkeepers; 2,643,468 Hours.

Needs and Uses: The Uniform System of Accounts is a historical financial accounting system which reports the results of operational and financial events in a manner which enables both management and regulators to assess these results within a specified accounting period. Subject respondents are telecommunications companies. Entities having annual revenues from regulated telecommunications operations of less than \$100 million are designated as Class B companies and are subject to a less detailed accounting system than those designated as Class A companies. The information contained in the various reports submitted to the Commission by the carriers provides necessary detail to enable this Commission to fulfill its regulatory responsibilities.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

[FR Doc. 89-25819 Filed 11-1-89; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

October 24, 1989.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions 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 these submissions contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Evyette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: 3060-0164

Title: Section 25.390—

Communications—Satellite Developmental Applications

Action: Extension

Respondents: Businesses (including small businesses)

Frequency of Response: On occasion

Estimated Annual Burden: 40

Responses; 960 Hours

Needs and Uses: Applicants seeking authority for developmental licenses must submit information pursuant to 47 CFR 25.390. The information is used by the FCC, other licensees of the spectrum and the public to assure that part 25 developmental licensees are operating in accordance with the authorizations and the rules.

OMB Number: 3060-0065

Title: Application for New or Modified Radio Station Authorization Under Part 5 of FCC Rules Experimental Radio Service (Other Than Broadcast)

Form No.: FCC 442

Action: Extension

Respondents: State or local governments, and businesses (including small businesses)

Frequency of Response: On occasion

Estimated Annual Burden: 700

Responses; 2,800 Hours.

Needs and Uses: FCC 442 is required to be filed by part 5 of the FCC rules and regulations by applicants requiring an FCC license to operate a new or modified experimental radio station. The data supplied by this form is used by applications examiners and engineers of the FCC to determine if the applicant is eligible for an experimental license, to determine the purpose and ensure compliance with the

requirements of part 5 of the Rules, and if the proposed operations will cause interference to existing operations.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-25820 Filed 11-1-89; 8:45 am]

BILLING CODE 6712-01-M

Comments Invited on Mississippi Regional Public Safety Plan

October 26, 1989.

The Commission has received the public safety radio communications plan for the Mississippi area (Region 23).

In accordance with the Commission's Report and Order in General Docket 87-112 implementing the Public Safety National Plan, parties are hereby given thirty days from the date of Federal Register publication of this public notice to file comments and fifteen days to reply to any comments filed. (See Report and Order, General Docket 87-112, 3 FCC Rcd 905 (1987), at paragraph 54.)

In accordance with the Commission's Memorandum Opinion and Order in General Docket 87-112, Region 23 consists of the State of Mississippi. General Docket 87-112, 3, FCC Rcd 2113 (1988.)

Comments should be clearly identified as submissions to General Docket 89-478, Mississippi—Region 23, and commenters should send an original and five copies to the Secretary, Federal Communications Commission, Washington, DC 20554.

Questions regarding this public notice may be directed to Maureen Cesaitis, Private Radio Bureau, (202) 632-6497, or Fred Thomas, Office of Engineering and Technology, (202) 653-8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-25858 Filed 11-1-89; 8:45 am]

BILLING CODE 6712-01-M

Low Power Television and Television Translator Filing Window From December 4, 1989 Through December 8, 1989

Released: October 27, 1989.

AGENCY: Federal Communications Commission.

ACTION: Notice of filing window.

SUMMARY: This action gives notice of an application filing window for the tendering of applications for new construction permits and for major changes in existing facilities for low power television and television

translator stations. This notice sets forth the filing procedures, including when and where to file and the applicable application form to be used, and information concerning application filing fees.

DATES: December 4, 1989 through December 8, 1989.

FOR FURTHER INFORMATION CONTACT: Keith A. Larson or Molly Fitzgerald, Low Power Television Branch, Mass Media Bureau (202) 632-3894.

SUPPLEMENTARY INFORMATION:

Commencing December 4, 1989, and continuing to and including December 8, 1989, the Commission will permit the filing of applications for new construction permits and for major changes in existing facilities for low power television and television translator stations. These applications must be filed at the below specified locations.

No more than five (5) applications for new low power television or television translator stations may be tendered for filing by any applicant, or by any individual or entity having an interest of one percent (1%) or greater in any applicant(s) filing in the December 4-December 8, 1989, window. This restriction does not apply to major change applications.

All applications must be "complete and sufficient" when tendered for filing, in accordance with Section 73.3564 of the Commission's rules. As noted below, a fee of \$375.00 must accompany each application. Further, applicants filing during this window period must use the February 1988 edition of FCC Form 346. See 53 FR 15225 (April 28, 1988). All applications filed on obsolete editions will be returned as defective and unacceptable for filing. FCC Form 346 can be obtained from the FCC's Operations Support Division, Services and Supply Branch, Room B-10, 1919 M Street, NW., Washington, DC 20554, telephone number (202) 632-7272.

In this window application filing process, the Commission will utilize the facilities of a Treasury Department lockbox bank. Window application filings can be made, either by mail or by person, at the following locations ONLY:

If mailed—Federal Communications Commission, Low Power Television Window Filing, P.O. Box 371994, Pittsburgh, PA 15259-1994

If hand-delivered—Federal Communications Commission, Low Power Television Window Filing, Union Trust Building (Two Mellon Bank Center), 444 Oliver Avenue, Pittsburgh, PA 15259-0001.

Hand-carried or couriered applications can be delivered daily at the Union Trust Building location during normal business hours (8:30 a.m. to 5:00 p.m.). Detailed instructions to get to this location are included in this Public Notice as Attachment I. Submissions tendered after close of business (5:00 p.m.) on Friday, December 8, 1989, will not be accepted. Mailed applications must be actually received no later than December 8th. Window applications filings WILL NOT be accepted at the offices of the Federal Communications Commission in Washington, DC.

An original and two copies of the application and all required exhibits must be filed. To facilitate the initial processing of these applications, all applicants are requested to enclose in a single envelope the original and duplicate copies of the application, with each duplicate copy clearly denoted as such by the applicant. Where more than one new station or major change application is being filed, separate envelopes enclosing the individual application (*i.e.*, an original and two copies) can be mailed in a single package. Receipts will not be provided by the lockbox bank facility. However, for mailed window application filings, a "return copy" of the application can be furnished provided the applicant clearly identifies the "return copy" and attaches to it a stamped, self-addressed envelope. For hand-carried or couriered applications delivered to the Union Trust Building location, bank personnel, if requested in person, will date stamp as received a proffered copy of the application and return it to the requestor.

Generally, applicants seeking to construct a new low power television or television translator station or to make a major change in the facilities of an existing low power television or television translator station are required to pay and submit a fee with the filing of the application. A separate fee payment of \$375.00, attached to each original application, must be submitted for each new station or major change application filed during this window; a single fee payment for multiple applications will not be accepted. Payment of the required fee can be made by check, bank draft or money order payable to the Federal Communications Commission.

Applications submitted with insufficient payments or without any payments will be dismissed and returned, along with the insufficient payment, to the applicant without processing. See § 1.1107 of the Commission's rules. Following the fee

review process, applications that are found to be patently defective, not "complete and sufficient," or filed on an obsolete edition of FCC Form 346 will be rejected and returned to the applicant.

Governmental entities are exempt from the \$375.00 fee. As defined by the Commission's rules, governmental entities include "any possession, state, city, county, town, village, municipal corporation or similar political organization or subpart thereof controlled by publicly elected and/or duly appointed public officials exercising sovereign direction and control over their respective communities or programs." Also exempted from this fee are noncommercial educational FM and full service television broadcast station licensees seeking to make major changes in the facilities of their existing low power television or television translator stations or to construct new low power television or television translator stations, provided those stations operate or will be operated on a noncommercial educational basis. See Section 1.1112 of the Commission's Rules. To avail itself of any fee exemption an applicant must indicate its eligibility by checking the appropriate box on page 1 of FCC Form 346 (February 1988 edition).

Applicants are advised that on April 21, 1988, the Commission adopted a Policy Statement providing for limited consideration of terrain shielding in the evaluation of television translator and low power television applications. 3 FCC Rcd 2664, recon. granted in part, 3 FCC Rcd 7105 (1988). In the Policy Statement the Commission described the limitations on its consideration of requests for waiver of its low power television service application acceptance requirements concerning interference protection standards and provided guidance for the submission of these waiver requests.

For further information concerning the filing window, contact Keith A. Larson or Molly Fitzgerald, Low Power Television Branch, Mass Media Bureau at telephone number (202) 632-3894.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

Attachment I—Directions to Union Trust Building (Two Mellon Bank Center)

From Greater Pittsburgh International Airport and Interstate 79

Proceed east on Parkway (Interstate 279) towards downtown Pittsburgh. Go through the Fort Pitt tunnels and across the Fort Pitt bridge to Liberty Avenue.

From Liberty Avenue, turn right onto the Boulevard of the Allies. Travel approximately 3-4 blocks to Smithfield Street. Turn left onto Smithfield and proceed approximately 5 blocks to Oliver Avenue. Turn right onto Oliver. Proceed one block. The Union Trust Building is on the right side of the street. Enter the building at 444 Oliver Avenue. This address is a specific office location where applications will be received.

From Pennsylvania Turnpike

Take Exit 6 (Monroeville) to Parkway (Interstate 376). Go west on Parkway to the Grant Street Exit (Exit 3).

Proceed on Grant Street to Fifth Avenue (approximately 4 blocks). Turn left onto Fifth Avenue and travel 2 blocks to Smithfield Street. Turn right onto Smithfield Street and travel 1 block to Oliver Avenue. Turn right onto Oliver Avenue. Proceed one block. The Union Trust Building is on the right side of the street. Enter the building at 444 Oliver Avenue. This address is a specific office location where applications will be received.

[FR Doc. 89-25859 Filed 11-1-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the *Federal Register* in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212-011213-011.

Title: Spain-Italy/Puerto Rico Island Pool Agreement.

Parties:

Compania Trasatlantica Espanola, S.A.

Nordana Line AS

Sea-Land Service, Inc.

Synopsis: The proposed amendment would extend the termination date of

the present pool period from October 31, 1989 to December 31, 1989. This modified pool period will be followed by four pool periods of six months each.

Agreement No.: 232-011251-001.

Title: IGSL/UAL Westbound/Eastbound Space Charter Agreement.

Parties:

Interglobal Shipping Company Limited
Universal Africa Lines N.A. (N.A.)

Synopsis: The proposed amendment would clarify the Agreement's purpose and make an administrative change in the wording of the Agreement's authority provisions.

Agreement No.: 232-011254.

Title: Lykes/Constellation Reciprocal Charter and Coordinated Sailing Agreement.

Parties:

Lykes Bros. Steamship Co., Inc.
Pharos Lines, S.A.,
D/B/A Constellation Line.

Synopsis: Agreement No. 232-011254 proposes to establish space charter and coordinated sailing arrangements between Constellation Line and Lykes Bros. Steamship Co., Inc. in the trade between the U.S. and all ports in the Mediterranean, Black Sea and North Africa (excluding ports in Italy, Spain, France, Portugal, the Canary Islands and the Azores Islands).

By Order of the Federal Maritime Commission.

Dated: October 30, 1989.

Joseph C. Polking,
Secretary.

[FR Doc. 89-25869 Filed 11-1-89; 8:45 am]
BILLING CODE 6730-01-M

Agreement(s) Filed; Port of Oakland Terminal

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 224-010631-002

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland
Hanjin Shipping Company (Hanjin).

Synopsis: The Agreement amends the basic agreement to provide for the temporary transfer of Hanjin's operations from the 7th Street Terminal to the Sea-Land Terminal due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-003914-004

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland (Port)
Sea-Land Service, Inc.

Synopsis: The Agreement amends the basic agreement to provide Hanjin Shipping Company with the temporary use of the Sea-Land Terminal due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-002758-008

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland
American President Lines (APL).

Synopsis: The Agreement amends the basic agreement to provide Star Shipping A/S the temporary use of certain terminal facilities at the Port of Oakland due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-002490-005

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland
American President Lines (APL).

Synopsis: The Agreement amends the basic agreement to provide Star Shipping A/S the temporary use of certain terminal facilities at the Port of Oakland due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-002605-005

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland
American President Lines (APL).

Synopsis: The Agreement amends the basic agreement to provide Star Shipping A/S the temporary use of certain terminal facilities at the Port of Oakland due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-004067-006

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland
Stevedoring Services of America (SSA).

Synopsis: The Agreement amends the basic agreement to provide Mitsui O.S.K. Lines, Ltd. and Italia-d'Amico Line with the temporary use of the Outer Harbor Terminal, Berth 22, due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-010744-002

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland
Mitsui O.S.K. Lines, Ltd. (Mitsui).

Synopsis: The Agreement amends the basic agreement to provide for the temporary transfer of Mitsui's operations from the 7th Street Terminal to the Outer Harbor Terminal, Berth 22, due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-200290-001

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland (Port);
Italia S.P.A. di Navigazione and
d'Amico Societa de Navigazione per
Azioni operating as a joint service
under the name Italia-d'Amico Line.

Synopsis: The Agreement amends the basic agreement to provide for the temporary transfer of Italia-Amico Line's operation from the 7th Street Terminal to the Outer Harbor Terminal, Berth 22, due to emergency conditions caused by the October 17th earthquake.

Agreement No: 224-200261-001

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland
Star Shipping A/S (Star).

Synopsis: The Agreement amends the basic agreement to provide for Star's temporary transfer of operations to certain terminals at the Port of Oakland due to emergency conditions caused by the October 17th earthquake.

By Order of the Federal Maritime Commission.

Dated: October 27, 1989.

Joseph C. Polking,
Secretary.

[FR Doc. 89-25770 Filed 11-1-89; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM**Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies**

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and section 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. § 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 16, 1989.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Barbara Lee Bacich*, Anna Maria, Florida; to acquire an additional 3.45 percent of the voting shares of Little Mountain Bancshares, Inc., Monticello, Minnesota, for a total of 14.03 percent, and thereby indirectly acquire First National Bank of Monticello, Monticello, Minnesota.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Barbi Corp.—D.G. Council*, Kaufman, Texas; to acquire 2.44 percent of the voting shares of Kaufman Bancshares, Inc., Kaufman, Texas, and thereby indirectly acquire Farmers & Merchants National Bank, Kaufman, Texas.

Board of Governors of the Federal Reserve System, October 27, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25790 Filed 11-1-89; 8:45am]

BILLING CODE 6210-01-M

Brotherhood Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that

are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 22, 1989.

A. Federal Reserve Bank of Kansas (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Brotherhood Bancshares, Inc.*, Kansas City, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Brotherhood Bank and Trust Company, Kansas City, Kansas.

2. *International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers*, Kansas City, Kansas; to acquire 47.5 percent of the voting shares of Brotherhood Bancshares, Inc., Kansas City, Kansas, and thereby indirectly acquire Brotherhood Bank and Trust Company, Kansas City, Kansas.

Board of Governors of the Federal Reserve System, October 27, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25791 Filed 11-1-89; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under section 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C.

1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in section 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 17, 1989.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Northwest Corporation*, Minneapolis, Minnesota; to merge with First Interstate Corporation of Wisconsin, Kohler, Wisconsin, and thereby indirectly acquire First Interstate Bank of Wisconsin, Sheboygan, Wisconsin; First Interstate Bank of Wisconsin, N.A. (Green Bay), Green Bay, Wisconsin; First Interstate Bank of Wisconsin-Northeast, Green Valley, Wisconsin; First Interstate Bank of Wisconsin, N.A., (Eau Claire), Eau Claire, Wisconsin; First Interstate Bank of Wisconsin-Southeast, New Berlin, Wisconsin; First Interstate Bank of Wisconsin (Appleton), Appleton, Wisconsin; First Interstate Bank of Wisconsin (Waupun), Waupun, Wisconsin; First Interstate Bank Northern Indiana, N.A., South Bend,

Indiana; and acquire 100 percent of the voting shares of First Illini Bancorp, Inc., Galesburg, Illinois, and thereby indirectly acquire First Galesburg National Bank and Trust Company, Galesburg, Illinois; Abingdon Bank and Trust Company, Abingdon, Illinois; Madison Park Bank, Peoria, Illinois; and Community Bank and Trust Company of Canton, Canton, Illinois.

In connection with this application, Applicant also proposes to acquire First Interstate Trust Company of Wisconsin, Sheboygan, Wisconsin, and thereby engage in trust company activities pursuant to § 225.25(b)(3); First Brokerage Services, Sheboygan, Wisconsin, and thereby engage in brokerage activities pursuant to § 225.25(b)(15); First Interstate Commercial Corporation of Wisconsin, Milwaukee, Wisconsin, and thereby engage in commercial finance activities, included, but not limited to, asset-based lending activities (the making, acquiring or servicing of loans or other extensions of credit for the company's account or for the account of others) pursuant to § 225.25(b)(1); and First Interstate Management Services of Wisconsin, Inc., Sheboygan, Wisconsin, and thereby engage in providing data processing services for financial institutions pursuant to § 225.25(b)(7) of the Board's Regulation Y.

First Interstate Bank of Wisconsin, Sheboygan, Wisconsin, conducts general insurance activities. Norwest anticipates that the bank will continue to conduct this activity after consummation of the proposal. Norwest has been previously authorized to conduct insurance activities pursuant to section 4(c)(8)(6) of the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, October 27, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25792 Filed 11-1-89; 8:45 am]

BILLING CODE 6210-01-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: 100389 AND 101389

Name of acquiring person, name of acquired person, and name of acquired entity	PMN number	Date terminated
Rhone-Poulenc Inc. UCB S.A.		
Radcure Specialties SA	89-2686	10/03/89
Rhone-Poulenc S.A. The TRZ Corporation plc Interchem Inc.	89-2688	10/03/89
Albert W. Lawrence Hyperion Partners L.P. United Republic Reinsurance Company	89-2742	10/03/89
Koch Industries, Inc. Lone Star-Technologies, Inc.		
John Zink Company,	89-2790	10/03/89
Western Investment Real Estate Trust Theodore W. Connolly Eagle Station Associates	89-2796	10/03/89
Western Investment Real Estate Trust Thomas P. Raley Eagle Station Associates	89-2797	10/03/89
Advantage Trust Liberty Mutual U.S. Government Guaranteed Securities Liberty Mutual U.S. Government Guaranteed Securities	89-2801	10/03/89
The News Corporation Limited Howtek, Ltd. Howtek, Ltd.	89-2822	10/03/89
Chicago Holdings, Inc. M.L. Salkin and Marlene B. Salkin Salkin & Linoff, Incorporated	89-2826	10/03/89
The B. F. Goodrich Company Meshulam Riklis Arrowhead Industrial Water, Inc.	89-2680	10/04/89
British Aerospace Public Limited Company Reflectone, Inc. Reflectone, Inc.	89-2809	10/04/89
Legent Corporation Business Software Technology, Inc. Business Software Technology, Inc.	89-3830	10/04/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 100389 AND 101389—Continued

Name of acquiring person, name of acquired person, and name of acquired entity	PMN number	Date terminated
American Cyanamid Company Praxis Biologics, Inc. Praxis Biologics, Inc.	89-2037	10/05/89
Ford Motor Company Jaguar plc Jaguar plc	89-2789	10/05/89
Sumitomo Rubber Industries, Ltd. Stanley B. Hanin Allied Tire Sales, Inc.	89-2821	10/05/89
Cencom Cable Income Partners II, L.P. Unum Corporation PCI of Anderson County LP & PCI Travelers Rest, LP	89-2525	10/06/89
General Electric Company Space Master Enterprises, Inc. Space Master International, Inc.	89-2749	10/06/89
Pembridge Associates, Inc. DRG plc DRG plc	89-2751	10/06/89
Tampella Ltd. Dorr-Oliver Ventures Incorporated Dorr-Oliver Ventures Incorporated	89-2758	10/06/89
Framatome, S.A. McDermott International, Inc. B & W Nuclear, Inc.	89-2774	10/06/89
Legend Capital Group, L.P. Legend Capital Group, L.P.		
Long John Silver's Holdings, Inc.	89-2819	10/06/89
USGI Holdings, Inc. Merrill Lynch & Co., Inc. Merrill Lynch MBS Inc.	89-2831	10/06/89
Eli S. Jacobs Fred K. Palone Rosenbalm Aviation Inc.	89-2837	10/06/89
General Electric Company Commercial Federal Corporation Commercial Federal Savings & Loan Association	89-2841	10/06/89
Public Service Enterprise Group Incorporated Southdown, Inc. Pelto Oil Company	89-2848	10/06/89
Boral Limited Weyerhaeuser Company Weyerhaeuser Company	89-2862	10/06/89
Coniston Partners, c/o Gollust, Tierney and Oliver TW Holdings, Inc. TW Holdings, Inc.	89-2870	10/06/89
Coniston Institutional Investors TW Holdings, Inc. TW Holdings, Inc.	89-2871	10/06/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 100389 AND 101389—Continued

Name of acquiring person, name of acquired person, and name of acquired entity	PMN number	Date terminated
The Equitable Life Assurance Society of the U.S. TW Holdings, Inc. TW Holdings, Inc.	89-2872	10/06/89
Maxwell Communication Corporation plc Paramount Communications Inc. Prentice-Hall, Inc.	89-2745	10/10/89
Lee M. Bass Sensormatic Electronics Corporation Sensormatic Electronics Corporation	89-2755	10/10/89
Sid R. Bass Sensormatic Electronics Corporation Sensormatic Electronics Corporation	89-2756	10/10/89
Finmeccanica Societa Finanziaria per Azioni McDermott International, Inc. Bailey Controls Company Division, Electronic	89-2768	10/10/89
Richard L. Kramer Robert J. Tomsich Blaw Knox Corporation (Hupp Company Division)	89-2804	10/10/89
Paramount Communications, Inc. Salomon Inc. Newtel, Inc.	89-2828	10/10/89
Paramount Communications, Inc. Salomon Inc.* TVX Broadcast Group Inc.	89-2829	10/10/89
Valeo Volkswagen A.G. Volkswagen of America, Inc.	89-2857	10/10/89
Teledyne, Inc. Union National Life Insurance Company Union National Life Insurance Company	89-2861	10/10/89
InterMedia Partners The Hearst Trust Hearst CableVision of California, Inc.	89-2875	10/10/89
A.A. Emmerson Fibreboard Corporation Fibreboard Corporation	89-2706	10/11/89
Yates Petroleum Corporation Mesa Limited Partnership Mesa Operating Limited Partnership	89-2806	10/11/89
Caroline Hunt Trust Estate Mesa Limited Partnership Mesa Limited Partnership	89-2823	10/11/89
Jersey Healthcare Services Alexian Brothers of America, Inc. Alexian Brothers of Elizabeth, Inc.	89-2802	10/12/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 100389 AND 101389—Continued

Name of acquiring person, name of acquired person, and name of acquired entity	PMN number	Date terminated
Secom Co., Ltd. H.M.S.S., Inc. H.M.S.S., Inc.	89-2873	10/12/89
Paramount Communications Inc. First Interstate Bancorp First Interstate Bancard Company, N.A.	89-2850	10/13/89
Bell Atlantic Corporation Commercial Federal Corporation Systems Marketing, Inc.	90-0004	10/13/89

FOR FURTHER INFORMATION CONTACT:

Sandra M. Peay, Federal Trade Commission, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3199.

By Direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. 89-25811 Filed 11-1-89; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. 9229]**Outdoor World Corporation; Proposed Consent Agreement With Analysis to Aid Public Comment**

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In partial settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a membership campground promoter, based in Bushkill, PA, from misrepresenting in promotional mailings that named consumers have won specified prizes when the consumers had not won the specified prizes. Also, the proposed order would require respondent to retain accurate records, for three years, of advertising and promotional materials concerning prizes and gifts awarded.

DATE: Comments must be received on or before January 2, 1990.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

Eileen Harrington, FTC/H-238, Washington, DC 20580. (202) 326-3127.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the matter of Outdoor World Corp., a corporation; agreement in partial settlement containing consent order to cease and desist.

Outdoor World Corporation, by its duly authorized officer ("respondent") and counsel for the Federal Trade Commission enter into this agreement in partial settlement in accordance with the Commission's rules governing consent order procedures. The parties agree that:

1. Outdoor World Corporation is a Pennsylvania corporation with its principal office and place of business located at Route 209, Bushkill, Pennsylvania 18324.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violations of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

3. Respondent admits all the jurisdictional facts set forth in the Commission complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act, 5 U.S.C. 504.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it

will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the complaint.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondent, (a) issue its decision containing the following order to cease and desist in disposition of the proceeding and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Respondent has read the complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered that respondent, Outdoor World Corporation, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from representing, directly or by implication, that a consumer has won a specified prize, award, gift, bonus, premium, or any other good or service which is similarly described when in fact the consumer has not won the specified

prize, gift, bonus, premium, or other good or service similarly described.

II.

It is further ordered that respondent, its successors and assigns shall for three years the date the representation was last made maintain and upon request make available to the Federal Trade Commission for inspection and copying accurate records of (1) all advertising, promotional or sales materials containing representations regarding prize or gift offerings and (2) all prizes or gifts awarded pursuant to such offerings.

III.

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

IV.

It is further ordered that respondent shall, within sixty (60) days after service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with all requirements of this order.

Analysis of Proper Consent Order to Aid Public Comment

[File No. 892 3213 (JO1)]

The Federal Trade Commission has accepted an agreement for a proposed consent order from Outdoor World Corporation which would partially settle the case. Outdoor World Corporation is a seller and promoter of membership campgrounds. Its principal place of business is located at Route 209, Bushkill, Pennsylvania 18324.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments of interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that in numerous instances, Outdoor World Corporation has made false and misleading representations that a named consumer has won one or more specified prizes. The proposed consent order would prohibit Outdoor World

Corporation from representing that a consumer has won a specified prize when he or she has not won the specified prize.

The complaint also alleges that in numerous instances, Outdoor World Corporation has made false and misleading representations that consumers will receive one or more prizes at no cost, where additional costs must be paid by consumers. This issue is not being settled and remains part of the case to be adjudicated.

The proposed order would require Outdoor World Corporation to retain accurate records for three (3) years of all advertising and promotional materials containing representations regarding prize or gift offerings, and records of all prizes and gifts awarded. The proposed order would require Outdoor World Corporation to notify the Commission of any proposed change in the corporation which may affect compliance with the order, and to file a compliance report within 60 days after service of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 89-25810 Filed 11-1-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Current Status of the Restructured Vessel Sanitation Program and Experience to Date with Program Operations; Meeting

The Center for Environmental Health and Injury Control (CEHIC) of the Centers for Disease Control (CDC) announces the following meeting.

Name: Current Status of the Restructured Vessel Sanitation Program and Experience to Date with Program Operations—Public meeting between CDC and the cruise ship industry, private sanitation consultants, and other interested parties.

Place: Miami Port Authority Passenger Terminal No. 10, 1007 North American Way, Miami, Florida.

Time and Date: 9 a.m.—5 p.m. Wednesday, December 13, 1989.

Status: Open.

Matters To Be Discussed: Current status of the restructured Vessel Sanitation Program and experience to date with program operations. During the past 3 years, as part of the revised Vessel Sanitation Program, CDC has conducted a series of public meetings

with members of the cruise ship industry, private sanitation consultants, and other interested parties. This meeting is a continuation of that series of public meetings.

For a period of 15 days following the meeting, through December 28, 1989, the official record of the meeting will remain open so that additional material or comments may be submitted to be made part of the record of the meeting.

The meeting will be open to the public for participation, comment, and observation, limited only by space available. The meeting room accommodates approximately 100 people.

Contact Person for Further Information: Additional information concerning the meeting may be obtained from: Linda Anderson, Chief, Special Programs Group (F29), CEHIC, CDC, 1600 Clifton Road, N.E., Atlanta, GA 30333. Telephones: FTS: 236-4595, Commercial: (404) 488-4595.

Dated: October 26, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination,
Centers for Disease Control.

[FR Doc. 89-25787 Filed 11-1-89; 8:45 am]

BILLING CODE 4160-10-M

Food and Drug Administration

[Docket No. 89N-0360]

Biological Products; Ex-Vivo Activated Mononuclear Leukocytes for Administration to Humans; Points To Consider; Request for Comments, Data, and Recommendations; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft "points to consider" document entitled "Points to Consider in the Collection, Processing, and Testing of Ex-Vivo Activated Mononuclear Leukocytes for Administration to Humans." FDA is also announcing the continued availability of five other "points to consider" documents concerning in vitro monoclonal antibody products, in vivo monoclonal antibody products, recombinant deoxyribonucleic acid (DNA) products, characterization of cell lines, and interferon products. The availability of the latter five "points to consider" documents has been previously announced in the Federal Register.

FDA is also requesting comments, data, and recommendations from the public on these documents. The agency eventually may develop these documents into guidelines or regulations to help ensure the safety, purity,

potency, and effectiveness of biological products, new drugs, or other products regulated under the Federal Food, Drug, and Cosmetic Act or under the Public Health Service Act.

DATES: Comments by January 2, 1989.

ADDRESSES: Submit written requests for single copies of the "points to consider" documents to the Congressional and Public Affairs Staff (HFB-140), Food and Drug Administration, Park Bldg., Rm. 158, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the "points to consider" documents to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this notice. Requests and comments for the "points to consider" documents previously announced should be identified with the docket numbers specified below in brackets. Copies of the "points to consider" documents and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Linda Dujack, Center for Biologics Evaluation and Research (HFB-800), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-496-8245.

SUPPLEMENTARY INFORMATION: Ex-vivo activated mononuclear leukocyte products currently present a potential for major advances in medical therapy. This new technology poses unique quality control and safety problems that must be thoroughly considered and overcome before any such products are marketed. FDA's Center for Biologics Evaluation and Research has developed a draft "points to consider" document concerning such products, entitled "Points to Consider in the Collection, Processing, and Testing of Ex-Vivo Activated Mononuclear Leukocytes for Administration to Humans." FDA is issuing this document to provide useful guidance to manufacturers engaged in the production of activated mononuclear leukocyte products. FDA is announcing the availability of this "points to consider" document and is inviting public comment.

In addition to the above document, FDA also is announcing the continued availability of five other "points to consider" documents that have been previously announced in the Federal Register of January 9, 1984 (49 FR 1138), June 6, 1984 (49 FR 23456), and April 4,

1988 (53 FR 10948). The five previously issued "points to consider" documents with the latest dates of revision are as follows:

1. "Points to Consider in the Manufacture of in Vitro Monoclonal Antibody Products Subject to Licensure" (draft of June 20, 1983) [Docket No. 83N-0363];
2. "Points to Consider in the Manufacture of Monoclonal Antibody Products for Human Use" (draft of June 1, 1987) [Docket No. 83N-0363];
3. "Points to Consider in the Production and Testing of New Drugs and Biologicals Produced by Recombinant DNA Technology" (draft of April 10, 1985) [Docket No. 83N-0363];
4. "Interferon Test Procedures: Points to be Considered in the Production and Testing of Interferon Intended for Investigational Use in Humans" (draft of July 28, 1983) [Docket No. 83N-0363];
5. "Points to Consider in the Characterization of Cell Lines Used to Produce Biologicals" (draft of November 18, 1987) [Docket No. 84N-0154].

FDA requests comments, data, and recommendations concerning any of the draft documents, particularly on the most recent "points to consider" on ex-vivo activated mononuclear leukocytes for administration to humans. FDA may develop each of these documents into guidelines under 21 CFR 10.90(b)(1) or into regulations as needed to help ensure the safety, purity, potency, and effectiveness of biological products, new drugs, or other products regulated under the Federal Food, Drug, and Cosmetic Act or under the Public Health Service Act. Because these new technologies are changing and improving constantly, FDA may revise the draft documents several times and place the revisions on display at the Dockets Management Branch (address above).

Dated: October 26, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 89-25789 Filed 11-1-89; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Meeting of the Division of Research Grants Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Division of Research Grants Advisory Committee, December 1, 1989, Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 9:00 a.m. to 4:30 p.m. The one-day meeting will include: an orientation to the history, current structure and functions of the Division of Research Grants; and a discussion of study section procedures and practices, especially as related to priority scores and percentile rankings. Attendance by the public will be limited to space available.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone (301) 496-7534, will furnish a summary of the meeting and a roster of the committee members.

Dr. Samuel Joseloff, Executive Secretary of the Committee, Westwood Building, Room 449, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-7441, will provide substantive program information upon request.

Dated: October 26, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-25806 Filed 11-1-89; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program, Board of Scientific Counselors' Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), Research Triangle Park, North Carolina, on November 30 and December 1, 1989.

The meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on November 30. The preliminary agenda topics with approximate times are as follows:

- 9:00 a.m.-10:00 a.m.—Program Orientation for New Board members
 10:00 a.m.-12:30 p.m.—Program Progress and Concept Reviews—NIEHS Division of Toxicology Research and Testing (DTRT):
 A. General Toxicology;
 B. Reproductive and Development Toxicology;
 C. Immunotoxicology;
 1:30 p.m.-4:00 p.m.—Program Progress and Concept Reviews—DTRT cont.
 D. Carcinogenesis;
 E. Genetic Toxicology;
 4:00 p.m.-5:00 p.m.—Review of Chemicals Nominated for NTP Studies.—The nominations of six

chemicals will be reviewed. The chemicals were evaluated by the NTP Chemical Evaluation Committee on August 2, 1989, and are (with CAS Nos. in parentheses): (1) 4-Acetylamino-fluorene (28322-02-3); (2) p-Aminobenzoic Acid (150-13-0); (3) Elmiron (37319-27-8); (4) Ethanol (64-17-1); (5) Monochloroacetone (78-95-5); and (6) Propylene Glycol Monomethyl Ether (107-98-2).

The meeting on December 1 will be open to the public from 9:00 a.m. until adjournment. The preliminary agenda topics with approximate times are as follows:

- 9:00 a.m.-9:15 a.m.—Report of the Director, NTP
 9:15 a.m.-9:45 a.m.—Update on Activities of the Technical Reports Review Subcommittee (Peer Review Panel);
 9:45 a.m.-10:45 a.m.—DTRT Poster Session
 10:45 a.m.-11:15 a.m.—Update on Activities of the Reproductive and Developmental Toxicology Program Review Subcommittee

The Executive Secretary, Dr. Larry G. Hart, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541-3971; FTS 629-3971, will have available a roster of Board members and other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: October 29, 1989.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 89-25807 Filed 11-1-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-89-2079]

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 comments 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: October 27, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Actions to Reduce Losses in FHA Programs, FR-2491.

Office: Housing.

Description of the need for the Information and its proposed use: This rule would require a mortgagee, when notified by the FHA Commissioner that the mortgagee had a higher than normal rate of early serious defaults and claims in the preceding year, to submit a report to the Commissioner; and, if applicable, a plan and timetable for necessary corrective actions.

Form Number: None.
 Respondents: Individuals or
 Households, Businesses or other For-

Profit, Non-Profit Institutions, and
 Small Businesses or Organizations.
 Frequency of Submission: On occasion.

Reporting Burden:

	Number of respondents	×	Frequency of Response	×	Hours per Response	=	Burden Hours
Information Collection.....	200		1		40		8,000

Total Estimated Burden Hours: 8,000.

Status: Reinstatement.

Contact: Andrew Zirneklis, HUD (202)
 755-6924; John Allison, OMB (202)
 395-6880.

Dated: October 27, 1989.

[FR Doc. 89-25793 Filed 11-1-89; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-89-2078]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
 ACTION: Notices.

SUMMARY: The proposed information
 collection requirements described below
 have been submitted to the Office of
 Management and Budget (OMB) for
 review, as required by the Paperwork
 Reduction Act. The Department is
 soliciting public comment on the subject
 proposals.

ADDRESS: Interested persons are invited
 to submit comment regarding these
 proposals. 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 proposals
 for the collections of information, as
 described below, to OMB for review, as
 required by the Paperwork Reduction
 Act (44 U.S.C. chapter 35).

The Notices list 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: October 26, 1989.

John T. Murphy,

Director, Information Policy and Management
 Division.

Proposal: Requisition For Development
 Or Modernization Funds.

Office: Public and Indian Housing.

Description of the Need for the
 Information and Its Proposed Use:

The Housing Act of 1937, as amended,
 authorizes the Department to assist
 Public Housing Authorities (PHAs)
 and Indian Housing Authorities
 (IHAs) in the development and
 rehabilitation of lower income
 housing. The financial assistance is
 obtained by the PHA/IHA submitting
 to the Department an approved form
 HUD-5402A, Requisition for
 Development and Modernization
 Funds.

Form Number: HUD-5402A.

Respondents: State or Local
 Governments.

Frequency of Submission: Other.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-5402A.....	2,300		25		.5		28,750

Total Estimated Burden Hours: 28,750.

Status: Extension.

Contact: Stephanie Avery-Boyd, HUD,
 (202) 755-7920; John Allison, OMB,
 (202) 395-6880.

Dated: October 26, 1989.

Proposal:

1. Schedule of Subscribers and GNMA
 II Contractual Agreement (to
 include Recordkeeping

Requirements Contained in the
 GNMA MBS Guide (5500.2)) and
 2. Schedule of Subscribers Addendum
 for Construction Loan Certification.

Office: Government National Mortgage
 Association (GNMA).

Description of the Need for the

Information and Its Proposed Use:

The forms will be used to provide
 GNMA with a listing of subscribers

and other necessary information to
 prepare mortgage-backed securities
 and to provide the contractual
 agreement between the issuer and
 GNMA under the GNMA II program.

Form Number: HUD-11705, 1735.

Respondents: Businesses or Other For-
 Profit.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD-11705.....	1,250		18.6		.17		3,954
HUD-1735.....	100		5.84		.17		100

Total Estimated Burden Hours: 4,054.
Status: Extension.

Contact: Brenda Countee, HUD, (202)
755-5535; John Allison, OMB, (202)
395-6880.

Dated: October 26, 1989.

[FR Doc. 89-25794 Filed 11-1-89; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service,

Klamath Fishery Management Council Meeting

AGENCY: Fish and Wildlife Service
Department of the Interior.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss et seq.). The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 9:00 a.m. to 5:00 p.m. Wednesday, November 1, 1989; from 9:00 a.m. to 4:00 p.m. on Thursday, November 2, 1989; and from 8:00 a.m. to 12:00 Noon on Friday, November 3, 1989.

Place: The meeting will be held at the Red Lion Inn, 1929 4th Street, Eureka, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1030 South Main), Yreka, California 96097-1006, telephone (916) 842-5763.

SUPPLEMENTARY INFORMATION: For background information on the Task Force, please refer to the notice of their initial meeting that appeared in the Federal Register on July 8, 1987 (52 FR 25639).

On November 1, the Council will consider reports on proposed legislation, 1989 salmon fisheries, and technical advances in harvest management. The Council will also discuss the proposed Tenth Amendment to the Salmon Framework Plan of the Pacific Fishery Management Council. November 2nd

and 3rd will be devoted to development of a long-term plan and policy for managing the in-river and ocean harvests of anadromous fish stocks of the Klamath River basin.

Dated: October 16, 1989.

W.E. Martin,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 89-25826 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-56-M

Bureau of Land Management

[ID-943-00-4214-12; I-1639, I-2448]

Partial Termination of Classification for Multiple Use Management; Idaho

October 25, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

1. The land description in FR Doc. 89-9187, published on page 15562 in the issue of Tuesday, April 18, 1989, is corrected as follows:

The land description in the third column which reads, tps. 1, 13 and 14 N., R. 28 E., should read, tps. 12, 13 and 14 N., R. 28 E.

2. The land description in FR Doc. 89-9517, published on page 15999 in the issue of Thursday, April 20, 1989, is corrected by adding the following descriptions to paragraph one:

T. 11 N., R. 32 E.,

Sec. 1, E½;

Sec. 12, NE¼;

Secs. 25 to 27, inclusive, except E½NE¼ sec. 25;

Secs. 33 to 36, inclusive.

T. 12 N., R. 33 E.

All unappropriated land in township, except NE¼NW¼ sec. 22.

T. 11 N., R. 34 E.

Secs. 2 to 11, inclusive;

Secs. 16 to 21, inclusive, except

NW¼NW¼ sec. 17, NE¼NE¼ sec. 18;

Secs. 28 to 33, inclusive.

Dated: October 25, 1989.

Delmar D. Vail,

State Director.

[FR Doc. 89-25831 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-CG-M

[AZ 020-41-5410-10; AZA-24035 & AZA-24036]

Receipt of Conveyance of Mineral Interest Applications; Arizona

ACTION: Notice of receipt of conveyance of mineral interest applications.

Notice is hereby given that:

Pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, Lake Pleasant Christian Convention Center has applied for conveyance of the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 6 N., R. 1 W.,

Sec. 23, S½NW¼, NW¼NW¼.

Containing 120 acres, more or less.

Pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, Pleasant Acres Development Corporation has applied for conveyance of the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 6 N., R. 1 W.,

Sec. 22, N½;

Sec. 23, NE¼, NE¼NW¼.

Containing 520 acres, more or less.

Additional information concerning this application may be obtained from the Area Manager, Phoenix Resource Area, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Upon publication of this notice in the Federal Register, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application or two years from the date of filing of the application, September 13, 1989, whichever occurs first.

Dated: October 25, 1989.

Henri R. Bisson,

District Manager.

[FR Doc. 89-25834 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-32-M

[OR-943-00-5410-ZHAA; GPO-032; OR 45325]

Filing of Conveyance of Mineral Interest Application; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of application.

SUMMARY: Notice is hereby given that pursuant to section 209 of the Act of October 21, 1976, 43 U.S.C. 1719, Tidewater Barge Lines, Inc., has applied for conveyance of the mineral estate owned by the United States described as follows:

Willamette Meridian, Oregon

T. 3 N., R. 26 E.,

Sec. 32, Portions of the E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$ and SE $\frac{1}{4}$ described by metes and bounds.

FOR FURTHER INFORMATION CONTACT: Robert E. Mollohan, BLM Oregon State Office, 825 N.E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208, 503-231-2174.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the *Federal Register*, the mineral interests owned by the United States in the land described above shall be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance to such mineral interests, upon final rejection of the application, or 2 years from the date of filing of the application, whichever ever occurs first.

Dated: October 26, 1989.

Catherine H. Crawford,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89-25829 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-33-M

[CA-940-00-5420-10-ZBGF; CACA 25712]

California; Proposed Issuance of a Recordable Disclaimer of Interest

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This document proposes to issue a disclaimer of interest from the United States to the City of Oceanside, California.

EFFECTIVE DATE: Comments should be received by (90 days from the publication date).

ADDRESS: Comments should be sent to the Chief, Lands Section, Branch of Adjudication and Records, California

State Office, Bureau of Land Management, E-2845, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Lavonia C. Silva, California State Office, (916) 978-4820.

Pursuant to section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), the City of Oceanside has filed application CACA 25712 for issuance of a recordable disclaimer of interest by the United States, affecting the following land:

San Bernardino Meridian

T. 11 S., R. 5 W.,

Sec. 27, NE $\frac{1}{4}$, portions of the right-of-way.

Acreage involved contains approximately 9.95 acres in San Diego County.

1. The above described land was conveyed by Certificate No. 1045, issued June 20, 1883 to Andrew J. Myers. The City of Oceanside is seeking clear title to portions of the railroad right-of-way which was granted in accordance with the General Railroad Right-of-Way Act of 1875 (43 U.S.C. 934). A title search revealed a reservation regarding the United States' right to enforce the terms of the General Railroad Right-of-Way Act of 1875. The applicant wishes to remove this cloud on the title.

2. For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments or objections in connection with the proposed disclaimer may present their views in writing to the undersigned.

Dated: October 24, 1989.

Nancy J. Alex,

Chief, Lands Section, Branch of Adjudication and Records.

[FR Doc. 89-25833 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-40-M

[ID-030-09-4212-13]

Amendment of Little Lost/Birch Creek Management Framework Plan/Realty Action, I-23235; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Action—Amendment of the Little Lost/Birch Creek Management Framework Plan (MFP)/ Notice of Realty Action (NORA), Exchange of Public Land in Clark County, Idaho

Notice: Notice is hereby given that the BLM has amended the Little Lost/Birch Creek MFP to allow for the transfer of certain public lands in exchange for privately owned lands in Butte County,

Idaho. The exchange will include surface and mineral estates.

SUMMARY: The following described lands have been examined and through the public supported land use planning process have been determined to be suitable for transfer by land exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Public lands to be transferred are described as:

Boise Meridian, Idaho

T. 9 N., R. 30 E.,

Sec. 4, Lot 8, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.

Sec. 5, Lots 6 and 7.

Sec. 9, Lot 2.

Comprising 122.73 acres.

Non-federal lands to be acquired are described as:

Tract 1, Boise Meridian, Idaho

Beginning at the Northwest Corner of Section 9, T. 9 N., R. 30 E., and running North along section line into Section 4 a distance of 365 feet more or less to a fence on the West right-of-way line of Highway 28; thence South 23 degrees 22' East, along said right-of-way line 400 feet more or less to the North line of said Section 9; thence continuing along said right-of-way line 1,436 feet more or less to the South line of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 9; thence West along said South line 725 feet more or less to the West line of Section 9; thence North along said section line 1,322 feet more or less to the point of beginning.

Tract 2, Boise Meridian, Idaho

Beginning at the Southwest Corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9, T. 9 N., R. 30 E., and running thence North along West side of said $\frac{1}{2}$ th line 1,262 feet more or less to a fence on the West right-of-way line of Highway 28; thence South 23 degrees 22' East, along said right-of-way line 1,373 feet more or less to the South line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$; thence West along said South line 543 feet more or less to the point of beginning.

Comprising 21.9 acres.

The purpose of this exchange is to acquire the non-federal lands which have high public values for prime riparian habitat, important fisheries and access to Birch Creek.

The lands were appraised and the value of the lands to be exchanged are equal.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions: ditches and canals (Act of August 30, 1890—43 U.S.C. 945) and road right-of-way BL-053972 to the Idaho

State Transportation Department. Continued use of the land by valid right-of-way holders is proper, subject to the terms and conditions of the grant. Administrative responsibility previously held by the United States will be assumed by the patentee.

The publication of this notice in the *Federal Register* will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant.

SUPPLEMENTARY INFORMATION: Detailed information concerning the conditions of the land exchange can be obtained by contacting Barbara Klingenberg, Realty Specialist, at (208) 529-1020.

Planning Protest

Any party that participated in the plan amendment and is adversely affected by the amendment may protest this action only as it affects issues submitted for the record during the planning process. The protest shall be in writing and filed with the Director (760), Bureau of Land Management, 1800 "C" Street, NW., Washington, DC 20240, within 30 days of this notice.

Land Exchange Comments

For a period of 45 days from the date of publication of this notice in the *Federal Register*, interested parties may submit comments regarding the land exchange to the District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any planning protests or objections regarding the land exchange, this realty

action will become the final determination of the Department of the Interior and the planning amendment will be in effect.

Dated: October 27, 1989.
Lloyd H. Ferguson,
District Manager.
[FR Doc. 89-25825 Filed 11-1-89; 8:45 am]
BILLING CODE 4310-GG-M

[ID-030-09-4212-14]

Public Lands in Bonneville, Clark and Jefferson Counties, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: The following described public lands have been identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value.

Parcel designation	Case No.	Legal description	Acreage	Appraised value
Boise Meridian, Idaho				
A.....	I-26609	T. 7 N., R. 35 E. Sec. 27, NE $\frac{1}{4}$ NE $\frac{1}{4}$	40.....	\$4,000
B.....	I-26608	T. 7 N., R. 36 E. Sec. 33, SE $\frac{1}{4}$ SW $\frac{1}{4}$	40.....	4,000
C.....	I-26610	T. 7 N., R. 36 E. Sec. 34, NW $\frac{1}{4}$ SW $\frac{1}{4}$	40.....	4,000
D.....	I-26738	T. 9 N., R. 33 E. Sec. 25, W $\frac{1}{2}$ SW $\frac{1}{4}$	80.....	8,000
E.....	I-19736	T. 1 N., R. 44 E. Sec. 17, S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$	5.....	6,000
F.....	I-27203	T. 1 N., R. 44 E. Sec. 17, W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	5.....	6,500
G.....	I-27204	T. 1 N., R. 44 E. Sec. 17, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	5.....	6,500
H.....	I-27205	T. 1 N., R. 44 E. Sec. 17, W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	5.....	7,000

The mineral estates of the lands described above have no known mineral values, and will be sold under section 209(b) of FLPMA. A bid will also constitute an application for conveyance of those mineral interests offered for conveyance in the sale. A nonrefundable \$50.00 filing fee will be required.

The following parcels will be offered for direct sale to the following parties based on historic use and ownership: Parcel A, Joseph Marty Family Trust, 1775 E. 1500 N., Hamer, Idaho 83425; Parcel C, Loren McGarry Ranches, HC 69, Box 1070, Hamer, Idaho 83425; and Parcel D, Sauer Enterprises, 5566 W. 49th N., Idaho Falls, Idaho 83402. Failure or refusal of the parties named above to submit a bid for the required amount by 9:00 a.m., January 10, 1990, will result in cancellation of the sale. The lands will

then be offered for competitive sale through July 11, 1990.

Three landowners will be given a preference to bid on Parcel B on the basis of their ownership of adjacent land. These landowners are as follows: (1) Cook Farms, c/o Karl Cook, 1898 N. 2250 E., Hamer, Idaho 83425; (2) Loren McGarry Ranches, HC 69, Box 1070, Hamer, Idaho 83425; and (3) Ronald Torgerson, HC 69, Box 1040, Hamer, Idaho 83425. Failure or refusal of the parties named above to submit a bid of at least fair market value of 9:00 a.m., January 10, 1990, will result in preference bidding privileges being forfeited. The land will then be offered for sale to the public, using competitive procedures, through July 11, 1990.

Parcels E, F, G and H will be offered for competitive sale at public auction at no less than the appraised value. Sealed bids will be accepted until 9:00 a.m.,

January 10, 1990. At that time all bids will be opened and the highest bids will be announced. If two or more highest bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. Any unsold parcels will be offered for competitive sale through July 11, 1990.

Sealed bids for unsold parcels will be opened at 9:00 a.m. each Wednesday subsequent to the initial offering date until July 11, 1990.

Patents for the parcels, when issued, will contain the following reservations.

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States; Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. A right-of-way described under Serial Number BL-053505 for a highway issued under section 17 of the Act of

November 9, 1921 (42 Stat. 212; 23 U.S.C. 18) on Parcels G and H.

3. A right-of-way described under Serial Number I-08116 for a highway issued under section 17 of the Act of November 9, 1921 (42 Stat. 212; 23 U.S.C. 18) on Parcel D.

4. A right-of-way described under Serial Number I-23548 issued under the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) on Parcel E.

5. A right-of-way described under Serial Number I-27212 for roadway purposes issued under the Act of October 21, 1976 (90 Stat. 2781; 43 U.S.C. 1767) on Parcels F and G.

6. A right-of-way described under Serial Number I-27213 for roadway purposes issued under the Act of October 21, 1976 (90 Stat. 2781; 43 U.S.C. 1767) on Parcel H.

The patent for Parcel E will also be issued subject to:

1. A right-of-way described under Serial Number I-21969 for a road issued under the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

Upon the expiration of the right-of-way on July 7, 2015, the holder of the right-of-way must negotiate new terms with the landowner.

Publication of this Notice will segregate the subject lands from all appropriations under public lands laws, including the mining laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent or 270 days from the date of this Notice, or upon publication of a notice of termination.

DATE: The first opening of sealed bids for the lands described above will be held at 9:00 a.m., Wednesday, January 10, 1990.

ADDRESS: The sale will be held at the Bureau of Land Management, Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401.

FOR FURTHER INFORMATION: Additional information concerning these tracts, the terms and conditions of the sale and bidding instructions may be obtained from Jon Freeman or Judy Fry at the above address, or by calling (208) 529-1020.

Detailed information concerning the sale, including the environmental assessments, is available for review at the Idaho Falls District, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401.

For a period of 45 days from the date of publication of this notice interested parties may submit comments to the District Manager, Idaho Falls District, at the above address. In the absence of timely objections, this proposal shall

become the final determination of the Department of the Interior.

Dated: October 24, 1989.

Lloyd H. Ferguson,
District Manager.

[FR Doc. 89-25832 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-GG-M

[OR-943-00-4214-11; GPO-035; OR-39458]

Conveyance of Public Land; Order Providing for Opening of Land; Oregon; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action corrects the notice published in the *Federal Register* on August 13, 1987, by adding an additional paragraph in the Conveyance of Public Land; Order Providing for Opening of Land; Oregon.

EFFECTIVE DATE: September 23, 1987.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-8905.

SUPPLEMENTARY INFORMATION: In FR Doc. 87-18459, published at page 30259 in the issue of August 13, 1987, make the following correction:

"4. At 8:30 a.m., on September 23, 1987, the land described in paragraph 2 will be open to applications and offers under the mineral leasing laws."

Dated: October 26, 1989.

Catherine H. Crawford,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89-25830 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-33-M

[OR-942-00-4730-2; GPO-034]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 28 S., R. 8 W., accepted 10/13/89

T. 26 S., R. 12 W., accepted 10/20/89

T. 32 S., R. 1 E., accepted 10/20/89

T. 25 S., R. 13 E., accepted 10/13/89

T. 26 S., R. 13 E., accepted 10/13/89

Washington

T. 5 N., R. 25 E., accepted 10/20/89

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protests(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissed affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 825 NE Multnomah, Portland, Oregon 97208, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 N.E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: October 25, 1989.

Catherine H. Crawford,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89-25827 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-33-M

[ID-942-00-4730-12]

Idaho: Filing of Plats of Survey; Idaho

The plat of survey of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 10:00 a.m., October 24, 1989.

The plat representing the dependent resurvey of portions of the First Guide Meridian West (west boundary), north boundary, subdivisional lines and original meanders of Priest Lake in section 6; the subdivision of section 6, an informative traverse, and the survey of new meanders of Priest Lake and a partition line in section 6, T. 60 N., R. 4 W., Boise Meridian, Idaho, Group No. 728, was accepted July 25, 1989.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: October 24, 1989.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 89-25828 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-86-M

[AZ-931-09-4214-11, AR-010997]

Proposed Modification and Continuation of Withdrawal; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to modify and continue for 20 years Public Land Order No. 3263, which withdrew lands in the Coconino National Forest for the Fort Valley and Long Valley Experimental Forest Research Areas. This notice pertains only to the lands in the Research Area Withdrawal. Other notices will be published at a later date for other lands covered by Public Land Order 3263. The land continues to be utilized for the purpose for which it was withdrawn, that of protecting the surface from activities detrimental to forest research actions. It is anticipated there will be no change in land use with the exception of 320 acres located in T. 22 N., R. 8 E., the west half of section 22, as the proposal is to terminate the withdrawal in that section. The Forest Service proposes that the land will remain closed to operations under the mining laws only.

DATE: Comments to this notice should be received by January 31, 1989.

ADDRESS: Comments should be addressed to the Arizona State Director, BLM, P.O. Box 16563, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, (602) 241-5509.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that Public Land Order 3263, withdrawing lands from mining claim location for an indefinite period of time, be modified and continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following described lands in the State of Arizona:

Gila and Salt River Meridian

- T. 22 N., R. 5 E.,
Sec. 24, S $\frac{1}{2}$, S $\frac{1}{2}$ N $\frac{1}{2}$.
T. 22 N., R. 6 E.,
Sec. 13, S $\frac{1}{2}$;
Sec. 22, All;
Sec. 23, ptn. NE $\frac{1}{4}$;
Sec. 24, All;
Sec. 25, E/ $\frac{1}{2}$, ptn. NW $\frac{1}{4}$;
Sec. 27, ptn. NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$.
T. 19 N., R. 7 E.,
Sec. 23, ptn. NE $\frac{1}{4}$;
Sec. 24, E/ $\frac{1}{2}$ and W $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 22 N., R. 7 E.,
Sec. 19, All;
Sec. 30, All.
T. 14 N., R. 9 E.,
Sec. 36, All.
T. 14 N., R. 10 E.,
Sec. 31, All.
Area proposed for termination.
T. 22 N., R. 8 E.,
Sec. 22, W $\frac{1}{2}$.

The areas described contained 6211.59 acres in Coconino County, of which 5891.59 acres will remain in withdrawal status. The purpose of the withdrawal is to protect the area from surface disturbing activities and allow forest and range experiments to continue without the threat of being disturbed. For periods of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be modified and continued and, if so, for how long. Notice of final determination will be published in the *Federal Register*. The existing withdrawal will continue until such final determination is made.

Beaumont C. McClure,
Deputy State Director, Lands & Renewable Resources.

[FR Doc. 89-25870 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-32-M

Mineral Management Service

Outer Continental Shelf Advisory Board; Gulf of Mexico Regional Technical Working Group; Meeting

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Gulf of Mexico Regional Technical Working Group (RTWG) meeting.

SUMMARY: Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92-463). The Gulf of Mexico RTWG meeting will be held December 4, 1989, 1:00 p.m. to 4:45 p.m. at the Doubletree Hotel, Crescent Room, 300 Canal Street, New Orleans, Louisiana.

The RTWG business meeting will be held in conjunction with the Information Transfer Meeting. Agenda items for the business meeting include:

Gulf of Mexico Current Activities
Presentation on Amoco Cadiz Spill
Status of University Initiatives
Presentation of Minerals Management Service Inspection Program

FOR FURTHER INFORMATION: This meeting is open to the public. Individuals wishing to make oral presentations to the committee concerning agenda items should contact Ann Hanks of the Gulf of Mexico OCS Regional Office at (504) 736-2589 by November 27, 1989. Written statements should be submitted by the same date to the Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123. A taped cassette transcript and complete minutes of the Business Meeting will be available for public inspection in the Office of the Regional Director at the above address not later than 60 days after the meeting.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico RTWG is one of six such Committees that advises the Director of the Minerals Management Service on technical matters of regional concern regarding offshore prelease and postlease sale activities. The RTWG membership consists of representatives from Federal Agencies, the coastal States of Alabama, Florida, Louisiana, Mississippi, and Texas, the petroleum industry, the environmental community, and other private interests.

Dated: October 25, 1989.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 89-25835 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Chairmen of the Subsistence Resource Commissions for Kobuk Valley National Park and Cape

Krusenstern National Monument and the Superintendent of Northwest Alaska Areas announce a joint meeting of the two Subsistence Resource Commissions on November 20, 1989 in Kotzebue, Alaska.

The following agenda items will be discussed:

- (1) Introduction of Commission members and guests.
- (2) Review of minutes from last meeting.
- (3) Management update for Kobuk Valley National Park and Cape Krusenstern National Monument.
- (4) Work on subsistence hunting plan recommendations
 - a. Review of past recommendations.
 - b. Discussion of new recommendations.
- (5) Old and new business.

DATE: The meeting will begin at 9:00 a.m. on November 20, 1989 and will conclude the afternoon of the same day.

ADDRESS: The meeting will be held at the National Guard Armory Building in Kotzebue, Alaska.

FOR FURTHER INFORMATION CONTACT: Dave Mills, Management Assistant, National Park Service, P.O. Box 1029, Kotzebue, Alaska 99752 (phone (907) 442-3890).

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Boyd Evlson,

Regional Director.

[FR Doc. 89-25758 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the proposal should be made within 30 days directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1006-0003), Washington, DC 20503, telephone 202-395-5897.

Title: Procedure to Process and Recover Value of Rights-of-Use and Administrative Costs.

OMB approval number: 1006-0003.

Abstract: Applicants for a right to use land under the jurisdiction of the Bureau of Reclamation must provide certain specified information. The required information will accompany the application and is the basic information necessary to enable the Bureau of Reclamation to determine whether or not the use can be granted. The information to be collected consists of the applicant's name and address, a description of the land on which the use is desired, the use to which the land will be put, the length of time the use will be in effect, and a map or drawing showing the area on which the desired use is to be located. If the use involves construction, the applicant may also be required to provide detailed construction plans, information needed by Reclamation to meet any environmental or cultural resource requirements, and additional information necessary to assure Reclamation that the proposed use will not conflict with the purpose for which Reclamation administers the land.

Bureau form number: No forms are involved.

Frequency: On occasion.

Description of respondents: Individuals, firms and agencies desiring to use Bureau of Reclamation-administered land for any purpose.

Estimated completion time: 2 hours.

Annual respondents: 400.

Annual burden hours: 800.

Bureau clearance officer: Nancy C. Smith, 303-236-6769.

Dated: September 11, 1989.

Terry P. Lynott,

Acting Deputy Commissioner, Bureau of Reclamation.

[FR Doc. 89-25836 Filed 11-1-89; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the Ninety-Seventh Meeting of the Board for International Food and Agricultural Development (BIFAD) on November 16 and 17, 1989.

The purposes of the Meeting are: (a) To hear an update on the Food and Agriculture 2000, (b) to hear a report on the Africa Natural Resources Program,

(c) to hear a report on the Peanut CRSP, (d) to hear an update on Sustainable Agriculture, (e) to hear BIFAD Recommendations to Africa Bureau, and (f) to hear a report on S&T Rural Development Program.

The November 16-November 17, 1989 Meetings will be held in the Department of State, Room 5951, 2201 C Street, Washington, DC 20523. Any interested person may attend and may present oral statements in accordance with procedures established by the Board and to the extent the time available for the meeting permits.

Curtis Jackson, Bureau of Science and Technology, Office of University Relations, Agency for International Development is designated as A.I.D. Advisory Committee Representative at this Meeting. It is suggested that those desiring further information write to Dr. Jackson, in care of the Agency for International Development, Rm 309, SA 18, Washington, DC 20523, or telephone him on (703) 875-4005.

Dated: October 25, 1989.

Lynn Pesson,

Executive Director, BIFAD.

[FR Doc. 89-25762 Filed 11-1-89; 8:45 am]

BILLING CODE 6116-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Folk Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Folk Arts Advisory Panel to the National Council on the Arts will be held on December 5-7, 1989, from 9:00 a.m.-6:00 p.m. and on December 8, 1989, from 9:00 a.m.-5:30 p.m. in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 7, 1989, from 11:00 a.m.-12:30 p.m. The topic for discussion will be policy issues.

The remaining portions of this meeting on December 5-6, 1989, from 9:00 a.m.-6:00 p.m. and December 7, 1989, from 9:00 a.m.-11:00 a.m. and from 12:30 p.m.-6:00 p.m. and December 8, 1989, from 9:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the

determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Dated: October 23, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations,
National Endowment for the Arts.

[FR Doc. 89-25837 Filed 11-1-89; 8:45 am]

BILLING CODE 7537-01-M

National Endowment for the Arts; Opera-Musical Theater Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel (New American Works Section) to the National Council on the Arts will be held on November 27-December 1, 1989, from 9:00 a.m.-6:00 p.m. in Rooms M07 and M09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on November 27, 1989, from 9:00 a.m.-9:45 a.m. and on December 1, 1989, from 10:00 a.m.-12:00 noon. The topic for discussion is to be announced.

The remaining portions of this meeting on November 27, 1989, from 9:45 a.m.-6:00 p.m. and on November 28-30, 1989, from 9:00 a.m.-6:00 p.m. and on December 1, 1989, from 9:00 a.m.-10:00 a.m. and from 12:00 noon-6:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman

published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Dated: October 24, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations,
National Endowment for the Arts.

[FR Doc. 89-25838 Filed 11-1-89; 8:45 am]

BILLING CODE 7537-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Approval of RI 78-11 Submitted to OMB for Clearance

AGENCY: Office of Personnel
Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request to extend the use of form RI 78-11, Medicare Part B Certification, OPM currently uses RI 78-11 to determine whether annuitants, their spouses, and survivor annuitants are covered by Part B of Medicare.

Approximately 300 RI 78-11 forms are processed annually; each requires approximately 1/2 hour to complete, for a total public burden of 50 hours. For copies of this proposal, call Larry Dambrose, on (202) 632-0199.

DATES: Comments on this proposal should be received by December 4, 1989.

ADDRESSES: Send or deliver comments to—Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 632-5472.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 89-25788 Filed 11-1-89; 8:45 am]

BILLING CODE 5325-01-M

POSTAL RATE COMMISSION

Order No. 852

Commission Order and Notice Initiating Proceedings and Setting Dates for Filing Initial Testimony; Advo-System, Inc.

Issued October 30, 1989.

In the Matter of a Complaint of Advo-System, Inc., Docket No. C89-3, Advo Local Saturation Subclass Proposal, Docket No. MC89-1, MOAA Catalog Subclass Proposal, Docket No. C89-4.

Before Commissioners: Henry R. Folsom, Vice Chairman; John W. Crutcher; W.H. "Trey" LeBlanc, III; Patti Birge Tyson

After considering the above-referenced filings of Advo-System, Inc. (Advo) and the Mail Order Association of America (MOAA) and related Postal Service answers, the Commission has determined that the complaints may be justified and has decided to initiate formal proceedings designed to explore issues relevant to (i) the Advo complaint; (ii) the Advo local saturation subclass alternatives; and (iii) the MOAA catalog complaint.¹ As our rules make clear, our decision to proceed in this fashion is preliminary in the sense that a final determination with respect to the merits of the complaints and the related classification proposals will await completion of a hearing on the record.

Other Procedural Matters. In light of earlier representations by Advo and MOAA as to the amount of time needed to prepare and file their evidence, the Commission directs Advo to file its direct evidence by December 6, 1989 and directs MOAA to file by January 24, 1990. MOAA is encouraged to file its evidence sooner if possible. Persons who have filed requests to be placed on the Commission's service list in the Advo Local Saturation Subclass Proposal, Docket No. MC89-1, are automatically granted intervenor status in the other proceedings. Other persons interested in participating in these cases

¹ See July 10, 1989 Petition of Advo-System, Inc. and related July 17, 1989 Commission Notice; See July 10, 1989 Advo Complaint and related July 17, 1989 Commission Notice and Order; see also August 18, 1989 Complaint of Mail Order Association of America and August 31, 1989 Commission Notice and Order. The Postal Service filed answers to the Advo Complaint on August 9, 1989 and to the MOAA Complaint on September 18, 1989.

should file notices of intervention in accordance with Commission rule 20 (39 CFR 3001.20) no later than December 1, 1989. Stephen A. Gold, Director of the Commission's Office of the Consumer Advocate, who was designated to represent the interests of the general public in the MOAA case by operation of Order No. 843, is directed to assume that duty in the other proceedings as well. Further scheduling decisions, including any decision on consolidation of the cases, will be made at a later date. *It Is Ordered:*

(1) The Commission hereby initiates formal proceedings in Docket Nos. MC89-1, C89-3 and C89-4.

(2) Advo's prepared testimony in Docket Nos. MC89-1 and C89-3 is to be filed no later than December 6, 1989; MOAA's prepared testimony in Docket No. C89-4 is to be filed no later than January 24, 1990.

(3) Intervenor status in these cases is extended to persons whose names are on the Commission's service list in Docket No. MC89-1, Advo Local Saturation Subclass; other persons interested in intervening in these cases are to file notices of intervention no later than December 1, 1989;

(4) Stephen A. Gold, Director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public in Docket Nos. MC89-1 and Docket No. C89-3.

By the Commission.

Charles L. Clapp,
Secretary.

[FR Doc. 89-25846 Filed 11-1-89; 8:45 am]

BILLING CODE 7710-FW-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-19839]

Application and Opportunity for Hearing; Union Tank Car Company

October 25, 1989.

Notice is hereby given that Union Tank Car Company (the "Company") has filed an application pursuant to 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 (the "Commission") that the trusteeship of Citibank, N.A. (the "Bank") under an indenture dated October 1, 1971 (the "1971 Indenture") between the Company and the Bank which was heretofore qualified under the Act and under a proposed indenture (the "1989 Indenture") between the Company and the Bank which will be qualified under the Act, 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 Bank from acting as trustee under either of these 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 that section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

The Company alleges:

(1) Pursuant to the 1971 Indenture, the Company has outstanding \$2,600,000 aggregate amount of its 7 $\frac{3}{4}$ % Equipment Trust Certificates due October 1, 1991 (the "1971 Certificates"). The 1971 Certificates were registered under the Securities Act of 1933 (the "1933 Act") and the 1971 Indenture was qualified under the Act.

(2) Pursuant to the 1989 Indenture, the Company will issue \$100,000,000 aggregate principal amount of Equipment Trust Certificates (the "1989 Certificates"). The 1989 Certificates will be registered under the 1933 Act and the 1989 Indenture will be qualified under the Act.

(3) The Company is not in default under the 1971 Indenture. The Company's obligations under the 1971 Indenture and the 1989 Indenture will rank *pari passu inter se*. The 1971 Indenture is and the 1989 Indenture will be secured by a separate group of specifically identified rail cars.

(4) The provisions of the 1971 Indenture and the 1989 Indenture are 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 the Bank from acting as Trustee under said Indentures.

The Company has waived notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the Offices of the Commission's Public Reference Section, File No. 22-19839, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested persons may, no later than November 20, 1989, request in writing that a hearing be held on such matter

stating the nature of his interest, the reasons for such request and 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 orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions the Commission may deem necessary or appropriate in the public interest and 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. 89-25849 Filed 11-1-89; 8:45 am]
BILLING CODE 6010-01-M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980, as amended by Public Law 99-591; Information Collection Under Review by the Office of Management and Budget (OMB)

AGENCY: Tennessee Valley Authority.

ACTION: Information Collection Under Review by the Office of Management and Budget (OMB).

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), as amended by Public Law 99-591.

Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Desk Officer for the Tennessee Valley Authority, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Telephone: (202) 395-3084.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, Edney Building 4W 13B, Chattanooga, Tn 37402; (615) 751-2523.

Type of Request: Regular submission.

Title of Information Collection: Electric Load Research Questionnaire.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households, state or local governments, farms businesses or other for-profit, non-profit institutions, and small businesses or organizations.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 1,190.

Estimated Total Annual Burden Hours: 397.

Estimated Average Burden Hours Per Response: .33.

Need For and Use of Information: The information is required to evaluate the effects of demographic and other characteristics on the use patterns of electricity. This information is vital as input into TVA's ratemaking, cost-of-service studies, and load forecasting.

Louis S. Grande,

Vice President, Information Services, Senior Agency Official.

[FR Doc. 89-25839 Filed 11-1-89; 8:45am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 89-10-52, Dockets 46210 and 46411]

Agreements Among Members of the International Air Transport Association Regarding Cargo Services Matters

AGENCY: Department of Transportation.
ACTION: Notice.

SUMMARY: The Department approved and granted antitrust immunity to most of the agreements, which consisted of resolutions and recommended practices involving documentation, handling and technical procedures for processing cargo shipments. However, the Department disapproved various provisions revising the Conditions of Contract printed on the standard air waybill as being inconsistent with the Warsaw Convention and U.S. policy thereunder.

The Department disapproved paragraph II of Resolution 600b, Notice Concerning Carrier's Limitation of Liability, and paragraphs 2.3 4.1, 4.2, and 6 of the Conditions of Carriage in Resolution 600b, as well as the corresponding paragraphs in Recommended Practice 1600b, Publication of the Air Waybill and Conditions of Contract in French.

The Department also approved and granted antitrust immunity to various related agreements, rejecting IATA's contention that they were already

immunized by prior Department orders approving IATA tariff coordination procedures.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Myers, Office of the General Counsel, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9183.

Dated: October 27, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-25842 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-02-M

Fitness Determination of Conquest Airlines Corp.

AGENCY: Department of Transportation.
ACTION: Notice of commuter air carrier fitness determination—Order 89-10-56, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find Conquest Airlines Corp. 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, Department of Transportation, 400 Seventh Street, SW., Room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Lawyer, Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street, SW., Room 6401, Washington, DC 20590, (202) 366-1064.

Dated: October 30, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-25843 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-02-M

President's Commission on Aviation Security and Terrorism; Public Meeting

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice of public meeting of the President's Commission on Aviation Security and Terrorism.

SUMMARY: The President's Commission on Aviation Security and Terrorism will be holding its first public hearing. At

this first public hearing the Commission is interested in hearing from members of the public who are concerned with the Commission's mandate from the President, as set forth below. Subsequent hearings will be scheduled, including a hearing of representatives of Federal agencies and a hearing focused on detection equipment and technology. Interested members of the public are invited to attend. Persons wishing to address or submit a written statement to the Commission should contact the person below at least three days before the hearing. Oral submissions to the Commission will be limited to 20 minutes each.

DATE: Friday, November 17, 1989, 10:00 a.m. ET.

ADDRESS: Reserve Officers Association, Fifth Floor, One Constitution Avenue, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Commission on Aviation Security and Terrorism, 1825 K Street, NW., Suite 519, Washington, DC 20036, (202) 254-3166.

SUPPLEMENTARY INFORMATION: By Executive Order 12686, August 4, 1989, the President established the Commission on Aviation Security and Terrorism to examine policy regarding the threat of terrorism to civil aviation, specifically options for preventing aviation terrorism and handling terrorist threats, including prior notification to the public, and policies, practices, and laws regarding treatment of families of the victims of terrorism. In these areas, the Commission is specifically to focus on the destruction of Pan American flight 103 over Lockerbie, Scotland, on December 21, 1988.

The members of the Commission are:

1. Ann Dore McLaughlin, former Secretary of Labor, Chair.
2. Senator Frank Lautenberg (D-NJ), Chair of the Senate Appropriations Subcommittee on Transportation.
3. Senator Alfonse M. D'Amato (R-NY), Ranking Minority Member of the Senate Appropriations Subcommittee on Transportation.
4. Representative James N. Oberstar (D-MN), Chair of the House Public Works and Transportation Subcommittee on Aviation.
5. Representative John Paul Hammerschmidt (R-AR), Ranking Minority Member of the House Committee on Public Works and Transportation.
6. Edward Hidalgo, Esq., former Secretary of the Navy.
7. General Thomas Richards, USAF (Ret.), former Deputy Commander in

Chief, United States European Command.

Issued in Washington, DC, on October 30, 1989.

Harry R. Van Cleve,

Commission General Counsel.

[FR Doc. 89-25929 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 89-091]

Meeting of the Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Chemical Transportation Advisory Committee (CTAC) will hold a meeting on Tuesday, November 28, 1989, in Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, DC. The meeting is scheduled to begin at 9:00 a.m. and end at 4:30 p.m. The Committee will consider comments received during the comment period for the Notice of Proposed Rulemaking (NPRM) for Marine Vapor Control Systems published on October 6, 1989 (54 FR 41366).

The agenda is as follows:

1. Call to order.
2. Opening remarks.
3. Consideration of comments received on NPRM for Marine Vapor Control Systems.
4. Adjournment.

Attendance is open to the public. Members of the public may present oral statements at the meeting. Those wishing to present oral statements should notify the Executive Director of CTAC, Captain J.C. Maxham, (202) 267-2967, no later than the day before the meeting. A summary of comments received in response to the NPRM will be available from the contact given below.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R.H. Fitch, U.S. Coast Guard Headquarters (G-MTH-1), 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-1217.

Dated: October 27, 1989.

J.D. Sires,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-25778 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

[FHWA Docket No. MC-89-17]

Driver Fatigue Research; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that there will be a public meeting at 9:00 a.m., Wednesday, November 29, 1989, in Room 2230 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, DC.

The purpose of the meeting is to provide a briefing on a research contract that the FHWA recently awarded to the Essex Corporation, Goleta, California, to examine the problem of commercial motor vehicle fatigue and driver alertness, and to identify and examine potential countermeasures. In addition, a short review of all fatigue-related research currently underway within the FHWA will be provided.

The Essex Corporation will outline the proposed plan for its research, including methodology and technical equipment that will be applied. Participants are encouraged to provide comment on the proposal.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Davis (202-366-2997) or Mr. Stanley Hamilton (202-366-0665), Office of Motor Carriers, Federal Highway Administration, 400 Seventh Street NW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., EST, Monday through Friday.

Issued on October 27, 1989.

T.D. Larson,

Administrator.

[FR Doc. 89-25786 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration**Merchant Marine Decorations and Medals**

AGENCY: Maritime Administration, DOT.
ACTION: Notice.

SUMMARY: This notice is issued pursuant to Maritime Administration regulations governing the award of authorized merchant marine decorations and medals (46 CFR part 350) to reflect the recently enacted authority given to the Maritime Administration to again accept applications for original issuance of World War II merchant marine decorations and medals to mariners who served during that period. That authority had previously been rescinded by Public

Law 84-759, but has been renewed by Public Law 100-324.

FOR FURTHER INFORMATION CONTACT: Bruce J. Carlton, Director, Office of Maritime Labor and Training, Maritime Administration, MAR 250, Room 7302, Department of Transportation, 400 7th Street, SW., Washington, DC 20590. Tel. (202) 366-5755.

SUPPLEMENTARY INFORMATION: Under Public Law 759, 84th Congress, the authority of the Maritime Administration to issue merchant marine decorations and medals for World War II service was repealed. The Maritime Administration has had no authority to accept an original request made by a merchant mariner for World War II decorations and medals since 1958. Public Law 84-759 authorized the Maritime Administration only to replace those previously awarded merchant marine decorations and awards lost, destroyed, or rendered unfit for use.

With the enactment of Public Law 100-324, the Merchant Marine Decorations and Medals Act of May 30, 1988, the Maritime Administration has again been authorized to "award decorations and medals of appropriate design for individual acts or service in the United States merchant marine." This Act provides the authority for the Maritime Administration to accept requests for the original issuance of merchant marine decorations and medals for service during World War II, and the Maritime Administration will now accept and process such applications.

The following awards were established to recognize merchant seamen for their service in World War II. (Also listed are awards for the Korean and Vietnam Wars.) In determining an applicant's eligibility for these merchant marine decorations and medals, the service criteria associated with each of these awards must be fully met by the applicant. The award for which original applications are again being accepted are:

- (a) The Atlantic War Zone Bar, awarded to crew members of ships operated by or for the War Shipping Administration who served in the Atlantic War Zone, including the North Atlantic, South Atlantic, Gulf of Mexico, Caribbean, Barents Sea, and the Greenland Sea, during the period December 7, 1941, to November 8, 1945;
- (b) The Pacific War Zone Bar, awarded to crew members of ships operated by or for the War Shipping Administration who served in the Pacific War Zone which included the North Pacific, South Pacific, and the Indian Ocean east of 80

degrees east longitude, during the period December 7, 1941, to March 2, 1946;

(c) The Mediterranean-Middle East War Zone Bar, awarded to crew members of ships operated by or for the War Shipping Administration who served in the zone including the Mediterranean Sea, Red Sea, Arabian Sea, and Indian Ocean west of 80 degrees east longitude, during the period December 7, 1941, to November 8, 1945; (d) The Defense Bar, awarded to crew members of U.S. merchant ships for service prior to Pearl Harbor, during the period September 8, 1939, to December 7, 1941; (e) The Combat Bar, awarded to crew members who served on a ship which at the same time of service was attacked or damaged by an instrumentality of war during the period December 7, 1941, to July 25, 1947. A star is attached if the crew member was forced to abandon ship. For each additional abandonment a star is added; (f) The Philippine Defense Ribbon, awarded to crew members of ships operated by or for the War Shipping Administration who served in Philippine water for not less than 30 days during the period December 8, 1941, to June 15, 1942; (g) The Philippine Liberation Ribbon, awarded to crew members of ships operated by or for the War Shipping Administration who served in Philippine waters for not less than 30 days during the period October 17, 1944, to September 3, 1945; (h) The Merchant Marine Emblem, an identifying insignia that was issued to active merchant seamen for service during the period December 7, 1941, to July 25, 1947; (i) The Victory Medal, awarded to crew members of ships owned by, or operated by, or for the account of the War Shipping Administration for 30 days during the period December 7, 1941, to September 3, 1945; and, (k) The Presidential Testimonial Letter, awarded to crew members of ships owned by or operated by the War Shipping Administration for 30 days during the period December 7, 1941, to September 3, 1945. In addition, applications continue to be accepted and processed for the Korean Service Bar, awarded for service in the U.S. merchant marine during the period June 30, 1950, to September 30, 1953, in waters adjacent to Korea; and the Vietnam Service Bar, awarded for service in the U.S. merchant marine during the period July 4, 1965, to August 15, 1973, in waters adjacent to Vietnam.

(The Merchant Marine Distinguished Service Medal, Meritorious Service Medal, Gallant Ship Award and Mariner's Medal awarded for outstanding conduct or service in the U.S. merchant marine are processed in accordance with Maritime Administrative Order 550-3, Merchant Marine Awards Committee, and are not the subject of this notice.)

An individual who believes his service in the merchant marine during World War II meets the above-described eligibility criteria for one or more of these awards is invited to apply for the award(s). The following information must be provided by all applicants with any request for original issuance of World War II awards: (1) The applicant's full name and present mailing address; (2) a copy of the applicant's DD Form 214, "Certificate of Release or Discharge from Active Duty," with continuation sheet, if provided. (Do not send the original form.) The DD Form 214 will be used to verify the applicant's World War II merchant marine service and to identify the ship(s) on which the applicant served. Applicants who do not have a DD Form 214 should apply for one by completing a DD Form 2168, "Application for Discharge of Member or Survivor of Member of Group Certified to have Performed Active Duty with the Armed Force of the United States," and mailing it to the appropriate address on the form. In brief, to receive consideration for the DD Form 214, a merchant mariner would have had to serve satisfactorily as a crew member during the period of armed conflict, December 7, 1941, to August 15, 1945, aboard merchant vessels in oceangoing service or foreign waters. Merchant marine applicants who wish further information on how to obtain a DD Form 214 should contact their local Department of Veterans Affairs office. No application for an award under this Notice can be processed until the applicant has been issued a DD Form 214; (3) The applicant's identification number(s) (i.e., Z or book number), and his World War II home address, if available; (4) a brief summary of the applicant's World War II sailing history including ships sailed on, theatre(s) of operation (for example, Pacific War Zone, Atlantic War Zone), and the applicant's ports of discharge; and (5) any available supporting documentation to substantiate the application for an award.

All requests and inquiries on merchant marine decorations and medals should be forwarded to: Office of Maritime Labor and Training, Maritime Administration, Room 7302,

MAR 250, Department of Transportation, Washington, DC 20590.

If an applicant is found to be eligible for a merchant marine decoration and award, an authorization card(s) will be supplied to the applicant with which the decoration may be purchased from either of the Maritime Administration's authorized vendors. (These vendors are the Ship's Service Store, United States Merchant Marine Academy, Kings Point, L.I., NY 11024, and The Quartermaster Uniform Company, 750 Long Beach Blvd., Long Beach, CA 90813.) The vendors will provide merchant marine service ribbon bars at cost, including postage and handling fees.

Those merchant seamen who have previously been awarded decorations for their service in World War II, Korea and/or Vietnam, but whose awards have been lost, destroyed, or rendered unfit for use, may obtain replacements of their merchant marine service ribbon bars by contacting the Maritime Administration at the above address. Those merchant marine service ribbon bars which may be replaced upon authorization by the Maritime Administration are: Atlantic War Zone Bar, Pacific War Zone Bar, Mediterranean-Middle East War Zone Bar, Combat Bar, Defense Bar, Philippine Liberation Ribbon, Philippine Defense Bar, Victory Medal Bar, Korean Service and Vietnam Service Bar. The following decorations are provided at cost, again upon authorization by the Office of Maritime Labor and Training, Maritime Administration: Victory Medal, Honorable Service Button, Merchant Marine Emblem, Mariner's Medal, Gallant Ship Unit Citation Bar, Meritorious Service Medal and Distinguished Service Medal.

By order of the Maritime Administrator.

Dated: October 27, 1989.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 89-25779 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. EX89-2; Notice 2]

Conceptor Industries, Inc.—Grant of Petition for Temporary Exemption From Three Federal Motor Vehicle Safety Standards

This notice grants the petition by Conceptor Industries, Inc., of Richmond Hill, Ontario, Canada, for a temporary

exemption from three Federal Motor Vehicle Safety Standards. The basis of the grant is that an exemption would facilitate the development and field evaluation of a low emission motor vehicle, and that an exemption would not unreasonably degrade the safety of such vehicle. The exemption is for a period of one year.

Notice of receipt of the petition was published on February 23, 1989, and an opportunity afforded for comment (54 FR 7910).

Conceptor has not heretofore manufactured motor vehicles. In conjunction with the Electric Vehicle Development Corporation and the Electric Power Research Institute, and several U.S. electric utility companies, Conceptor is modifying G-Vans produced by General Motors Corporation. These modifications include substitution of an electric propulsion system for the internal combustion propulsion system with which the vehicle is originally manufactured. Specific components that are removed by GM include the engine, exhaust system, coolant system, transmission, and drive shaft. Conceptor replaces them with an electric traction motor, 16 monoblock batteries in a tray, an electrical controller, and a smaller transmission and drive shaft. These modifications result in a vehicle that is 1,000 pounds heavier than the original G-Van produced by GM. The modified vehicle would have an all new frontal structure, the addition of the battery tray to the underlying structure, and the relocation of the power train to the rear. The net result of the modifications is not only to change the crash characteristics of the original G-VAN, but also potentially to affect compliance with some Federal safety standards which do not contain a barrier impact test procedure.

Petitioner stated that it did not know that its modifications will actually result in noncompliances, but it sought a 2-year exemption from several standards that may be affected. In the meantime, it will conduct such testing and make such modifications as may be required to ensure that the compliance of the vehicles it produces after the exemption period. It will not produce more than 2500 vehicles in any 12-month period in which the exemption is in effect, as its current plans are to sell no more than 200 exempted vehicles overall.

The standards from which Conceptor sought exemption, and its reasons for so doing, were:

1. Standard No. 103, Windshield Defrosting and Defogging Systems. The heater unit is a new diesel power one with different power output

characteristics, affecting time to obtain operating temperature and the total power output rating. Petitioner raises the possibility that this change may actually improve performance of the heater when tested according to the Standard.

2. Standard No. 105, Hydraulic Brake Systems. The increased curb weight, the change in center-of-mass location, new weight distribution, new mode of power for the brake-hydraulic system and the introduction of regenerative braking will require the G-Van's braking system to be recalibrated for the new vehicle configuration. Petitioner requests exemption from the stopping distance requirements of the third effectiveness test (paragraph S5.1.1.3), the partial failure requirements (S5.1.2), and the inoperative brake power assist unit or brake power unit requirements (S5.1.3).

3. Standard No. 124, Accelerator Control Systems. The electric G-Van will incorporate an all-new accelerator mechanism. Testing is at present needed to determine its compliance with the standard.

4. Standard No. 208, Occupant Restraint Systems. In the absence of any information to the contrary, NHTSA assumes that the restraint systems installed by General Motors will remain in place. However, their continued compliance with the standard has not been demonstrated in the absence of barrier impact testing, for which the petitioner requests exemption.

5. Standard No. 212, Windshield Mounting.

6. Standard No. 219, Windshield Zone Intrusion.

Petitioner wishes to demonstrate compliance with these standards also through barrier impact testing, and exemption is therefore requested.

7. Standard No. 301, Fuel System Integrity. The Electric G-Van incorporates a new fuel tank used in the diesel powered heater unit. Compliance will be demonstrated through impact testing, which has not been conducted, and an exemption is therefore requested.

Petitioner stated that, during the time of the temporary exemption, the technical and economic feasibility of the Electric G-Van will be evaluated. It argued that an exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act for the following reasons:

1. The evaluation period afforded by the exemption could lead to the greater commercialization of low-emission motor vehicles, and concomitant improvement in the air quality of urban areas.

2. Electric vehicles will help reduce dependency upon foreign oil.

3. Electric vehicles may help to reduce the incidence of vehicle fires.

The only commenter was General Motors Corporation, which supported the petition. GM explained that it supplies Conceptor with "shells", i.e., an aggregation of components and sub-systems derived from the "G" Van. In addition to the components listed by Conceptor as omitted from the shell, GM stated that it also does not provide a fuel system and significant portions of the electrical system. For these reasons, GM will specify in its contract with Conceptor that the petitioner alone bears the responsibility for certification of compliance with the Federal motor vehicle safety standards, except for those components requiring certification as motor vehicle equipment. GM commends Conceptor's efforts "to develop, certify, and market an electrically propelled vehicle."

Before considering whether the petitioner has sufficiently justified its request, the agency notes that an exemption is not needed with respect to Standards Nos. 103 and 208. The General Motors G-Van, from which the Conceptor is derived, is certified as a multipurpose passenger vehicle ("MPV"), and not as a passenger car. Thus, the Conceptor will be certified also as an MPV. The only requirement that Standard No. 103 imposes for an MPV is that it be equipped with a defroster and defogging system. Performance requirements for those systems are specified only for passenger cars. NHTSA understands that Conceptor will continue to provide the required systems, uncertain though it may be as to its performance capabilities. Similarly, with respect to Standard No. 208, a vehicle other than a passenger car is not currently subject to any requirement for which a barrier crash is specified in the standard as the means of determining compliance. Pursuant to S4.2.2., and S4.1.2.3, an MPV like the Conceptor may be equipped with a Type 2 lap and shoulder belt system that meets the requirements of Standard No. 209. Conceptor has informed NHTSA that it intends to leave the GM restraint systems in place. Finally, after the end of the comment period, Conceptor informed the agency that it had determined that it would comply with Standards Nos. 212 and 219, and that therefore no exemption was needed.

Sections 123(a)(1)(C) and (a)(2) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1410(a)(1)(C)) provide that a petitioner may be granted

a temporary exemption upon a finding that "such temporary exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably degrade the safety of such vehicle", and "that such temporary exemption would be consistent with the public interest and the objectives of the Act." In view of increasing concerns about environmental problems and about the need to import petroleum to fuel this country's motor vehicles, NHTSA deems it important to encourage the search for propulsion systems that are viable alternatives to the internal combustion engine. Electrical propulsion is one such system. To date, such systems have not proven competitive with internal combustion systems to the extent that they are alternatives, except for a limited number of vehicle applications in urban environments, such as postal vans and delivery trucks. Even here, electric vehicle usage appears to be more of a sporadic, experimental nature than a program of incremental improvements in technology from one year to the next. The experience of Conceptor, with the encouragement and support of General Motors, could add to the sum of knowledge of electric vehicle technology. The agency believes that these factors would justify a finding that a temporary exemption will facilitate the development and field evaluation of a low-emission motor vehicle. Similarly, given that development of safety systems suitable for electrically propelled vehicles to meet the requirements of the Federal safety standards will continue while the exemption is in effect, NHTSA believes that a finding that an exemption is in the public interest, and consistent with the objectives of the Vehicle Safety Act would be justified.

In order to grant a low emission vehicle exemption, the Administrator is also required by the Act to find that such an exemption would not unreasonably degrade the safety of the exempted vehicle. To enable the agency to make this finding, a petitioner must either attempt to show that its noncompliances involve narrow, comparatively insignificant safety requirements or, attempt to show, through tests in accordance with the procedures in the affected standards, mathematical modeling, engineering analysis or other means, that the extent of its noncompliances are not unreasonable. The judgment as to reasonableness would be based on a variety of considerations including the potential safety risk and the vehicle design choices necessary to

accommodate the production and marketing of a low emission vehicle.

In response to requests from NHTSA, Conceptor supplemented its original petition with additional information on August 24 and September 5, 1989, some of which is discussed below.

Standard No. 105: Conceptor's electric G-Van has the same CVWR as GM's certified G-Van. The electric G-Van has the identical braking system as the certified G-Van, including the hydraulic accumulator capable of several braking stops, except that an electric motor dedicated to the task replaces the internal combustion engine as the power-assist source. The electric G-Van also has a regenerative braking system which provides a third means of stopping should the power assist and/or the mechanical brakes fail. This effect occurs when the driver's foot is removed from the brake pedal, and, if the brakes are applied, the regenerative braking goes to maximum output.

The paragraphs of Standard No. 105 from which exemption is requested involve tests conducted at curb weight. The electric G-Van's curb weight is approximately 1,600 pounds greater than that of GM's G-Van. Because of the existence of regenerative braking, Conceptor believes that its product will stop more quickly in the partial failure test. Overall, it believes that the final testing of its product will demonstrate that its brake system is superior to that of the original G-Van.

Standard No. 124: Conceptor's G-Van has basically the same accelerator control system as the original G-Van, except that it contains a potentiometer which converts the mechanical position from the accelerator cable to electrical resistance. Two stainless steel extension return springs are located on the range selector end of the accelerator cable to return the motor speed controller (throttle) to motor shut-down (idle) as required by S5.1. The potentiometer, which replaces the throttle, also contains a return spring. Should the potentiometer lever fail, this spring will return the potentiometer to idle, thereby cutting off power to the electric drive motor. Conceptor also points out that in operation, when pressure is removed from the throttle, regenerative braking begins to slow the vehicle.

Standard No. 301: Although Conceptor's G-Van is not powered by an internal combustion engine, diesel fluid is carried to power the heater unit. The fuel tank has been replaced with a smaller one of approximately 8 gallons for this purpose, and one fuel line, now unnecessary, has been removed. The filler, vent, and sending systems remain

the same as in GM's G-Van. Since the date of the original petition, Conceptor has conducted a front impact test on its van, and found that it complied. The remaining tests have not been completed, but petitioner believes that it should comply, and that the insertion of the battery pack should provide additional protection at least on side impact.

The agency has reviewed Conceptor's arguments, and has found them persuasive that an exemption for a period of one year would not unduly degrade the safety of the vehicle. However, on the basis of the information presented, the agency is unable to provide an exemption for a longer period. Regenerative braking should aid in complying with Standard No. 105, and in achieving the intent of Standard No. 124, but petitioner has not demonstrated how significant the braking effect is before application of the service brakes, or, once the brakes are applied, how much regenerative braking will add to the braking effect of the service brakes. During the year the exemption is in effect, petitioner will be able to determine whether it in fact complies, or whether an extension is needed. On the basis of its test, Conceptor argues that its vehicle meets the frontal impact requirements of Standard No. 301, and, because of its configuration, should meet the lateral moving barrier test. The reduced amount of fuel carried in the vehicle, and the elimination of one fuel line should enhance its ability to comply with the rear moving barrier test. The year that the exemption is in effect will allow time to conduct further tests to determine compliance with Standard No. 301.

Accordingly, Conceptor Industries, Inc. is hereby granted NHTSA Exemption No. 89-2 from paragraphs S5.1.1.3, S5.1.2, and S5.1.3 of 49 CFR 571.105 Motor Vehicle Safety Standard No. 105 *Hydraulic Brake Systems*, 49 CFR 571.124 Motor Vehicle Safety Standard No. 124 *Accelerator Control Systems*, and paragraphs S6.2/S6.4, and S6.3/S6.4 of 49 CFR 571.301 Motor Vehicle Safety Standard no. 301 *Fuel System Integrity*, expiring November 1, 1990.

(15 U.S.C. 1410; delegation of authority at 49 CFR 1.50)

Issued on: October 27, 1989.

Jeffrey R. Miller,

Acting Administrator.

[FR Doc. 89-25805 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. EX89-5; Notice 1]

Ferrari S.p.A.; Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 208

Ferrari S.p.A. of Modena, Italy, has petitioned for a temporary exemption from the passive restraint requirements of Motor Vehicle Safety Standard No. 208 *Occupant Restraint Systems* for its model F40, for a period of 1 year. The basis of the petition is that compliance would cause substantial economic hardship.

This notice of receipt of the petition is published in accordance with the regulations of the National Highway Traffic Safety Administration (49 CFR Part 555), and does not represent any agency decision or other exercised of judgment concerning the merits of the petition.

A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production does not exceed 10,000, as determined by the NHTSA Administrator (15 U.S.C. 1410(d)(1)). Ferrari's total production "is about 4000", of which approximately 25% are manufactured for sale in the United States. However, Fiat S.p.A., a major vehicle manufacturer now holds a 90% interest in Ferrari. The threshold of eligibility would be exceeded if the production total of Fiat were added to that of Ferrari.

As discussed below, NHTSA has tentatively determined that the threshold of eligibility is not exceeded. The agency believes that there are two general issues concerning whether Ferrari's eligibility is affected by its relationship with Fiat. The first issue is whether Ferrari can be considered the manufacturer of any vehicles other than the 4,000 units cited above, with the possible result that the 10,000 unit limit is exceeded. This question can be answered in the negative. It is only the manufacturer of vehicles bearing the Ferrari nameplate.

The second and more difficult issue is whether persons other than Ferrari can be considered to manufacture the 4,000 units. The National Traffic and Motor Vehicle Safety Act does not include any provision indicating that a person is a manufacturer of a vehicle by virtue of ownership or control of another person that is a manufacturer.

NHTSA has stated, however, that a person may be a manufacturer of a vehicle manufactured by another person if the first person has a sufficiently substantial role in the manufacturing process that it can be deemed the sponsor of the vehicle. The agency

considers the statutory definition of "manufacturer" (15 U.S.C. 1391(5)) to be sufficiently broad to include sponsors, depending on the circumstances. See 50 FR 14596, April 12, 1985, and a letter of September 18, 1987, to General Motors. In the present instance, the F40 bears no resemblance to any motor vehicle designed or manufactured by Fiat, and the agency understands that the F40 was designed and engineered without assistance from Fiat. Further, the agency understands that such assistance as Ferrari may receive from Fiat relating to use of test facilities and the like is an arms length transaction for which Ferrari pays Fiat. Accordingly, NHTSA concludes that Fiat is not a manufacturer of Ferrari vehicles by virtue of being a sponsor.

According to Ferrari, its F40 "is a vehicle designed primarily for competition and truly capable of being utilized for racing." Aware, however, that its purchasers would use it on the public roads, Ferrari has attempted to develop a US version of the vehicle "in full compliance of all safety and emission applicable standards notwithstanding the great difficulties posed by the sophisticated composite production, the performance of the vehicle and the extremely low production volume." To that end "the economic evaluation of the costs sustained by Ferrari for the adaptation * * * to the USA specifications is well over \$6,000,000".

Ferrari had anticipated that the F40 would comprise 20% of its 1989 US sales, with production beginning in the summer of 1988 and completion a year later. It had intended producing 200 units in this period. But because of difficulties in obtaining electronic engine controls necessary to meet emission standards, and composite body panels, it could not meet this schedule. Realizing that any F40 manufactured for the US market on or after September 1, 1989, would have to comply with the passive restraint requirements of Standard No. 208, it contracted with its supplier preparing systems for its other vehicles, AutoLiv-Klippan, "to develop a passive belt system also for the F40 model." Although the design system has been completed, AutoLiv cannot deliver the system to Ferrari before the summer of 1990 due to its commitments to Ferrari on its other US models, and to other manufacturers as well.

The petitioner has advised that the F40 cannot be retrofitted with an airbag system. Neither can it be retrofitted with an automatic redundant belt system, which would require "substantial modifications not only to the outside fitting but also to the structure as: A

pillar, roof structure, B pillar, etc.". As further evidence of its good faith attempts to conform, it submits that it has "promptly installed on its vehicles during the Phase-In period many more passive restraint systems than required by law, accumulating a large number of 'credits', to the number of 523. It regards this number as "especially high in consideration of a US production of just over 1000 vehicles per year."

Cognizant that many manufacturers who have petitioned the agency for hardship exemptions have had balance sheets showing continuing losses (Ferrari projects an income for 1989 of over \$10,000,000 without US F40 sales), Ferrari basis its hardship argument on the need to begin to recover at the earliest possible time the \$6,000,000 it has expended on developing the US version of the F40. A denial would force it to scrap "or rework a great number of vehicles already partially assembled and not being able to readily manufacture the vehicle with passive belts." In addition, \$300,000 of parts and materials for active belts for the US cars would be wasted. It also believes that its dealers, who have invested in facilities dedicated to the F40, would also suffer economic losses.

Ferrari argues that an exemption would be in the public interest and consistent with the objectives of the Act. It believes that if an exemption is not granted, F40s that it has not manufactured to conform to US Federal safety and emission standards will be imported through the gray market. It argues that "curbing speculations and reducing the exposure of the public to questionable modified vehicles is in the public interest." It cites NHTSA's own statement (54 FR 35556) that one of the objectives of the Act was to afford a continuing wide choice of vehicles to the motoring public.

Interested persons are invited to submit comments on the petition of Ferrari described above. Comments should refer to the docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment date indicated below will be considered. The petition and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will be considered to the extent practicable. Notice of final action on the petition will

be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: December 4, 1989.
(15 U.S.C. 1410; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on October 27, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89-25804 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

[Docket No. IRA-48]

Reichhold Limited Application for Inconsistency Ruling Concerning State of Maine Regulations for the Transportation of Hazardous Materials

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of Extension of Comment and Rebuttal Comment Periods.

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 has expanded the proceeding to include Maine's licensing and enforcement statute concerning such transportation, and its fee statute for hazardous materials transported by railroad.

A public notice and invitation to comment on that application was published at 54 FR 37764, on September 12, 1989. It provided for a comment period ending October 20, 1989, and a rebuttal comment period ending December 8, 1989. Although RSPA has been in contact with other State of Maine officials concerning this matter,

Maine's Attorney General's Office asserts that it did not receive the application until the day the comment period was to end. To ensure that all interested parties have an adequate opportunity to comment, this Notice extends the comment and rebuttal comment periods on that application.

DATES: The comment period is hereby extended to December 1, 1989, and the rebuttal comment period is extended to January 5, 1990. 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, 400 Seventh Street, SW., Washington, DC 20590-0001, telephone number 202-366-4400.

Public Comments: 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 in the September 12, 1989 Notice.

Persons intending to comment on the application should examine the complete application in the RSPA Dockets Unit, the September 12, 1989 Notice (including Appendices A and B thereto), and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201-107.211).

Issued in Washington, DC on October 27, 1989.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 89-25844 Filed 11-1-89; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Health-Related Effects of Herbicides; Renewal

This gives notice under the Federal Advisory Committee Act [Pub. L. 92-463] of October 6, 1972, that the Department of Veterans Affairs Advisory Committee on Health-Related Effects of Herbicides has been renewed for a two year period beginning June 26, 1989 through June 25, 1991.

Dated: October 23, 1989.

By direction of the Secretary.

Sylvia C. Long,

Committee Management Officer.

[FR Doc. 89-25769 Filed 11-1-89; 8:45am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 54, No. 211

Thursday, November 2, 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).

BLACKSTONE RIVER VALLEY

National Heritage Corridor

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, November 9, 1989.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7:00 p.m. at the Central Falls Library, 205 Central Street, Central Falls, Rhode Island for the following reasons:

1. Report of the Chairman.
2. Report of the Executive Director.
3. Report of the Treasurer.
4. Committee Reports.
5. Report on the Cultural Heritage and Land Management Plan.
6. Report on Preservation Awards Program.
7. Discussion of 1990 Action Plan.
8. Reports on 2nd Annual National Conference on Historic Canals.
9. Report on Heritage Tourism conference.
10. Report of Scholar-In-Residence.
11. Report on Interpretive Tours—Bus, Rail, Canoe.
12. Public Comments.

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: James Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, P.O. Box 34, Uxbridge, MA 01569. Telephone (508) 278-9400 or (508) 278-5124.

Further information concerning this meeting may be obtained from James Pepper, Executive Director of the Commission at the address below. Shirley Cleaves,

Acting Executive Director, Blackstone River Valley National Heritage Corridor Commission.

[FR Doc. 89-25980 Filed 10-31-89; 2:00 pm]

BILLING CODE 4310-70-M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NO. 89-25421

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, November 2, 1989, 10:00 a.m.

THE FOLLOWING ITEM WAS DELETED FROM THE AGENDA:

Draft AO 1989-21:
Elaine Sandra Abramson on behalf of
Create-A-Craft

THE FOLLOWING ITEM WAS ADDED TO THE AGENDA:

Drug-Free Workplace Program

DATE AND TIME: Tuesday, November 7, 1989, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, November 9, 1989, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Draft Advisory Opinions:
Draft AO 1989-21:
Ms. Elaine Sandra Abramson on behalf of
Create-A-Craft
Draft AO 1989-23:
Mr. David T. Wright on behalf of Coopers & Lybrand
Affiliation & Earmarking Regulations:
Announcement of Effective Date
Explanation & Justification of the Foreign National Regulations:
11 C.F.R. § 110.4
Administrative Matters

PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Information Officer,
Telephone: (202) 376-3155.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 89-26007 Filed 10-31-89; 3:39 pm]

BILLING CODE 6715-01-M

FEDERAL ENERGY REGULATORY COMMISSION

Notice of Closed Meeting

October 26, 1989.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-4109), 5 U.S.C. 552b:

DATE AND TIME: November 2, 1989, 11:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, DC 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *American Gas Association v. Federal Energy Regulatory Commission*, No. 87-1588 (DC Cir. October 16, 1989).

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 357-8400.

Lois D. Cashell,
Secretary.

[FR Doc. 89-25899 Filed 10-30-89; 4:38 pm]

BILLING CODE 6717-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 9:00 a.m., November 20, 1989.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of last meeting.
2. Budget for National Finance Center.
3. Thrift Savings Plan activities report by the Executive Director.
4. Quarterly review of investment performance.
5. Audit status report.

CONTACT PERSON FOR MORE INFORMATION:

Tom Trabucco, Director,
Office of External Affairs, (202) 523-5660.

Dated: October 27, 1989.

Francis X. Cavanaugh,
Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 89-25993 Filed 10-31-89; 2:51 pm]

BILLING CODE 6760-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, November 8, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street

entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Discussion of Voluntary Guide to Conduct for Senior Officials of the Federal Reserve System.
2. Request by the General Accounting Office for Board comment on a draft report regarding Fedwire System vulnerability.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne,
Assistant to the Board: (202) 452-3204.
You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 31, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-2608 Filed 10-31-89; 3:54 pm]

BILLING CODE 6210-01-M

Federal Register

Thursday
November 2, 1989

Part II

Department of Transportation

Office of the Secretary

14 CFR Ch. I et al.

Alcohol Abuse Prevention Program for
the Transportation Industry; Advance
Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I and III

23 CFR Chs. I, II, III, and IV

33 CFR Ch. I

46 CFR Chs. I and III

49 CFR Subtitle A, Chs. II, III, IV, V and VI

[OST Docket No. 46574, Notice No. 89-22]

RIN 2105-AB52

Alcohol Abuse Prevention Program for the Transportation Industry

AGENCY: Office of the Secretary, DOT.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Department of Transportation is exploring the need to adopt additional regulations for the transportation modes it regulates to prevent employees from performing sensitive safety- and security-related functions while under the influence of alcohol. This ANPRM solicits public comment on the scope of the problem, the need for additional action and the feasibility and scope of several possible options, if further action is deemed necessary.

DATE: Comments on the ANPRM must be received on or before January 31, 1990.

ADDRESS: Comments on the ANPRM should be mailed to Documentary Services Division, C-55, Department of Transportation, Room 4107, Docket 46574, 400 Seventh Street, SW., Washington, DC 20590. In order to provide a copy for each modal administration's docket and to facilitate the Department's review, we request that an original and seven additional copies of the comments be submitted. Because of the size and complexity of the document, we also ask commenters to designate the section letters and numbers to which their comments refer. Comments will be available for review by the public at this address from 9:00 a.m. through 5:00 p.m., Monday through Friday. Persons wishing the agency to acknowledge receipt of their comments should include a stamped, self-addressed postcard with their comments. The Documentary Services Division will time and date-stamp the card and return it to the commenter. The

comments will be reviewed and, in the event that further action is taken, they will be furnished to those modal administrations that are responsible for taking the action.

FOR FURTHER INFORMATION CONTACT:

Neil Eisner, Assistant General Counsel for Regulations and Enforcement, or Gwyneth Radloff, Attorney, Department of Transportation, (202) 366-9305, 400 7th Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

A. Background

B. Major Issues

1. Are additional measures necessary to control alcohol abuse among transportation workers?
2. What should be prohibited?
3. If further action is necessary, what general forms should it take?
 - a. Education
 - b. Enforcement
 - c. Alcohol Testing
 - d. State Programs
4. What should be the consequences for an employee identified as using alcohol on the job, being under the influence while on the job, or improperly using alcohol prior to work?

C. General Information and Definitions

II. The Problem of Alcohol Use and Abuse

A. Effects of Alcohol

B. The Alcohol Problem—Generally

C. Costs of Alcohol Abuse to Society

D. Alcohol Abuse in the Transportation Industry

1. General
2. Aviation
3. Motor Carriers
4. Rail
5. Maritime
6. Pipeline
7. Mass Transportation

III. Legal Authority/Issues

IV. International Issues

V. Questions of Approach

A. Introduction

B. Covered Employees

C. The Options

1. Education
 - a. General
 - b. Employee Assistance Programs
 - c. Drug Free Workplace Programs
2. Rehabilitation
 - a. General
 - b. Employer-mandated Programs
 - c. Expansion of Rehabilitation Programs Like "Operation Redblock" to Other Modes
 - d. Implementation Issues
 - e. Medical Review Officers

D. Enforcement

1. General
2. Effectiveness of Deterrent Actions
3. The National Driver Register

E. Alcohol Testing Program

1. What to Prohibit?

2. What is a Positive?

3. Treatment of Positives

4. Occasions/Grounds for Testing

- a. General
- b. Preemployment Testing
- c. Periodic Testing
- d. Reasonable Cause Testing
- e. Post-Accident Testing
- f. Random Testing
- g. Pre-Performance Tests
 - (1) General
 - (2) Pre-Performance Testing: Under Supervision
 - (3) Pre-Performance Testing: Unsupervised
 - (a) Performance Tests
 - (b) Breath Tests Using Ignition Interlock Devices
 - h. Post-Rehabilitation Testing

VI. Means of Alcohol Testing

A. Introduction

B. Breath Testing

C. Blood Testing

D. Urine Testing

E. Other Techniques

VII. Other Practical Problems

VIII. Regulatory Process Matters

IX. Appendix A—Bibliography

X. Appendix B—Existing DOT Regulations

A. Alcohol

1. Introduction

2. Current Modal Administration Regulations

- a. U.S. Coast Guard
- b. Federal Aviation Administration
- c. Federal Highway Administration
- d. Federal Railroad Administration
- e. Maritime Administration
- f. National Highway Traffic Safety Administration
- g. Research and Special Programs Administration
- h. St. Lawrence Seaway Development Corporation
- i. Urban Mass Transportation Administration

B. Drugs

XI. Appendix C—NHTSA Conclusion on IID's

I. Introduction

A. Background

The Department of Transportation (DOT or Department) is comprised of the Office of the Secretary (OST) and nine separate modal administrations: The Federal Aviation Administration (FAA), the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), the Maritime Administration (MARAD), the National Highway Traffic Safety Administration (NHTSA), the Research and Special Programs Administration (RSPA), the St. Lawrence Seaway Development Corporation (SLSDC), the Urban Mass Transportation Administration (UMTA), and the United States Coast Guard (USCG).

Each of the modal administrations operates under different statutory authority; for example, some extensively regulate actions by persons within their mode of transportation, while others do not. As discussed below in greater detail, the Department, through its modal administrations, already has implemented several programs designed to address the use and abuse of alcohol by transportation workers. The states also are active in combating the use and abuse of alcohol; some of these efforts are funded through the Department.

Six of the Department's modes (USCG, FAA, FHWA, FRA, RSPA, and UMTA) recently issued drug testing rules for members of their regulated industries (53 FR 47002 et. seq., Nov. 21, 1988). The rules apply to persons performing sensitive safety- and security-related functions in commercial operations.

During the drug testing rulemakings, the Department noted on numerous occasions that alcohol is a drug. The Department recognized its wide use, its addictive nature, and the number of transportation-related deaths and injuries that result every year from its abuse. However, the Department also realized that, for numerous reasons, the solution to the alcohol abuse problem may be very different from that concerning other drugs, such as cocaine or marijuana. For that reason, with one exception, the modal administrations did not include alcohol among the list of substances to be tested for under the drug testing regulations. (Pursuant to a statutory mandate, the Coast Guard required post-accident alcohol testing, in an amendment to an existing rule permitting that testing. FRA had previously included alcohol in its post-accident testing mandate and had authorized alcohol testing for reasonable cause and pre-employment.) In announcing the drug testing rules, then Secretary of Transportation, Jim Burnley, stated that he had directed his General Counsel's Office to review the Department's existing alcohol regulations to determine if they were sufficient. The extensive press coverage of and public interest in the possible involvement of alcohol in the Exxon Valdez oil spill heightened the governmental interest in this area.

In his June 15, 1989, testimony before the Senate Committee on Commerce, Science and Technology, Secretary Skinner committed the Department to exploring further the need for additional regulations on alcohol use. This ANPRM is intended to elicit public comment on whether the Department's current

regulatory requirements and programs are sufficient to respond to the hazards of alcohol use and abuse in DOT-regulated transportation industries and what additional action, if any, should be taken.

If further rulemaking action is necessary, the Department could consider a number of options that could improve safety by reducing alcohol abuse in DOT-regulated transportation industries. The list that follows is not all-inclusive and options may be combined. The options include:

1. Requiring employers to establish Employee Assistance Programs (EAP) that provide education on the dangers of alcohol abuse and training to detect alcohol use or impairment on the job;

2. Requiring employers to set up self- and peer-referral programs designed to identify alcohol abusers and get them into rehabilitation programs, with the understanding that the identified abusers, if rehabilitation is successfully completed, could retain their jobs;

3. Requiring alcohol testing of transportation employees similar in whole or in part to our drug testing rules, summarized in Appendix B (e.g., preemployment, periodic, reasonable cause, post-accident and random testing);

4. Requiring pre-performance testing prior to permitting an employee to operate a vehicle or perform safety- or security-related duties (e.g., a pilot could be tested before entering the cockpit to fly an airplane); and/or

5. (A nonrulemaking option) encouraging the states to implement safety programs directed at alcohol abuse and to increase their enforcement efforts.

If further regulatory action is deemed necessary after a review of the comments on this ANPRM, separate dockets will be set up and notices of proposed rulemakings will be developed by each of the affected modal administrations.

B. Major Issues

The Department particularly desires public comment on the following issues. This list is intended only to serve as a focal point and is not exhaustive. Following the list, there is an extensive discussion of these and other issues, and readers will note many questions throughout the document.

1. Are Additional Measures Necessary To Control Alcohol Abuse Among Transportation Workers?

How well are existing regulations and programs working? We have anecdotal reports that alcohol use is more

widespread among transportation workers than other drug abuse, but are there supportive data? Are further regulations needed or would other actions such as increased enforcement of existing rules be more effective?

2. What Should Be Prohibited?

If we decide that new prohibitions or new testing for alcohol is appropriate, an important issue is what use of alcohol to prohibit. Unlike some other drugs, alcohol is a legal substance with legally and socially acceptable uses, at least for persons over 21 years of age. The Department already has made some decisions on what to prohibit. Most of the modes regulating commercial transportation (FAA, FHWA, FRA and Coast Guard) have selected a .04 percent blood alcohol concentration (BAC) level as the standard for determining whether a commercial operator is under the influence of alcohol, and prohibit any use of alcohol on the job. Some modes (USCG, FAA and FHWA) subject commercial operators to pre-duty abstinence periods. FHWA rules require that commercial vehicle operators with any measurable BAC level be placed out-of-service for a 24-hour period. Recreational boaters are prohibited only from being intoxicated, which correlates generally to a BAC of .10 percent. The BAC level is a ratio of the number of grams of alcohol per 100 milliliters of blood; for the purpose of determining BAC through an analysis of the breath, the amount of alcohol in one part of blood is presumed to equal the amount of alcohol in 2100 parts of expired breath sample (by volume).

Should the department undertake to make the transportation industries alcohol-free? Is this practicable, given the fact that alcohol is a legal substance? Or should the Department target impairment on the job, which poses the greatest danger? If so, where should the line be drawn? Should there be differences in this respect for different industries or occupations?

3. If Further Action Is Necessary, What General Forms Should It Take?

a. Education. Should the Department mandate employer-provided alcohol abuse training? Should educational efforts focus on convincing abusers to seek treatment or on training supervisors to identify problem drinkers? Are there data to validate the success of alcohol education programs? What elements are necessary for a successful program? Should educational

efforts be coupled with self- and peer-referral rehabilitation programs? Are educational programs more successful if coupled with increased enforcement efforts?

b. *Enforcement.* Are the federal and state penalties for alcohol use sufficient? Are effective actions being taken to ensure compliance with alcohol restrictions? What enforcement strategies are likely to be most effective? What should be the roles of employers and the Federal, state and local governments?

c. *Alcohol Testing.* Mandatory testing programs are costly and inevitably controversial. The Department's recent experience with imposing mandatory drug tests may provide some guidance, but we recognize that alcohol testing may involve different problems.

To what extent do our current drug rules serve as a viable model for alcohol testing? What changes would be necessary to account for the differences between alcohol and other drugs? Does widespread mandatory alcohol testing make sense if we choose to prohibit intoxication or impairment as a distinct from all use of alcohol? The signs of alcohol intoxication are much more widely recognized among the general population than the indicators of drug use. On the other hand, "functional" alcoholics can often mask signs of intoxication. Further, moderate levels of alcohol can impair certain faculties without constituting "intoxication." Would it be cost-effective to randomly test for alcohol intoxication? If not, should the Department require, at a minimum, post accident and reasonable cause testing for alcohol intoxication, where not already required?

d. *State Programs.* State and local governments have extensive experience in dealing with alcohol impairment. Testing for the presence of alcohol has traditionally been done by State enforcement personnel (usually as part of a stop of an individual on the highways). Some States have laws against boating while intoxicated and some states have laws against flying while intoxicated. Under FAA rules, crewmembers must submit to state tests upon request by a state law enforcement officer. The ability to test generally is predicated upon establishing reasonable suspicion to stop, probable cause to test, followed by an arrest if warranted, and finally, conducting a second and more sophisticated test (which would be used as evidence). In what areas can the Department make use of the states' resources and expertise?

4. What Should Be the Consequences for an Employee Identified as Using Alcohol on the Job, Being Under the Influence While on the Job, or Improperly Using Alcohol Prior to Work?

Should all who are found to be under the influence be removed from safety- and security-related jobs until they are rehabilitated? Should the function they were performing when under the influence be relevant? (e.g., filling out paperwork at a desk?) Should an opportunity for rehabilitation be required? Are there distinctions that warrant a federal role in mandating at least one opportunity for rehabilitation for alcohol abuse in light of DOT's position that such a role was inappropriate in the drug area? Rehabilitation may be more successful for alcohol users than for at least some kinds of drug use. Use of alcohol is also legal for persons aged 21 and older. Should either or both of these factors influence how we treat persons identified as alcohol abusers? What is the success rate of existing programs? Should the circumstances of use (on the job, for example) be a factor in determining whether an employee should have a right to rehabilitation? What about the circumstances of identification? Should self-identified problem users be treated differently? Should the level of consumption be a consideration? Should it matter whether the abuse was a cause of an accident? Should a job be held open in the event an employee takes advantage of an opportunity for rehabilitation?

C. General Information and Definitions

Throughout this notice, we have generally relied on or referred to the results of many studies concerning alcohol. Parenthetical references to these studies are included in the text; their full names are listed alphabetically in a bibliography in Appendix A. Copies of all of these studies have been placed in the rulemaking docket. It is important to note that the data we have are not complete; often the database includes only those tests that were performed. Tests are performed after some accidents, but not others depending upon current regulatory requirements, the availability of state enforcement personnel and location and timing of accidents. Also, data are not comparable among the transportation modes, because of differences in reporting requirements, databases and time periods. In addition, the referenced studies generally used different parameters and are not comparable to each other. We welcome the submission of additional data from commenters.

Many of the words relating to alcohol are used interchangeably in our society, which may cause some confusion. In this document, we use the terms "intoxication", "driving while intoxicated" (DWI) and "driving under the influence" (DUI) to refer to the same thing: violation of State and/or Federal BAC standards defining intoxication. "Zero tolerance" refers to a 0.00 BAC standard. "Impairment" and "under the influence" mean affected by alcohol ingestion, without regard to a specific BAC level. An "active alcoholic" is an current problem drinker. Some active alcoholics can successfully mask the effects of drinking and function in their jobs without detection for long periods of time; these people are often referred to as "functional alcoholics", but may still be safety risks in transportation.

II. The Problem of Alcohol Use and Abuse

A. Effect of Alcohol

The potential effects of alcohol abuse are substantial in terms of lives lost and environmental damage. It claims at least 100,000 lives annually, 25 times as many as all illegal drugs combined. In 1988, slightly over 47,000 deaths occurred on our nation's highways, of which 39 percent involved an intoxicated driver or non-occupant (with BAC over 0.10%), and another 11 percent where at least some alcohol was involved. [National Highway Traffic Safety Administration, "Drunk Driving Facts," July 1989].

Ethanol (the psychoactive component beverages) is a central nervous system depressant. It has been widely recognized for years that consumption of alcohol can degrade human performance of demanding or delicate tasks. However, there is somewhat less agreement about how much alcohol must be ingested before there is a significant deterioration in performance. Studies have indicated that the effects of alcohol vary among individuals, and, even for a given individual, alcohol will have varying effects depending on such factors as motivation, fatigue, and previous experience with alcohol (Zero Alcohol, 1987; Ryder, 1981; Landauer, 1983; Lister, 1983). One reason for the substantial variation among individuals is that ingestion of a specified quantity of alcohol will not necessarily produce the same BAC in two different people, even if they have the same body weight (Zero Alcohol, 1987).

In one study, for example, it was found that a particular body-weight-adjusted dose of ethanol could produce a range of BAC levels of .036 to .095 percent (O'Neill, 1983). In addition,

alcohol appears to enter the blood stream at different rates in different people (Zero Alcohol, 1987). In another study, subjects were given controlled doses and had equal amounts of food in their system. Nevertheless, the time required to reach the peak BAC level varied from 15 to 90 minutes after ingestion (Wilson, 1984).

ALCOHOL LEVELS BY WEIGHT

[Here are blood alcohol levels based on one's weight and the amount of alcohol consumed within an hour.]

	Weight			
	100	140	180	220
Beer:				
1 glass .....	.05	.04	.03	.02
2 glasses .....	.08	.06	.05	.05
3 glasses .....	.11	.09	.08	.07
Wine:				
1 glass .....	.03	.03	.02	.02
2 glasses .....	.06	.05	.04	.03
3 glasses .....	.08	.06	.04	.04
Distilled spirits:				
1 ounce .....	.04	.03	.02	.02
2 ounces .....	.07	.05	.04	.03
3 ounces .....	.09	.07	.06	.05

Source National Safety Council.

There are also performance differences between individuals that are unrelated to the blood alcohol concentration. It appears, for example, that highly skilled professionals may be better able to compensate for the physiological effects of alcohol than persons who are less skilled, particularly at lower BAC levels. In two studies comparing the effect of alcohol on the performance of racing drivers and ordinary drivers on a closed track, the skill of the ordinary drivers showed some deterioration at a BAC of .05 percent, while the racing drivers showed no impairment until they had substantially higher BAC levels (Forney, 1961; Lovibond, 1970). Similarly, in a comparison of nonprofessional and professional pilots at BAC's of .04, .08, and .12 percent, the nonprofessionals made numerous errors in tracking, while the professionals' tracking ability did not decrease even at the highest BAC levels. (Billings, 1972) (However, the study noted that the professional pilots committed more procedural errors than normal after alcohol consumption. There may also be compounding factors, such as fatigue, that could affect results in a real-world situation.)

Under the circumstances, it must be recognized that a uniform standard will necessarily have nonuniform effects when measured against the behavior of specific individuals. However, this has not limited the states' ability to define and enforce driving-under-the-influence (DUI) standards and does not mean that

we cannot take action. Rather, it means merely that a wide variety of factors must be weighed as we reevaluate our current requirements and consider new ones.

Most States have adopted a BAC of .10 percent as the definition of intoxication in connection with laws on driving under the influence. Some use it as a rebuttable presumption of a violation; others as a *per se* violation. (Several states are considering lowering their BAC standards to .08; and a number of states are in the process of considering adoption of the FHWA BAC standard for commercial drivers of .04.) States with BAC standards for operating vessels of aircraft typically use .10 percent.

However, as indicated above, a number of laboratory studies have shown that performance on some tasks can begin to deteriorate at BAC levels well under .10 percent (Moskowitz, 1973; Drew, 1959; Landauer, 1983). Some studies have suggested that performance deteriorates in a linear fashion, beginning with the lowest levels tested (Moskowitz, 1985; Drew, 1959). BAC's lower than .05 percent have been associated with increases in errors in tasks requiring divided attention, and it appears that cognitive performance is decreased for most individuals at BAC's of .04 percent or less (Zero Alcohol, 1987; Evans, 1974). Low BAC levels have also been shown to affect a driver's stopping distance and to increase errors in steering (Laurell, 1977). There is no definitive answer to how much the risk of accident occurrence increases as a result of the performance deficit, but some relationship can be assumed. Those administrations in the Department that have set allowable BAC levels for transportation workers (FAA, FHWA, FRA and Coast Guard) generally have used .04 percent as the maximum.

In addition, there is some evidence that serious impairment may continue after alcohol has been eliminated from a person's blood. National Institute on Alcohol Abuse and Alcoholism-supported researchers found that "handover effects" seriously impaired the performance of ten pilots on a flight simulator for as long as fourteen hours after they consumed enough alcohol to render them legally intoxicated in most states. They showed an inability to prevent the plane from veering away from a straight course and to hold the plane straight on landings. The researchers found no correlation between the pilots' degree of flight experience or their subjective interpretation of their performance and

the investigators' objective measurements. (American Journal of Psychiatry, December 1986). BAC tests in the above situation would be negative.

A common problem is multiple substance abuse, impairment by a combination of alcohol and other drugs. The tendency of drug or alcohol abusers to abuse other substances poses a serious danger to the travelling public and complicates the treatment of the abuser. Combinations of substances can have unforeseeable synergistic effects, resulting in greater impairment. We also are concerned about the propensity of users to switch from abusing one substance to abusing another depending upon what is being tested for.

B. The Alcohol Problem—Generally

The National Institute on Alcohol Abuse and Alcoholism (NIAAA) reported in 1987 that, in the United States, two in every three adults drink, but 10 percent of those drinkers consume half of the nation's beer, wine, and liquor. An estimated 17 million U.S. adults are alcoholics, which is about six times higher than the number of cocaine users. (NIDA study, 1989).

C. Costs of Alcohol Abuse to Society

While it is difficult to estimate the precise cost to society from alcohol abuse, there is no doubt that the cost is enormous. The potential effects of alcohol abuse are substantial in terms of lives lost, personal injuries, property damage, business losses (lost productivity, absenteeism, etc.) and environmental damage.

According to a Research Triangle Institute study performed for the Department of Health and Human Services, the overall economic cost to American society from alcohol abuse was \$39.5 billion in 1980. This amount represents direct costs, such as medical treatment, and indirect costs, such as lost wages and reduced productivity. In 1987, the NIAAA estimated the economic costs to society of alcohol abuse to be nearly \$117 billion a year, including \$18 billion from premature deaths, \$66 billion in lost productivity, and \$13 billion for rehabilitation. Assuming the base numbers are still the same, inflation presumably has increased the cost in current dollars.

D. Alcohol Abuse in the Transportation Industry

1. General

Generally, the Department's anti-alcohol abuse efforts have focused on alcohol as it affects an individual's medical qualifications; prohibitions on

on-duty use and operating while under the influence, and, in certain cases, use during defined pre-duty periods; and sanctions for violations of the Federal regulatory scheme, as well as sanctions for violations of State alcohol laws. Thus, alcohol testing, with limited exceptions, is left to State enforcement personnel. (Coast Guard and FRA rules provide for post-accident and reasonable cause testing. As noted above, the FAA requires crewmembers to submit to state tests upon request.) Each of the following sections briefly describes the existing federal rules by mode of transportation; Appendix B describes them in additional detail. The following sections also contain data that the Department has on the alcohol problem in each mode.

We specifically invite commenters to provide any additional relevant data or statistics about the alcohol problem in the different modes of transportation.

2. Aviation

The FAA regulations prohibit a person from acting or attempting to act as an aircraft crewmember if he or she is under the influence of alcohol, or has consumed any alcoholic beverage within 8 hours of reporting for duty. They also prohibit crewmembers from flying with a BAC of .04 or higher. If a history of drug dependence, alcoholism, or mental problems is discovered, the FAA may disqualify the pilot. In 1987, the Department's Inspector General's office checked the National Driver Register (NDR) and records in the Florida Department of Motor Vehicles; they found that nearly 8,000 FAA-certified pilots in Florida had been convicted of drunk-driving offenses. The FAA was unaware of these DUI convictions because the pilots had not reported them to the FAA as required. The FAA recently issued a DUI enforcement policy and an NPRM that includes, among other matters, a process for examining driving records.

There has never been an accident involving a transport-category U.S. air carrier in which the probable cause was attributed to alcohol use. However, starting in the early seventies, the Air Line Pilots Association and the major airlines, in cooperation with the FAA, developed a program to identify alcoholic pilots, so that they could be treated and, if appropriate, returned to duty. More than 1,200 pilots have been through this program, with a relapse rate of less than 15 percent. Since the program provides for stringent surveillance of treated pilots, there has been no compromise of safety. Nevertheless, the existence of this extensive a program demonstrates that

the air carrier industry is not immune to the problem of alcohol abuse. We do not have any data, however, on the costs of alcohol abuse in terms of such things as lost productivity and increased medical expenses.

The number of general aviation accidents that can actually be attributed to the use of alcohol is uncertain. In the past, general aviation accidents have usually not been investigated by the National Transportation Safety Board (NTSB) to determine cause. FAA accident investigations are intended merely to be fact-finding and do not make a finding of probable cause. We do know, however, that in 3,949 general aviation accidents occurring between 1978 and 1987, 239 or 6 percent of the pilots involved had BAC levels above .04 percent. However, the general pattern over those ten years improved; the incidence of alcohol among private pilots involved in accidents actually declined by 36 percent over the course of the period, from 8.3 percent of all general aviation accidents in 1978 to 5.5 percent of such accidents in 1987.

3. Motor Carriers

It is a criminal offense to operate a commercial motor vehicle (CMV), or any vehicle subject to the Federal Motor Carrier Safety Regulations (FMCSRs) under the influence of alcohol or drugs. FHWA regulations prohibit the use of alcoholic beverages within 4 hours of reporting to work and also prohibit a driver from working while having any measured BAC or any detected presence of alcohol in his or her system. This effectively amounts to a zero alcohol threshold for CMV operators. A driver will not be considered physically qualified to drive a motor vehicle if, among other things, the driver is currently an active alcoholic. On October 4, 1988, FHWA issued requirements that states must adopt regulations, whereby a commercial motor vehicle (CMV) operator convicted of having a BAC level of .04 or above will be deemed to be DUI and subject to a disqualification of at least one year, or they will lose a percentage of federal-aid highway funds. These BAC regulations are integral to the commercial driver's license (CDL) program, a nationwide restructuring (under FHWA and state auspices) of testing, licensing, and disqualification procedures for CMV operators. Mandated by the Commercial Motor Vehicle Safety Act of 1986, the CDL program includes a national clearinghouse through which states will exchange commercial drivers' record information, including BAC violation histories.

Accident statistics indicate that nearly half of the fatally injured noncommercial motor vehicle drivers had a measurable amount of alcohol in their blood (usually .01 percent or more) compared to about 15 percent of fatally injured drivers of medium and heavy trucks. Moreover, as the chart below indicates, for those truck drivers who had been drinking prior to an accident, the highest accident rate was among those consuming the most alcohol. Drivers of heavy and medium trucks with positive BAC's are involved in about 750 fatal crashes annually, along with another 7,700 crashes resulting in personal injuries and 4,750 crashes involving only property damage (Zero Alcohol, 1987).

	Percentage of all fatal truck accidents	Percentage of the 15 percent of truck drivers who had alcohol in their blood
No truck driver use of alcohol.....	85.0	—
BAC = .10 or more.....	9.1	60
BAC = .04-.10.....	2.7	18
BAC = .03 or less.....	3.2	21
Total.....	100	

(Zero Alcohol, 1987)
(FARS data tapes, 1982-1985)

The NTSB is in the process of studying alcohol (and other drug) use by motor carrier operators in fatal accidents. We hope to have the results for consideration at the next stage of this rulemaking. We do know, however, that the cost of accidents to employers is substantial, over and above the lives lost, whether these accidents are caused by alcohol or something else. The National Safety Council estimates that an on-the-job accident is four times more costly than one that occurs in a personal vehicle, with an average cost to employers of \$168,000 for a fatal accident and \$6,900 for a nonfatal accident. To the extent alcohol use increases on-the-job accidents, its cost impact could be quite significant.

4. Rail

The FRA regulations prohibit on-the-job use of, possession of, or impairment by alcohol or any controlled substance. They also prohibit railroad employees subject to the Hours of Service Act from having a BAC level of .04 or more while on the job. This is a per se violation; however, it is used for civil, and not criminal purposes. Following innovations such as an industry program called "Operation Redblock" and the

FRA's testing and rehabilitation program, alcohol use among railroad workers, which has always been a serious problem for the industry, may be in decline.

However, we recognize that problems continue in this area. From February 1986, when mandatory post-accident blood testing for alcohol began, through the end of 1988, 13 employees tested positive for alcohol (0.6 percent of employees tested). In five accidents/incidents, involving two deaths, two injuries, and \$3.18 million in property damage, alcohol appears to have played a causal role. In one, the engineer tested positive at a BAC level of .16, and alcohol was found by the NTSB to be a contributing factor in the accident, which caused \$1.58 million damage and the death of the engineer. In another accident, which is still under investigation, eight injuries and \$194 thousand in damage were caused, and a dispatcher tested positive at .15 percent BAC. Three additional accidents so far in 1989 also involved four employees who tested positive for alcohol.

Reasonable cause breath testing under the FRA program (triggered by rule violations, less serious accidents and injuries, or reasonable suspicion) has produced the following results: 11 of 348 persons tested positive in 1986 (3.2 percent); 24 of 593 tested positive in 1987 (4.2 percent) and 46 of 1005 tested positive in 1988 (4.6 percent). FRA regulations define a "positive" breath test as one indicating a BAC level of .02 percent or above. The significance of these results with respect to prevalence in the population is difficult to determine, since a number of the tests were performed because of reasonable cause, and it should be expected that a high percentage of reasonable cause tests would be positive since prohibited use or impairment has already been identified or is suspected.

5. Maritime

Coast Guard regulations prohibit persons from operating a vessel while intoxicated, and merchant mariners from drinking on duty or assuming duties within 4 hours of consuming alcohol. In accordance with a statutory requirement, the regulations established Federal behavioral and BAC intoxication standards for both commercial and recreational vessel operators. Either the behavioral or BAC standard can be used independently to determine intoxication. The rule applies a .04 percent BAC standard to operators of all commercial vessels, including fishing vessels. For recreational boaters, the Federal BAC standard is .10 percent. For recreational boaters, this BAC

standard and the Federal behavioral standard apply only in the absence of existing State BAC and behavioral standards or outside of State territorial waters. The Coast Guard regulations also require post-accident testing for alcohol and other drugs.

In its 1986 NPRM on operating a vessel while intoxicated, the Coast Guard stated that alcohol use has had an adverse effect on marine safety. It examined commercial vessel casualty records, which indicated that 44 deaths, 3 persons missing, and 33 injuries were attributable to alcohol during the period of January 1981 through May 1986. During the period 1982 through 1984, the Coast Guard took suspension and revocation action against 72 seamen for alcohol-related incidents.

Recreational boating casualties are much higher than commercial vessel casualties, second only to U.S. highway deaths as a cause of transportation deaths. They have been dropping in recent years, due to increased efforts in the cooperative safety programs of the Coast Guard, the states, and volunteer safety organizations. In 1988, 946 boating fatalities occurred, down from the previous record low of 1,037 in 1987. (Coast Guard report, "Boating Statistics 1988"). Studies conducted by the Coast Guard and the NTSB indicated that up to 50 percent of all recreational boating fatalities may have been alcohol-related.

6. Pipeline

RSPA has no specific regulations on alcohol. It does have a general regulation on health of pipeline workers at liquefied natural gas plants. Pipeline operators must look for any physical condition that would impair performance, including any observable disorder or condition that is discoverable by a professional examination. We have no specific data on alcohol-related accidents or lost productivity data in this area; however, a number of the commenters in the anti-drug rulemaking seemed to believe that alcohol was a more pervasive problem than drugs. We are also aware that many companies in the industry are known to have alcohol prevention programs, but we do not have statistics or data on the prevalence of the problem in the industry. Although we recognize that most accidents are caused by excavation workers (people not regulated by RSPA) digging into pipelines, we would like to gather data on whether alcohol abuse does or can cause safety problems in the pipeline industry.

7. Mass Transportation

UMTA does not have any regulations concerning alcohol. However, many of UMTA's grantees are subject to other Federal requirements on alcohol use. All commuter rail lines funded by UMTA, for example, are subject to FRA regulations. All drivers of UMTA-funded motor vehicles that are capable of carrying more than 15 passengers, including the driver, are subject to the FHWA DUI standards which are enforced by the states.

Data available to UMTA indicate that approximately 50 commuter train accidents in the last 13 years have been attributed to drug- or alcohol-impaired workers, and, in the last three years, 15 percent of employees tested following commuter train accidents tested positive for drugs or alcohol. (The data do not provide separate figures for alcohol alone.) In informal implementation discussions following adoption of the UMTA anti-drug rulemaking, some industry members have indicated that they believe alcohol is a more serious problem than drugs. One of the few surveys taken indicated that, between 1982 and 1985, only five out of 1,210 bus drivers tested positive for alcohol following a fatal accident. However, information originating from industry sources indicates that transit bus drivers are heavier drinkers than the general population (U.S. Census Bureau, 1984b). One survey is reported to have found that 57 percent drink at least weekly, with an average consumption of nine drinks per week; the national median is six drinks per week (U.S. Census Bureau, 1984b). No information is available about drinking on the job (Zero Alcohol, 1987).

At this time, we do not have any useful data on the other costs of alcohol abuse, such as lost productivity and absenteeism, and we again invite commenters to supply information on these matters. We specifically request additional data relating to the problem of alcohol abuse and use in each mode of transportation. We particularly want commenters to address whether the current rules and programs are sufficient and, if not, why. We welcome suggestions on areas where further action is necessary.

III. Legal Authority/Issues

An analysis of the Department's authority to adopt any of the options discussed in this ANPRM would vary with the specific option.

The option that may be considered the most intrusive would be a requirement to conduct alcohol testing. For that

reason, we discuss that option here. If further rulemaking is deemed warranted, in subsequent documents, our analysis will address the option or options selected.

As a general matter, the legal authority, both statutory and constitutional, to mandate any alcohol testing would be the same as that relied upon to issue the drug testing rules, except the Coast Guard also has a statutory mandate to conduct post-accident alcohol testing. Although the existing case law addressing the constitutionality of employee alcohol testing programs is more sparse than that with regard to drug testing, the Department believes that the available precedent supports rulemaking efforts that may require alcohol testing in the regulated transportation industries.

As courts have held with regard to government drug testing of employees, alcohol testing mandated by the government is considered a search within the meaning of the Fourth Amendment of the U.S. Constitution. See, *Schmerber v. California*, 384 U.S. 757, 767-768 (1966) ("compelled intrusions into the body for blood to be analyzed for alcohol content" must be considered a Fourth Amendment search); *Skinner v. Railway Labor Executives' Association*, 489 U.S. 109 S.Ct. 1402, 1412 (1989) ("Subjecting a person to a breathalyzer test, which generally requires the production of alveolar or 'deep lung' breath for chemical analysis . . . implicates similar concerns about bodily integrity and, like the blood-alcohol test . . . considered in *Schmerber*, should also be deemed a search.")

In determining whether a particular search comports with Fourth Amendment requirements, courts must establish that under all the particular circumstances the search itself is "reasonable." As the leading case on bodily fluid testing, *Skinner v. Railway Labor Executives' Association*, makes clear, issuance of a warrant or the existence of probable cause or individualized suspicion is not a minimum essential requirement in establishing the reasonableness of a search under an administrative testing program.

In *Skinner*, the Supreme Court upheld regulations issued by the Federal Railroad Administration governing drug and alcohol post-accident and reasonable cause testing of railroad employees (49 CFR part 219). The Court concluded that the testing procedures and methods of procuring blood, breath, or urine samples for testing as set forth in Subparts C and D of the FRA regulations "pose only limited threats to

the justifiable expectations of privacy of covered employees." 489 U.S. at 109 S.Ct. at 1417, 1419. By contrast, the Court found that the government's interests in seeking to determine the cause of an accident or incident, deterring alcohol and illegal drug use by rail employees, and safeguarding the general public are compelling. Under these circumstances, the Court held that alcohol and drug testing pursuant to the FRA regulations are reasonable within the meaning of the Fourth Amendment.

Also, the lack of a demonstrated substance abuse problem among the workforce in a particular industry should not, of itself, pose insurmountable constitutional impediments to a testing program for that workforce. This point was made clear by the Supreme Court in *National Treasury Employees Union v. Von Raab*, 489 U.S. 109 S.Ct. 1384 (1989), which was decided the same day as *Skinner*. In *Von Raab*, the Court upheld urinalysis testing for illegal drugs of U.S. Customs Service employees slated for promotions into positions that involved either interdicting illegal drugs or carrying a firearm. Despite the Commissioner of Customs' stated belief that "Customs is largely drug-free," the Court concluded that there was little reason to suspect that the Customs Service was "immune" from society's pervasive drug abuse problem and held that the testing program was constitutionally defensible as a means to ensure that employees promoted to these sensitive positions are drug-free. *Id.*, 489 U.S. at 109 S.Ct. at 1387, 1395.

Pre-*Skinner* court decisions addressing the constitutionality of various employee alcohol testing programs have also concluded that such testing comports with the Fourth Amendment. Thus, a state regulation requiring jockeys to submit to mandatory warrantless breath alcohol tests on each racing day was found to be constitutionally permissible. *Shoemaker v. Handel*, 795 F.2d 1136 (3d Cir.), cert. denied, 479 U.S. 986 (1986). Similarly, alcohol and drug testing during a pre-employment physical examination, work-related examination, return to work after unscheduled absence, or on the basis of reasonable suspicion or involvement in an accident or incident was upheld in the case of mass transit employees directly involved in the operation, maintenance and decisionmaking of a public transit system. *Amalgamated Transit Union, Local 933 v. City of Oklahoma City*, 710 F. Supp. 1321 (W.D. Okla. 1988). *Accord*, *Amalgamated Transit Union, Division 1279 v. Cambria County Transit*

Authority, 691 F. Supp. 898 (W.D. Pa. 1988) (mandatory drug and alcohol testing during annual physical examination does not violate Fourth Amendment).

Also, DOT is aware of at least one recent Federal appellate court case upholding employee alcohol testing in the wake of *Skinner*. In that case, the U.S. Court of Appeals for the Third Circuit upheld, *inter alia*, random breathalyzer testing of mass transit operating employees. *Transport Workers Union, Local 234 v. Southeastern Pennsylvania Transportation Authority*, 863 F.2d 1110 (3d Cir. 1988), vacated and remanded, 109 S.Ct. 3209 (1989), *aff'd on remand sub nom. United Transportation Union v. Southeastern Pennsylvania Transportation Authority*, 884 F.2d 709 (3d Cir. 1989).

Consistent with the Supreme Court's analysis in *Skinner* and *Von Raab* and lower court decisions, if the Department determines that there is a need for properly-administered alcohol testing to ensure that employees in transportation industries are not impaired while performing sensitive safety- or security-related functions, that need would outweigh the privacy interests of these employees and, thus, would be constitutionally permissible.

IV. International Issues

We are aware that any decision to issue regulations requiring alcohol testing or some of the other options discussed in this ANPRM is certain to raise questions about compatibility with the laws of foreign countries. Our drug testing requirements have already resulted in government-to-government consultations, which we believe will ultimately result in mutually satisfactory arrangements. Nevertheless, it would be useful, even at this early stage of our analysis, to understand more about how other countries whose transportation industries operate in the U.S. or perform sensitive safety or security-related work for U.S. operators outside the U.S. view the problem of alcohol use and abuse among transportation employees, how they respond to the problem, whether they conduct any alcohol testing and how those programs operate. We specifically invite comments on those situations where our regulations might have an international effect. Among other things, it should be noted that Annex 2 to the Convention on International Civil Aviation (the Chicago Convention), section 2.5, states that no person shall pilot or act as a flight crewmember while under the influence of an intoxicating liquor or any

narcotic drug "by reason of which his capacity to so act is impaired." It is the U.S. government's intention to work with foreign governments to resolve potential conflicts in a manner that accommodates their concerns while ensuring the necessary level of safety by those we regulate.

V. Questions of Approach

A. Introduction

If we determine that further action against alcohol abuse is necessary, there are several alternative approaches that we are considering. They could be adopted singly or in combination. As a preliminary matter, we first discuss who should be covered by any program we set up, which is relevant to all but the enforcement options. A discussion of each alternative and questions that each poses then follows. We welcome public comments on these alternatives. We also welcome public comment on any

other approaches that the Department could take to address the alcohol problem in the transportation industry.

B. Covered Employees

Our modal drug rules generally cover persons who perform sensitive safety- or security-related functions in commercial transportation. They affect approximately 4 million persons and include, for example, commercial truck drivers, pilots, pipeline operators, licensed and documented mariners and others serving on board a vessel with a licensed operator, mass transit operators, and railroad workers subject to the Hours of Service Act. (See the end of Appendix B for a short summary of the drug regulations.) The Department's existing alcohol regulations cover a somewhat different population. Chart 1 provides a general description of the types of people covered by the drug regulations.

The basis for imposing any requirements concerning alcohol abuse would be sensitive safety- or security-related functions. It would appear that the same employees who could cause safety problems if they are on drugs could cause problems through misuse of alcohol.

What, if any, rationale is there for covering a different population for alcohol testing than drug testing? In addition, we would like public comment on whether the line we drew between commercial operations and private operations for the drug rules should be changed with respect to alcohol? If so, why? Would the answers to these questions be different if the Department required action other than testing? Why?

C. The Options

The specific options include:

1. Education
 - a. *General.*

CHART 1—PERSONS COVERED BY DRUG RULES

FRA	UMTA	USCG	RSPA	FAA	FHWA
Engineers, Brakemen, Dispatchers, Block Operators, Signal Maintainers, Conductors.	Vehicle Controllers, Vehicle Operators, Mechanics.	Licensed/documentated persons and persons serving under such lic/doc persons in a sensitive safety position, including for example: licensed officers, mates, (chief, first-third), and chief/assistant engineers; documented oilers, wipers, quarter masters, able and ordinary seamen. Includes persons on inspected vessels (deep draft, passenger & small passenger, off shore supply, & mobile offshore drilling units) and uninspected vessels (Inland, Great Lakes, Ocean & Harbor tow boats, passenger & fishing boats).	Operations, Maintenance, Emergency Response.	Pilots, Flight Navigators, Aircraft Dispatchers, Mechanics, Repairmen, Flight and Ground Instructors, Flight Attendants, Air Traffic Controllers, Aviation Security, Screening Personnel, Ground Security, Coordinators, Flight Engineers.	Drivers (Interstate) of vehicles of 26,001 or more pounds, 15 + passengers, hazardous material (placarded).

One approach would be to emphasize education to increase employee perception of the risks of performing duties or operating a vehicle under the influence of alcohol. There is some disagreement about the respective effectiveness of education vis-a-vis enforcement. Some researchers claim that education is more effective in preventing alcohol abuse than apprehension of the abuser. The American Automobile Association Foundation for Traffic Safety compared eight states that adopted tougher drunk driving laws with six that did not. The new laws had no effect at all on traffic fatalities. The Foundation attributes the overall decline in U.S. traffic-related deaths between 1980 and 1985 to public awareness campaigns by such groups as Mothers Against Drunk Driving (MADD). A Boston University

researcher similarly concluded that social pressure and publicity "may be as important as government regulations in reducing drunk driving and fatal crashes." (Both quoted in USA Today, Wednesday, August 3, 1988.) However, would social pressure have less effect on commercial operators who face economic pressures to complete their jobs?

These studies have been criticized as poorly designed and misleading, since education programs were never isolated as an independent variable for comparison. NHTSA believes that the most effective programs are those that combine education and enforcement. Public information and education programs, in the absence of enforcement or sanctions activities, have never been shown to impact alcohol-related fatal crashes. Conversely, scores of studies

have found that programs involving enhanced enforcement, roadside sobriety checkpoints and the use of sanctions such as license suspensions frequently have resulted in significant reductions of alcohol-related fatalities. Although there is disagreement on the effectiveness of education alone, it appears that using education as an adjunct to deterrent measures would make them more effective.

Education may be less effective for illegal drugs, because the users have already decided to do something illegal. Having crossed over that line, they may be less susceptible to educational efforts. For that reason, alcohol abuse may warrant a different response from the approach the Department took to illegal drug use.

b. *Employee Assistance Programs.*
One method of preventing, as well as

encouraging the voluntary cessation of alcohol abuse is to establish an Employee Assistance Program (EAP). An EAP can have education, training and rehabilitation components that benefit both management and employees and can be positive factors in determining the employee acceptance of and success of an anti-alcohol abuse program. The Department's own EAP offers education and training for its employees and supervisors. The drug testing rules all require companies regulated by the Department to provide information to employees on the dangers of drug use and the consequences of that use. In addition, supervisors are required to be trained in the detection of drug use among employees. Similar requirements could be imposed with respect to alcohol use and abuse.

We would expect to find that the additional cost of adding information about alcohol to the existing drug prevention programs would be relatively small. We ask for public comment on whether this would be a useful approach. Also, how often should training be required and for whom? It would be helpful if any data on the success or failure of educational efforts could be provided. Finally, we would like any data on costs, especially for programs that are added to existing drug programs.

c. Drug Free Workplace Programs. The Federal government recently enacted rules (54 FR 4946, January 31, 1989) that apply to its contractors and grantees as a result of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, title V, subtitle D). These rules require that grantees and contractors (1) certify that they will provide a drug-free work environment; (2) establish a written drug-free workplace policy; (3) inform employees about the consequences of drug use and about any resources to assist those employees with drug abuse problems; (4) notify the government if an employee is convicted of a criminal drug offense occurring in the workplace; (5) take action (disciplinary action or rehabilitation) with respect to a convicted employee.

Given the fact that the Department already requires a drug free workplace for its grantees and contractors, could a similar program for alcohol be initiated for companies regulated by the Department? (Many of our regulated companies would also be covered by the drug free workplace requirements if they also are contractors or grantees of federal agencies.) What should the elements of such a program be? Could alcohol easily be added to existing industry drug-free workplace programs?

Should alcohol be treated as an entirely separate issue requiring separate programs? What, if any, are the problems associated with implementation? For grantees that also are regulated by the Department (e.g., UMTA grantees), could this serve as a cost effective program? Would it be cost effective for persons and companies not now subject to the drug free workplace rules? Who should be subject to such a requirement? Would the rule be enforceable? Effective? In some regulated industries, such a certification would be viable; in others it may not. Commenters should address how it could work or would not work in particular industries. Is a conviction reporting requirement practical?

2. Rehabilitation

a. General. We believe that both employers and employees benefit from the availability of rehabilitation programs. The opportunity for rehabilitation can encourage employees to seek help and increase their overall acceptance of an anti-alcohol program. Employers benefit from greater productivity, fewer accidents, and lower turnover costs if employees are rehabilitated.

b. Employer-mandated Programs. One approach would be to encourage or require employers to offer rehabilitation opportunities to their employees. The Department decided that it would be inappropriate for the federal government to mandate employer-provided drug rehabilitation in its modal drug testing rules and that this issue should be worked out between employers and employees. However, as an employer, the Department provides such services. It offers a one-time opportunity for rehabilitation (usually paid for by the employee's health insurance) for employees who test positive under its internal drug testing program. The employees eventually can be reinstated if they successfully complete rehabilitation and undergo subsequent monitoring. Counseling and rehabilitation opportunities are also provided to any DOT employees who seek help for alcohol problems.

Is there any justification for requiring employers to provide rehabilitation for alcohol abusers, but not for drug users? If so, please explain why. Should rehabilitation be offered to those who volunteer or those who get caught or both? Would required rehabilitation, by removing the incentive for self-referral, only ensure that the alcohol abuse continues until the violator is caught or causes an accident? Would education work effectively without rehabilitation? Would education work if the

Department encouraged, but did not mandate, rehabilitation?

c. Expansion of Rehabilitation Programs Like "Operation Redblock" to Other Modes. To be effective, it appears that "providing an opportunity for rehabilitation" means holding the same or similar job open for the employee. The railroad industry's voluntary program called "Operation Redblock" is designed to identify substance abusers and get them into rehabilitation programs, with the understanding that persons who complete the program successfully will retain their jobs. The program relies on voluntary self-referral (where the employee agrees to seek help before an on-duty alcohol violation, based on his or her own initiative or an EAP contact by a family member or other concerned person), and peer-referral (where the co-worker notes on-the-job alcohol use and identifies the user as unsafe to work with). Employees have a natural reluctance to report on a friend when it means that the friend could lose his or her job. Because Operation Redblock allows employees to bypass disciplinary rules, one important aspect of the program is that it helps overcome this reluctance. Operation Redblock also includes an opportunity for treatment even where the employee's alcohol or drug use is detected through management action; but this is a special "incentive provision" offered in exchange for employees' active participation, through prevention committees, in rule enforcement. As such, it may be more appropriate for negotiation between employer and employee than as a regulatory requirement.

A somewhat similar alcohol prevention program for airline pilots is run by the Air Line Pilots Association and many of the major airlines. Also, Coast Guard regulations allow licensed personnel to voluntarily deposit their license, certificate or document and seek drug or alcohol rehabilitation prior to being subjected to a suspension or revocation proceeding for intoxicant-related incompetence. (This option is unavailable if the person caused an accident.) The document will not be returned until the individual successfully completes a rehabilitation program and participates in a post-rehabilitation monitoring program.

Through some combination of regulation and promotion of voluntary efforts, these types of programs could be used in all transportation industries in order to encourage more people to step forward and receive help. It is more likely to result in the employee seeking early treatment. A critical issue is when

the opportunity for treatment will be offered. If an individual knows that he or she automatically will be provided rehabilitation after testing positive, he or she may have no incentive to volunteer before being detected or causing an accident. Of course, peer referral may not be possible in some transportation operations (e.g., segments of the trucking industry). We ask for public comment on how successful this approach is in the industries where it is used. Is it appropriate for all modes of transportation? For small companies as well as large? What could be done for owner-operators? Would this approach be successful with respect to persons who abuse both alcohol and other drugs? Would it be appropriate for the Department to require such a program in light of the fact that it did not think it appropriate to do so in the drug testing rules? We are especially interested in data on current rehabilitation efforts by transportation employers: the cost of the program, the success rate, specific implementation problems, and so forth.

d. *Implementation Issues.* If we pursued the rehabilitation option, should we mandate the particulars of a rehabilitation program? Who should pay for inpatient rehabilitation and the subsequent monitoring program? Should an employee continue to be paid while undergoing rehabilitation? What would be the economic costs of holding the job open? Would this be an impossible option for small companies? Should they be exempt or would that have adverse effects? How much time should an employee be allowed to complete a rehabilitation program, taking into account how long it may take an employee to be admitted into one? We are interested in comments on how to implement opportunities for rehabilitation among small companies and owner-operators.

e. *Medical Review Officers.* The kind of rehabilitation program needed (inpatient, outpatient or counseling/abatement) will necessarily vary from case to case. Who should make that determination? Under the drug rules, employers are required to appoint or designate a Medical Review Officer (MRO) to review the results of the employer's drug testing program, interpret each confirmed positive test result, and evaluate an individual who has undergone rehabilitation before he or she can return to the job. Should a similar requirement be included in any alcohol rule requiring or permitting rehabilitation? How would an MRO "verify" a positive in an alcohol case? Should an MRO have to be a licensed medical doctor or other substance abuse

professional? Are there distinctions between the necessary qualifications for an MRO in the drug area and one in the alcohol area? The MRO could be a currently employed company physician or could be a private physician who performs MRO service for the employer on a contractual basis.

D. Enforcement

1. General.

The Department relies mainly on the states to enforce its highway and maritime regulations against persons operating while intoxicated. In recent years, it has encouraged greater enforcement efforts by the states against alcohol and other drug abuse. NHTSA has several programs to provide financial and technical assistance to states for improving laws and programs to combat alcohol- and drug-impaired driving. As discussed in Appendix B, FHWA and NHTSA have regulations that require states to adopt minimum BAC standards for commercial motor vehicle operators and to implement the minimum age 21 drinking age law, respectively, or face the loss of some federal funding.

2. Effectiveness of Deterrent Actions

Enforcement is the most important deterrent activity, when accompanied by sufficient public visibility. For example, if motor vehicle DWI offenders are not arrested, no sanctions can be imposed and no deterrence can occur. However, even if there is an increase in enforcement, this does not ensure that deterrence will result, since the public may not be sufficiently aware of such efforts.

The effectiveness of enforcement efforts has been recently summarized by Voas and Lacey (1988) and the effectiveness of roadside checkpoint operations has been summarized by Dickman (1987). Highly visible enforcement, particularly the frequent use of roadside sobriety checkpoints, has frequently, but not always, resulted in reductions in alcohol-related fatal crashes or in surrogate measures. Many of the examples of such reductions have been in foreign countries (Ross 1973; Ross 1984; Homel 1986; Ross 1988). In the United States, positive results have been documented for programs in Largo/Clearwater, Florida (Lacey et al. 1986); Charlottesville, Virginia (Voas, Rhodenizer and Lynn 1985); Arizona (Epperlein 1986); Stockton, California (Voas and Hause 1987) and Bergen County, New Jersey (Levy, Shea and Asch 1987). Additional evidence for the deterrent effects of roadside checkpoints has been provided by Williams and Lund (1984), who found that drivers

perceived higher enforcement levels in areas where checkpoints were used than in areas where they were not used, even though actual arrest rates were sometimes higher in the latter. As a rule, 15-30 percent reductions in alcohol-related fatal crashes have been documented in the above studies. Most of the observed reductions were temporary in nature, primarily because the enforcement efforts, themselves, were short-term. However, it would be improper to criticize enforcement programs for providing only temporary reductions when these programs have more frequently resulted in "bottom-line" reductions in crashes than any other approach. Further, the ongoing roadside checkpoint program in New South Wales, Australia (Homel, Carseldine and Kearns 1988) has demonstrated that long-term reductions in alcohol-related fatal crashes can be effected with long-term enforcement emphasis.

The deterrent effects of sanctions have been reviewed by Voas (1986), Peck, Sadler and Perrine (1985) and by Nichols and Ross (1988). Nichols and Ross reviewed studies of the specific and general deterrent effects of confinement, license suspensions, fines and, to some extent, treatment programs. They concluded that all sanctions provided some evidence of impact but that license actions provided consistent evidence of both specific and general deterrence effects. With regard to the effectiveness of license suspensions on offenders who receive them, several controlled studies found that license suspensions have a significant impact on a variety of traffic safety measures, including subsequent total convictions, total crashes, alcohol-related crashes, non-alcohol-related crashes and serious injury and fatal crashes (e.g. Hagen 1977; Popkin et al. 1983; Blomberg, Preusser and Ulmer 1987; and Preusser, Blomberg and Ulmer 1988). In addition, several controlled studies provided evidence of a general deterrent impact, as reflected by population-wide reductions in alcohol-related fatal crashes (e.g. Blomberg, Preusser and Ulmer 1987; Ross 1987; Zador et al. 1988; Klein 1989). The results of these studies provide reasonably sound evidence that the deterrent effects of license suspensions extend beyond those offenders who are caught and sanctioned. Nichols and Ross speculated that this was at least partially because license actions are feared more by DWI offenders than any other sanctions. Nearly all of the studies that found reductions in crashes following an increase in the use of

license sanctions were studies of administrative license suspension laws. This suggests that the certainty of imposing license actions is also likely to be an important factor.

In summary, it is likely that the effect of the arrest itself results in reduced drunk driving among those offenders who are caught. Further, enhanced enforcement efforts can extend such deterrent effects beyond offenders who are caught. In addition, it appears that the imposition of license sanctions (and to a lesser extent jail sentences) on offenders who are caught results in reductions in their recidivism rates beyond those caused by arrest. Much of the reduction in recidivism among offenders receiving license actions appears to be due to reduced exposure, rather than deterrence itself. However, since frequently-imposed license sanctions, like high visibility enforcement, have been shown to reduce alcohol-related fatal crashes on a population-wide basis, a significant element of deterrence must also be operative.

3. The National Driver Register

The National Driver Register (NDR) is a central, computerized index of state reports on drivers whose driving privileges have been denied, suspended or revoked. Applications for driver licenses in many states are routinely checked against the NDR to screen for potential problem drivers. In 1986, Congress enacted legislation to require a uniform national commercial driver's license to end a driver's ability to obtain a license in one state after losing one in another. The Commercial Driver's License Information System, which is tied in with the NDR, enables the states to check commercial driver's licenses by computer.

Recent legislation has expanded the role of the NDR to allow FAA and the rail industry to use it to locate and review individual driving records to screen qualifications of airline pilots and locomotive engineers. The information would be used as an indication of a possible alcohol abuse problem, as well as evidence of any misrepresentation on their FAA medical applications. The FAA and FRA are currently considering regulations that will implement this legislation. The Department also has proposed legislation that would authorize the Coast Guard to use the NDR to obtain information on driving-records violations of merchant mariners.

Should the Department seek access to the NDR for the other modes of transportation? Would information on convictions be useful for identifying

possible alcohol abusers in sensitive safety jobs not requiring a Federal license? Are there additional steps that the Department could and should take to increase enforcement of the existing regulations? Should additional legislation be sought as incentives for additional state or local action in lieu of or as a supplement to the other alternatives discussed in this ANPRM? What would be the advantages of such an approach and what would its impact be on federalism? How can the Department best make use of the states' expertise and position in the field to increase enforcement?

E. Alcohol Testing Program

Under this option, employers would be required to institute alcohol testing programs, perhaps similar to our drug testing programs. However, the drug programs focus on illicit use and controlled substances, and thus present different issues than would an alcohol testing program. In some ways, the issues raised by an alcohol program could prove to be more difficult than those of drug testing. They are more complicated simply because alcohol is a legal substance.

Below, we discuss a series of issues and raise questions for commenters to address. These are relevant to pursuing this option.

1. What to Prohibit?

An important issue is what use of alcohol to prohibit. In addition to current restrictions, the Department could prohibit: (1) Any use affecting work, reflected by the presence of any alcohol in a covered employee's blood during working hours; or (2) impairment and/or intoxication on the job, as expressed by given BAC levels or behavior; or (3) a combination of both for different employees or different situations.

Drug testing rules target drug usage by employees, regardless of whether the use occurred on- or off-duty. This makes sense because the drugs we test for are illegal and no one yet has developed the capability to determine, based exclusively on a chemical test, at what level a particular drug impairs the user's performance of a particular function and can have devastating safety consequences. Our current alcohol rules target both use and impairment by prohibiting the employee from drinking on the job or just prior to reporting to work, or from performing a safety-related function under the influence of alcohol identified by a certain BAC level. Data relating body fluid concentrations of alcohol to

performance decrements is more extensive than that available for drugs.

Should we expand testing for alcohol beyond the current FRA, Coast Guard, and FAA (consent to testing) rules? If we decide to test, would the approach we took with our modal drug rules be appropriate? That is, should the Department undertake to make transportation workers alcohol-free? Is this practicable, given the fact that alcohol is a legal substance? Is it necessary, or does the accident record indicate that an absolute prohibition would be a case of over-regulation? If "zero" is an unrealistic or unnecessary goal, where should the line be drawn? We would like to hear from companies that prohibit alcohol consumption by their employees on how they enforce this prohibition and whether their programs are successful.

The issue of being under the influence of, or impaired by, alcohol is more complicated than simply having drugs in one's system. To be legally relevant, the use or impairment must occur in the context of job performance. Drinking during most off-duty periods may or may not impinge upon a person's ability to function well in the job, but generally by itself is not illegal. Focusing our efforts on detection of alcoholics would not be sufficient to address the problem. Drinking that causes on-the-job impairment poses a serious danger whether or not the drinker is an alcoholic.

What function the person is performing is important. Finding a BAC level of .04 in an aircraft pilot who is on duty but simply filling out administrative paperwork in an office may be irrelevant to safety; i.e., the effects on his ability to perform paperwork are not related to safety. Therefore, we might only want to test pilots when they are about to enter or leave the cockpit as opposed to when they are performing administrative duties. Such a requirement could complicate the logistics of testing, especially for those people that move in and out of safety-sensitive functions during the workday.

Should testing be limited to those times when the employee is about to perform or is performing a safety function? What are the likely implementation problems? Would it be too difficult to set up a program to randomly test pilots, for example, when they were about to perform or were performing sensitive safety functions?

Do different functions demand different standards? For example, should we continue to have different rules for commercial versus private

operators? What about different job categories—should a pilot be held to a higher standard (i.e., a lower BAC) than a flight attendant or a dispatcher?

2. What is a Positive?

If the Department were to require industry testing programs for alcohol, one of the most difficult issues to decide would be what blood level of alcohol would constitute a "positive" test. The consensus of DOT rules and practice would appear to support, as a measure of intoxication, a *per se* prohibited level of .04 percent. (It should be noted that FRA leaves a conservative margin of error of about .01 percent for field testing. Thus, the effective *per se* level is .05 percent.) However, some current rules imply a tighter standard. For example, FAA prohibits crewmembers from drinking less than eight hours before flight. To enforce this rule, the FAA might want to set a lower BAC on a "positive" level, on the theory that someone at a given BAC level had imbibed within the eight-hour period.

Others might argue that .04 is too strict a standard, that it would have the effect of outlawing alcohol since it is difficult to establish with certainty how long alcohol will stay in a particular individual's system. Still others would argue that the permissible level needs to vary depending on, for example, whether an individual is about to fly an aircraft or fill out paperwork.

In its comments on the FHWA rulemaking that established the .04 BAC standard for driver disqualification, the NTSB recommended that a zero BAC level be used as the standard, because lower BAC levels have some impairment effects. FHWA accommodated this position by requiring that commercial motor vehicle operators with any measured BAC standard be placed out-of-service for the next 24 hours. We do not intend to reopen the issue of whether specific modal standards established for use within the existing regulatory framework should be revisited. However, in the context of considering additional regulatory action, including the possibility of additional testing requirements, we do believe that it is necessary to consider the appropriate BAC level to be used under the different alternatives.

What constitutes impairment? What impairment effects do hangovers have? How can we detect this type of impairment? Should we try? Moreover, how can we avoid establishing a program that encourages "binge" drinking a sufficient number of hours before work to avoid positive BAC tests, but then results in the adverse effects of hangovers? Commenters should address

how a program should be structured and what BAC cutoff should be applied. Commenters should also discuss whether sanctions should differ for different BAC levels.

3. Treatment of Positives

Finding alcohol abuse by an individual performing a safety-sensitive function raises questions about how to treat that individual. Because alcohol is a legal substance, the questions may warrant different answers from the ones that would be given concerning a similar individual who had used drugs. The answers also would depend upon what use of alcohol we prohibit. The major issues that would have to be confronted include: Should any action taken against an individual who tests positive depend on—or vary with—whether the individual is performing sensitive safety functions when tested? Should the consequences of testing positive be different for persons known to be chronic abusers versus persons caught under the influence one time? How could dependency on alcohol be accurately determined? Should the employee merely be kept out of the sensitive safety job until sober? Or should rehabilitation be required for every person testing "positive" before that person could be returned to the job? Should action vary depending on how high the BAC level is? How should we treat persons who suffer from multiple addiction to both alcohol and drugs?

4. Occasions/Grounds for Testing

a. General. In the Department's drug testing rules, we required preemployment, periodic, reasonable cause, post-accident and random tests (special testing also is required for rehabilitated employees). Depending upon what use we prohibit, alcohol testing, unlike drug testing, may not be the most effective means of detecting abuse in all circumstances. The presence of alcohol is relatively easier to detect from physical symptoms (e.g., breath) or behavior (e.g., inability to walk a straight line) than drug use (although alcohol symptoms often can be successfully masked), and people are more familiar with the symptoms of alcohol intoxication. Also, the time-frame for testing is limited, because the body processes alcohol within hours of ingestion. If we decide to prohibit impairment, rather than use, the time frame for testing would be further limited to the time the job performance. For that reason, certain types of testing may not be as useful for alcohol as they are in testing for drugs. Along with comments on the utility and need for alcohol testing in general, we

specifically invite comment on the suitability for alcohol testing of the different types of drug tests (preemployment, periodic, reasonable cause, post-accident and random). Commenters also should address the utility of each type of test. In this regard, we invite comments as to whether different types of tests are called for in different circumstances, such as blood testing only following an accident.

b. Preemployment Testing.

Preemployment tests (for job applicants or current employees transferring into covered positions) may or may not be relevant, because testing normally would occur when the applicant is not performing any sensitive safety function. However, they may provide helpful information for use by a medical officer in determining whether an individual has a problem.

Drinking prior to interviewing with a potential employer is not illegal even though it might be imprudent. Therefore, there are legitimate questions about the significance of a positive test. On the other hand, it is possible that it could be used, along with other indicators, as a warning signal about alcohol dependency. It might also be useful as one tool among many for an employer to determine whether an applicant can be expected to perform reliably in a safety-related function. For example, the presence of alcohol may indicate the need to ask follow-up questions of the applicants to determine whether there would be a potential safety problem. Would such a test provide sufficient benefits to warrant requiring it? Would it be necessary to limit the use of any positive results; i.e., should we prohibit rejecting an applicant solely on the basis of a positive test?

c. Periodic Testing. As with preemployment testing, a primary purpose of periodic testing (at required, scheduled physicals) would be to identify persons who may have an alcohol problem. Periodic testing often occurs during off-duty hours when the fact that the employee may be under the influence is not necessarily relevant to his or her job performance. Unless we determine to prohibit employees from having any alcohol content during a physical examination, the primary purpose of such a test would be as a means of alerting employers to someone who may be a candidate for referral to an EAP or otherwise evaluated for substance dependency. Adding an alcohol test to the regimen for a required physical might be beneficial because the examination might not otherwise identify the employee's problem. If a blood sample is already taken and could

be used, it could lessen any legal or cost obstacles. Would this type of test provide sufficient benefits to warrant requiring it? As with preemployment testing, should we limit the use of any positive results?

d. Reasonable Cause Testing.

Reasonable cause testing would be useful to determine impairment during job performance. It would be based, as in drug testing, on a rule violation (e.g., FRA rule now provides for this) and/or on a reasonable suspicion by one or more supervisors that an employee appeared to be under the influence. (The standard for triggering a test would differ depending on whether the substantive prohibition of alcohol abuse went only to intoxication on the job or to any measurable BAC while the employee was working.)

Because alcohol use often (at least at higher levels) results in more observable symptoms (and because more research has been done on how to train people to make these observations), this test may be more valuable for alcohol than for drugs. Although a supervisor may not know if the behavior is alcohol-related, whatever its cause it could support a decision to refuse to let the person operate in a sensitive safety position. Supervisor observation would not be a complete solution, however; "practiced" drinkers can appear normal (e.g., they can walk a straight line) and avoid detection. Also, supervisors may have reasons to overlook employee alcohol use (e.g., sympathy for employee and dealing with problem is too much trouble). The Army has found that supervisors have a tendency to underreport alcohol involvement in accidents (The Alcohol and Accidents Guide, February 1987). Commenters also should address how to reduce the possibility of harassment. Would procedures similar to those for our drug testing rules (generally requiring two supervisors, etc.) be appropriate? Also, would this test be especially valuable in conjunction with reasonable cause testing for drugs? If an individual's behavior raises suspicion and the person tests negative on an alcohol breathalyzer, some enforcement personnel might suggest performing a drug test.

e. Post-Accident Testing. Post-accident testing is already required by federal regulation in some modes, and serves as a valuable accident investigation and enforcement tool. States also conduct post-accident tests, depending upon the circumstances. Post-accident testing at remote locations might be more difficult to accomplish than drug testing, because alcohol

passes from the blood and breath more quickly than most drugs. Delays for transportation of trained personnel to a test site could result in negative or inconclusive tests. Requiring a blood test, for example, to be conducted within a very limited time could raise the costs tremendously by requiring expensive forms of transportation in some instances. Therefore, it may be necessary to use preliminary breath testing. This also may require the use of trained people and special equipment. Commenters are invited to address this question, including the additional cost that may be involved and any special problems that field breath testing would present in terms of the integrity of the test process.

The drug rules require employers to test employees involved in an accident as soon as possible, but not later than specified maximum time limits (generally 32 hours). For the FRA, the average period of time is about 5 hours to get blood, but railroads run on track and accidents occur within limited areas, unlike aviation or maritime accidents. Within what period of time after the accident should an employee be tested for alcohol? Should we arrange with state enforcement and/or investigative personnel to carry out such testing if the accident occurs in a remote area? They may be the first government officials able to get to the scene and are sometimes equipped to conduct field alcohol breath tests.

f. Random Testing. Under the Department's drug rules, companies must conduct random drug tests at a 50 percent annualized rate; that is, the number of annual random tests conducted should equal half the number of the testable population. Because alcohol is rapidly eliminated from the body, random testing might be less effective for employees who, for example, do not work close to a place where a test can be conducted. The deterrent effect of random testing might be reduced for the same reason. Commenters are requested to focus on how the objectives of random alcohol testing (e.g., deterrence) could be accomplished. Should we use a higher than 50 percent annualized random testing rate? Because alcohol is generally eliminated from the body within hours, can these tests be effectively administered? Is it too expensive and inefficient a means of identifying abusers? Does it make sense if we only prohibit impairment on the job, rather than any alcohol use? As discussed earlier, must any random testing be limited to the specific times an employee is performing a sensitive

safety- or security-related function? If so, how would this complicate implementation of a testing program? If alcohol misuse is more easily uncovered through observation and reasonable cause testing, will random testing add enough more deterrent effect to an overall program to meet constitutional muster?

g. Pre-Performance Tests—(1)

General. Pre-performance testing could potentially be used in lieu of other forms of alcohol testing. Depending upon the industry, supervised testing could be conducted before a covered person assumed his or her duties on board a plane or ship, or unsupervised self-testing-type systems could be used to prevent a vehicle from operating if a person failed a test.

The advantage of pre-performance testing is that it detects an employee's impairment at the time he or she begins to perform sensitive safety- or security-related functions in a job where it is illegal to be under the influence of alcohol. Of all the kinds of testing, pre-performance tests may offer the most direct nexus to improving safety. They also could provide a strong deterrent. However, pre-performance testing may not be feasible for certain industries. Furthermore, technological and cost issues have not been resolved for some types of tests.

(2) Pre-Performance Testing: Under Supervision. An individual could be given a BAC test prior to performing a sensitive safety- or security-related function. This type of test is now being done in Alaska by Alyeska Pipeline Service Company. All crewmembers are tested prior to being allowed to work. Crewmembers that fail the test are not permitted to work until a test is passed.

This same system, or a variation, could be employed in other industries where an individual reports to a specific station before operating a commercial vehicle. For example, in some segments of the trucking industry, drivers report to a central dispatch facility every day and return at the end of the day. Most commercial pilots also report to a central location prior to flying. In such instances, supervised BAC testing may be feasible. In other segments of the two industries noted above, supervised BAC testing could be impractical and unmanageable. However, the system eventually decided upon by the Department to check for alcohol would not need to be uniform in every respect and in every segment of each of the regulated industries, if circumstances warrant different approaches. This may make the rules more complex, but could provide necessary flexibility to

companies. In addition, it might be appropriate to give companies the option of conducting either a pre-performance test or a random test.

Commenters should address how such a system could be developed for each industry, and the costs of such a system. We are also interested in the experience gained by the use of such tests in the U.S., as well as in other countries. What are the benefits of a pre-performance test? How would such benefits compare with a random test? How should a pre-performance positive test be treated? Any rule implemented would prohibit an individual from operating a commercial vehicle (aircraft, vessel, etc.) if a test were failed. However, commenters should address the need for regulations that mandate what additional action should be taken upon a positive test? Are sanctions needed, or should such steps be addressed by individual companies? Would alternative alcohol testing requirements (e.g., pre-performance vs. random) provide flexibility to companies? Is flexibility needed? To be effective, must pre-performance tests be conducted before all operations, or could they be done on a random basis? How often? Should tests be performed at a central meeting place prior to an employee's assumption of duties or should the test be attached to the vehicle's ignition system (discussed below)? Could an employee simply start drinking after passing the pre-performance test?

(3) *Pre-Performance Testing: Unsupervised.* The Department, through NHTSA, began to investigate the use of in-vehicle alcohol test devices (ignition interlock devices, referred to as "IID's") in 1968. The types of devices developed over the years have focused on breath and performance type tests; generally, if a driver does not pass the test, the vehicle will not operate or, under some systems, if operated, the emergency flashers or horn will automatically go off.

A recent report submitted to Congress describes the effectiveness and potential for application of ignition interlock devices to prohibit operation of motor vehicles by intoxicated drivers. ("Potential for Application of Ignition Interlock Device to Prohibit Operation of Motor Vehicles by Intoxicated Individuals: A Report to Congress".) NHTSA also performed laboratory testing for commercially available in-vehicle test devices. ("Further Laboratory Testing of In-Vehicle Alcohol Test Devices.")

Initially, attempts to develop IID's based on breath alcohol tests were hampered by technological limitations and concerns that they were too

susceptible to circumvention or cheating. At this point, however, the NHTSA report notes that these problems have been partially or completely solved. The new devices are more reliable and accurate, and are designed to prevent or detect many forms of tampering and circumvention. NHTSA tests have indicated that the devices are more difficult to circumvent, but relatively uncomplicated strategies can still be used to "fool" these devices (e.g., use of bogus air samples or filters). In spite of these evasive practices, improvements are possible that would further address potential circumvention. NHTSA also noted that IID's are now being used by a specific population group (those subject to court supervision because they are convicted of driving under the influence) in passenger vehicles. Their placement in general use would likely meet public resistance due to costs. It should also be noted that the experience gained thus far has been in passenger motor vehicles only. What would the costs be to install comparable devices in commercial vehicles? What about vehicles used in other modes of transportation?

(a) *Performance Tests.* Early research on IID's had focused on performance tests as well as breath tests. However, research and development work have indicated that while performance tests may be operationally feasible, a useful device does not yet exist.

The Canadian transportation ministry funded research that compared one performance test, the Critical Tracking Tester (CTT), with another, the Tracometer. The CTT requires a driver to keep a pointer centered on a dial by appropriate movements of the steering wheel. The device generates random movements of the pointer at an increasing rate, requiring the driver to make corrective movements at an increasing speed. The Tracometer requires a driver to align a pointer with one of five targets that are randomly illuminated, requiring the driver to turn the wheel in the opposite direction of the desired pointer direction. The research concluded that the Tracometer provided better discrimination than did the CTT in detecting BAC limits (0.08 in Canada). However, the researchers concluded that while the Tracometer appeared to be promising, further work was necessary before a practical device would be available.

The NHTSA report concludes that a useful device does not yet exist and thus more work is needed. For example, the CTT's are least accurate at moderate BAC levels (0.05-0.10). The report also notes that there is apparently little

development work currently being done on performance-based systems.

(b) *Breath Tests Using Ignition Interlock Devices.* With respect to breath alcohol testing, there are currently three IID's available on the market. Basically the devices are a simple form of a portable breath tester, but are not as sophisticated as evidential quality breath tests used by the police. The three IID's are fairly similar. Each has three components: an alcohol breath test unit, an electronic control device, and a connector to the vehicle's ignition and electrical system. The alcohol sensor is a breath test unit that is a hand-held unit and requires the driver to blow into the device. Only if the driver passes the test can the car be started. The devices use different sensors (pressure and/or temperature) to reduce the likelihood of circumvention.

The IID's currently are marketed primarily to traffic courts for use with drivers convicted of DWI/DUI. Such drivers may be required by the court to install a device on their car. (Manufacturers envision further use of the devices, such as by fleet owners or commercial vehicles.) Nine states have passed legislation authorizing the use of IID's with convicted DUI offenders. In California, for example, a two-year program was initiated and terminates at the end of 1989, when an evaluation will be made. (California's interlocks prevent persons with a BAC of 0.03 or above from starting the vehicle.) Other states are also considering legislation.

Based on the information available to date, the NHTSA report reached a series of general conclusions about the new breath test ignition interlock devices. These conclusions are listed in Appendix C.

Commenters should address the feasibility of implementing such a program of IID's for a particular company or industries, and specify the potential problems if such an approach were adopted. Would these devices have any application to types of vehicles other than motor vehicles? Will employees accept such devices? What are the practical problems of such devices? Will such a system be effective in cutting down the use of alcohol in the transportation industry? If used in the context of preperformance testing, what staffing problems would this cause? How will it affect accident rates? What are the costs? What are the ways of getting around the system? Even if the systems are not 100 percent tamper-proof, will the fact that such machines are in place make employees more aware of the need to stay sober? Are the

devices cost-effective if this is the case? Finally, IID's are accurate in detecting low BAC levels. Would the usefulness of the tests be affected if we prohibited any positive BAC level?

NHTSA estimated that the one-year lease costs for one IID could be as high as \$400-\$500. Would IID's be cost effective? How would IID costs compare to random testing costs, for example?

We welcome public comment on any additional new technological devices that are accurate and reliable.

h. Post-Rehabilitation Testing.

Another approach would be to improve the follow-up of alcohol abusers who receive treatment and re-enter the work force. Alcohol testing could be useful as part of post-rehabilitation monitoring. Once an employee has undergone rehabilitation, there is a need to ensure continued disassociation from alcohol. However, many substance abusers do not restrict themselves to one type of drug; they often combine drugs, including alcohol. Alcohol testing could become a useful part of the follow-up testing of rehabilitated substance abusers.

Is there any data that shows alcohol use rises when drug use declines, or vice-versa? Should we require post-rehabilitation monitoring and a recommendation for reinstatement from the MRO or EAP counselor before an employee can be returned to the job? If not, who should make the decision on what kind of rehabilitation the employee needs? Who should make the determination that the employee has established control over the substance abuse problem and has a good prognosis for recovery? Should there be procedures by which the employee can contest a determination that he or she is not ready to return to work?

Should there be a uniform testing period after rehabilitation, or should this be determined on a case-by-case basis? If we adopt a uniform post-rehabilitation period, how long should it be? Should the length of the follow-up period depend on the BAC level that was detected? Should it depend on the severity of the individual's alcohol problem, as indicated by the kind of treatment that was found to be necessary? (For example, should someone undergoing inpatient rehabilitation be subject to post-rehabilitation testing for a longer time than someone who needs only abatement counseling?) Who should decide? Recognizing that alcoholism may be a lifetime disease, is there a period of time after the initial phase of rehabilitation when a relapse is most likely and during which testing would be valuable? If so, how long is that period?

What should happen to a person who tests positive after completing rehabilitation? During the post-rehabilitation period, should we prescribe the minimum and/or maximum number of tests to be administered? We would want to ensure that any necessary tests would be given frequently enough to ensure that the employee is not abusing alcohol. At the same time, however, we do not want alcohol testing to become an instrument of harassment.

One alternative, on which we also invite comments, is a specified post-rehabilitation testing period that would apply only if the employee, the MRO, the EAP counselor, and perhaps the employer failed to agree on an individualized program. Such a fall-back system could provide, for example, for up to four additional tests during the 12 months following rehabilitation.

VI. Means of Alcohol Testing

A. Introduction

This section contains a discussion of the principal methods for conducting tests for the consumption of alcohol, including a list of some of the advantages and disadvantages of each methodology. Comments are requested concerning the cost and practicality of the various methodologies. Commenters should give references to specific studies in support of their comments.

B. Breath Testing

There are two types of breath testing devices: (1) The preliminary breath testing (PBT) device, discussed above in the preperformance section, a hand-held device that is useful as a screening tool; and (2) the evidentiary breath testing device (EBT), generally a larger machine found in police stations, that can provide results allowed as evidence in legal proceedings. The FRA allows the use of PBTs exclusively as a screening technique and requires evidentiary testing to follow.

In the breath alcohol test, often used by police agencies to test suspected drunk drivers, the subject blows into a machine that makes a chemical analysis of the expelled breath. The machine provides a reading expressed in terms of blood alcohol concentration. Breath tests, although they may be considered somewhat invasive, may nevertheless be less invasive and thus more acceptable to some people than other forms of tests. They provide a reasonably accurate measure of BAC, at least if they meet NHTSA specifications for accuracy and are properly calibrated. Many states accept the results of evidentiary breath testing

devices as *per se* determinants of intoxication.

Perhaps most significant in the context of workplace testing, breath testing, unlike blood and urine tests, provides an immediate response, so that follow-up action can be instituted promptly. In addition, it does not require elaborate chain of custody procedures for collection or laboratory analysis, since no specimens have to be sent to a laboratory for analysis.

On the other hand, breath testing requires specific training and a quality control program to ensure proper administration of the test and calibration of the device. Calibration requires proper use of a breath alcohol simulator, which in turn may require that the unit be set up by a chemist following a specified procedure. The initial costs of EBT's (between about \$400 and \$5,000), as well as the costs of calibration, are substantial.

Comments are requested on procedural standards for conducting a breath test. We note that no nationally accepted standards exist, although the FRA, for example, has developed guidance materials for its programs. Each state, however, has its own standards for police administration of breath tests, and these standards vary considerably.

One potential problem with breath testing is that no sample remains after the test for retesting in the event of a challenge. This is of particular concern if the test is administered by the employer, because some employees may question the neutrality of the test; in such cases blood tests might be necessary in order to confirm a "positive" breath test result. What qualifications should people have to administer a breath alcohol test? Is there any need to confirm a breath alcohol test? We request comment on whether any have used this approach and had problems.

C. Blood Testing

In this approach, a blood sample is taken from the individual, by normal medical procedures for taking blood samples. The sample is sent to a laboratory where it is analyzed for blood alcohol concentration. Measurement is thus made of the actual blood alcohol concentration and the test does not rely on breath/blood partition or on interpolation from the urine concentration. Blood testing is accepted in all jurisdictions as evidence concerning whether the tested individual is or is not intoxicated. While the test must be conducted in a laboratory, the medical technology required is not especially great; there

are many laboratories that can perform these tests competently, although there is no certification program comparable to that offered by the Department of Health and Human Services for drug testing. (DOT's Transportation Systems Center does conduct a voluntary program of laboratory proficiency testing. Laboratories that sign up for the program are given blood samples with known quantities of alcohol; if the lab provides an inaccurate test result, it is notified so that it can correct its procedures or equipment.)

Nevertheless, blood testing is the most physically invasive of all forms of alcohol testing, and some people may be afraid of having blood drawn. In addition, taking a blood sample, while relatively simple, is still a medical procedure, and should be performed only by a qualified professional or technician and only at a suitable physical location. It may not be feasible to conduct field sampling of employees' blood. We seek comment on how those who have used this procedure have handled employee fear and other implementation problems.

Blood tests have the same problems as any other test that must be sent to a laboratory (including the drug tests required by the Department). That is, the results of the test are not immediately available, so there would inevitably be a delay before employers would be able to identify the need for further action. And it would be necessary to establish collection, chain of custody and laboratory procedures analogous to those for urine testing. We ask for comment on whether any acceptable procedures exist.

D. Urine Testing

In this approach, employees would give a urine sample, just as in the case of drug testing. The simplest method of administering a urine test would involve collecting a single sample. This would provide evidence with respect to prior alcohol use, but would not give a reliable indication of the current BAC level. A more elaborate two-step process can indicate current alcohol levels. In the first step, the test subject voids. The collector then waits until the subject can give a second sample, typically at least one-half hour. The second sample, since it includes only newly excreted fluids, can be interpolated to calculate the approximate blood alcohol concentration. The success of this method requires that the initial void be complete. The double void will take more employee time than the single void needed for urine drug testing, thus increasing costs.

Compared to blood testing, urinalysis is less invasive physically, although it may be considered more of a privacy invasion. Of all the types of tests, it has the advantage of requiring the least skill to perform the on-site steps. In addition, since urine samples are already being taken for drugs, a requirement to institute alcohol tests might require no additional personnel or on-site equipment. This could be a significant cost advantage.

The disadvantages of urinalysis parallel those of drug testing. The delay necessary between the time of collection and the time results are available means a corresponding delay before corrective action or rehabilitation can be begun, where necessary.

In addition, there is no uniform cut-off parallel to BAC and, except for the Transportation Systems Center's limited and voluntary laboratory proficiency program, there is no nationally-recognized system of regulation for laboratories performing alcohol tests. There is no question that a urine test, particularly a two-step test, can determine whether an individual has recently consumed measurable amounts of alcohol. Thus, if the Department were to establish a permissible alcohol level of "zero," there is little doubt that urinalysis could be a useful tool. Some might argue, however, that the correlation between alcohol concentration in urine and its concentration in blood is insufficiently precise to be used as a measurement for higher cutoffs, such as .04 or .10. However, we note that FRA authorizes the use of urinalysis for alcohol (with a conservative assumption that the urine concentration is 1.5 times the blood alcohol level), and some recent literature has also endorsed it. The use of conservative conversion factors may result in underestimation of the BAC.

E. Other Techniques

There are less-expensive means of determining approximate blood alcohol concentration. We specifically request public comment on the feasibility of using the following devices or other similar ones separately or in conjunction with other methods of testing.

There are strips that turn various colors when wet with saliva mixed with an enzyme. The colors indicate saliva-alcohol concentration, which statistically is a close approximation of blood alcohol concentration. According to a NHTSA study, this method appears to give highly variable results with a high incidence of false positives. However, it could be used by individuals to determine if they can safely drive.

A different device consists of a tube filled with chemical crystals. After breaking an internal ampul containing the crystals, the person being tested expels breath into the tube. The crystals change color to indicate the amount of alcohol in the subject's breath. The device does not accurately measure blood alcohol concentration, but it is useful to indicate the presence of alcohol in the individual's system, and has been marketed for use by private individuals who want to determine whether it is safe for them to drive.

One device now in use by some police agencies is the Passive Alcohol Sensor (PAS), an electronic device which tests ambient air in front of a driver's mouth for the presence of alcohol. It must be placed within six inches of the subject's mouth. The device gives false positives about 10 percent of the time, and temperature and wind conditions affect its accuracy. The more sophisticated PBT's are more accurate, but are also subject to environmental variations from cold, wind, subject's cooperativeness, etc.

These and similar devices could not be used as tests upon which legally effective determinations of intoxication could be made. However, it could be possible, if a blood or urine test were the method of choice, to use such devices as a means of screening employees. That is, if an employee showed no evidence of alcohol on one of these screening tests, a more costly and invasive blood or urine test might not be necessary. To use these devices for this screening purpose, it would be necessary to determine, as well, whether they tend to give false negative readings. We would appreciate public comment on this. We note that the concerns that the Department had with respect to the use of screen test results to make permanent employment decisions also apply to alcohol testing.

One other promising method for identifying people who may be under the influence of alcohol may be behavioral sobriety tests. NHTSA has developed a Standardized Field Sobriety Test (SFST), which comprises three psychophysical tests. The three tests are: Walk and Turn (walking a straight line and back again); One-Leg Stand (one stage of which requires the subject to stand on one leg and count from "one thousand and one" to "one thousand and thirty"); and Horizontal Gaze Nystagmus. The first two tests measure a person's balance, muscular coordination and ability to concentrate on two activities. The horizontal nystagmus technique, which is used by some police departments as part of a

roadside screening, relies on identifying the tendency of the eyes to jerk involuntarily as they move back and forth. This tendency becomes more pronounced with increased consumption of alcohol; depending upon the individual, usually the first clues of impairment occur at BAC levels of .05-.08. It is difficult to fake normal nystagmus and the horizontal gaze nystagmus test is reported to be the most accurate method of detecting alcohol use without breath analysis or other specialized equipment. However, significant training and practice is required to master and retain this "testing" skill. We specifically invite commenters to address the utility of increased training in this and/or other methods of identifying persons who have consumed alcohol.

VII. Other Practical Problems

If alcohol testing is proposed, there are a myriad of implementation questions that will need to be addressed. In many cases, they are the same as, or analogous to, questions that were addressed and resolved in the drug testing rules or the "Procedures for Transportation Workplace Drug Testing Programs" (49 CFR part 40). However, there may also be differences, and we invite commenters to address any practical problems they foresee, including recommended solutions.

One problem has been alluded to already: while we have limited the performance of drug tests to laboratories certified by the Department of Health and Human Services, there is no fully-comparable program to certify laboratories performing alcohol tests. Of course, some tests (i.e., breath) do not require laboratory analysis, so this may not be a problem. In addition, it may be that alcohol testing is sufficiently simple that no special certification is necessary. On the other hand, if we were to require testing, we would want to take whatever measures are necessary to ensure the accuracy of test results. A related question involving laboratories is capacity. A mandatory alcohol testing program would undoubtedly increase demand for laboratory services greatly. Is there sufficient capacity in the industry to accommodate such a demand?

The role of a Medical Review Officer (MRO) would be another area of controversy. Should an MRO have to certify results before they are reported, as is done for drug testing? One important function of the MRO in connection with drug testing is to ascertain whether there is a legitimate explanation for the presence of drugs in the employee's system (e.g., ingestion of

cough syrup). Does this consideration have relevance for alcohol? A legal explanation for the presence of drugs results in a negative finding. However, if an individual exceeds an established BAC level should it matter that it resulted from legal medication; i.e., if the person is under the influence of alcohol while performing a safety function, is it necessary to know more? Does the question turn on the level of alcohol prohibited? Even if an MRO would not be necessary to consider the circumstances of alcohol ingestion, would it not still be necessary to have an independent review of the chain of custody?

What are the costs associated with different types of testing? What kinds of calibration or other standards do we need for different types of tests?

VIII. Regulatory Process Matters

It is not clear at this preliminary point what the annual effect of any rule or program will be on the economy. To the extent the Department is aware of costs or benefits, it has provided that data in this document. However, there are too many variables and possible permutations of alternatives for the Department to provide an overall cost benefit analysis. Upon review of the comments, the Department will assess the costs and benefits if further regulatory action is deemed appropriate. We do not anticipate at this point that the annual effect on the economy will be \$100 million or more for any particular mode. If it becomes apparent at a later stage in this rulemaking that the impact on the economy will be major, then we will prepare a regulatory impact analysis. Otherwise we will prepare an economic evaluation in accordance with the Department's Regulatory Policies and Procedures. Commenters should submit any relevant cost data.

This ANPRM is significant under the Department's Regulatory Policies and Procedures, because it involves matters of significant public and Congressional interest.

For the reasons noted above, at this time, we do not know whether there would be a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis will be prepared if we determine that this rulemaking would have such an impact. At this stage, we cannot determine whether this rule will impose any reporting or paperwork requirements under the Paperwork Reduction Act.

Federalism

Depending upon what action we determine to take, this rulemaking may

have substantial effects on the states or on the relationship between the national government and the states. One option under consideration is to rely on increased state enforcement to combat the alcohol problem. Because of the many possibilities and permutations, at this time, we do not have enough information to determine whether a Federalism Assessment will be necessary in accordance with Executive Order 12612. We specifically request that commenters consider the impact on federalism of any of their comments or proposals.

List of Subjects

Alcohol abuse, Safety, Transportation.

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Samuel K. Skinner,

Secretary of Transportation.

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X. Appendix B—Existing DOT Regulations

A. Alcohol

1. Introduction

As a general matter, the Department's alcohol efforts have focused on alcohol as it affects an individual's medical qualifications; prohibitions on on-duty use and, in certain cases, use just prior to reporting to work; and sanctions for violations of the Federal regulatory scheme. With limited exceptions, alcohol testing is left to State enforcement

personnel. (Coast Guard and FRA rules provide for post-accident and reasonable cause testing. FAA requires crewmembers to submit to tests upon request.) The Department has nine operating administrations. A brief description of their general functions and their specific responses to the problem of alcohol use or abuse follow.

2. Current Modal Administration Regulations

a. *U.S. Coast Guard.* The Coast Guard carries out a number of functions including commercial vessel and recreational boating safety, search and rescue missions, enforcement of maritime law, bridge administration, port and environmental safety, regulation of deepwater ports, marine environmental responses, icebreaking operations, and aids to navigation. In addition, in conjunction with other agencies, the Coast Guard carries out drug interdiction actions aimed at stopping the importation of drugs into the U.S. through its coastal waters.

The Coast Guard has broad authority for commercial vessel safety. The Coast Guard issues licenses and merchant mariner documents to merchant seamen. It also investigates marine casualties and can and does proceed against licenses or documents for violation of dangerous drug laws or for negligent acts while under the influence of alcohol. The Coast Guard also has been taking action against licenses and merchant mariner's documents of seamen who have been found to be either in the possession of intoxicating liquor or intoxicated by alcohol.

The Coast Guard Authorization Act of 1984 established civil and criminal penalties for operating a vessel while intoxicated, as determined under standards developed by the Coast Guard. In addition to establishing penalties for operating a vessel while intoxicated, the Act requires future reports of marine casualties to include information concerning whether the use of alcohol contributed to the casualty. The Coast Guard issued a final rule, effective January 13, 1988, implementing the directive in the 1984 Authorization Act. It established Federal behavioral and blood alcohol concentration (BAC) intoxication standards for both commercial and recreational vessel operators. Either the behavioral or BAC standard can independently be used to determine intoxication. The behavioral standard is useful, because blood tests may be refused or not taken in a timely manner.

The rule applies a .04 percent BAC standard to operators of all commercial vessels, including fishing vessels. For recreational boaters, the Federal BAC standard is .10 percent. This and the Federal behavioral standard apply only in the absence of existing State BAC and behavioral standards or outside of State territorial waters. For example, if a State has only a behavioral standard, the Federal .10 percent BAC level would also apply to recreational boaters. The rule does not preempt enforcement by a State of its applicable laws and regulations concerning operating a recreational vessel while intoxicated or limit more stringent employer-sponsored programs.

The rule requires employers to ensure that intoxicated individuals are not permitted on

duty. Crewmembers are prohibited from operating a vessel while intoxicated, drinking on duty or assuming duties within four hours of consuming alcohol. The rule covers U.S. vessels operating anywhere, foreign vessels operated in U.S. waters and individuals with an essential role in operating a vessel, but not when they are on shore. It provides for licensed personnel to seek voluntary rehabilitation prior to being subject to a suspension or revocation proceeding for intoxicant-related incompetence; allows Coast Guard officers to terminate the use of certain vessels when the operator appears to be under the influence of an intoxicant so that further operation creates an unsafe condition; and requires employers' reports on marine casualties to include specific information on the role of intoxicants in the accident.

The rule allows post-accident and reasonable cause testing for intoxicants by employers and State law enforcement officials. Where practicable, the marine employer's determination of reasonable cause should be based on observation of the individual's behavior and demeanor by two persons. Refusal by commercial mariners to submit to a test is presumptive of intoxication (if State law permits such a presumption; this is true for recreational boaters as well). Individuals determined to be intoxicated will have the opportunity during judicial or administrative hearings to dispute the charge.

In addition, the Coast Guard has instructed its casualty investigators to be closely attuned to the possibility of drug or alcohol involvement in marine casualties and is training investigators to look for and recognize alcohol or drug ties to accidents. The Coast Guard, in cooperation with the National Association of State Boating Law Administrators, and the National Transportation Safety Board (NTSB), has developed and distributed to the states a set of guidelines for states to use in developing state legislation addressing the drug and alcohol problem. Among other concerns, the guidelines address restrictions and prohibitions that should be considered, testing, evidentiary requirements, penalties, and education.

Independent of present regulations, the master of a vessel traditionally has had plenary disciplinary authority aboard his vessel. Even today, a master may, and often does, deal with alcohol-related problems by logging individuals who are intoxicated and docking their pay.

Upon completion of the voyage, a Coast Guard marine investigator reviews the ship's log. In addition to the shipboard punishment imposed by the master, the investigator normally will charge a mariner with misconduct for failure to perform due to intoxication, subjecting the mariner to a suspension and revocation proceeding before an Administrative Law Judge. Depending on the circumstances of the incident, the mariner may be given a letter of admonishment, a suspension under probation, or outright suspension or revocation of his license and/or document. The Administrative Law Judge also may direct the mariner to enter a rehabilitation program.

The Coast Guard also has internal procedures that address alcohol problems and drug use by its military employees.

b. *Federal Aviation Administration.* The Federal Aviation Administration (FAA) is charged with regulating air commerce. This includes programs governing safety, airspace and air traffic management, air navigation facilities, research, engineering, development, testing and evaluation of systems needed for a safe and efficient system, airport development and aircraft registration.

FAA alcohol regulations cover pilots, flight engineers, and other crewmembers. For example, they prohibit any pilot from acting or attempting to act as a crewmember if he or she is under the influence of alcohol, or has consumed any alcoholic beverage within 8 hours of reporting for duty. FAA regulations also prohibit a pilot from flying with a blood alcohol concentration (BAC) of .04 or higher. The FAA can suspend or revoke a certificate or assess penalties for failure to comply with its regulations.

The FAA requires pilots to have medical examinations (private and recreational pilots—once every 2 years; commercial pilots—once every year; airline transport pilots—once every 6 months). If a history of drug dependence, alcoholism, or mental problems is discovered, the FAA may disqualify the pilot. The FAA also uses a "driving while intoxicated" (DWI) or a "driving under the influence" (DUI) conviction as an indication of a possible alcohol or drug problem. The FAA recently issued a notice of proposed rulemaking designed to identify those pilots that are convicted of driving while intoxicated or driving under the influence and review their medical qualifications in light of such convictions.

Finally, the FAA requires crewmembers to submit to an alcohol test on request of a law enforcement officer who has a reasonable basis to believe that the crewmember may have violated state alcohol rules. The law enforcement officer must be authorized under State or local law to obtain such tests. State law and practices vary; only six states give explicit authority to obtain such tests.

It is also important to note the role of international conventions in this area. Annex 2 to the Convention on International Civil Aviation (the Chicago Convention), section 2.5, of which the United States is a contracting state, provides that no person shall pilot or act as a flight crewmember while impaired by an intoxicating liquor or narcotic drug.

c. *Federal Highway Administration.* The Federal Highway Administration (FHWA) is involved in a variety of areas such as financial assistance, highway construction and motor carrier safety. It has the authority to establish medical/physical qualification requirements for truck and bus drivers and has had regulations on this subject for over 30 years. Within the context of a comprehensive, nationwide revamping of testing, licensing and disqualification procedures for commercial motor vehicle (CMV) operators, the FHWA recently established stringent regulations defining driving under the influence of alcohol (DUI) for commercial drivers. However,

enforcement of the DUI standard continues to be primarily the responsibility of the States in the motor carrier field.

FHWA regulations require that commercial drivers submit to a medical examination once every two years. A driver will not be considered physically qualified to drive a motor vehicle if, among other things, the driver is currently a practicing alcoholic.

FHWA regulations prohibit the use of alcoholic beverages within four hours of reporting to work, and prohibit a driver from working while having any measured BAC or any detected presence of alcohol in his or her system. These and related infractions carry a 24-hour out-of-service penalty.

The CDL regulations and the FMCSRs also require that a driver be disqualified for one year if the driver is convicted of a DUI offense at the .04 percent BAC level or greater, or for a drug offense. The offenses must have occurred while the driver was driving a CMV or a vehicle subject to the FMCSRs. Second offenses, or offenses involving the movement of hazardous materials, carry longer disqualification penalties, ranging from three years to life.

The Commercial Driver's License Information System (CDLIS), implemented under the Commercial Motor Vehicle Safety Act of 1986, will constitute a useful tool for identifying and removing from the road problem drinkers who drive CMVs. After March 31, 1992, every driver of a CMV nationwide will be required to hold a CDL from his or her state of domicile, issued according to FHWA standards. Since the CDLIS will be the nationwide clearinghouse for driving record information for all CDL holders, and since states must check with the CDLIS to yield important highway safety benefits in the alcohol area.

On October 4, 1988, FHWA issued regulations whereby a commercial motor vehicle (CMV) driver found to have a blood alcohol concentration level of .04 or above will be deemed to be DUI. States are required to adopt this standard for CMV operators, or face the loss of highway funding. They also require commercial motor vehicle operators with any measured BAC to be placed out-of-service for a 24 hour period.

The new DUI standard has not as yet been applied by the States. Under the statutory mandate that authorized the Department to set the DUI standard, Congress recognized that it would take some time for the States to implement the program. Therefore, States have until September 30, 1993 to adopt these standards. The States are rapidly enacting legislation to implement the entire CDL program, including its BAC provisions; over half the States had enacted the .04 percent BAC level for CMV drivers by late summer 1989. The FHWA program thus establishes a DUI standard for a CMV driver, and sets penalties, which are to be enforced by the States. Currently, alcohol testing is done by the States, but the new provisions mandate a lower and uniform BAC, as well as penalties.

d. *Federal Railroad Administration.* The Federal Railroad Administration (FRA) is involved in areas such as railroad safety, financial assistance, and national rail transportation policy. Since 1970, FRA has

had statutory authority to regulate all fields of railroad safety, including employee qualifications as they relate to safety. Historically, FRA encouraged rail management and labor to work together on alcohol and drug prevention programs, especially employee assistance programs. However, such programs were not required.

In 1985, FRA issued a final rule governing the conduct of railroads and employees subject to the Hours of Service Act (engine, train and yard crews, dispatchers and train order operators, and signal employees). The final rule prohibits on-the-job use, possession of or impairment by alcohol or any controlled substance as well as having a BAC level of .04 or more.

The rule mandates full toxicological testing (blood and urine) after certain accidents that involve significant public interest or a high likelihood of human failure (approximately 200 events per year). Railroads also are authorized to conduct breath and urine tests: (1) On reasonable suspicion of impairment; (2) after a human factor accident/incident; and (3) after other specified operating/safety rule violations. Effective March 1, 1986, railroads were required to institute pre-employment drug screening for potential employees, which may include alcohol analysis. The rule further requires railroads to have "voluntary referral" policies, thereby allowing workers to enroll in assistance programs.

e. Maritime Administration. The Maritime Administration (MARAD) administers programs to aid the development, promotion, and operation of the U.S. merchant marine. MARAD also administers of U.S. Merchant Marine Academy, which has an enrollment of approximately 1,100 people. The Academy regulations strictly forbid the use and possession of controlled substances and the use and possession of alcohol on Academy grounds. (Consumption of alcohol for special events can be authorized.) Entering freshman at the Academy must submit to urinalysis as part of the admissions process. For good cause, a midshipman can be sent to the infirmary for urine or blood tests for drug or alcohol use. Confirmation of a drug or alcohol rule violation leads to automatic expulsion. A full administrative hearing procedure is available. There is also an active counseling program on campus.

f. National Highway Traffic Safety Administration. The National Highway Traffic Safety Administration (NHTSA) carries out programs relating to the safety performance of motor vehicles and related equipment, motor vehicle drivers and pedestrians, a national maximum speed limit, and a national minimum drinking age, among other things.

NHTSA is actively involved in developing programs to reduce alcohol and other drug use by all motorists, including operators of commercial vehicles. NHTSA's programs include providing technical and financial assistance to the states.

Under the section 402 program, NHTSA provides for a variety of State highway safety programs. In a joint final rule, published in April 1988, NHTSA and FHWA identified national priority program areas; included among them are alcohol and other drug

counter-measures such as enforcement, education and public information and improvement of records and court systems. NHTSA provides technical assistance to states for DUI enforcement, such as the development and promotion of the use of its Standardized Field Sobriety Test (SFST), SFST training and SFST instructor training. The SFST consists of three psychophysical tests that are used to detect drug and alcohol impairment. The three tests are: Walk and Turn (walking a straight line and back again); One-Leg Stand (one stage of which requires the subject to stand on one leg and count from "one thousand and one" to "one thousand and thirty"); and Horizontal Gaze Nystagmus. The first two tests measure a person's balance, muscular coordination and ability to concentrate on two activities. The horizontal nystagmus technique, which is used by some police departments as part of a roadside screening, relies on identifying the tendency of the eyes to jerk involuntarily as they move back and forth.

The section 408 alcohol incentive grant program provides funds to States that have improved laws and programs to reduce traffic safety problems involving drivers under the influence of alcohol or a controlled substance. The program is available to all qualifying States—21 have currently qualified. Through the 408 program, NHTSA also awards grants to States that have programs that satisfy certain supplemental criteria established by regulation, or that enact tough sentencing laws for individuals convicted of driving under the influence of alcohol.

Finally, a joint NHTSA/FHWA regulation implements the Federal statute that requires that certain Federal highway funds be withheld from States that permit the purchase or public possession of alcohol by those under the age of 21. The law provides for a five percent total withholding in FY87 and a ten percent withholding in all succeeding fiscal years.

g. Research and Special Programs Administration. The Research and Special Programs Administration (RSPA) regulates the safety of transportation of hazardous materials and the transportation of natural gas and hazardous liquids by pipeline, collects air carrier economic data, and conducts multimodal transportation research and development.

RSPA has no specific regulations on alcohol. It does have a general regulation on health of pipeline workers at liquefied natural gas plants. Pipeline operators must look for any physical condition that would impair performance, including any observable disorder or condition that is discoverable by a professional examination.

h. St. Lawrence Seaway Development Corporation. The St. Lawrence Seaway Development Corporation (SLSDC) is responsible for the development, operation and maintenance of that portion of the St. Lawrence Seaway that falls within the territorial limits of the U.S.

No specific legislation or SLSDC regulation covers alcohol and other drug use, but a general regulation allows the Corporation to prohibit the transit of a vessel if the crew is incompetent or inadequate and to board the

vessel to determine this. The U.S. Coast Guard regulations apply to U.S. pilots, crewmen and vessels.

i. Urban Mass Transportation Administration. The Urban Mass Transportation Administration (UMTA) assists in developing improved mass transportation facilities, planning and financing of such systems, and encouraging private sector involvement in local mass transit systems.

The UMTA grant statutes prohibit the agency from making grants unless recipients have the legal, technical, and financial capability to carry out UMTA-assisted projects, including the ability to provide safe transit services. Grantees must exercise satisfactory continuing control over UMTA-assisted facilities and equipment. UMTA has no current regulations concerning alcohol. Even so, many of UMTA's grantees are subject to other Federal requirements on alcohol use. All commuter rail lines funded by UMTA, for example, are subject to FRA regulations. All drivers of UMTA-funded vehicles that are capable of carrying more than 15 passengers, including the driver, are subject to the FHWA DUI standards. However, other grantees, small transit systems, for example, and all UMTA-funded rail systems other than commuter rail, are not subject to Federal requirements on alcohol use.

B. Drugs

On November 21, 1988, six modal administrations of the Department of Transportation published final rules that require the commercial transportation operators they regulate to test employees in sensitive safety- and security-related occupations for drugs and to develop employee assistance programs (EAP) to provide information and training. The rules cover approximately 4 million persons in the aviation, highway, railroad, pipeline, mass transit and maritime industries. The employers are required to conduct preemployment, periodic (physicals), post-accident, reasonable cause, random, and return to duty drug tests and to test for five classes of drugs: marijuana, cocaine, amphetamines, phencyclidine (PCP) and opiates. The testing must be conducted in accordance with DOT-wise regulations based on the Department of Health and Human Services Guidelines (HHS), which are designed to protect the privacy and dignity of the individuals tested. A positive initial screening test is followed by a more specific gas chromatography/mass spectrometry confirmation test. Persons who confirm positive must be removed from their sensitive safety- or security-related position. They can be reinstated only upon successful completion of a rehabilitation program and a return to duty test. The rules encourage, but do not require employers to establish rehabilitation programs. Most testing will begin in December 1989. Small companies have an extra year to implement drug testing.

XI. Appendix C—NHTSA Conclusion on IID's

- Ignition interlock technology based on breath alcohol test devices for detecting and

preventing alcohol-impaired driving does appear feasible at this time. Devices that measure a driver's BAC level are currently being marketed and used.

- Laboratory tests have shown the current breath test ignition interlock devices, when set to interlock at 0.03 percent BAC, to be relatively accurate in detecting low (i.e., 0.04 percent BAC) as well as high driver BAC levels. The accuracy and reliability of these devices under real-world conditions is unknown. There is no apparent reason why any operational problems cannot easily be overcome.

- The devices contain anti-tampering and circumvention measures that appear to reduce the likelihood of many forms of tampering and circumvention. Such activity by users is not impossible, but operational experience and testing will indicate the extent to which tampering and circumvention will be a problem.

- Current interest has focused on applying this technology to convicted DWI offenders as a condition of probation or to obtain a restricted driving privilege. Critical information necessary to estimate the potential effectiveness of these devices in this application is lacking. This includes whether the devices function properly under real-world conditions and evidence that persons required to use the devices do not tamper or circumvent their use and do not elect to operate other vehicles when drinking.

- There is not yet enough evidence available to judge how effective these devices will be in deterring alcohol-impaired driving and related crashes.

- It is not appropriate for these devices to be used in lieu of other sanctions that have evidence of beneficial effects (e.g., license suspension). Use of this technology as an additional condition of probation or for reinstatement of a restricted driving privilege does appear appropriate.

- The use of these devices with other populations may be feasible (e.g., fleet owners could install them, commercial and public transportation vehicles could be equipped, and individuals interested in this protection could pay for their installation). Widespread use of this type would have to overcome resistance due to the costs, liability issues, and public acceptability issues. Also, considerable research is needed to ascertain the practicality of these uses of the devices.

- Ignition interlock technology for detecting and preventing drug-impaired driving does not appear feasible at this time. There is no easy or feasible in-vehicle test method currently known to detect the use of drugs. In addition, the cost and complexity of testing for different drugs thought to impair driving skill (including legal as well as illegal drugs), makes such an approach even more impractical.

The most immediate issues outstanding regarding the use of breath test ignition

interlock technology with convicted DWI offenders are:

- Their operational performance in the real world (i.e., their accuracy, reliability, maintenance and calibration requirements);

- The extent to which the devices are tampered with, circumvented, or non-equipped vehicles are used by persons ordered to only drive cars with ignition interlock devices installed;

- The effectiveness of these devices in reducing alcohol-impaired driving; and

- The certification standards adopted by the states authorizing use of the devices.

NHTSA research will help address these needs:

- NHTSA is currently initiating a project to develop model performance guidelines and test procedures that states can use in developing their own certification standards.

- NHTSA is providing grant funds to California to support their ongoing evaluation of their ignition interlock program.

- NHTSA will provide technical assistance to states or local communities interested in evaluating the effectiveness of their ignition interlock program.

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Registered Federal Report

Thursday
November 2, 1989

Part III

The President

Proclamation 6058—To Amend the
Generalized System of Preferences

Proclamation 6058 of October 31, 1989

TO AMEND THE GENERALIZED SYSTEM OF PREFERENCES

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

1. Section 1903 of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) (Public Law No. 100-418, 102 Stat. 1313) amends section 503(c)(1)(B) of the Trade Act of 1974 (the 1974 Act) (19 U.S.C. 2463(c)(1)(B)) to provide for the continued exclusion of watches as eligible articles under the Generalized System of Preferences (GSP) except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

2. Pursuant to Title V of the 1974 Act, as amended (19 U.S.C. 2461 *et seq.*), the President may designate specified articles provided for in the Harmonized Tariff Schedule of the United States (HTS) as eligible for preferential tariff treatment under the GSP when imported from designated beneficiary developing countries.

3. Pursuant to section 503(c)(1)(B) of the 1974 Act, as amended, I have determined that the addition of certain specified watches (HTS subheadings in Annex I to this Proclamation) as articles eligible for preferential treatment under the GSP will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

4. Pursuant to sections 501 and 503(a) of the 1974 Act (19 U.S.C. 2461 and 2463(a)), I have determined, after taking into account information and advice received under section 503(a) of the 1974 Act, that it is appropriate to designate certain specified watches provided for in the HTS as eligible for preferential treatment under the GSP.

5. Section 201(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (the Implementation Act) (Public Law No. 100-449, 102 Stat. 1851) authorizes the President to proclaim such modifications or continuance of any existing duties, such continuance of existing duty-free or excise treatment, or such additional duties, as the President determines are necessary or appropriate to carry out Article 401 of the United States-Canada Free-Trade Agreement and the schedule of duty reductions with respect to goods originating in the territory of Canada set forth in Annexes 401.2 and 401.7 to the Agreement.

6. Pursuant to section 201(a) of the Implementation Act, I have determined that it is necessary to provide for the continued staged reduction in duties on certain goods originating in the territory of Canada.

7. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the provisions of that Act, and of other Acts affecting import treatment, and actions thereunder.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to Title V and section 604 of the 1974 Act, and section 201 of the Implementation Act, do proclaim that:

(1) In order to provide benefits under the GSP to specified designated eligible articles when imported from any designated beneficiary developing country, the HTS is modified as provided in Annex I to this Proclamation.

(2) In order to provide for the continued staged reductions on Canadian goods in particular HTS subheadings modified in Annex I to this Proclamation, effective with

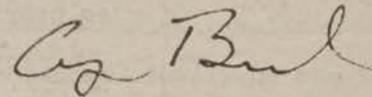
respect to certain goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates specified in Annex II to this Proclamation, the rate of duty in the HTS set forth in the Rates of Duty 1-Special subcolumn followed by the symbol "CA" in parentheses for each of the HTS subheadings enumerated in such Annex II shall be deleted and the rate of duty provided in such Annex shall be inserted in lieu thereof.

(3) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this Proclamation are hereby superseded to the extent of such inconsistency.

(4) (a) The amendments made by Annex I of this Proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after the date that is 14 days after the publication of this Proclamation in the Federal Register.

(b) The amendments made by Annex II of this Proclamation shall be effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates specified in such Annex.

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



ANNEX I

(a) Chapter 91 of the Harmonized Tariff Schedule of the United States is modified as follows:

Notes:

1. Bracketed matter is included to assist in the understanding of proclaimed modifications.
2. The following supersedes matter now in the Harmonized Tariff Schedule of the United States (HTS). The subheadings and superior descriptions are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

Effective as to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 14 days after the publication of this Proclamation in the Federal Register.

1. Subheading 9101.12.00 is superseded by:

	[Wrist watches,...:]			
	[Wrist watches,...:]			
"9101.12	With opto-electronic display only: Straps, bands or bracelets entered with watches of subheading 9101.12.80 and classifiable therewith pursuant to additional U.S. note 2 to this chapter; all the foregoing whether or not attached to such watches at the time of entry:			
9101.12.20	Of textile material or of base metal, whether or not gold- or silver-plated.....	3.9%	Free (E,IL) 3.5% (CA)	35%
9101.12.40	Other.....	3.9%	Free (A,E,IL) 3.5% (CA)	35%
9101.12.80	Other.....	3.9% on the movement and case + 5.3% on the battery	Free (A,E,IL) 3.5% on the movement and case + 4.7% on the battery (CA)	35%"

2. Subheading 9101.21.40 is superseded by:

	[Wrist watches,...:]			
	[Other wrist....:]			
	[With automatic....:]			
	"Having over 17 jewels in the movement: Straps, bands or bracelets entered with watches of subheading 9101.21.50 and classifiable therewith pursuant to additional U.S. note 2 to this chapter; all the foregoing whether or not attached to such watches at the time of entry:			
9101.21.10	Of textile material or of base metal, whether or not gold- or silver-plated.....	6.25%	Free (E,IL) 5.6% (CA)	80%
9101.21.30	Other.....	6.25%	Free (A,E,IL) 5.6% (CA)	80%
9101.21.50	Other.....	\$2.30 each + 6.25% on the case	Free (A,E,IL) \$2.07 each + 5.6% on the case (CA)	\$11.50 each + 45% on the case"

ANNEX I (con.)

2 of 3

3. Subheading 9101.29.60 is superseded by:

[Wrist watches,....:]

[Other wrist....:]

[Other:]

"Having over 17 jewels in the movement:

Straps, bands or bracelets entered with watches of subheading 9101.29.90 and classifiable therewith pursuant to additional U.S. note 2 to this chapter; all the foregoing whether or not attached to such watches at the time of entry:

9101.29.70	Of textile material or of base metal, whether or not gold- or silver-plated.....	6.25%	Free (E,IL) 5.6% (CA)	80%
9101.29.80	Other.....	6.25%	Free (A,E,IL) 5.6% (CA)	80%
9101.29.90	Other.....	\$2.30 each + 6.25% on the case	Free (A,E,IL) \$2.07 each + 5.6% on the case (CA)	\$11.50 each + 45% on the case"

4. Subheading 9102.12.00 is superseded by:

[Wrist watches,....:]

[Wrist watches,....:]

"9102.12

With opto-electronic display only:

Straps, bands or bracelets entered with watches of subheading 9102.12.80 and classifiable therewith pursuant to additional U.S. note 2 to this chapter; all the foregoing whether or not attached to such watches at the time of entry:

9102.12.20	Of textile material or of base metal, whether or not gold- or silver-plated.....	3.9%	Free (E,IL) 3.5% (CA)	35%
9102.12.40	Other.....	3.9%	Free (A,E,IL) 3.5% (CA)	35%
9102.12.80	Other.....	3.9% on the movement and case + 5.3% on the battery	Free (A,E,IL) 3.5% on the movement and case + 4.7% on the battery (CA)	35%"

ANNEX I (con.)

3 of 3

5. Subheading 9102.29.05 is superseded by:

[Wrist watches,...:]

[Other wrist...:]

[Other:]

[Having no...:]

"With strap, band or bracelet
of textile material or of
base metal, whether or not
gold- or silver-plated:

9102.29.02

Straps, bands or
bracelets entered with
watches of subheading
9102.29.04 and
classifiable therewith
pursuant to additional
U.S. note 2 to this
chapter; all the
foregoing whether or
not attached to such
watches at the time of
entry..... 14%

Free (E*,IL) 110%
12.6% (CA)

9102.29.04

Other..... 40¢ each +
6% on the
case

Free (A,E*,IL) \$1.70 each +
36¢ each + 45% on the
5.4% on the case"
case (CA)

(b) For the following HTS subheadings, in the Rates of Duty 1-Special subcolumn, insert in the parentheses the symbol "A," immediately before the "E" in each such subheading:

9101.91.20
9101.91.40
9101.91.80
9101.99.20
9101.99.40

9101.99.60
9101.99.80
9102.29.10
9102.91.20

9102.99.20
9102.99.40
9102.99.60
9102.99.80

Annex II

Effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates set forth in the following tabulation.

For each of the following subheadings created by Annex I of this Proclamation, the rate of duty in the Rates of Duty 1-Special subcolumn in the HTS that is followed by the symbol "CA" in parentheses is deleted and the following rates of duty inserted in lieu thereof on the date specified below.

HTS Subheading	January 1, 1990	January 1, 1991	January 1, 1992	January 1, 1993	January 1, 1994	January 1, 1995	January 1, 1996	January 1, 1997	January 1, 1998
9101.12.20	:3.1%	:2.7%	:2.3%	:1.9%	:1.5%	:1.1%	:0.7%	:0.3%	:Free
9101.12.40	:3.1%	:2.7%	:2.3%	:1.9%	:1.5%	:1.1%	:0.7%	:0.3%	:Free
9101.12.80	:3.1% on the movement, and case + 4.2% on the battery	:2.7% on the movement, and case + 3.7% on the battery	:2.3% on the movement, and case + 3.1% on the battery	:1.9% on the movement, and case + 2.6% on the battery	:1.5% on the movement, and case + 2.1% on the battery	:1.1% on the movement, and case + 1.5% on the battery	:0.7% on the movement, and case + 1% on the battery	:0.3% on the movement, and case + 0.5% on the battery	:Free
9101.21.10	:5%	:4.3%	:3.7%	:3.1%	:2.5%	:1.8%	:1.2%	:0.6%	:Free
9101.21.30	:5%	:4.3%	:3.7%	:3.1%	:2.5%	:1.8%	:1.2%	:0.6%	:Free
9101.21.50	:\$1.84 each + 5% on the case	:\$1.61 each + 4.3% on the case	:\$1.38 each + 3.7% on the case	:\$1.15 each + 3.1% on the case	:92¢ each + 2.5% on the case	+:69¢ each + 1.8% on the case	+:46¢ each + 1.2% on the case	+:23¢ each + 0.6% on the case	:Free
9101.29.70	:5%	:4.3%	:3.7%	:3.1%	:2.5%	:1.8%	:1.2%	:0.6%	:Free
9101.29.80	:5%	:4.3%	:3.7%	:3.1%	:2.5%	:1.8%	:1.2%	:0.6%	:Free
9101.29.90	:\$1.84 each + 5% on the case	:\$1.61 each + 4.3% on the case	:\$1.38 each + 3.7% on the case	:\$1.15 each + 3.1% on the case	:92¢ each + 2.5% on the case	+:69¢ each + 1.8% on the case	+:46¢ each + 1.2% on the case	+:23¢ each + 0.6% on the case	:Free
9102.12.20	:3.1%	:2.7%	:2.3%	:1.9%	:1.5%	:1.1%	:0.7%	:0.3%	:Free
9102.12.40	:3.1%	:2.7%	:2.3%	:1.9%	:1.5%	:1.1%	:0.7%	:0.3%	:Free
9102.12.80	:3.1% on the movement, and case + 4.2% on the battery	:2.7% on the movement, and case + 3.7% on the battery	:2.3% on the movement, and case + 3.1% on the battery	:1.9% on the movement, and case + 2.6% on the battery	:1.5% on the movement, and case + 2.1% on the battery	:1.1% on the movement, and case + 1.5% on the battery	:0.7% on the movement, and case + 1% on the battery	:0.3% on the movement, and case + 0.5% on the battery	:Free
9102.29.02	:11.2%	:9.8%	:8.4%	:7%	:5.6%	:4.2%	:2.8%	:1.4%	:Free
9102.29.04	:32¢ each + 4.8% on the case	+:28¢ each + 4.2% on the case	+:24¢ each + 3.6% on the case	+:20¢ each + 3% on the case	+:16¢ each + 2.4% on the case	+:12¢ each + 1.8% on the case	+:8¢ each + 1.2% on the case	+:4¢ each + 0.6% on the case	:Free

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Filed 11-1-89; 2:50 pm]

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Reader Aids

Federal Register

Vol. 54, No. 211

Thursday, November 2, 1989

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-5237

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230
---------------------	----------

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

46043-46220	1
46221-46354	2

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR	26 CFR
Proclamations:	1.....46187
6058.....46348	602.....46187
Administrative Orders:	
Orders:	30 CFR
Oct. 30, 1989.....46043	914.....46049
7 CFR	Proposed Rules:
932.....46221	914.....46076, 46077
1230.....46222	936.....46078
Proposed Rules:	31 CFR
989.....46269	316.....46053
1762.....46187	342.....46053
1772.....46071	351.....46053
10 CFR	32 CFR
Proposed Rules:	51.....46227
764.....46072	33 CFR
12 CFR	147.....46230
701.....46222	Proposed Rules:
14 CFR	Ch. I.....46326
14.....46196	34 CFR
39.....46045	75.....46064
71.....46046, 46047, 46187, 46226	76.....46064
Proposed Rules:	77.....46064
71.....46072-46074	78.....46064
Ch. I.....46326	81.....46064
Ch. II.....46326	200.....46064
18 CFR	203.....46064
271.....46047	204.....46064
19 CFR	205.....46064
Proposed Rules:	208.....46064
4.....46075	212.....46064
23 CFR	222.....46064
Proposed Rules:	245.....46064
Ch. I.....46326	246.....46064
Ch. II.....46326	247.....46064
Ch. III.....46326	250.....46064
Ch. IV.....46326	251.....46064
24 CFR	252.....46064
200.....46227	253.....46064
203.....46227	254.....46064
204.....46227	255.....46064
213.....46227	256.....46064
220.....46227	257.....46064
221.....46227	258.....46064
222.....46227	263.....46064
234.....46227	280.....46064
235.....46227	300.....46064
240.....46227	303.....46064
3280.....46049	307.....46064
Proposed Rules:	345.....46064
882.....46270	379.....46064
887.....46270	425.....46064
	426.....46064
	432.....46064
	433.....46064
	434.....46064
	435.....46064, 46065

436.....	46064, 46065
437.....	46064, 46065
438.....	46064, 46065
441.....	46064
548.....	46064
608.....	46064
654.....	46064
668.....	46064
682.....	46064
690.....	46064
745.....	46064
755.....	46064
757.....	46064
758.....	46064
785.....	46064
786.....	46064
787.....	46064

37 CFR

1.....	46231
2.....	46231
307.....	46065

38 CFR

1.....	46187
8.....	46231

Proposed Rules:

3.....	46270
36.....	46079

40 CFR

52.....	46232, 46233
60.....	46234, 46236
180.....	46066-46068
185.....	46068

Proposed Rules:

52.....	46271
180.....	46081-46084

41 CFR**Proposed Rules:**

101-17.....	46206
101-40.....	46244

44 CFR

64.....	46069, 46245
65.....	46248

46 CFR

572.....	46249
----------	-------

Proposed Rules:

I.....	46326
II.....	46326
572.....	46273

47 CFR

73.....	46250, 46251
---------	--------------

Proposed Rules:

73.....	46274, 46275
---------	--------------

49 CFR

544.....	46252
567.....	46253
571.....	46253, 46257

Proposed Rules:

21.....	46085
Subtitle A.....	46326
II.....	46326
III.....	46326
IV.....	46326
V.....	46326
VI.....	46326
571.....	46275

50 CFR**Proposed Rules:**

216.....	46086
675.....	46268

LIST OF PUBLIC LAWS**Last List November 1, 1989**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 801/Pub. L. 101-132

To designate the United States Court of Appeals Building at 56 Forsyth Street in Atlanta, Georgia, as the "Elbert P. Tuttle United States Court of Appeals Building". (Oct. 30, 1989; 103 Stat. 778; 1 page) Price: \$1.00

H.J. Res. 380/Pub. L. 101-133

Designating October 18, 1989 as "Patient Account Management Day". (Oct. 30, 1989; 103 Stat. 779; 1 page) Price: \$1.00

S. 1792/Pub. L. 101-134

To amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes. (Oct. 30, 1989; 103 Stat. 780; 2 pages) Price \$1.00

S.J. Res. 177/Pub. L. 101-135

To designate October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day". (Oct. 30, 1989; 103 Stat. 782; 1 page) Price: \$1.00

Note: The "Table of Effective Dates and Time Periods—October 1989" inadvertently appeared in the November 1, 1989, Federal Register. The table for November appears below.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—NOVEMBER 1989

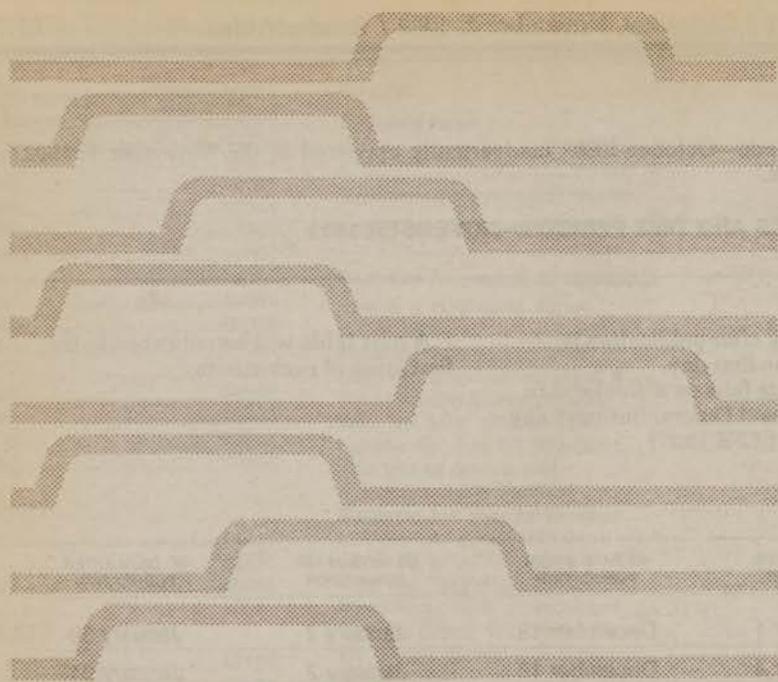
This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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November 1	November 16	December 1	December 18	January 2	January 30
November 2	November 17	December 4	December 18	January 2	January 31
November 3	November 20	December 4	December 18	January 2	February 1
November 6	November 21	December 6	December 21	January 5	February 5
November 7	November 22	December 7	December 22	January 8	February 5
November 8	November 24	December 8	December 26	January 8	February 6
November 9	November 24	December 11	December 26	January 8	February 7
November 13	November 28	December 13	December 28	January 12	February 12
November 14	November 29	December 14	December 29	January 16	February 12
November 15	November 30	December 15	January 2	January 16	February 13
November 16	December 1	December 18	January 2	January 16	February 14
November 17	December 4	December 18	January 2	January 16	February 15
November 20	December 5	December 20	January 4	January 19	February 20
November 21	December 6	December 21	January 5	January 22	February 20
November 22	December 7	December 22	January 8	January 22	February 20
November 24	December 11	December 26	January 8	January 23	February 22
November 27	December 12	December 27	January 11	January 26	February 26
November 28	December 13	December 28	January 12	January 29	February 26
November 29	December 14	December 29	January 16	January 29	February 27
November 30	December 15	January 2	January 16	January 29	February 28



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Revised January 1, 1989

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