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Thursday
January 31, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the Reader Aids Section at the end of this issue.

6915 **National Poison Prevention Week, 1980** Presidential proclamation

7208 **Food Stamps** USDA/FNS issues rule on provision of social security numbers, and fraud disqualification and recovery (Part XI of this issue)

7224 **China** Treasury/Foreign Assets Control Office issues rule unblocking assets blocked because of an interest therein of the People's Republic of China or its Nationals; effective 1-31-80 (Part XII of this issue)

7029 **Public Service Archeology Grant Program** DOT/FHWA offers grants for academic year 1980-81

7003, 7004 **Family Planning** HEW/HSA announces project grants on general training and nurse practitioner training; apply by 4-1 and 5-1-80 (2 documents)

7004 **Occupational Cutaneous Hazards and Diseases** HEW/PHS announces competitive grants for research and demonstrations; apply by 3-1, 7-1, and 11-1-80

CONTINUED INSIDE



Highlights

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7156 **Oil Pollution Prevention** DOT/CG amends rules for vessels and marine oil transfer facilities; effective 3–3–80 (Part VIII of this issue)

7140 **Radioactive Materials** DOT/RSPA proposes to amend highway routing requirements; comments by 5–31–80 (Part VII of this issue)

6946 **Aircraft** DOT/MTB amends rules regarding accessibility requirements for radioactive materials; effective 1–31–80

6960 **Carcinogens** EPA extends comment period on proposed policy and procedures for identifying, assessing, and regulating airborne substances posing a risk; comments by 2–21–80, hearings 3–10, 3–12, and 3–13–80

6923 **Aircraft Operating Noise Limits** DOT/FAA issues compliance plans and expanded definition of "replacement airplanes"; effective 1–31–80, initial compliance plan due by 5–1–80

7072, 7082 **Housing** HUD/FHC issues two interim rules on Housing Assistance Payments Program for Substantial Rehabilitation regarding revisions to main program and changes for Neighborhood Strategy Area program; effective 2–20–80, comments by 3–31–80 (2 documents) (Parts II and III of this issue)

7122, 7139 **Light-Duty Motor Vehicles** EPA issues decision on applications for waiver of effective date, and issues revised standards for 1981 model year carbon monoxide emission standard; revised standards effective 2–25–80, (Part VI of this issue) (2 documents)

6951 **Motor Gasoline** DOE/ERA proposes allocation level for mail hauling; comments by 4–4–80, hearing 2–28–80, requests to speak by 2–21–80

6917 **Motor Gasoline Allocation** DOE/ERA amends rules regarding diesel fuel for surface passenger mass transportation; effective 1–24–80 and 3–1–80

7043 **Sunshine Act Meetings**

Separate Parts of This Issue

7072 **Part II, HUD**
7082 **Part III, HUD**
7106 **Part IV, Interior/Sec'y**
7118 **Part V, Justice/OJARS**
7122 **Part VI, EPA**
7140 **Part VII, DOT/RSPA**
7156 **Part VIII, DOT/CG**
7182 **Part IX, HEW/NIH**
7186 **Part X, OMB**
7208 **Part XI, USDA/FNS**
7224 **Part XII, Treasury/Foreign Assets Control Office**

Contents

Federal Register
Vol. 45, No. 22
Thursday, January 31, 1980

The President
PROCLAMATIONS
6915 Poison Prevention Week, 1980, National (Proc. 4719)

Executive Agencies

Agricultural Marketing Service
RULES
6917 Oranges (navel) grown in Ariz. and Calif.

Agriculture Department
See Agricultural Marketing Service; Federal Grain Inspection Service; Forest Service; Science and Education Administration.

Air Quality National Commission
NOTICES
7013 Meeting

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
7003 February

Bonneville Power Administration
NOTICES
Environmental statements; availability, etc.:
6985 Surprise Valley Area Service, new electrical facilities, Oreg. and Calif.

Center for Disease Control
See National Institute for Occupational Safety and Health.

Civil Aeronautics Board
RULES
Organization, functions, and authority delegations:
6924 Essential Air Services Division, Chief; proposals from air carriers to provide essential air service
NOTICES
6981 All-cargo air service certificate applications
6982 Certificates of public convenience and necessity and foreign air carrier permits
Hearings, etc.:
6981 International Air Transport Association

Coast Guard
RULES
Drawbridge operations:
6932 Texas
Oil pollution prevention:
7156 Vessels and marine oil transfer facilities
Safety zones:
6932 Port Valdez, Alaska
PROPOSED RULES
Pollution:
6956 Ocean dumping electronic surveillance equipment; installation; extension of time
NOTICES
7026 Port access routes; study dates and contact points; inquiry

Commerce Department
See also Maritime Administration; National Oceanic and Atmospheric Administration; National Technical Information Service.
NOTICES
Nondiscrimination:
6984 Age discrimination in federally-assisted programs

Conservation and Solar Energy Office
NOTICES
Meetings:
6986 Federal Photovoltaic Utilization Program Advisory Committee
6986 Food Industry Advisory Committee

Defense Department
NOTICES
Meetings:
6985 Joint Strategic Target Planning Staff Scientific Advisory Group
6985 Women in Services Advisory Committee

Economic Regulatory Administration
RULES
Petroleum allocation and price regulations:
6919 East coast residual fuel oil entitlements; final rule and request for comments
6917 Middle distillates (Special Rule No. 9), special allocation for surface passenger mass transportation including van pooling; effectiveness extended
PROPOSED RULES
Petroleum allocation and price regulations:
6951 Motor gasoline allocation; mail hauling; assignments and adjustments to firms
NOTICES
Canadian allocation program:
6987 Crude oil, January through March; 1980 allocation period
6989 Energy Emergency Handbook; availability
Natural gas; fuel oil displacement certification applications:
6990 International Minerals Chemical Corp.
Natural gas exportation and importation; petitions:
6991 Midwestern Gas Transmission Co.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
6986 Puget Sound Power & Light Co.
Remedial orders:
6991 Dennis Wesley Chevron
6992 John's Chevron Station
6987 Shockley's Exxon Service & Towing
6992 Ted's Arco

Education Office
NOTICES
7011 Guaranteed student loan program; special allowances
7011 Health education assistance loan (HEAL) program; interest rate

Energy Department
See also Bonneville Power Administration; Conservation and Solar Energy Office; Economic Regulatory Administration; Hearings and Appeals Office, Energy Department.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
6992 Sweden and European Atomic Energy Community

Environmental Protection Agency
RULES
Air pollution control; new motor vehicles and engines:
7138 Carbon monoxide emission standards; light-duty vehicles, 1981 model year
Air quality implementation plans; approval and promulgation; various States, etc.:
6940 Virginia
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
6960 Airborne carcinogens; identification; policies and procedures; extension of time
Air pollution control, aircraft and aircraft engines:
6962 Gas turbine engines, smoke visibility standards; availability of economic impact assessment and extension of time
Air pollution control, new motor vehicles and engines:
6960 Emission control system performance; warranty regulations; short test establishment; extension of time
Air quality implementation plans; approval and promulgation; various States, etc.:
6959 Idaho
Air quality standards; national primary and secondary:
6958 Nitrogen dioxide (NO_2)
Water pollution control:
6958 Analysis of pollutants; test procedures; extension of time
NOTICES
Air pollution control:
6995 Bicycling and air quality information; availability
Air pollution control, new motor vehicles and engines:
7122 Carbon monoxide emission standards; 1981 model year light-duty vehicles; applications for waiver of effective date
6996 Carbon monoxide emission standards; 1981–1982 model years light-duty vehicles; applications for waiver of effective date; hearing
Meetings:
7000 Science Advisory Board
Pesticide registration, cancellation, etc.:
6998 Locustcide
Pesticides; emergency exemption applications:
6996 Bromoxynil
Toxic and hazardous substances control:
6998 Premanufacture exemption applications
6998 Premanufacture notices receipts

Equal Employment Opportunity Commission
PROPOSED RULES
Improving Government regulations:
6956 Regulatory agenda; publication delay

Federal Aviation Administration
RULES
Air traffic operating and flight rules:
6923 Noise limits; compliance plans and expanded definition of "replacement airplanes"
Airworthiness directives:
6922 Bell
6922 Rockwell International
PROPOSED RULES
Airworthiness directives:
6953 Pratt & Whitney; meeting
NOTICES
7027 Exemption petitions; summary and disposition
Meetings:
7028 Airports serving CAB-certificated and commuter air carriers

Federal Communications Commission
RULES
Radio services, special:
6945 Aviation services; Alaska aeronautical fixed service; editorial amendment
Radio stations; table of assignments:
6943 California
6942 Illinois
Television stations; table of assignments
6944 Colorado and Utah
PROPOSED RULES
Radio services, special:
6967 Maritime services; allocating spectrum for automated inland waterways communications system (IWCS) along Mississippi River and connecting waterways; correction
Radio stations; table of assignments:
6967 Colorado
6970 Louisiana
6971 Minnesota
6972 Missouri
6968 Ohio
6973 West Virginia
NOTICES
7043 Meetings; Sunshine Act

Federal Deposit Insurance Corporation
NOTICES
7043, 7044 Meetings; Sunshine Act (4 documents)

Federal Election Commission
NOTICES
7044 Meetings; Sunshine Act

Federal Emergency Management Agency
PROPOSED RULES
Flood elevation determinations:
6962 Kentucky et al.

Federal Grain Inspection Service
NOTICES
Grain standards; inspection points:
6978, 6979 Michigan (2 documents)

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
7029 Washington and Crawford Counties, Ark., et al.
Grants; availability, etc.:

7029 Public service archeology grant program; 1980–1981 academic year

Federal Home Loan Bank Board
NOTICES
Applications, etc.:
7000 Germania Federal Savings & Loan Association

Federal Maritime Commission
NOTICES
7044 Meetings; Sunshine Act

Federal Mine Safety and Health Review Commission
NOTICES
7044, 7045 Meetings; Sunshine Act (2 documents)

Federal Railroad Administration
NOTICES
Loan guarantee applications:
7038 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.
Meetings:
7038 Minority Business Resource Center Advisory Committee
Petitions for exemptions, etc.:
7038 Ontario Central Railroad Co.
7039 Ontario Midland Railroad Co.
Preference share financing applications:
7039 Columbus and Greenville Railway

Federal Reserve System
NOTICES
Applications, etc.:
7001 F & M National Corp.
7001 First Union Bancorporation
7001 Indiana National Corp.
7001 Johnson State Bancshares, Inc.
7002 Minnesota Banc Holding Co.
7002 New England Merchants Co., Inc.
7002 River Valley Bancshares, Inc.
7002 Salida Corp.
7002, 7003 Zions Utah Bancorporation (2 documents)

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
7042 Contractors Bonding & Insurance Co.

Fish and Wildlife Service
RULES
Fishing:
6947 Mattamuskeet National Wildlife Refuge, N.C., et al.
NOTICES
7013, 7014 Endangered and threatened species permits; applications (4 documents)

Food and Nutrition Service
RULES
7208 Food Stamp Act of 1977, amendments to; implementation

Foreign Assets Control Office
RULES
7224 People's Republic of China; unblocking of assets

Forest Service
NOTICES
Meetings:
6979 Ochoco National Forest Grazing Advisory Board
6980 Prescott National Forest Grazing Advisory Board

General Accounting Office
NOTICES
7003 Regulatory reports review; proposals, approvals, etc. (ICC)

Health, Education, and Welfare Department
See Alcohol, Drug Abuse, and Mental Health Administration; Center for Disease Control; Education Office; Food and Nutrition Service; Health Services Administration; National Institute for Occupational Safety and Health; National Institutes of Health; Social Security Administration.

Health Services Administration
NOTICES
Grants; availability, etc.:
7004 Family planning nurse practitioner training
7003 General family planning training

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
6992–6994 Decisions and orders (3 documents)

Remedial orders:
6992–6995 Objections filed (3 documents)

Housing and Urban Development Department
RULES
Low income housing:
7082 Housing assistance payment program for substantial rehabilitation (Section 8); interim
7072 Housing assistance payments program for substantial rehabilitation (Section 8); neighborhood strategy areas; interim

Indian Affairs Bureau
PROPOSED RULES
6955 Livestock grazing trespass on Indian trust lands
NOTICES
Child custody proceedings, reassumption of jurisdiction; petition receipt, approval, etc.:
7012 Lake Superior Chippewa Indians, Lac Courte Oreilles Band

Interior Department
See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau.
PROPOSED RULES
Improving Government regulations:
7106 Regulatory agenda

Internal Revenue Service
RULES
Income taxes:
6924 Nonresident aliens; treatment as resident and treatment of community income

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:

76947 Union Pacific Railroad Co.

PROPOSED RULES

Motor carriers:

6974 Freight rates for common carriers of property; no suspend zone

NOTICES

7015 Hearing assignments

Motor carriers:

7016 Temporary authority applications; correction

Rail carriers:

7016 Released rates applications

Justice Assistance, Research and Statistics Office

PROPOSED RULES

Improving Government regulations:

7118 Regulatory agenda

Justice Department

See Justice Assistance, Research and Statistics Office; Law Enforcement Assistance Administration; National Institute of Corrections.

Land Management Bureau

NOTICES

Coal leases:

7012 North Dakota

Environmental statements; availability, etc.:

7014 Idaho agricultural development

Meetings:

7013 Arizona Strip District Grazing Advisory Board

7013 Outer Continental Shelf Advisory Board

7013 Socorro District Grazing Advisory Board

Wilderness areas; characteristics, inventories, etc.:

7015 Utah

Withdrawal and reservation of lands, proposed, etc.:

6979 California

Law Enforcement Assistance Administration

See Justice Assistance, Research and Statistics Office

Management and Budget Office

NOTICES

7020 Agency forms under review

7186 Budget recissions and deferral

Maritime Administration

NOTICES

Foreign construction cost computation:

6982 Tankers, MA design T8–S–100b, etc., retrofitting

National Highway Traffic Safety Administration

RULES

Consumer information:

6947 Tire quality grading; uniform; correction

National Institute for Occupational Safety and Health

NOTICES

Grants; availability, etc.:

7004 Occupational cutaneous hazards and diseases, research and demonstration projects

7006 Worker protection; lockout and interlock systems and devices; inquiry

National Institute of Corrections

NOTICES

Grants solicitations:

7017 Employee grievance arbitration decisions; compilation

7016 Stress management training for correctional personnel

National Institutes of Health

NOTICES

Meetings:

7007 Allergy and Clinical Immunology Research Committee

7009 Allergy and Immunology study section et al.

7007 Animal Resources Review Committee (2 documents)

7008 Biomedical Library Review Committee

7008 Cellular and Molecular Basis of Disease Review Committee

7008 Clinical Trials Review Committee

7009 Maternal and Child Health Research Committee

7009 Minority Acess to Research Careers Review Committee

7008 Scientific Counselors Board

7011 Transplantation Biology and Immunology Committee

7182 Recombinant DNA research; proposed actions under guidelines; inquiry

National Oceanic and Atmospheric Administration

RULES

Fishery conservation and management:

6949 Groundfish, Gulf of Alaska; apportionment of reserve amounts

NOTICES

Meetings:

6982 Marine Fisheries Advisory Committee

National Technical Information Service

NOTICES

6982 Inventions, Government-owned; availability for licensing

National Transportation Safety Board

NOTICES

7017 Accident reports, safety recommendations and responses, etc.; availability

7045 Meetings; Sunshine Act

Nuclear Regulatory Commission

NOTICES

7045 Meetings; Sunshine Act

Railroad Retirement Board

PROPOSED RULES

Improving Government regulations:

6954 Regulatory agenda

Railway Association

NOTICES

7045 Meetings; Sunshine Act

Research and Special Programs Administration, Transportation Department

RULES

Hazardous materials:

6946 Radioactive materials aboard cargo-only aircraft; accessibility requirements
PROPOSED RULES
Hazardous materials:
7140 Radioactive materials; highway routing
NOTICES
Hazardous materials:
7040 Applications, exemptions, renewals, etc.

Science and Education Administration
NOTICES
Meetings:
6980 National Agricultural Research and Extension Users Advisory Board

Securities and Exchange Commission
NOTICES
Hearings, etc.:
7024 Addison, John Milton, et al.
7024 Horizon Energy Corp. et al.
7025 Perpetual Energy Products, Inc., et al.
Self-regulatory organizations; proposed rule changes:
7022 New York Stock Exchange, Inc.

Social Security Administration
PROPOSED RULES
6977 Federal old age, survivors and disability insurance and supplemental security income for the aged, blind, and disabled; experiments to improve hearing procedures
NOTICES
Authority delegations:
7012 Redetermination clerks et al.; supplemental security income benefits continuing eligibility

State Department
NOTICES
Meetings:
7026 International Investment, Technology, and Development Advisory Committee

Textile Agreements Implementation Committee
NOTICES
Man-made textiles:
6984 Haiti

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; Foreign Assets Control Office; National Highway Traffic Safety Administration; Research and Special Programs Administration, Transportation Department.

Treasury Department
See Fiscal Service; Foreign Assets Control Office; Internal Revenue Service.

Veterans Administration
RULES
Medical benefits:
6933 Veterans Omnibus Health Care Act; definition changes, etc.
PROPOSED RULES
Adjudication, pensions, compensation, dependency, etc.:
6957 Hospitalized incompetent veterans with no dependents; institutional award increase
Medical benefits:
6957 Women's Air Forces Service Pilots (WASPS); eligibility

Wage and Price Stability Council
RULES
Data requests and noninflationary pay and price behavior:
6917 Form PM-1; prices, sales, and profits; availability of proposed form; cross reference
NOTICES
Noninflationary pay and price behavior:
6985 Form PM-1, proposed; availability

MEETINGS ANNOUNCED IN THIS ISSUE

AIR QUALITY, NATIONAL COMMISSION
7013 Meeting, 2-11-80

AGRICULTURE DEPARTMENT
Forest Service—
6979 Ochoco National Forest Grazing Advisory Board, 4-11-80
6980 Prescott National Forest Grazing Advisory Board, 2-29-80
Science and Education Administration—
6980 National Agricultural Research and Extension Users Advisory Board, 2-18 through 2-20-80

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
6949 Marine Fisheries Advisory Committee, 2-21 and 2-22-80

DEFENSE DEPARTMENT
Office of the Secretary—
6985 Defense Advisory Committee on Women in the Services, 2-26 and 2-27-80
6985 Joint Strategic Target Planning Staff Scientific Advisory Group, 4-1 through 4-3-80

ENERGY DEPARTMENT
Conservation and Solar Energy Office—
6986 Federal Photovoltaic Utilization Program Advisory Committee, 2-20-80
6986 Food Industry Advisory Committee and Subcommittees, 2-19 and 2-20-80

ENVIRONMENTAL PROTECTION AGENCY
7000 Science Advisory Board, Water Quality Criteria Subcommittee, 2-22-80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
7003 Life Course Review Committee, 2-27 through 2-29-80
7003 National Advisory Mental Health Council, 2-13 through 2-15-80
National Institutes of Health—
7009 Division of Research Grants, February and March 1980

7007 Division of Research Resources, Animal Resources Review Committee, 3–5 and 3–12 through 3–14–80 (2 documents)
7008 National Heart, Lung, and Blood Institute, Board of Scientific Counselors, 3–14 and 3–15–80
7008 National Heart, Lung, and Blood Institute, Clinical Trials Review Committee, 3–1 and 3–2–80
7007 National Institute of Allergy and Infectious Diseases, Allergy and Clinical Immunology Research Committee, 3–13 and 3–14–80
7011 National Institute of Allergy and Infectious Diseases, Transplantation Biology and Immunology Committee, 3–10–80
7009 National Institute of Child Health and Human Development, Maternal and Child Health Research Committee, 3–17 and 3–18–80
7008 National Institute of General Medical Sciences, Cellular and Molecular Basis of Disease Review Committee, 3–10 and 3–11–80
7009 National Institute of General Medical Sciences, Minority Access to Research Careers Review Committee, 3–6 and 3–7–80
7008 National Library of Medicine, Biomedical Library Review Committee, and the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications, 3–10 and 3–11–80

INTERIOR DEPARMENT
Land Management Bureau—
7013 Arizona Strip District Grazing Advisory Board, 3–17–80
7013 Outer Continental Shelf Advisory Board, Alaska Regional Technical Working Group Committee, 2–19 and 2–20–80
7013 Socorro District Grazing Advisory Board, 3–4–80

STATE DEPARTMENT
7026 Advisory Committee on International Investment, Technology, and Development, 2–22–80

TRANSPORTATION DEPARTMENT
Federal Aviation Administration—
7028 Airports serving CAB-certificated and commuter air carriers; 2–11–80
6953 Airworthiness directives, 2–6–80
Federal Railroad Administration—
7038 Minority Business Resource Center Advisory Committee, 2–21–80

HEARINGS

ENVIRONMENTAL PROTECTION AGENCY
7122 Motor vehicle pollution control, waiver of carbon monoxide emission standards, 2–12 and 2–13–80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Social Security Administration—
6977 Federal old-age, survivors, and disability insurance and supplemental security income for the aged, blind, and disabled, 2–6, 2–20, 2–21, and 2–27–80

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
Proclamations:
4719 6915

6 CFR
705 6917
707 6917

7 CFR
272 7208
273 7208
907 6917

10 CFR
211 (2 documents) 6917, 6919

Proposed Rules:
211 6951

14 CFR
39 (2 documents) 6922
91 6923
385 6924

Proposed Rules:
39 6953

18 CFR
Proposed Rules:
Ch. IV 7106

20 CFR
Proposed Rules:
Ch. II 6954
404 6977
416 6977

24 CFR
881 (2 documents) 7072, 7082

25 CFR
Proposed Rules:
Ch. I 7106
151 6955

26 CFR
1 6924
7 6924
31 6924
301 6924

28 CFR
Proposed Rules:
Ch. I 7118

29 CFR
Proposed Rules:
Ch. XIV 6956

30 CFR
Proposed Rules:
II 7106
VI 7106
VII 7106

31 CFR
500 7224

33 CFR
117 6932
127 6932
154 7156
155 7156
156 7156
165 6932

Proposed Rules:
158 6956

36 CFR
Proposed Rules:
I 7106
XII 7106

38 CFR
17 6933

Proposed Rules:
3 6957
17 6957

40 CFR
52 6940
86 7138

Proposed Rules:
50 6958
52 6959
61 6960
85 6960
87 6962
136 6958

41 CFR
Proposed Rules:
14H 7106
14R 7106

43 CFR
Subtitle A 7106
Ch. I 7106
Ch. II 7106

44 CFR
Proposed Rules:
67 6962

47 CFR
73 (3 documents) 6942–6944
87 6945

Proposed Rules:
2 6967
73 (6 documents) 6967–6973
81 6967
83 6967

49 CFR
175 6946
575 6947
1033 6947

Proposed Rules:
Ch. X 6974
173 7140
177 7140

50 CFR
33 6947
611 6949
672 6949

Proposed Rules:
Ch. I 7106
Ch. IV 7106

Federal Register
Vol. 45, No. 22
Thursday, January 31, 1980

Presidential Documents

Title 3—

The President

Proclamation 4719 of January 29, 1980

National Poison Prevention Week, 1980

By the President of the United States of America

A Proclamation

The past nineteen years have seen great progress in reducing accidental poisonings among children. Educational programs and the use of safety packaging have contributed considerably to the reduction in the number and severity of poisonings.

But this progress should not occasion complacency. It is estimated that over 80,000 children under five years of age will accidentally ingest potentially poisonous substances during 1980. These accidents will occur because of the momentary carelessness of parents and guardians, and because of ignorance of poison hazards in the home.

Protecting the lives and health of our children requires continued vigilance and increased efforts to educate every citizen to the dangers of accidental ingestion of drugs and common household products. By joint resolution of September 26, 1961 (75 Stat. 681, 36 U.S.C. 165), Congress has requested the President to issue annually a proclamation designating the third week in March as National Poison Prevention Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, designate the week beginning March 16, 1980, as National Poison Prevention Week.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of January, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-3500
Filed 1-30-80; 10:55 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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Thursday, January 31, 1980

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 month.

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Parts 705 and 707

Availability of Proposed Form PM-1 (Second Program Year)

Cross reference: For a document announcing the availability of proposed Form PM-1; Report on Prices, Sales, and Profits (Second Program Year) see FR Doc. 80-3076 in the Notices Section of this issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 478]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 1-7, 1980. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on January 29, 1980, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is generally good.

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

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone 202-447-5975.

§ 907.778 Navel Orange Regulation 478.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period February 1, 1980, through February 7, 1980, are established as follows:

(1) District 1: 1,246,000 cartons;
(2) District 2: 126,000 cartons;
(3) District 3: Unlimited;
(4) District 4: 28,000 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", "District 4", and "carton" mean the same as defined in the marketing order.

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

Dated: January 30, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-3508, Filed 1-30-80; 11:54 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-79-25A]

Mandatory Petroleum Allocation Regulations; Amendments to Special Rule No. 9 Providing for the Special Allocation of Middle Distillates and to the Provisions Concerning the Allocation of Motor Gasoline for Priority Uses

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending Special Rule No. 9 to Subpart A, Part 211 to extend its effectiveness indefinitely. This action will promote energy efficiency by ensuring the future availability of diesel fuel for surface passenger mass transportation.

ERA also is revising its definition of passenger transportation services in § 211.51 to include van-pooling. The effect of this change will be to treat van-pooling as a first priority activity for allocation purposes under § 211.103(b). This revision will assist those engaged in van-pooling, an energy-efficient alternative to the private automobile, in obtaining gasoline during periods of tight supplies.

In addition, ERA is providing first priority treatment under § 211.103 to firms that resell gasoline solely to end-users engaged in first priority activities. This action will assist some consumers without their own storage but which nevertheless are engaged in a first

priority activity, such as van-pooling or taxi service, in obtaining adequate supplies of gasoline.

EFFECTIVE DATES: Special Rule No. 9: January 24, 1980; Other Amendments: March 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, Room 2222–A, 2000 M Street NW, Washington, D.C. 20461 (202) 254–5201

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street NW., Washington, D.C. 20461 (202) 634–2170

William E. Caldwell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7202, 2000 M Street NW., Washington, D.C. 20461 (202) 254–3910

Alan T. Lockard (Office of Fuels Regulation), Economic Regulatory Administration, Room 6222, 2000 M Street NW., Washington, D.C. 20461 (202) 254–7422

Ben McRae (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6739

SUPPLEMENTARY INFORMATION:

I. Extension of Special Rule No. 9.
II. Van-pooling.
III. Firms Selling Exclusively To Priority Users.
IV. Procedural Requirements.

I. Extension of Special Rule No. 9

Special Rule No. 9 to Subpart A of Part 211 provides that those consumers of diesel fuel engaged in surface passenger mass transportation shall be supplied with their current requirements for diesel fuel on a priority basis. Since its adoption in the summer of 1979, this Rule has assisted many firms which operate energy-efficient forms of transportation, such as buses and passenger trains, to obtain adequate supplies of diesel fuel.

Special Rule No. 9 is currently scheduled to expire on January 31, 1980. In recognition of the potential continuing need for Special Rule No. 9, we proposed that the Rule be made permanent (44 FR 60307, October 19, 1979). A public hearing on this proposal and two related proposals was held in Washington, D.C. on December 13, 1979 and written comments were received through December 21, 1979. Fifty-eight of the sixty comments submitted on this proposal supported its adoption. The comments stressed that, in many instances, Special Rule No. 9 had prevented reductions or interruptions in the availability of energy-efficient mass transportation and that continuation of such activities without disruption requires the assurance, which Special Rule No. 9 gives, that sufficient diesel fuel will continue to be available.

We agree with those comments that support the adoption of the proposal. Accordingly, we are amending Special Rule No. 9 to delete the reference to a termination date and, thus, make the Rule effective indefinitely. Furthermore, we are making this amendment effective immediately so that there will be no interruption in the support which Special Rule No. 9 extends to energy-efficient mass transportation.

II. Van-pooling

At the same time that we proposed to make Special Rule No. 9 permanent, we also proposed two amendments to the allocation regulations that, among other things, would assist other types of energy-efficient transportation. Specifically we proposed to amend § 211.51 to revise the definition of passenger transportation services to include van-pooling. Under the proposal, van-pooling would be defined as eight or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry eight to fifteen adult passengers. Thirty-five of the thirty-seven comments on this proposal favored its adoption as a means of supporting an energy-efficient alternative to the private automobile.

We agree that van-pooling is an energy-efficient alternative to the private automobile and, as such, should be promoted. The inclusion of van-pooling within the activities classified as passenger transportation services would directly benefit those companies and governmental units that are bulk purchasers of gasoline for use in operating van-pools, since they would then be eligible to receive gasoline on a priority basis under the provisions of § 211.103. Generally, bulk purchasers include firms that maintain a gasoline storage tank at a fixed location.

In addition, including van-pooling in the category of passenger transportation services would permit each state to utilize the provisions of § 211.10(d)(2) to provide for preferential treatment of consumers engaged in van-pooling, but which purchase gasoline at retail sales outlets rather than receive gasoline into fixed storage tanks.

Accordingly, we are amending § 211.51 to include a revised definition of passenger transportation service and a new definition of van-pooling. These changes to § 211.51 are exactly the same as those which we proposed in the October 19 Notice.

III. Firms Selling Exclusively to Priority Users

In addition to the van-pooling proposal, we proposed an amendment to § 211.103 that would help the operators of energy-efficient vehicles, such as commuter vans and taxis, secure gasoline. Under the existing regulations, a person engaged in a first priority activity listed in § 211.103(b) can receive an allocation of gasoline on a first priority basis only if it qualifies as a bulk purchaser or a wholesale purchaser-consumer. Since a firm that supplies gasoline to individuals is a reseller with respect to the volumes so supplied, it cannot utilize the provisions of § 211.103 to receive such volumes on a priority basis, even though all the gasoline it sells is consumed in a priority activity. In order to promote the availability of gasoline to individuals engaged in priority activities, we proposed to treat a firm which sells gasoline solely to end-users engaged in a priority activity as a wholesale purchaser-consumer with respect to the volumes so sold and, thus qualify for priority treatment under the provisions of § 211.103.

Thus, for example, a taxi company that sells gasoline only to drivers who lease taxis from that company would be supplied the volumes so sold on the same priority basis as if it had operated those taxis itself. Similarly, a corporation that sells gasoline only to its employees who operate van-pools could be supplied the volumes so sold as if the company had used the volumes to operate a van-pool itself.

Fourteen of the eighteen comments on this proposal supported it as a means to ensure that gasoline was available for end-users who were not bulk purchasers but were nevertheless engaged in a priority activity. We agree that firms which sell gasoline solely to end-users engaged in first priority activities should be treated as wholesale purchaser-consumers with respect to volumes so sold. This will make gasoline more available to operators of energy-efficient transportation, such as taxis and commuter vans, during periods of tight supplies. Accordingly, we are amending § 211.103 to provide for such treatment.

IV. Procedural Requirements

A. Section 404 of the DOE Act

Section 404(a) of the Department of Energy Organization Act (Pub. L. 95–91, DOE Act) requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of

functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any of its functions under section 402(a) (1) or (b) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following an opportunity to review Special Rule No. 9, the FERC has declined to determine that it may significantly affect one of its functions under the sections noted above.

B. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to prepare a regulatory analysis for those significant regulations which are determined likely to have a major impact. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). We have determined that the amendments adopted today will not have a major impact as that term is defined in DOE Order 2030 and, therefore, no regulatory analysis pursuant to Executive Order 12044 is required.

C. Section 553 of the Administrative Procedure Act

Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency for good cause finds this requirement impracticable, unnecessary or contrary to the public interest and publishes this finding together with the rule.

We have determined that good cause is found to waive the section 553(d) requirement with respect to the extension to Special Rule No. 9 since it would be contrary to the public interest to permit a situation to arise subsequent to January 31, 1980, the expiration date of the current rule and before thirty days from publication of this rule during which time the availability of energy-efficient surface passenger mass transportation might be disrupted due to a lack of sufficient supplies of diesel fuel. Moreover, this requirement is not necessary since the Rule continues a program that is already in effect and on which there has been ample opportunity for comments concerning its specific provisions.

The amendments to §§ 211.51 and 211.103 will not be effective until March 1, 1980.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations, is amended as set forth below. The effective dates of these amendments are as follows: (1) The modification of Special Rule No. 9 is effective January 24, 1980; (2) the amendments to §§ 211.51 and 211.103 will be effective on March 1, 1980.

Issued in Washington, D.C., January 24, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. The Appendix to Subpart A of Part 211 is amended by modifying Section (1) of Special Rule No. 9 to read as follows:

Appendix—Special Rule No. 9

Special Allocation of Middle Distillates for Surface Passenger Mass Transportation

1. *Scope.* Notwithstanding the provisions of paragraphs (b) and (c) of § 210.35 of Part 210 of this chapter and of paragraphs (b)(5) and (b)(6) of § 211.1 of this part, this Special Rule establishes a special allocation program for middle distillates.

* * * * *

2. Section 211.51 is amended as follows by the revision of the definition of "passenger transportation service" and the addition of a definition of "van-pooling" between the definitions of "utility" and "wholesale purchaser:"

§ 211.51 General definitions.

* * * * *

"Passenger transportation service" means (a) air and surface facilities and services, including water and rail, for carrying passengers whether publicly or privately owned, including tour and charter buses and taxicabs, which serve the general public; (b) bus transportation of pupils to and from school and school sponsored activities; and (c) van-pooling.

* * * * *

"Van-pooling" means eight or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry eight to fifteen adult passengers.

* * * * *

3. Paragraph (a) of section 211.103 is amended to read as follows:

§ 211.103 Allocation levels.

(a) *General.* The allocation levels listed in this section only apply to allocations made by suppliers to end-users which are bulk purchasers and to wholesale purchaser-consumers. Suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline for all uses under an allocation level subject to reduction by application of an allocation fraction shall receive second priority. For purposes of this section, a firm which is a wholesale purchaser of gasoline and resells gasoline solely to end-users for a use set forth in paragraph (b) of this section shall be deemed to be a wholesale purchaser-consumer with respect to the volumes so sold.

* * * * *

[FR Doc. 80–3037 Filed 1–30–80; 8:45 am]

BILLING CODE 6450–01–M

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10 CFR Part 211

[Docket No. ERA–R–76–01C]

Mandatory Petroleum Allocation Regulations; Amendments To Extend Provisions of the Entitlements Program Relating to Residual Fuel Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule and request for comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy hereby adopts amendments effective January 1, 1980, which will extend through September 30, 1980, those provisions of the domestice crude oil allocation program ("entitlements program") which were in effect December 31, 1979, and which provided that imports of residual fuel oil into the eligible market (defined as the Bureau of Mines East Coast Refining District and the State of Michigan) receive 50 percent

of the per barrel entitlements runs credit and that an entitlement penalty ("reverse entitlements") only applies to domestically refined residual fuel oil which is transported by foreign flag tanker for sale or use in that market. This rule implements Congressional policy on this issue.

DATES: The Rule is effective January 1, 1980. Comments are due by 4:30 p.m., April 15, 1980.

ADDRESSES: Send all comments to: Department of Energy, Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA–R–76–01C, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 634–2170.

Josette L. Maxwell (Regulations and Emergency Planning), Economic Regulatory Administration, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254–3910.

Douglas W. McIver (Office of Petroleum Operations), Economic Regulatory Administration, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254–8660.

Joel M. Yudson or Jeffrey D. Stoermer (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–6744.

SUPPLEMENTARY INFORMATION:

I. Background
II. Amendments Adopted
III. Procedural Requirements
IV. Comment Procedures

I. Background

On November 28, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a notice of proposed rulemaking and public hearing (44 FR 68855, November 30, 1979) to extend through September 30, 1980, the provisions of the entitlements program with respect to residual fuel oil then in effect. This action was proposed to implement Congressional policy in this issue, as expressed in The Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1980.[1] On December 18, 1979, we held a public hearing to receive comments on our proposed rulemaking at which four speakers testified. Subsequently, eleven written comments were submitted for our review. A total of fifteen different firms, associations and governmental entities participated in this rulemaking either orally or in writing. These participants consisted of four utilities located in the East Coast market or Michigan, nine refiners, one trade association representing fuel terminal operators along the East Coast, and the government of Puerto Rico.

Five of the responding firms expressed unconditional support for the amendments as proposed. Three additional firms expressed support for the extension but suggested certain modifications of the program.

One suggested modification is to extend the 50 percent entitlements penalty to cover residual fuel oil transported by domestic refiners in subsidized (non-Jones Act) U.S. flag tankers. In light of the fact that such an amendment is beyond the scope of the rulemaking, we cannot adopt it at this time. However we are soliciting comments on the advisability of such a change to the imported residual fuel entitlements program and its potential economic effect on consumers and on competition in the residual fuel oil market.

Other modifications suggested by the comments would increase the entitlements benefits for imports of residual fuel oil to 100 percent, extend the entitlements program for residual fuel oil to other areas of the U.S. (including Puerto Rico), and include other imported petroleum products in the entitlements program. These suggestions would constitute major revisions in the entitlements program which are beyond the scope of this rulemaking. Moreover, we continue to believe that the current 50 percent entitlements benefit for imported residual fuel oil allows sufficient participation by import-dependent regions in the cost equalizing effects of the entitlements program. We have also determined that extension of the entitlements program for imported residual fuel oil to other areas of the U.S. is not justified because those areas are not as critically dependent upon imports of residual fuel oil as is the eligible market. We have decided not to extend the entitlements program to all imported petroleum products. Such a modification is not necessary because the volumes of such products imported from foreign sources are so minimal relative to total consumption that granting entitlement benefits would not materially affect any region or class of consumers.

Six refiners expressed opposition to the extension of the imported residual fuel oil entitlements program for various reasons. One recurring criticism of the program is that it is an unjustifiable grant of special benefits to one geographic area and to certain importers. To the contrary, we have previously noted our finding that this program is necessary to correct an inequitable situation: the relatively higher acquisition cost of petroleum which the consumers of the eligible market would otherwise be subjected to by reason of this area's heavy dependence upon imported residual fuel oil. Therefore, the program does not confer unjustified benefits on one area or on certain importers; rather the program serves to fulfill the objectives of the Emergency Petroleum Allocation Act by providing for (to the maximum extent practicable) "equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, * * * and among all users."

A second criticism of the program is that it encourages increased imports of residual fuel oil while it discourages needed construction of domestic refining capacity. Commenting refiners also criticized the program as contrary to the President's stated policy to limit imports of petroleum to 1977 levels and to reduce consumption of residual fuel oil by utilities by 50 percent. In response to these criticisms we observe that our evaluation of data submitted by utilities in the eligible market, and other available statistics, discloses that demand for imported residual fuel oil in this market is relatively inelastic in the short term and that import levels over the short term would be largely unaffected by a reduction in the entitlements benefits. Because of the lengthy lead time involved, decisions to construct additional domestic refining capacity are also largely unaffected by this nine-month extension of the program. Moreover, the entitlements program will end by October 1981 as domestic crude oil controls are gradually phased out. Similarly, the rate of conversion of powerplants from residual fuel oil to alternate fuels will be largely unaffected by this short-term extension due to length of construction lead time, environmental and safety constraints, and other factors.

Additionally, we observe that one of the main purposes of this rulemaking is to provide for the orderly and uninterrupted operation of the residual fuel oil entitlements program over a relatively short period of time. Any modification in the program and

[1] Pub. L. 96–126, November 27, 1979. A provision in that Act essentially required that any change in the entitlements program as it existed on April 30, 1979, be submitted to Congress as an "energy action" pursuant to section 551 of the Energy Policy and Conservation Act. See discussion in the Notice of Proposed Rulemak.ng.

especially the delay which would necessarily accompany such changes, could disrupt crucial supplies during the winter months as suppliers rearrange their behavior to maximize benefits under the changed provisions.

We have therefore declined to make any modifications in the program at this time. We will continue to evaluate the program in the light of current market conditions, and if warranted, will consider proposing amendments to the program.

II. Amendments Adopted

Under the amendments adopted today, imports of residual fuel oil into the East Coast market and Michigan (the "eligible market") will continue to be eligible to receive during the period January 1, 1980 through September 30, 1980, 50 percent of the per barrel entitlements runs credit. In addition, domestic refiners will receive only 50 percent of an entitlements runs credit during the same time period for each barrel of residual fuel oil produced for sale or use in the eligible market if shipment is made in foreign flag tankers. The time periods set forth in the definition of "eligible product" in 10 CFR § 211.62 and in paragraphs (a)(3) and (d)(4) of 10 CFR § 211.67 are therefore amended.

III. Procedural Requirements

A. Section 404 of the DOE Act: Review by FERC

Section 404(a) of the DOE Act requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any of its functions under sections 402 (a)(1) or (b) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following opportunity to review this rule, the FERC has declined to determine that it may significantly affect one of its functions under the sections noted above.

B. National Environmental Policy Act

It has been determined that these amendments do not constitute a "major Federal action significantly affecting the quality of human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and, therefore, an environmental assessment or an environmental impact statement is not required by NEPA or by the applicable DOE regulations for compliance with NEPA.

C. Executive Order 12044: Regulatory Analysis

A regulatory analysis of the potential impacts of the amendments in force December 31, 1979, was prepared and made publicly available on October 20, 1978. In addition, in connection with the June 1979 rule, we reviewed our October 1978 findings and made revised findings publicly available. Since today's actions will continue the effectiveness of those same provisions relating to residual fuel oil, the amendments adopted today do not require preparation of a further regulatory analysis

D. Section 553 of the Administrative Procedure Act: Waiver

Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency finds for good cause this requirement impracticable, unnecessary or contrary to the public interest, and publishes this finding together with the rule. We have determined that good cause exists to waive the section 553(d) requirement since it would be contrary to the public interest to alter or discontinue, even for a period of thirty days, the entitlements program with respect to residual fuel oil. Such alteration or discontinuance of the program would likely interrupt necessary supplies of residual fuel oil. These supplies are crucial for the import-dependent consumers of the eligible market, particularly during the winter heating season. Moreover, this requirement is not necessary because this Rule continues a program that is already in effect and with respect to which there has been ample opportunity for comment on its specific provisions.

IV. Comment Procedures

You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matter relevant to this notice. All comments should be submitted by 4:30 p.m., e.s.t., April 15, 1980 to the appropriate address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation: "East Coast Residual Fuel Oil Entitlements; Further Comments," Docket No. ERA–R–76–01C. Ten copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify any information or data considered by you to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective January 1, 1980.

Issued in Washington, D.C., January 25, 1980.

Douglas G. Robinson,

Acting Administrator, Economic Regulatory Administration.

1. The definition of "eligible product" in § 211.62 is revised to read as follows:

§ 211.62 Definitions.

For purposes of this subpart—

* * * * *

"Eligible product" means residual fuel oil imported into the eligible market in the period July 1, 1979 through September 30, 1980, except that an import of residual fuel oil into the United States customs territory which has been processed in the U.S. Virgin Islands shall not be considered an eligible product; *And provided,* that, Canadian residual fuel oil imported into the State of Michigan will qualify as an eligible product.

* * * * *

2. Subparagraphs (a)(3) and (d)(4) of § 211.67 are revised to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) *Issuance of entitlements* * * *

(3) For each month in the period July 1, 1979 through September 30, 1980, each eligible firm that has imported an eligible product in that month shall be issued a number of entitlements equivalent to fifty percent (50%) of the

number of entitlements that would be received by a refiner (without giving effect to the provisions of § 211.67(e)) in that month with respect to inclusion of a number of barrels of crude oil in that refiner's crude oil runs to stills equal to a number of barrels of that eligible product imported by that eligible firm. An eligible product is imported for purposes of this paragraph (a)(3) in the month, as specified on Customs Forms 7501 and 7505, as appropriate, in which importation takes place.

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.* * * *

(4) For the period July 1, 1979 through September 30, 1980, for purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio (but not for purposes of paragraph (e) of this section), the volume of crude oil runs to stills of any domestic refiner attributable to production of residual fuel oil transported in foreign flag tankers for sale (whether directly for consumption or for resale) or use in the eligible market (as defined in § 211.62) shall be reduced by fifty percent (50%). Any export sales of residual fuel oil giving rise to a deduction under paragraph (d)(2) above shall not be considered as residual fuel oil production for purposes of this paragraph (d)(4).

* * * * *

[FR Doc. 80-3158 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 79-ASW-25; Amdt. 39-3662]

Bell Models 204B, 205A-1 and 212 Helicopters; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment further amends an existing airworthiness directive (AD) 79-20-05, applicable to Bell Models 204B, 205A-1, and 212 helicopters by deleting reference to the .050-inch radius in the bottom of the pillow block bushing hole contained in paragraph (d). The amendment is needed because the FAA deleted by previous amendment an inspection for this radius size that was specified in paragraph (b)(1) of AD 79-20-05, Amdt. 39-3572. This amendment corrects an oversight when Amdt. 39-3626 was issued.

DATES: Effective January 18, 1980. Compliance schedule as prescribed in the AD.

ADDRESSES: The applicable maintenance manual revisions may be obtained from Publication Distribution, Logistics Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101 or from the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Forth Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, extension 517.

SUPPLEMENTARY INFORMATION: This amendment further amends Amendment 39-3572, 44 FR 55556, AD 79-20-05, as amended by Amendment 39-3626, which currently requires an initial and then repetitive inspections at 2400-hour intervals and corrosion protection and sealing of the main rotor yokes on Bell Models 204B, 205A-1, and 212 helicopters. After issuing Amendment 39-3626, the FAA determined that reference to a radius less than .050 inch in the bottom of the pillow block bushing holes specified in paragraph (d) should be deleted also. This amendment corrects this oversight.

Since this amendment corrects an error and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3572, 44 FR 55556, AD 79-20-05, as amended by Amendment 39-3626, by revising paragraph (d) to read as follows:

(d) Replace yokes having a crack or that exceed repair limits specified in the appropriate model maintenance or repair and overhaul manual with a serviceable yoke before further flight. The serviceable yoke must have been refinished and sealed as prescribed by Model 212 Component Repair and Overhaul, Revision 4, Chapter 65, or Revision 12, Model 204B Maintenance and Overhaul Manual, or Revision 1, Model 205A-1 Component Repair and Overhaul Manual.

This amendment becomes effective January 18, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Fort Worth, Texas, on January 3, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-2723 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-NW-43 AD; Amdt. 39-3680]

Airworthiness Directives, Rockwell NA-265-60 and NA-265-80 Airplanes Modified in Accordance With Raisbeck Group STC SA687NW and STC SA847NW

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On December 7, 1979, an airmail letter Airworthiness Directive (AD) was issued and made effective to all known operators of Rockwell NA-265-60 and NA-265-80 airplanes which have been modified in accordance with The Raisbeck Group STC SA687NW and SA847NW. This AD required disassembly and visual inspection of the flap track support structure and flap tracks for deviations from the approved type design. This condition still exists and the AD is hereby published in the Federal Register to make it effective to all persons.

DATES: Effective date January 31, 1980. This AD was effective earlier to all recipients of the airmail letter AD dated December 7, 1979. Initial compliance: As prescribed in the body of the AD.

ADDRESSES: Raisbeck service bulletin specified in this directive may be obtained upon request to The Raisbeck Group, 7777 Perimeter Road, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: William M. Perrella, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: During the eddy current inspections required by Amendment 39-3658, one airplane had positive indications which could not be corrected by a reaming operation; consequently, the flap tracks were removed for inspection. The flap tracks, flap track support structure and wing skins had been improperly drilled and

subsequently repaired. The repairs were not FAA approved and resulted in a substantial reduction in strength. As this condition is possible on all modified airplanes, an airmail letter AD was issued.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive: *Rockwell International:* Applies to Rockwell Model NA 265–60 and NA 265–80 airplanes equipped with the Raisbeck Mark Five modification in accordance with STC SA687NW or SA847NW. To prevent failure of the wing flap support structure accomplish the following:

A. Within the next 15 landings after publication in the **Federal Register**, unless previously accomplished, disassemble and visually inspect the flap tracks, flap track support structure, and lower wing skins at the flap track support locations for the following possible conditions:

1. Plugged holes
2. Oblong, eggshaped, oversized, or irregular holes
3. Tapered holes
4. Excess holes
5. Evidence of welding
6. Gouges
7. Parts deviations from Raisbeck Drawings 76–57606 Rev. IR–12 and 76–57607, Rev. A–9.
8. Any other irregularities which are not consistent with normal aircraft practice.

This inspection requires the removal of all track parts, except for the flap track supports, and the removal of paint and primers. FAA approved Raisbeck Service Bulletin No. 24 lists the detailed disassembly and inspection procedure. An FAA safety inspector (maintenance or manufacturing) must be present during this inspection.

B. If any of the above conditions are evident, report these through the FAA inspector to the Chief, Engineering and Manufacturing Branch, Northwest Region.

If no discrepancies are found, the airplane may be returned to service.

C. If discrepancies are found, on any part, one of the following three actions must be taken:

1. The part must be replaced.
2. The part must be repaired.
3. The part must be found acceptable as is.

Items 2 and 3 require the approval of the Chief, Engineering and Manufacturing Branch, Northwest Region.

It is permissible to ream holes which are out of tolerance to accept 1/64 oversize fasteners.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to The Raisbeck Group, 7777 Perimeter Road, Seattle, Washington 98108.

This amendment becomes effective on January 31, 1980 and was effective earlier to all recipients of the airmail letter AD dated December 7, 1979.

(Secs. 313(1), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979)

Issued in Seattle, Washington, on January 22, 1980.

C. B. Walk, Jr.,

Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the **Federal Register** on June 19, 1967.

[FR Doc. 80-3063 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket Nos. 18955 & 18924; Amdt. No. 91-161A]

General Operating and Flight Rules, Aircraft Operating Noise Limits; Compliance Plans and Expanded Definition of "Replacement Airplanes"

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule: Notice of compliance dates.

SUMMARY: On December 20, 1979, the FAA published an amendment to its aircraft operating noise limits rule to require operators of turbojet airplanes covered by the rule to submit their respective plans for achieving timely and continuing compliance with the applicable noise limits (Amdt. 91–161: 44 FR 75558). The amendment established dates on which compliance plans and updates must be submitted. It called for the initial compliance plan to be submitted 90 days after notice is published in the **Federal Register** that the reporting requirements of new § 91.308 have been approved by the Office of Management and Budget (OMB). On December 31, 1979, OMB approved those provisions. Accordingly, this document announces that approval and the regulatory action contemplated by Amendment 91–116 to begin the running of the 90-day period before the initial compliance plans are due. In accordance with the provisions of § 91.308(b), initial compliance plans must be submitted on or before May 1, 1980, based on operator plans and airplane compliance status as of April 1, 1980 (30 days before the date for submission of the plan).

DATES: Effective date—January 31, 1980. Initial compliance plan due—May 1, 1980.

ADDRESSES: Submit compliance plans to: Director, Office of Environment and Energy (AEE–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Program Management Branch (AEE–110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 755–9027.

SUPPLEMENTARY INFORMATION: This amendment of § 91.308 is editorial in nature to provide the date-certain in the rule that is prescribed by the text of the bracketed material and is based on the proposal contained in Notice No. 79–9 (44 FR 24778; April 26, 1979). It also corrects two minor editorial errors in the text. Accordingly, I find that good cause exists for making this amendment effective upon its publication in the **Federal Register.**

Adoption of the Amendment

Accordingly, § 91.308 of Part 91 of the Federal Aviation Regulations (14 CFR Part 91.308) is amended, effective January 31, 1980, as follows:

§ 91.308 [Amended].

1. By amending paragraph (b)(1) by deleting the brackets and bracketed words and substituting for them the words "May 1, 1980."

2. By amending paragraph (c)(3)(x), after the words "Janaury 1, 1985," by deleting the word "following."

3. By amending paragraph (c)(5), under the "Certificated technology"

column of the table for Code "F," by deleting the word "Nex" and substituting for it the word "New."

(Secs. 307, 313(a), 601, 603, 604, and 611, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1348, 1354(a), 1421, 1423, 1424, and 1431); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); Executive Order 11514, March 5, 1970.

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on January 25, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-3078 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 385

[Regulation OR-163; Amdt. 96]

Requesting Proposals From Air Carriers To Provide Essential Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB delegates to the Chief of the Essential Air Services Division the authority to seek proposals from air carriers interested in providing essential air service to points that are not receiving essential air service and for which no appeals of their service determinations are pending. This action is taken to speed the process of receiving essential air transportation at eligible points which are not now receiving it.

DATES: Adopted: January 24, 1980; Effective: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5408.

SUPPLEMENTARY INFORMATION: Eligible cities are guaranteed essential air transportation by section 419 of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978, Pub. L. 95-504. In accordance with section 419(a)(2)(A), the Bureau of Domestic Aviation has been defining essential air transportation for eligible points which on October 24, 1978, received service from one or fewer certificated air carriers. Section 325.7 of the Board's Procedural Regulations specifies that if no appeals of the Bureau's definitions are filed within 60 days after their issuance, the determinations become final, unless stayed by the Board.

Several eligible points are not receiving the level of air service defined by the Bureau as essential air transportation. In such cases, section 419 requires the Board to seek air carriers willing to provide essential air service to these points. Since this action has no bearing on carrier selection process or on a community's essential air service level, we are delegating to the Chief of the Essential Air Services Division of the Bureau of Domestic Aviation the authority to request carrier proposals in situations where communities are not receiving essential air transportation and for which no appeals of their determinations are pending. This action will speed the process of securing essential air service at eligible points which are not now receiving it.

Since this is a rule of agency procedure and practice, the Board finds that notice and comment are unnecessary and that it may be effective immediately.

Accordingly, the Civil Aeronautics Board amends § 385.14 of 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, to read:

§ 385.14 Delegation to the Chief, Essential Air Services Division, Bureau of Domestic Aviation.

The Board delegates to the Chief of the Essential Air Services Division, Bureau of Domestic Aviation, the authority to:

(a) Renew, up to five times in succession, a Board order under section 419(a)(6) of the Act to an air carrier to continue providing essential air transportation while the Board attempts to find a replacement carrier.

(b) Request service and subsidy proposals from carriers interested in providing essential air transportation to an eligible point which is not receiving essential air service and for which no appeal of its service determination is pending.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, 49 U.S.C. 1324 (note))

By the Civil Aeronautics Board,

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-3149 Filed 1-30-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 7, 31, and 301

[T.D. 7670]

Income Tax; Temporary Income Tax Regulations; Employment Taxes; Procedure and Administration; Election by Nonresident Alien To Be Treated as Resident and Treatment of Community Income When Election not Made

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the election by a nonresident alien to be treated as a resident and the treatment of community income where the election is not made. Certain provisions were added to the applicable tax law by the Tax Reform Act of 1976 and title VII of the Revenue Act of 1978. The regulations provide the public with the guidance needed to take advantage of these new provisions. The regulations affect certain taxpayers who are nonresident aliens or who are married to nonresident aliens and certain nonresident aliens who are not taxpayers but who are married to citizens or residents of the United States.

DATE: The regulations are effective as follows: in regard to the treatment of community income (§§ 1.879-1, 1.981, 1.981-0, and 1.981-1), for taxable years beginning after December 31, 1976; in regard to wage withholding under chapter 24 (§§ 31.3401(a)-1, 31.3401(a)(6)-1, 31.3402(f)(1)-1, and 31.3402(f)(6)-1), for remuneration paid after February 28, 1979; and in regard to the remaining sections, for taxable years ending on or after December 31, 1975.

FOR FURTHER INFORMATION CONTACT: Kenneth Klein of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1978, the Federal Register published proposed amendments to the

Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 871, 879, 981, 6012, 6013, 6072, 6073, 6091, 6109, and 6851 of the Internal Revenue Code of 1954 (43 FR 30308). These amendments were proposed to conform the regulations to section 1012 of the Tax Reform Act of 1976 (90 Stat. 1612) and are to be issued under sections 6013 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1612, 26 U.S.C. § 6013; 68A Stat. 917, 26 U.S.C. § 7805). After consideration of all comments submitted regarding the proposed amendments, the amendments are adopted as revised by this Treasury decision. The Treasury decision also reflects the technical amendments to the Tax Reform Act of 1976 made by section 701(u) (15) and (16) of the Revenue Act of 1978 (92 Stat. 2919). The Revenue Act has required minor revisions to the proposed amendments. Additional amendments to the Income Tax Regulations, the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7), and the Employment Tax Regulations (26 CFR Part 31) under sections 1441, 3401, and 3402 are included.

Statutory Bases

Section 1012(a) of the Tax Reform Act of 1976 amended section 6013 of the Internal Revenue Code of 1954 by adding subsections (g) and (h), which provide that a nonresident alien may, under certain circumstances, elect to be treated as a U.S. resident. The principal effect of this election is to permit the nonresident alien to file a joint return with a spouse who is a resident or citizen of the United States. Section 1012(b) of the Act repeals section 981 of the Code and adds in its place section 879 to provide rules for the treatment of community income where an election under section 6013 (g) or (h) is not in effect with respect to a nonresident alien spouse. Section 1012(c) of the Act amends section 6073 of the Code to provide that nonresident aliens are not required to file a declaration of estimated tax until the alien's income tax return for the prior taxable year is due. Section 701(u) (15) and (16) of the Revenue Act of 1978 makes several technical amendments to section 6013 (g) and (h). The technical amendments provide that an individual making the section 6013 (g) or (h) election will be treated as a resident for purposes of chapters 5 (tax on transfers to avoid the income tax) and 24 (collection of the income tax at the source on wages) in addition to chapter 1 (normal taxes and surtaxes).

Elections

The regulations provide that an election under section 6013 (g) or (h) generally is made by attaching a statement to the income tax return for the first year to which the election is to apply. The statement must contain a declaration that the election is being made and the names, addresses, and taxpayer identifying numbers of the electing spouses. The regulations provide that in most circumstances a voluntary revocation of the election under section 6013(g) is to be made in a similar manner.

The regulations provide that the determination of whether taxpayers meet the requirements of section 6013 (g) or (h) for any taxable year shall be made at the close of that taxable year. The regulations require as a prerequisite to the making of an election under section 6013 (g) or (h) that the spouse of the nonresident alien be a U.S. citizen or resident on the last day of the first taxable year to which the election applies.

Community Income

The regulations explain the treatment given various types of community income in those cases where the spouses do not make an election under section 6013 (g) or (h).

Summary of Changes and Public Comment

A number of revisions of the proposed regulations have been made by the final regulations, many in response to public comments. Several commenters inquired whether the spouse who is a citizen or resident must be a citizen or resident for the entire taxable year or only at the close of the taxable year in order to qualify for the section 6013(g) election. Example (2) of § 1.6013–6(c) illustrates the rule of § 1.6013–6(a)(1), that the resident or citizen spouse need be a resident or citizen only at the close of the year, not for the entire year. Similarly, several commenters inquired whether two married individuals who are both nonresident aliens at the beginning of the taxable year and resident aliens at the close of the year qualify for the section 6013(h) election. An amendment to § 1.6013–7(a)(1) (designated § 1.6013–8(a)(1) in the proposed regulations) makes it clear that the two individuals would qualify for the election.

Section 1.6013–7(a)(2)(v) of the proposed regulations concerned the general relationship of the section 6013 (g) and (h) elections to U.S. income tax treaties. The provision (now designated § 1.6013–6(a)(2)(v)) has been reserved in the final regulations for further consideration.

Section 1.6013–7(a)(4)(iii) of the proposed regulations provided that the election could be made with an amended return for taxable years ending on or after December 31, 1975, but before December 31, 1976. Several commenters suggested that the years for which the election can be made with an amended return should be extended. Section 1.6013–6(a)(4)(i) (designated § 1.6013–7(a)(4)(i) in the proposed regulations) has been amended to allow an election with an amended return to be made for all taxable years ending on or after December 31, 1975.

Section 1.6013–7(b)(1)(iii) of the proposed regulations provided that the filing of a separate return by either spouse would be considered a revocation of the election. The rule has been deleted in the final regulations. However, the election can only be made by filing a statement with a joint return for the first taxable year to which the election applies (see § 1.6013–6(a)(4)(i)).

Section 1.1441–1 of the regulations is amended to make it clear that withholding at the source of income will continue even though a nonresident alien individual makes an election under section 6013 (g) or (h).

One person commented that the definition of community income in § 1.879–1(a)(1) of the proposed regulations was unclear. The definition has been clarified in the final regulations. The final regulations also clarify the treatment of trade or business income as community income.

Some suggestions from the public were not incorporated into the final regulations, two of which are indicated below.

Several commenters suggested that the final regulations permit a second election to be made by an electing individual whose spouse dies or is divorced or legally separated from the individual. These suggestions were not followed because the statute and the legislative history make it clear that second elections are prohibited, even in cases of death, divorce, or legal separation.

Several commenters suggested that the final regulations should state that elections made under Temporary Regulation § 7.0(a)(2) are effective under the final regulations. As proper elections made under temporary regulations are valid and have continuing legal effect, unless stated otherwise in the regulations, it was decided not to follow the suggestion.

Drafting Information

The principal author of these regulations is Kenneth Klein of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

Adoption of Amendments to the Regulations

The amendments to 26 CFR Parts 1 and 301 which were set forth in the notice of proposed rulemaking are adopted subject to the revisions set forth below. In addition, other amendments to 26 CFR Parts 1, 7, 31, and 301 are hereby adopted, as set forth below.

Paragraph 1. The amendments to paragraph (a) of § 1.871–1, as set forth in paragraph 1 of the notice of proposed rulemaking, are revised to read as follows:

§ 1.871–1 Classification and manner of taxing alien individuals.

(a) *Classes of aliens.* * * * However, nonresident alien individuals may elect, under section 6013 (g) or (h), to be treated as U.S. residents for purposes of determining their income tax liability under chapters 1, 5, and 24 of the Code. Accordingly, any reference in §§ 1.1–1 through 1.1388–1 and §§ 1.1491–1 through 1.1494–1 of this part to nonresident alien individuals does not include those with respect to whom an election under section 6013 (g) or (h) is in effect, unless otherwise specifically provided. Similarly, any reference to resident aliens or U.S. residents includes those with respect to whom an election is in effect, unless otherwise specifically provided.

* * * * *

Par. 2. Section 1.879–1, as set forth in paragraph 3 of the notice of proposed rulemaking, is changed as follows:

1. Paragraph (a)(1) is amended by deleting the last sentence and revising the next to last sentence as set forth below.

2. Subdivision (i) of paragraph (a)(2) is revised as set forth below.

3. Paragraph (a)(3) is revised by deleting the phrase "producing factors, but does not include income treated as earned income under the second sentence of section 911(b)." and inserting in its place the phrase "producing factors."; by deleting the word "county" in the fifth sentence and inserting in its place the word "country" and by deleting the phrases "beauty parlor" in the sixth and seventh sentences, and inserting in their places the words "pharmacy".

4. The last sentence of paragraph (a)(5) and the first sentence of paragraph (a)(6) are revised as set forth below.

5. *Example (2)* of paragraph (a)(7) is amended by deleting subparagraph (c) and by revising subparagraph (b) as set forth below.

§ 1.879–1 Treatment of community income.

(a) *Treatment of community income*—(1) *In general.* * * * Community income for this purpose includes all gross income, whether derived from sources within or without the United States, which is treated as community income of the spouses under the community property laws of the State, foreign country, or possession of the United States in which the recipient of the income is domiciled. Income from real property also may be community income if so treated under the laws of the jurisdiction in which the real property is located.

(2) *Earned income.* * * *

(i) Community income from any trade or business carried on by the husband or the wife.

* * * * *

(5) *Income from separate property.* * * * The determination of what property is separate property for this purpose shall be made in accordance with the laws of the State, foreign country, or possession of the United States in which, in accordance with paragraph (a)(1) of this section, the recipient of the income is domiciled or, in the case of income from real property, in which the real property is located.

(6) *Other community income.* Any community income for the taxable year, other than income described in section 879(a) (1), (2), or (3), and paragraph (a) (2), (3), (4), or (5) of this section, shall be treated as income of that spouse who has a proprietary vested interest in that income under the laws of the State, foreign country, or possession of the United States in which, in accordance with paragraph (a)(1) of this section, the recipient of the income is domiciled or, in the case of income from real property, in which the real property is located. * * *

(7) *Illustration.* * * * *Example (2).* * * *

(b) If W exercises substantially all of the management and control over the retail merchandising company, then for U.S. income tax purposes the $10,000 profit is treated as the income of W.

* * * * *

Par. 3. Section 1.1441–1 is amended by adding a sentence at the end to read as follows:

§ 1.1441–1 Requirement for withholding of tax on nonresident aliens, foreign partnerships, and foreign corporations.

* * * The rules of chapter 3 of the Code and §§ 1.1441–1 through 1.1441–6 and §§ 1.1461–1 through 1.1464–1 apply to a nonresident alien individual even though the individual has an election in effect under section 6013 (g) or (h) of the Code.

Par. 3A. Paragraph (a)(4) of § 1.6013–2, as set forth in paragraph 9 of the notice of proposed rulemaking, is revised by deleting the phrase "but before December 31, 1978,".

Par. 4. Section 1.6013–7, as set forth in paragraph 10 of the notice of proposed rulemaking, is changed as set forth below.

1. Section 1.6013–7 is redesignated § 1.6013–6 and the heading is revised, as set forth below.

2. The second sentence of paragraph (a)(1) is revised to read as set forth below.

3. Subdivision (ii) of paragraph (a)(2) is revised to read as set forth below.

4. Subdivision (v) of paragraph (a)(2) is reserved.

5. Subdivision (i) of paragraph (a)(4) is revised to read as set forth below.

6. Subdivision (iii) of paragraph (a)(4) is deleted.

7. The last sentence of subdivision (i) of paragraph (b)(1) is revised by deleting the phrase "under chapter 1 of the Code".

8. Subdivision (iii) of paragraph (b)(1) is deleted and subdivisions (iv) and (v) are redesignated (iii) and (iv) respectively.

9. Subdivision (iii) of paragraph (b)(1), as redesignated, is revised by deleting the phrase "under chapter 1" in the first sentence.

10. Subdivision (iv) of paragraph (b)(1), as redesignated, is revised by substituting a new sentence for the next to last sentence, as set forth below.

11. The next to last sentence of paragraph (b)(4) is revised by substituting the phrase "chapters 1, 5, and 24" for the phrase "chapter 1".

12. A new paragraph (c) is added immediately after paragraph (b), as set forth below.

§ 1.6013–6 Election to treat nonresident alien individual as resident of the United States.

(a) *Election for special treatment*—(1) *In general.* * * * The effect of the election is that each spouse is treated as a resident of the United States for purposes of chapters 1, 5, and 24 and sections 6012, 6013, 6072, and 6091 of the Code for the entire taxable year.

* * *

* * * * *

(2) *Particular rules.* * * *

(ii) An individual's residence is determined by application of the principles of §§ 1.871–2 through 1.871–5 relating to what constitutes residence in the United States by an alien individual.

* * * * *

(4) *Time and manner of making an election.* (i) A husband and wife shall make the election under this section by attaching a statement to a joint return for the first taxable year for which the election is to be in effect. The election must be made before the expiration of the period prescribed by section 6511(a) (or section 6511(c) if the period is extended by agreement) for making a claim

for credit or refund. If either or both spouses die after the close of the taxable year but before the joint return is filed, the election may be made by the executor, administrator, or other person charged with the property of the deceased spouse. If the election is made with a joint amended return, the amended return should be made on Form 1040 or 1040A, the word "Amended" should be written clearly on the front of the return, and an amended return also must be filed for each subsequent taxable year as to which a return previously has been filed by either spouse.

* * * * *

(b) *Termination of election*—(1) *Revocation.* * * *

(iv) * * * The statement must also include a list of the States, foreign countries, and possessions of the United States which have community property laws and in which—

(A) Each spouse is domiciled, or

(B) Real property is located from which either of the spouses receives income. * * *

* * * * *

(c) *Illustrations.* The application of this section is illustrated by the following examples.

In each case the individual's taxable year is the calendar year and the spouses are not legally separated.

Example (1). W, a U.S. citizen for the entire taxable year 1979, is married to H, a nonresident alien individual. W and H may make the section 6013(g) election for 1979 by filing the statement of election with a joint return. If W and H make the election, income from sources within and without the United States received by W and H in 1979 and subsequent years must be included in gross income for each taxable year unless the election later is terminated or suspended. While W and H must file a joint return for 1979, joint or separate returns may be filed for subsequent years.

Example (2). H and W are husband and wife and are both nonresident alien individuals. In June 1980 H becomes a U.S. resident and remains a resident for the balance of the year. H and W may make the section 6013(g) election for 1980. If H and W make the election, income from sources within and without the United States received by H and W for the entire taxable year 1980 and subsequent years must be included in gross income for each taxable year, unless the election later is terminated or suspended.

Example (3). W, a U.S. resident on December 31, 1981, is married to H, a nonresident alien. W and H make the section 6013(g) election and file joint returns for 1981 and succeeding years. On January 10, 1987, W becomes a nonresident alien. H has remained a nonresident alien. W and H may file a joint return or separate returns for 1987. As neither W nor H is a U.S. resident at any time during 1988, their election is suspended for 1988. If W and H have U.S. source or foreign source income effectively connected with the conduct of a U.S. trade or business in 1988, they must file separate returns as nonresident aliens. W becomes a U.S. resident again on January 5, 1990. Their election no longer is in suspense. Income from sources within and without the United States received by W or H in the years their election is not suspended must be included in gross income for each taxable year.

Example (4). H, a U.S. citizen for the entire taxable year 1979, is married to W, who is not a U.S. citizen. While W believes that she is a U.S. resident, H and W make the section 6013(g) election for 1979 to cover the possibility that later it would be determined that she is a nonresident alien during 1979. The election for 1979 will not be considered evidence that W was a nonresident alien in prior years. Income from sources within and without the United States received by H and W in 1979 and subsequent years must be included in gross income for each taxable year, unless the election later is terminated or suspended.

Par. 5. Section 1.6013–8, as set forth in paragraph 10 of the notice of proposed rulemaking, is changed as set forth below.

1. Section 1.6013–8 is redesignated § 1.6013–7.

2. Paragraph (a) is revised to read as set forth below.

§ 1.6013–7 Joint return for year in which nonresident alien becomes resident of the United States.

(a) *Election for special treatment*—(1) *In general.* Two individuals who are husband and wife at the close of a taxable year ending on or after December 31, 1975, may make an election under this section for that taxable year if one spouse is a citizen or resident of the United States on the last day of that taxable year and the other spouse is a nonresident alien at the beginning of that taxable year and a citizen or resident of the United States at the close of that taxable year. Two married individuals who are nonresident aliens at the beginning of a taxable year and who are U.S. citizens or residents on the last day of that taxable year qualify for the election. The effect of the election is that each spouse is treated as a resident of the United States for purposes of chapters 1, 5, and 24 and sections 6012, 6013, 6072, and 6091 of the Code for all of that taxable year. A husband and wife may not make an election if an election has previously been made under this section by either spouse.

(2) *Particular rules.* The rules in subdivisions (ii) through (v) of § 1.6013–6(a)(2) are applicable to this section.

(3) *Time and manner of making an election.* A husband and wife shall make the election under this section in accordance with the rules in § 1.6013–6(a)(4).

* * * * *

Par. 6. Paragraph (a)(2) of § 7.0 is amended to read as follows:

§ 7.0 Various elections under the Tax Reform Act of 1976.

(a) *Elections covered by temporary rules.* * * *

(2) Second category

185(d) of Code.	Amortization of railroad grading and tunnel bores.	All taxable years beginning after December 31, 1974.
528(c)(1)(E) of Code	Certain homeowners associations.	Any taxable year beginning after December 31, 1973.
1057 of Code .	Transfer to foreign trusts etc.	Any transfer of property after October 2, 1975.

* * * * *

Par. 7. The first sentence of paragraph (b)(7) of § 31.3401(a)–1 is amended by inserting the phrase "(including, in regard to wages paid after February 28, 1979, an individual treated as a resident under section 6013 (g) or (h))" between the phrases "citizen or resident" and "of the United States".

Par. 8. Paragraph (a) of § 31.3401(a)(6)–1 is amended by adding a sentence at the end as follows:

§ 31.3401(a)(6)–1 Remuneration for services of nonresident alien individual paid after December 31, 1966.

(a) *In general.* * * * In regard to wages paid under this section after February 28, 1979, the term "nonresident alien individual" does not include a nonresident alien individual treated as a resident under section 6013 (g) or (h).

* * * * *

Par. 9. Subdivision (i) of § 31.3402(f)(1)–1(d)(4) is amended by inserting the phrase "(including, in regard to wages paid after February 28, 1979, an individual treated as a resident under section 6013 (g) or (h))" between the phrases "United States" and ", Canada,".

Par. 10. The first sentence of § 31.3402(f)(6)–1 is amended by inserting the phrase "(other than, in regard to wages paid after February 28, 1979, a nonresident alien individual treated as a resident under section 6013 (g) or (h))" between the phrases "nonresident alien individual" and "subject to withholding".

Par. 11. Section 301.6013–1 is amended by deleting the reference to § 1.6013–4 and inserting in its place a reference to § 1.6013–7.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: January 22, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Paragraph (a) of § 1.871–1 is amended by adding three sentences at the end that read as follows:

§ 1.871–1 Classification and manner of taxing alien individuals.

(a) *Classes of aliens.* * * * However, nonresident alien individuals may elect, under section 6013 (g) or (h), to be treated as U.S. residents for purposes of determining their income tax liability under chapters 1, 5, and 24 of the code. Accordingly, any reference in §§ 1.1–1 through 1.1388–1 and §§ 1.1491–1 through 1.1494–1 of this part to nonresident alien individuals does not include those with respect to whom an election under section 6013 (g) or (h) is in effect, unless otherwise specifically provided. Similarly, any reference to resident aliens or U.S. residents includes those with respect to whom an election is in effect, unless otherwise specifically provided.

* * * * *

Par. 2. Paragraph (a)(1) of § 1.8971–13 is amended by adding two sentences at the end that read as follows:

§ 1.871–13 Taxation of individuals for taxable year of change of U.S. citizenship or residence.

(a) *In general.* (1) * * * This section does not apply to alien individuals treated as residents for the entire taxable year under section 6013 (g) or (h). These individuals are taxed under the rules in § 1.1–1(b).

* * * * *

Par. 3. There is added after § 1.878 the following new section:

§ 1.879–1 Treatment of community income.

(a) *Treatment of community income.*—(1) *In general.* For taxable years beginning after December 31, 1976, community income of a citizen or resident of the United States who is married to a nonresident alien individual, and the deductions properly allocable to that income, shall be divided between the U.S. citizen or resident spouse in accordance with the rules in section 879 and paragraph (a)(2) through (a)(6) of this section.This section does not apply for any taxable year with respect to which an election under section 6013 (g) or (h) is in effect. Community income for this purpose includes all gross income, whether derived from sources within or without the United States, which is treated as community income of the spouses under the community property laws of the State, foreign country, or possession of the United States in which the recipient of the income is domiciled. Income from real property also may be community income if so treated under the laws of the jurisdiction in which the real property is located.

(2) *Earned income.* Wages, salaries, or professional fees, and other amounts received as compensation for personal services actually performed, which are community income for the taxable year, shall be treated as the income of the spouse who actually performed the personal services. This paragraph (a)(2) does not apply, however, to the following items of community income:

(i) Community income derived from any trade or business carried on by the husband or the wife.

(ii) Community income attributable to a spouse's distributive share of the income of a partnership to which paragraph (a)(4) of this section applies.

(iii) Community income consisting of compensation for personal services rendered to a corporation which represents a distribution of the earnings and profits of the corporation rather than a reasonable allowance as compensation for the personal services actually performed, but not including any income that would be treated as earned income under the second sentence of section 911(b).

(iv) Community income derived from property which is acquired as consideration for personal services performed.

These items of community income are divided in accordance with the rules in paragraph (a)(3) through (a)(6) of this section.

(3) *Trade or business income.* If any income derived from a trade or business carried on by the husband or wife is community income for the taxable year, all of the gross income, and the deductions attributable to that income, shall be treated as the gross income and deductions of the husband. However, if the wife exercises substantially all of the management and control of the trade or business, all of the gross income and deductions shall be treated as the gross income and deductions of the wife. This paragraph (a)(3) does not apply to any income derived from a trade or business carried on by a partnership of which both or one of the spouses is a member (see paragraph (a)(4) of this section). For purposes of this paragraph (a)(3), income derived from a trade or business includes any income derived from a trade or business in which both personal services and capital are material income producing factors. The term "management and control" means management and control in fact, not the management and control imputed to the husband under the community property laws of a State, foreign country or possession of the United States. For example, a wife who operates a pharmacy without any appreciable collaboration on the part of a husband is considered as having substantially all of the management and control of the business despite the provisions of any community property laws of a State, foreign country, or possession of the United States, vesting in the husband the right of management and control of community property. The income and deductions attributable to the operation of the pharmacy are considered the income and deductions of the wife.

(4) *Partnership income.* If any portion of a spouse's distributive share of the income of a partnership, of which the spouse is a member, is community income for the taxable year, all of that distributive share shall be treated as the income of that spouse and shall not be taken into account in determining the income of the other spouse. If both spouses are members of the same partnership, the distributive share of the income of each spouse which is community income shall be treated as the income of that spouse. A spouse's distributive share of the income of a partnership that is community income shall be determined as provided in section 704 and the regulations thereunder.

(5) *Income from separate property.* Any community income for the taxable year, other than income described in section 879(a) (1) or (2) and paragraph (a) (2), (3), or (4) of this section, which is derived from the separate property of one of the spouses shall be treated as the income of that spouse. The determination of what property is separate property for this purpose shall be made in accordance with the laws of the State, foreign country, or possession of the United States in which, in accordance with paragraph (a)(1) of this section, the recipient of the income is domiciled or, in the case of income from real property, in which the real property is located.

(6) *Other community income.* Any community income for the taxable year, other than income described in section 879(a) (1), (2), or (3), and paragraph (a) (2), (3), (4), or (5) of this section, shall be treated as income of that spouse who has a proprietary vested interest in that

income under the laws of the state, foreign country, or possession of the United States in which, in accordance with paragraph (a)(1) of this section, the recipient of the income is domiciled or, in the case of income from real property, in which the real property is located. Thus, for example, this paragraph (a)(6) applies to community income not described in paragraph (a) (2), (3), (4), or (5) of this section which consists of dividends, interest, rents, royalties, or gains, from community property or of the earnings of unemancipated minor children.

(7) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). H, a U.S. citizen, and W, a nonresident alien individual, each of whose taxable years is the calendar year, were married throughout 1977. H and W were residents of, and domiciled in, foreign country Z during the entire taxable year. No election under section 6013 (g) or (h) is in effect for 1977. During 1977, H earned $10,000 from the performance of personal services as an employee. H also received $500 in dividend income from stock which under the community property laws of country Z is considered to be the separate property of H. W had no separate income for 1977. Under the community property laws of country Z all income earned by either spouse is considered to be community income, and one-half of this income is considered to belong to the other spouse. In addition, the laws of country Z provide that all income derived from property held separately by either spouse is to be treated as community income and treated as belonging one-half to each spouse. Thus, under the community property laws of country Z, H and W are both considered to have realized income of $5,250 during 1977, even though Z's laws recognize the stock as the separate property of H. Under the rules of paragraph (a) (2) and (5) of this section all of the income of $10,500 derived during 1977 is treated, for U.S. income tax purposes, as the income of H.

Example (2). (a) The facts are the same as in example (1), except that H is the sole proprietor of a retail merchandising company, which has a $10,000 profit during 1977. W exercises no management and control over the business. In addition, H is a partner in a wholesale distributing company, and his distributive share of the partnership profit is $5,000. Both of these amounts of income are treated as community income under the community property laws of country Z, and under these laws both H and W are treated as realizing $7,500 of the income. Under the rule of paragraph (a) (3) and (4) of this section all $15,000 of the income is treated as the income of H for U.S. income tax purposes.

(b) If W exercises substantially all of the management and control over the retail merchandising company, then for U.S. income tax purposes the $10,000 profit is treated as the income of W.

Example (3). The facts are the same as in example (1), except that H also received $1,000 in dividends on stock held separately in his name. Under the community property laws of country Z the stock is considered to be community property, the dividends to be community income, and one-half of the income to be the income of each spouse. Under the rule of paragraph (a)(6) of this section, $500 of the dividend income is treated, for U.S. income tax purposes, as the income of each spouse.

(b) *Definitions and other special rules.*—(1) *Spouses with different taxable years.* A special rule applies if the nonresident alien and the United States citizen or resident spouse of the alien do not have the same taxable years, as defined in section 441(b) and the regulations thereunder. The special rule is as follows. With respect to the U.S. citizen or resident spouse, section 879 and this section shall apply to each taxable year of the U.S. citizen or resident spouse for which no election under section 6013 (g) or (h) is in effect. With respect to the nonresident alien spouse, section 879 and this section apply to each period falling within the consecutive taxable years of the nonresident alien spouse which coincides with a taxable year of the U.S. citizen or resident spouse to which section 879 and this section apply.

(2) *Determination of marital status.* For purposes of this section, marital status shall be determined under section 143(a).

§ 1.981 [Revoked]

Par. 4. Section 1.981 is repealed.

Par. 5. There is added after § 1.972–1 the following new section:

§ 1.981–0 Repeal of section 981; effective dates.

The provisions of section 981 are not effective for taxable years beginning after December 31, 1976. For the treatment of the community income of aliens and their spouses for taxable years beginning after December 31, 1976, see section 879 and the regulations thereunder.

Par. 6. Section 1.981–1 is amended as follows:

1. The title is amended to read as follows:

§ 1.981–1 Foreign law community income for taxable years beginning after December 31, 1966, and before January 1, 1977.

2. Paragraph (a)(1) is amended by inserting the phrase "and before January 1, 1977," in the first sentence between the phrases "after December 31, 1966" and the phrase, "may make a binding election".

§ 1.6012–1 [Amended]

Par. 17. Section 1.6012–1 is amended as follows:

1. Paragraph (b)(1)(i) is amended by inserting the phrase "(other than one treated as a resident under section 6013 (g) or (h))" in the first sentence between the phrases "nonresident alien individual" and "who is engaged".

2. Paragraph (b)(2)(i) is amended by inserting the phrase "(other than one treated as a resident under section 6013 (g) or (h))" in the first sentence between the phrases "A nonresident alien individual" and "who at no time".

3. Paragraph (b)(2)(ii)(*a*) is amended by deleting the period at the end of the second sentence and inserting in its place the phrase , "unless an election under section 6013 (g) or (h) is in effect for the alien."

4. Paragraph (b)(2)(ii)(*b*) is amended by deleting the period at the end of the first sentence, and inserting in its place the phrase ", even if an election under section 6013(g) was in effect for the taxable year preceding the year of abandonment."

Par. 8. Paragraph (b) of § 1.6013–1 is revised to read as follows:

§ 1.6013–1 Joint returns.

* * * * *

(b) *Nonresident alien.* A joint return shall not be made if either the husband or wife at any time during the taxable year is a nonresident alien, unless an election is in effect for the taxable year under section 6013 (g) or (h) and the regulations thereunder.

* * * * *

Par. 9. Section 1.6013–2 is amended by adding a new paragraph (a)(4) which reads as follows:

§ 1.6013–2 Joint return after filing separate return.

(a) *In general.*

* * * * *

(4) A nonresident alien treated as a resident under section 6013 (g) or (h) for any taxable year ending on or after December 31, 1975, and the alien's U.S. citizen or resident spouse may file a joint return for that taxable year, even though one or both of the spouses have previously filed separate returns for that taxable year. In this case, the rule in paragraph (a)(3) of this section does not apply.

* * * * *

Par. 10. There is added immediately after § 1.6013–5 the following new sections:

§ 1.6013–6 Election to treat nonresident alien individual as resident of the United States.

(a) *Election for special treatment*—(1) *In general.* Two individuals who are husband and wife at the close of a taxable year ending on or after

December 31, 1975, may make an election under this section for that taxable year if, at the close of that year, one spouse is a citizen or resident of the United States and the other spouse is a nonresident alien. The effect of the election is that each spouse is treated as a resident of the United States for purposes of chapters 1, 5, and 24 and sections 6012, 6013, 6072, and 6091 of the Code for the entire taxable year. An election made under this section is in effect for the taxable year for which made and for all subsequent years of the husband and wife, except—

(i) Any taxable year for which the election is suspended, as described in paragraph (a)(3) of this section, and

(ii) Any taxable year for which the election is terminated in accordance with paragraph (b) of this section and all subsequent taxable years.

A husband and wife may not make an election if an election previously made under this section by either spouse has been terminated under paragraph (b) of this section.

(2) *Particular rules.* (i) As used in paragraph (a)(3) of this section, the term "U.S. spouse" means any married individual who is a citizen or resident of the United States at any time during a taxable year.

(ii) An individual's residence is determined by application of the principles of §§ 1.871–2 through 1.871–5 relating to what constitutes residence in the United States by an alien individual.

(iii) Whether two individuals are married at the close of a taxable year is determined by application of the rules in § 1.6013–4(a).

(iv) The provisions of section 879 and the regulations thereunder shall not apply for any taxable year for which an election under this section is in effect.

(v) [Reserved]

(3) *Suspension of election.* (i) An election made under this section is suspended and is not in effect for a taxable year subsequent to the first taxable year for which made if neither spouse is a U.S. spouse during that subsequent taxable year. Thus, for example, the election is in suspense if both spouses are nonresident aliens for the entire taxable year.

(ii) If either spouse dies during any taxable year for which the election under this section is in effect, other than the first taxable year for which the election is to be in effect, the taxable year shall include, solely for purposes of this paragraph (a)(3), only those days during the taxable year on which both spouses are alive. Thus, for example, if the U.S. spouse dies during the taxable year, the election is not suspended for that year even if the surviving nonresident alien spouse never acquires U.S. citizenship or residency. Similarly, if the nonresident alien spouse dies during the taxable year, the election is not suspended for that year even if the surviving U.S. spouse subsequently abandons U.S. citizenship or residency. However, if neither spouse was a U.S. spouse at any time during the period of the taxable year when both spouses were alive, the election is suspended for that year even if the surviving spouse subsequently acquires U.S. citizenship or residency.

For the effect of the death of either spouse on the status of the election in subsequent taxable years, see paragraph (b)(2) of this section.

(4) *Time and manner of making an election.* (i) A husband and wife shall make the election under this section by attaching a statement to a joint return for the first taxable year for which the election is to be in effect. The election must be made before the expiration of the period prescribed by section 6511 (a) (or section 6511(c) if the period is extended by agreement) for making a claim for credit or refund. If either or both spouses die after the close of the taxable year but before the joint return is filed, the election may be made by the executor, administrator, or other person charged with the property of the deceased spouse. If the election is made with a joint amended return, the amended return should be made on Form 1040 or 1040A, the word "Amended" should be written clearly on the front of the return, and an amended return also must be filed for each subsequent taxable year as to which a return previously has been filed by either spouse.

(ii) The statement must contain a declaration that the election is being made and that the requirements of paragraph (a)(1) of this section are met for the taxable year. The statement must also contain the name, address, and taxpayer identifying number of each spouse. If the election is being made on behalf of a deceased spouse, the statement must contain the name and address of the executor, administrator, or other person making the election on behalf of the deceased spouse. The statement must be signed by both persons making the election.

(b) *Termination of election*—(1) *Revocation.* (i) An election under this section shall terminate if either spouse revokes the election. An election that is revoked terminates as of the first taxable year for which the last day prescribed by section 6072(a) and 6081(a) for filing the return of tax has not yet occurred.

(ii) Revocation of the election is made by filing a statement of revocation in the following manner. If the spouse revoking the election is required to file a return under section 6012, the statement is filed by attaching it to the return for the first taxable year to which the revocation applies. If the spouse revoking the election is not required to file a return under section 6012, but files a claim for refund under section 6511, the statement is filed by attaching it to the claim for refund. If the spouse revoking the election is not required to file a return and does not file a claim for refund, the statement is filed by submitting it to the service center director with whom was filed the most recent joint return of the spouses. The revocation may, if the revoking spouse dies after the close of the first taxable year to which the revocation applies but before the return, claim for refund, or statement of revocation is filed, be made by the executor, administrator or other person charged with the property of the deceased spouse.

(iii) A revocation of the election is effective as of a particular taxable year if it is filed on or before the last day prescribed by section 6072(a) and 6081(a) for filing the return of tax for that taxable year. However, the revocation is not final until that last day.

(iv) The statement of revocation must contain a declaration that the election under this section is being revoked. The statement must also contain the name, address, and taxpayer identifying number of each spouse. If the revocation is being made on behalf of a deceased spouse, the statement must contain the name and address of the executor, administrator, or other person revoking the election on behalf of the deceased spouse. The statement must also include a list of the States, foreign countries, and possessions of the United States which have community property laws and in which—

(A) Each spouse is domiciled, or

(B) Real property is located from which either of the spouses receives income.

The statement must be signed by the person revoking the election.

(2) *Death.* An election under this section shall terminate if either spouse dies. An election that terminates on account of death terminates as of the first taxable year of the surviving spouse following the taxable year in which the death occurred. However, if the surviving spouse is a citizen or resident of the United States who is entitled to the benefits of section 2, the election terminates as of the first taxable year following the last taxable year for which the surviving spouse is entitled to the

benefits of section 2. If both spouses die within the same taxable year, the election terminates as of the first day after the close of the taxable year in which the deaths occurred.

(3) *Legal separation.* An election under this section terminates if the spouses legally separate under a degree of divorce or of separate maintenance. An election that terminates on account of legal separation terminates as of the close of the taxable year preceding the taxable year in which the separation occurs. The rules in § 1.6013–4(a) are relevant in determining whether two spouses are legally separated.

(4) *Inadequate records.* An election under this section may be terminated by the Commissioner if it is determined that either spouse has failed to keep adequate records. An election that is terminated on account of inadequate records terminates as of the close of the taxable year preceding the taxable year for which the Commissioner determines that the election should be terminated. Adequate records are the books, records, and other information reasonably necessary to ascertain the amount of liability for taxes under chapters 1, 5, and 24 of the code of either spouse for the taxable year. Adequate records also includes the granting of access to the books and records.

(c) *Illustrations.* The application of this section is illustrated by the following examples. In each case the individual's taxable year is the calendar year and the spouses are not legally separated.

Example (1). W, a U.S. citizen for the entire taxable year 1979, is married to H, a nonresident alien individual. W and H may make the section 6013 (g) election for 1979 by filing the statement of election with a joint return. If W and H make the election, income from sources within and without the United States received by W and H in 1979 and subsequent years must be included in gross income for each taxable year unless the election later is terminated or suspended. While W and H must file a joint return for 1979, joint or separate returns may be filed for subsequent years.

Example (2). H and W are husband and wife and are both nonresident alien individuals. In June 1980 H becomes a U.S. resident and remains a resident for the balance of the year. H and W may make the section 6013 (g) election for 1980. If H and W make the election, income from sources within and without the United States received by H and W for the entire taxable year 1980 and subsequent years must be included in gross income for each taxable year, unless the election later is terminated or suspended.

Example (3). W, a U.S. resident on December 31, 1981, is married to H, a nonresident alien. W and H make the section 6013 (g) election and file joint returns for 1981 and succeeding years. On January 10, 1987, W becomes a nonresident alien. H has remained a nonresident alien. W and H may file a joint return or separate returns for 1987. As neither W nor H is a U.S. resident at any time during 1988, their election is suspended for 1988. If W and H have U.S. source or foreign source income effectively connected with the conduct of a U.S. trade or business in 1988, they must file separate returns as nonresident aliens. W becomes a U.S. resident again on January 5, 1990. Their election no longer is in suspense. Income from sources within and without the United States received by W or H in the years their election is not suspended must be included in gross income for each taxable year.

Example (4). H, a U.S. citizen for the entire taxable year 1979, is married to W, who is not a U.S. citizen. While W believes that she is a U.S. resident, H and W make the section 6013(g) election for 1979 to cover the possiblity that later it would be determined that she is a nonresident alien during 1979. The election for 1979 will not be considered evidence that W was a nonresident alien in prior years. Income from sources within and without the United States received by H and W in 1979 and subsequent years must be included in gross income for each taxable year, unless the election later is terminated or suspended.

§ 1.6013–7 Joint return for year in which nonresident alien becomes resident of the United States.

(a) *Election for special treatment.*—(1) *In general.* Two individuals who are husband and wife at the close of a taxable year ending on or after December 31, 1975, may make an election under this section for that taxable year if one spouse is a citizen or resident of the United States on the last day of that taxable year and the other spouse is a nonresident alien at the beginning of that taxable year and a citizen of resident of the United States at the close of that taxable year. Two married individuals who are nonresident aliens at the beginning of a taxable year and who are U.S. citizens or residents on the last day of that taxable year qualify for the election. The effect of the election is that each spouse is treated as a resident of the United States for purposes of chapters 1, 5, and 24 and sections 6012, 6013, 6072, and 6091 of the code for all of that taxable year. A husband and wife may not make an election if an election has previously been made under this section by either spouse.

(2) *Particular rules.* The rules in subdivisions (ii) through (v) of § 1.6013–6(a)(2) are applicable to this section.

(3) *Time and manner of making an election.* A husband and wife shall make the election under this section in accordance with the rules in § 1.6013–6(a)(4).

(b) *Section 6013(g) election in effect.* If an election under section 6013(g) is in effect for a year subsequent to the first taxable year for which made and during that subsequent year the husband and wife meet the requirements of section 6013(h) and paragraph (a)(1) of this section, then the election under section 6013(g) shall apply to that subsequent taxable year. A separate election under section 6013(h) is not required for that subsequent taxable year.

§ 1.6072–1 [Amended]

Par. 11. Paragraph (c) of § 1.6072–1 is amended by inserting the phrase "(other than one treated as a resident under section 6013 (g) or (h))" in the first sentence between the phrases "nonresident alien individual" and "and of a foreign trust."

Par. 12. Paragraph (a) of § 1.6073–1 is amended by adding two sentences at the end that read as follows:

§ 1.6073–1 Time and place for filing declarations of estimated tax by individuals.

(a) *Individuals other than farmers or fishermen.* * * * A special rule applies to nonresident aliens who do not have wages subject to withholding under chapter 24 of the code and are not treated as residents under section 6013 (g) or (h) of the code. For taxable years beginning after December 31, 1976, these aliens are not required to file a declaration of estimated tax before June 15th.

* * * * *

§ 1.6091–3 [Amended]

Par. 13. Paragraph (d) of § 1.6091–3 is amended by deleting the period at the end, and inserting in lieu thereof the phrase "(other than one treated as a resident under section 6013 (g) or (h))."

§ 1.6851–2 [Amended]

Par. 14. Paragraph (b)(1)(ii) of § 1.6851–2 is amended as follows:

1. The phrase "(or treated as a resident under section 6013 (g) or (h))" is inserted in the first sentence between the phrases "possession thereof" and "who intends to continue."

2. The phrase "(or treatment as a resident)" is inserted in the first sentence between the phrases "to continue such residence" and "shall be treated."

PART 301—PROCEDURE AND ADMINISTRATION

Par. 15. Paragraph (g) of § 301.6109–1 is amended by adding a sentence at the end that reads as follows:

§ 301.6109–1 Identifying numbers.

* * * * *

(g) *Nonresident alien exclusion.* * * *

The exclusion in this paragraph does not apply to nonresident aliens treated as residents under section 6013 (g) or (h).

* * * * *

PART 1 [AMENDED]

Par. 16. Section 1.1441–1 is amended by adding a sentence at the end to read as follows:

§ 1.1441–1 Requirement for withholding of tax on nonresident aliens, foreign partnerships, and foreign corporations.

* * * The rules of chapter 3 of the Code and §§ 1.1441–1 through 1.1441–6 and §§ 1.1461–1 through 1.1464–1 apply to a nonresident alien individual even though the individual has an election in effect under section 6013 (g) or (h) of the Code.

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Par. 17. Paragraph (a)(2) of § 7.0 is amended to read as follows:

§ 7.0 Various elections under the Tax Reform Act of 1976.

(a) *Elections covered by temporary rules.* * * *

(2) Second Category

185 (d) of Code.	Amortization of railroad grading and tunnel bores.	All taxable years beginning after December 31, 1974.
528 (c) (1) (E) of Code.	Certain homeowners associations.	Any taxable year beginning after December 31, 1973.
1057 of Code.	Transfer to foreign trusts etc.	Any transfer of property after October 2, 1975.

* * * * *

PART 31—EMPLOYMENT TAXES APPLICABLE ON AND AFTER JANUARY 1, 1955

§ 31.3401(a)–1 [Amended]

Par. 18. The first sentence of paragraph (b) (7) of § 31.3401 (a)–1 is amended by inserting the phrase "(including, in regard to wages paid after February 28, 1979, an individual treated as a resident under section 6013 (g) or (h))" between the phrases "citizen or resident" and "of the United States".

Par. 19. Paragraph (a) of § 31.3401 (a) (6)–1 is amended by adding a sentence at the end as follows:

§ 31.3401 (a) (6)–1 Remuneration for services of nonresident alien individual paid after December 31, 1966.

(a) *In general.* * * * In regard to wages paid under this section after February 28, 1979, the term "nonresident alien individual" does not include a nonresident alien individual treated as a resident under section 6013 (g) or (h).

* * * * *

§ 31.3402 (f)(1)–1 [Amended]

Par. 20. Subdivision (i) of § 31.3402 (f) (1)–1 (d) (4) is amended by inserting the phrase "(including, in regard to wages paid after February 28, 1979, and individual treated as a resident under section 6013 (g) or (h))" between the phrases "United States" and ", Canada,".

§ 31.3402 (f)(6)–1 [Amended]

Par. 21. The first sentence of § 31.3402 (f) (6)–1 is amended by inserting the phrase "(other than, in regard to wages paid after February 28, 1979, a nonresident alien individual treated as a resident under section 6013 (g) or (h))" between the phrases "nonresident alien individual" and "subject to withholding".

PART 301 [AMENDED]

§ 301.6013–1 [Amended]

Par. 22. Section 301.6013–1 is amended by deleting the reference to § 1.6013–4 and inserting in its place a reference to § 1.6013–7.

* * * * *

[FR Doc. 80–3163 Filed 1–30–80; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 79–019]

Drawbridge Operation Regulations; Greens Bayou, Texas

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Port of Houston Authority, the Coast Guard is establishing operation regulations for the draw of a railroad bridge across Greens Bayou, mile 2.8, to require at least four hours notice for an opening, except for certain return trips. This action will relieve the bridge owner of the burden of having a person available to open the draw at all times.

EFFECTIVE DATE: This amendment is effective on March 1, 1980.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–0942).

SUPPLEMENTARY INFORMATION: On June 11, 1979, the Coast Guard published a proposed rule (44 FR 33431) concerning this amendment. The Commander, Eighth Coast Guard District, also published these proposals as a Public Notice dated June 11, 1979. Interested persons were given until July 13, 1979 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Two comments were received which had no objection to the proposal.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.245(j)(32) immediately after § 117.245(j)(31) that reads as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(j) * * *

(32) Greens Bayou, Texas; Port Terminal Railroad Association, mile 2.8. The draw shall open on signal if at least four hours notice is given and on signal for three hours thereafter if the opening is for returning downbound vessels.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: September 27, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 80–3077 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Parts 127 and 165

[CGD 17–78–1R2]

Port Valdez, Valdez, Alaska; Establishment of Safety Zone

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a safety zone in the port of Valdez, Alaska in

lieu of the security zone currently in effect. It is believed that a safety zone is a more appropriate means of protecting the marine environment and vessels within Port Valdez.

EFFECTIVE DATE: March 4, 1980.

FOR FURTHER INFORMATION CONTACT: CDR F. N. Harrell, Chief, Port Safety Branch (mps), Seventeenth Coast Guard District, P.O. Box 3–5000, Juneau, Alaska 99802 (Phone 907–586–7195).

SUPPLEMENTARY INFORMATION: A proposal to change the current security zone in Port Valdez to a safety zone for enforcement purposes was published in the **Federal Register** December 28, 1978 (43 FR 60614). Subsequently, on February 8, 1979, a correction to the proposal and an extension of the comment period were published in the **Federal Register** (44 FR 7982). Comments were allowed until March 1, 1979. No comments were received on the proposal.

DRAFTING INFORMATION: The principal person involved in drafting this rule is LT David G. Dickman, Office of Marine Environment and Systems, Port Safety Branch (G–WLE–1/TP11), Room 1100, Trans Point Building, 2100 Second St. SW, Washington, DC 20593 (Phone 202–426–1927).

Discussion of Rule

Section 127.1701 presently designates a security zone that includes an area within 200 yards of any waterfront facility at the Alyeska Marine Terminal complex and an area within 200 yards of any tank vessel maneuvering to approach, moor, unmoor, or depart the Alyeska Marine Terminal complex. This security zone was established to protect the marine environment around the Alyeska Marine Terminal as well as vessels operating in that area. Security zones are authorized under the authority of the Magnuson Act (50 U.S.C. 191). Thus, violations of the security zone are subject only to the criminal penalties authorized under this Act. Because the security zone was originally established for safety and environmental reasons rather than security reasons, and because violations of a safety zone would result in civil penalties as safety zones are issued under the authority of the Ports and Waterways Safety Act (33 U.S.C. 1221–1232), this rule changes the security zone currently in effect to a safety zone.

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

PART 127—SECURITY ZONE

§ 127.1701 [Revoked]

1. By revoking § 127.1701.

PART 165—SAFETY ZONE

2. By adding a new § 165.1701 to read as follows:

§ 165.1701 Port Valdez, Valdez, Alaska.

The waters within the following boundaries are a safety zone: the area within 200 yards of any waterfront facility at the Alyeska Marine Terminal complex or vessels moored or anchored at the Alyeska Marine Terminal complex and the area within 200 yards of any tank vessel maneuvering to approach, moor, unmoor or depart the Alyeska Marine Terminal complex.

(33 U.S.C. 1225; 49 CFR 1.46(n)(4))

Dated: December 27, 1979.

Robert A. Duin,

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

[FR Doc. 80-3146 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 17

Veterans Health Care

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) has amended its "Medical Series" of regulations to comply with provisions of the Veterans Omnibus Health Care Act of 1976. The purpose of that legislation was to improve the quality of hospital care, medical services and nursing home care in VA health care facilities, and to make certain technical and conforming amendments to prior laws governing VA medical care. Several benefits were added, including: (1) expanded home health services; (2) expanded authority to enter into sharing agreements and contracts for scarce medical specialist services; (3) authority to provide outpatient dental care for nonservice-connected veterans on a posthospital care basis; (4) authority to provide emergency outpatient treatment on a humanitarian basis, and (5) authority to provide care under CHAMPVA (Civilian Health and Medical Program of the Veterans Administration) for the surviving spouse and children of a veteran who died while permanently disabled due to a service-connected disability. The Veterans Omnibus Health Care Act of 1976 also imposed certain restrictions on payments for beneficiary travel, established limitations for most posthospital outpatient treatment for nonservice-connected disabilities, and established a statutory hierarchy of priorities for enrolling eligible veterans in outpatient care programs at VA health care facilities.

EFFECTIVE DATE: October 21, 1976.

FOR FURTHER INFORMATION CONTACT: Joseph F. Fleckenstein (202–389–3785).

SUPPLEMENTARY INFORMATION: On pages 42234–42242 of the **Federal Register** of July 19, 1979, proposed amendments were published for 45 sections of Title 38, Code of Federal Regulations from §§ 17.30 through 17.220.

Interested persons were given 60 days to submit comments, suggestions, or recommendations to the proposed amendments. Three comments were received. All of the comments generally supported the proposed amendments, however, several suggestions were made.

One suggestion was that physician's services and drugs be excluded from the services covered by the VA maximum payment for community nursing home care. This is not contemplated at present because our present policy is sufficiently flexible to permit furnishing the more expensive drugs from VA pharmacies as supplemental to the VA maximum payment. The authorized maximum payment is intended to cover the usual physician's services for a nursing home patient. VA patients who require more than the usual services are expected to be returned to the VA medical center.

Another recommendation was to amend § 17.98(b) to specifically include psychologists in the otherwise extensive list of professionals with whom the VA may enter into contracts to provide scarce medical specialist services. Regulations implementing the "Veterans Health Care Amendments of 1979" will provide authority for using the services of psychologists on a fee for service basis for providing authorized readjustment counseling to certain Vietnam era veterans.

One respondent suggested liberalization of the present VA policy with respect to authorizing nursing home care for military retirees living in Hawaii. This cannot be done because legislative authority does not exist for authorizing community nursing home care for veterans except for those veterans requiring such care for a service-connected disability or for those veterans requiring such care for a nonservice-connected disability following an episode of VA hospital care.

The proposed regulations are hereby adopted without change and are set forth below.

Approved: January 18, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In § 17.30, paragraphs (k), (l), (m), (n), (p) and (u) are revised and paragraphs (v) and (w) are added so that the added and revised material reads as follows:

§ 17.30 Definitions.

* * * * *

(k) *Vietnam era.* The term "Vietnam era" means the period beginning August 5, 1964, and ending on May 7, 1975. (38 U.S.C. 101(29))

(l) *Hospital care.* The term "hospital care" includes:

(1) Medical services rendered in the course of hospitalization of any veteran and transportation and incidental expenses pursuant to the provisions of § 17.100.

(2) Such mental health services, consultation, professional counseling, and training for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of title 38, United States Code; (38 U.S.C. 601(5)) and

(3)(i) Medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of title 38, United States Code, and (ii) transportation and incidental expenses for such dependent or survivor of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation. (38 U.S.C. 601(5))

(m) *Medical services.* The term "medical services" includes, in addition to medical examination, treatment, and rehabilitative services:

(1) Surgical services, dental services and appliances as authorized in §§ 17.60(f), 17.120, 17.123 and 17.123a, optometric and podiatric services, and except for veterans authorized outpatient care under § 17.60(e), wheelchairs, artificial limbs, trusses and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as are medically determined to be reasonable and necessary.

(2) Such consultation, professional counseling, training and mental health services as are necessary in connection with the treatment–

(i) Of the service-connected disability of a veteran pursuant to § 17.60(a) and (b);

(ii) Of the nonservice-connected disability of a veteran where such services were initiated during the veteran's hospitalization and the provision of such services is essential to permit the release of the veteran from inpatient care;

for the members of the immediate family or legal guardian of the veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran or dependent or survivor of a veteran receiving care under § 17.54(c). For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under § 17.54(c) shall be eligible for the same medical services as a veteran.

(3) Transportation and incidental expenses for any person entitled to such benefits under the provisions of § 17.100. (38 U.S.C. 601(6))

(n) *Domiciliary care.* The term "domiciliary care" means the furnishing of a home to a veteran, embracing the furnishing of shelter, food, clothing and other comforts of home, including necessary medical services. The term further includes travel and incidental expenses pursuant to § 17.100.

* * * * *

(p) *Nursing home care.* The term "nursing home care" means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require skilled nursing or intermediate care and related medical services, if such care and services are prescribed by, or are performed under the general direction of, persons duly licensed to provide such care. The term includes intensive care where the nursing service is under the supervision of a registered professional nurse. (38 U.S.C. 101(28), 620(e))

* * * * *

(u) *State home.* The term "State home" means a home established by a State (other than a possession) for veterans disabled by age, disease, or otherwise who by reason of such disability are incapable of earning a living. The term also includes a home which furnishes nursing home care for such veterans.

(v) *Rehabilitative services.* The term "rehabilitative services" means such professional counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services for the purpose of restoring employability) as are necessary to restore to the maximum extent possible the physical, mental, and psychological functioning of an ill or disabled person. (38 U.S.C. 601(8))

(w) *Veterans Administration facilities.* The term "Veterans Administration facilities" means:

(1) Facilities over which the Administrator has direct jurisdiction;

(2) Government facilities for which the Administrator contracts; and

(3) Private facilities for which the Administrator contracts when Government facilities are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required in order to provide:

(i) Hospital care or medical services to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged or released from the active military, naval, or air service, or

(ii) Medical services for veterans released from inpatient care to outpatient treatment status or to any veteran who has a service-connected disability rated at 50 percent or more, or

(iii) Hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving hospital care in a facility for which the Administrator has direct jurisdiction or a government facility for which the Administrator contracts.

(iv) Hospital care for women veterans, or

(v) Hospital care for veterans in a State, territory, Commonwealth, or possession of the United States not contiguous to the 48 contiguous states. (38 U.S.C. 601(4))

2. In § 17.31, paragraph (b)(3) is revised to read as follows:

§ 17.31 Duty periods defined.

Definitions of duty periods applicable to eligibility for medical benefits are as follows:

* * * * *

(b) *Active duty.* The term "active duty" means

* * * * *

(3) Full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (*a*) while on transfer to one of the Armed Forces, or (*b*) while, in time of war or national emergency declared by the President,

assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (c) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter. (38 U.S.C. 101(21)(C))

* * * * *

§ 17.32 [Amended]

3. Section 17.32 is amended

(a) By deleting the word "his" and adding the words "his or her" in paragraph (a)(2).

(b) By deleting the words "he", "for him" and "his home" and inserting the words "he or she", "in order" and "to his or her home" in paragraph (c).

§ 17.33 [Amended]

4. Section 17.33 is amended by deleting "his" and inserting "his or her" in paragraph (a).

5. A new center title and § 17.34 are added as follows:

Protection of Patient Rights

§ 17.34 Informed consent.

(a) For the purpose of this section the term

(1) "Informed consent" means the knowing grant of permission by an individual or the individual's legally authorized representative, which is freely given without any element of fraud, duress, deceit, or other form of coercion to the administration or performance of a proposed diagnostic or therapeutic procedure or course of treatment.

(2) "Legally authorized representative" means an individual, organization, or other judicially recognized body empowered under the applicable State law to act on behalf of a legally incompetent individual.

(b) Each informed consent shall include documentation of the following:

(1) The name of the individual.

(2) The date the consent is obtained.

(3) The name(s) of the individual(s) immediately responsible for the performance of the procedure or administration of the treatment.

(4) The procedure to be performed or the treatment to be administered, explained in language which is understandable to the average lay person.

(5) Evidence that reasonable and available alternatives to the proposed treatment or procedure, together with recognized risks of the treatment or procedure and alternatives, were discussed with the individual in language understandable to the average lay person.

(6) An offer to answer inquiries concerning the procedure or treatment.

(7) A clear indication that the individual or the individual's legally authorized representative may withdraw consent at any time without prejudice to the individual.

(8) An authorization for the disposition of any tissue, organ, or body parts.

(9) The signatures of the individual or the individual's legally authorized representative and the person who obtained the consent.

(c) If a proposed course of treatment or procedure involves approved medical research in whole or in part, the individual shall be advised of this. Informed consent shall be obtained specifically for the administration or performance of that aspect of the treatment or procedure which is identified as involving such research. This consent shall be in addition to the consent to be obtained for the administration or performance of the nonresearch aspect of the treatment or procedure and it shall contain the various elements set forth in paragraph (b) of this section.

(d) The Chief Medical Director will establish an appropriate method for the periodic review of patients' consents in order to insure compliance with this section and other regulations and to maintain the protection of the patients' rights. (38 U.S.C. 4131)

§ 17.36 [Amended]

6. Section 17.36 is amended by deleting the word "his" and inserting the words "his or her" in paragraph (b)(1).

§ 17.37 [Amended]

7. Section 17.37 is amended.

(a) By deleting the word "He" and inserting the words "The veteran" in paragraphs (a) and (b).

(b) By deleting "(2) he is suffering from leprosy, or" and inserting "(2) the veteran is suffering from Hansen's disease, or" in paragraph (b).

8. Section 17.38 is amended as follows:

(a) By deleting the word "He" and inserting the words "The veteran" in paragraph (a) (1) and (2) and inserting "a" preceding the word "nonservice-connected" in paragraph (a)(2).

(b) By deleting the word "He" and inserting the words "He or she" in paragraph (b) (1) and (2) and deleting the word "he" following "1946" and following the word "and" in paragraph (b)(2).

(c) By revising paragraph (c)(2) to read as follows:

§ 17.38 Hospital or nursing home care at Veterans Memorial Hospital, Philippines.

* * * * *

(c) *For United States veterans.* * * *

(2) Care at the Veterans Memorial Hospital may be authorized for a veteran for a nonservice-connected disability if such veteran is unable to defray the expenses of necessary hospital care and so states under oath. (38 U.S.C. 624(c)).

* * * * *

9. Section 17.47 is amended as follows:

(a) By deleting ", by his personal efforts," and by deleting "station" and inserting "facility" in paragraph (c)(3)(vii).

(b) By deleting "desires" and inserting "or her desire" and deleting "station" and inserting "facility" in paragraph (c)(3)(viii).

(c) By revising paragraph (d), revoking paragraph (e) and redesignating paragraph (f) as paragraph (e) so that the revised paragraphs (d) and (e) read as follows:

§ 17.47 Eligibility for hospital, domiciliary or nursing home care of persons discharged or released from active military, naval or air service.

* * * * *

(d)(1) Hospital care for veterans suffering from a nonservice-connected disability, disease or defect which, being susceptible to cure or decided improvement, indicates need for hospital care, providing the veterans (except those in receipt of pension) swear they are unable to defray the expense of hospital care. (38 U.S.C. 610(a), 622).

(2) Nursing home care for veterans requiring such care for nonservice-connected conditions, providing the veterans (except those in receipt of pension) swear they are unable to defray the expense of nursing home care. (38 U.S.C. 610(a), 622).

(3) Domiciliary care for veterans suffering from a disability, disease or defect which, being essentially chronic in type, is producing disablement of such degree and of such probable persistency as will incapacitate the veteran from earning a living for a prospective period, and thereby indicates need for domiciliary care. The additional requirements for eligibility for domiciliary care enumerated in paragraph (c)(3) of this section are also applicable to these veterans applying for domiciliary care. (38 U.S.C. 610(b), 621).

(e) Hospital or nursing home care for any veteran for a nonservice-connected disability if such veteran is 65 years of age or older.

10. Section 17.48 is amended as follows:

(a) By deleting "submitted to him" in the first sentence and deleting "his" and inserting "his or her" in the last sentence of paragraph (a)(2).

(b) By deleting "(f) of § 17.47" and inserting "(e) of § 17.47" in the introductory portion of paragraph (d).

(c) By deleting "and exclusive" and by deleting "he" and inserting "the veteran" in paragraph (f).

(d) By revising the headnote and paragraphs (a)(1), (b) and (c)(2) as set forth below:

§ 17.48 Considerations applicable in determining eligibility for hospital, nursing home or domiciliary care.

(a)(1) For applicants discharged or released for disability incurred or aggravated in line of duty and who are not in receipt of compensation for service-connected or service-aggravated disability, the official records of the Armed Forces relative to findings of line of duty for its purposes will be accepted in determining eligibility for hospital care. Where the official records of the Armed Forces show a finding of disability not incurred or aggravated in line of duty and evidence is submitted to the Veterans Administration which permits of a different finding, the decision of the Armed Forces will not be binding upon the Veterans Administration, which will be free to make its own determination of line of duty incurrence or aggravation upon evidence so submitted. It will be incumbent upon the applicant to present controverting evidence and, until such evidence is presented and a determination favorable to the applicant is made by the Veterans Administration, the finding of the Armed Forces will control and hospital care will not be authorized. Such controverting evidence, when received from an applicant, will be referred to the adjudicating agency which would have jurisdiction if the applicant was filing claim for pension or disability compensation, and the determination of such agency as to line of duty, which is promptly to be communicated to the head of the field facility receiving the application for hospital care, will govern the facility Director's disapproval or approval of admission, other eligibility requirements having been met. Where the official records of the Armed Forces show that the disability for which a veteran was discharged or released from the Armed Forces under other than dishonorable conditions was incurred or aggravated in the line of duty, such showing will be accepted for the purpose of determining his or her eligibility for hospitalization, notwithstanding the fact that the Veterans Administration has made a determination in connection with a claim for monetary benefits that the disability was incurred or aggravated not in line of duty.

* * * * *

(b) Under paragraph (c)(3) of § 17.47:

(1) "No adequate means of support"—when an applicant is receiving an income of $265 or more per month from any source for personal use, this fact will be considered prima facie evidence of adequate means of support. This is subject to rebuttal by a showing that such income is not adequate to provide the care required by reason of the veteran's disability or that the income is not available for the veteran's use because of other obligations such as contributions in whole or in part to the support of a spouse, child, mother, or father. In all such cases of alleged inadequate means of support, the circumstances will be submitted to the Director for decision.

(c) Under paragraph (d) of § 17.47:

* * *

(2) "Unable to defray the expense of hospital, nursing home or domiciliary care"—the affidavit of the applicant on VA Form 10–10 that he or she is unable to defray the expenses of hospital, nursing home or domiciliary care will constitute sufficient warrant to furnish such care.

* * * * *

11. Section 17.49 is amended as follows:

(a) By deleting the word "his" and inserting the words "his or her" in the note following this section.

(b) By revising paragraph (a)(3)(iii)(*a*) and (*b*) to read as follows:

§ 17.49 Veterans Administration policy on priorities for hospital, nursing home and domiciliary care.

(a) *Priorities for hospital care.* Eligible persons will be admitted or transferred to a Veterans Administration facility in the following order:

* * * * *

(3) *Priority groups.* * * *

(iii) Group III includes:

(*a*) Veterans receiving hospital, nursing home or domiciliary care from Veterans Administration pursuant to § 17.47 (c), (d), or (e) as applicable, whose transfer to a Veterans Administration hospital has been requested for medical reasons except as follows: Veterans eligible under § 17.47 (d) or (e), admitted to general medical and surgical hospitals who subsequently are determined to require psychiatric care for more than 6 months will not be accorded priority for transfer under this group. (See group V.)

(*b*) Patients eligible under § 17.47 (a) or (b) who are in Veterans Administration hospitals which are not the nearest appropriate facility to the point of application, may be transferred to the appropriate hospital nearest the point of application provided the clinical findings indicate they will require 90 days or more of inpatient care in the latter facility.

* * * * *

§ 17.50 [Amended]

12. Section 17.50 is amended by deleting the word "he" and inserting the words "he or she" in the last sentence of the section.

13. Section 17.50b is amended as follows:

(a) By deleting the word "he" and inserting the words "the veteran" in paragraph (a) and deleting the words "him, or her" and inserting the words "the veteran who" in paragraph (c).

(b) By revising the introductory portion preceding paragraph (a) and paragraph (i) to read as follows:

§ 17.50b Use of public or private hospitals for veterans.

When it is in the best interests of the Veterans Administration and Veterans Administration patients, and subject to the limitations in § 17.30(w)(3), contracts may be entered into for the use of public or private hospitals for the care of veterans. When demand is only for infrequent use, individual authorizations may be used. Admissions in public or private facilities, however, subject to the provisions of § 17.50c, will only be authorized, whether under a contract or as an individual authorization, for any veteran, if: (38 U.S.C. 610, 601(4))

* * * * *

(i) *For emergent conditions arising during care in a Veterans Administration hospital or Government facility.* The veteran, while hospitalized in a Veterans Administration hospital or Government facility with which the Administrator contracts, who develops a need for emergency treatment of a condition which poses a serious threat to the veteran's life or health; and for which the facility is not staffed or equipped to perform, and transfer to a public or private hospital which has the necessary staff or equipment is the only feasible means of providing the necessary treatment, or—(38 U.S.C. 601(4))

* * * * *

14. Section 17.51 is amended as follows:

(a) By deleting "§ 17.47 (a), (b), (c), (d) or (f)" and inserting "§ 17.47" in paragraph (a)(1).

(b) By revising paragraph (b) (1) and (3) as follows:

§ 17.51 Use of community nursing homes.

* * * * *

(b) Such nursing home care will be subject to the following restrictions:

(1) Any veteran eligible under paragraph (a)(1) of this section shall be transferred to the nursing home care facility from a hospital under the direct jurisdiction of the Veterans Administration, except as provided for in § 17.51b, and

* * * * *

(3) The cost of the nursing home care will not exceed 45 percent of the cost of care furnished by the Veterans Administration in a general hospital as determined annually. However, the Administrator upon the recommendation of the Chief Medical Director may approve a higher rate not to exceed 50 percent of the cost of such care, and (38 U.S.C. 620(a))

* * * * *

15. Section 17.53 is revised to read as follows:

§ 17.53 Use of community medical services.

Subject to such terms and conditions as the Chief Medical Director may prescribe, community medical installations, professional associations or individuals may be authorized to furnish medical services of acceptable standards on a fee basis within the limitations of § 17.30(w)(3) or authorized to furnish such services pursuant to the terms of a sharing agreement, or pursuant to the terms of any other agreement, authority for the negotiation of which has been delegated in §§ 17.98 and 17.99 and 41 CFR Part 8–75, for any veteran eligible for the services at Veterans Administration expense. Except as provided in §§ 17.50b through 17.50f, services will not be authorized under the provisions of this section if furnishing services involves transfer of a veteran to a non-Veterans Administration facility as an inpatient. (38 U.S.C. 601(4), 612, 610, 5053, 621, 212)

16. Section 17.54 is amended as follows:

(a) By deleting the words "he enters" and inserting the word "entered" in the last sentence of paragraph (b) and deleting the word "his" in the first sentence of paragraph (c).

(b) By revising paragraph (a) to read as follows:

§ 17.54 Medical care for survivors and dependents of certain veterans.

(a) Medical care may be provided for: (1) The spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and (2) The surviving spouse or child of a veteran who: (i) Died as a result of a service-connected disability, or (ii) At the time of death had a total disability, permanent in nature resulting from a service-connected disability, who are not otherwise eligible for medical care as beneficiaries of the Armed Forces under the provisions of chapter 55 of title 10, United States Code (CHAMPUS). (38 U.S.C. 613)

* * * * *

17. Section 17.60 is amended as follows:

(a) By deleting the word "him" and inserting the words "him or her" in paragraph (c).

(b) By revising the introductory portion preceding paragraph (a) and paragraphs (e), (f) and (h) and adding paragraph (j) to read as follows:

§ 17.60 Outpatient care for eligible persons.

Medical services may be furnished, within the limits of Veterans Administration facilities, to the following applicants under the conditions stated, except that applicants for dental treatment, as defined in paragraphs (a) to (d) inclusive of this section must also meet the applicable provisions of § 17.123:

* * * * *

(e) *For prehospital care.* Persons eligible for hospital care under § 17.47, where a professional determination is made that such care is reasonably necessary in preparation for admission of such persons for care, or (to the extent that facilities are available) to obviate the need for bed care. (38 U.S.C. 612(f))

(f) *For posthospital care.* Persons eligible for hospital care under § 17.47 who have been furnished hospital care, and outpatient medical care is reasonably necessary to complete treatment incident to such hospital care. Said service may be provided not to exceed 12 months after discharge from the inhospital treatment except where the attending physician finds that a longer period is required by virtue of the disability being treated. (38 U.S.C. 612(f))

* * * * *

(h) *For veterans 50 percent or more disabled from a service-connected disability.* Outpatient care, except outpatient dental treatment, may be authorized to treat any nonservice-connected disability of a veteran who has a service-connected disability rated at 50 percent or more. (38 U.S.C. 612)

* * * * *

(j) *Home health services.* Home health services determined by the Veterans Administration to be necessary for effective and economical treatment of a disability may be furnished to any veteran to include home improvement and structural alterations as are necessary to assure the continuation of treatment or to provide access to the home or to essential lavatory and sanitary facilities.

(1) The cost to the Veterans Administration or reimbursement by the Veterans Administration to the veteran will not exceed $2,500 for home improvement or structural alterations to veterans being treated for a service-connected disability, and,

(2) Will not exceed $600 for veterans being treated for a nonservice-connected disability and then only to veterans receiving authorized posthospital care under the authority of § 17.60(f) or to veterans rated at 50 percent or more service connected. (38 U.S.C. 612(f))

§ 17.60a [Amended]

18. Section 17.60a is amended by deleting the word "him" and inserting the words "the Administrator" in the last sentence.

§ 17.60d [Amended]

19. Section 17.60d is amended by deleting the word "he" and inserting the words "the veteran" in the first sentence and by deleting the word "his" and inserting the words "his or her" in the last sentence of paragraph (a).

20. Sections 17.60f, 17.60g and 17.60h are added to read as follows:

§ 17.60f Mental health services.

Mental health services, as defined in § 17.30(l)(2), may be furnished the members of the immediate family, or legal guardian of the person or the individual in whose household such person certifies an intention to live, provided the person is eligible for care under provisions of §§ 17.47, 17.54, or 17.60(a), (b) or (f). (38 U.S.C. 601(5), 601(6), 612, 613(b))

§ 17.60g Priorities for medical services.

Unless compelling medical reasons indicate otherwise, eligible veterans shall be furnished outpatient medical services on a priority basis in the following order:

(a) To any veteran for a service-connected disability,

(b) To any veteran with a service-connected condition, rated at 50 percent or more,

(c) To any veteran with a disability rated as service connected,

(d) To any veteran eligible under the provisions of § 17.60(i). (38 U.S.C. 612(i))

§ 17.60h Immunizations under national programs.

Veterans receiving care for any disability in a Veterans Administration health care facility may have administered to them vaccines for immunization as part of a national immunization program. Participation by veterans in a national immunization program must be voluntary. (38 U.S.C. 612(j))

§ 17.96 [Amended]

21. Section 17.96 is amended by deleting "VA Hospital" and inserting "VA Medical Center".

22. Section 17.98 is revised to read as follows:

§ 17.98 Authority to approve sharing agreements, contracts for scarce medical specialist services and contracts for other medical services.

The Chief Medical Director is delegated authority to enter into

(a) Sharing agreements authorized under the provisions of 38 U.S.C. 5053 and § 17.210 and which may be negotiated pursuant to the provisions of 41 CFR 8–3.204(c);

(b) Contracts with schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Veterans Administration health care facilities (including, but not limited to, services of physicians, dentists, podiatrists, optometrists, nurses, physicians' assistants, expanded function dental auxiliaries, technicians, and other medical support personnel); and

(c) When a sharing agreement or contract for scarce medical specialist services is not warranted, contracts authorized under the provisions of 38 U.S.C. 213 for medical and ancillary services. The authority under this section generally will be exercised by approval of proposed contracts or agreements negotiated at the health care facility level. Such approval, however, will not be necessary in the case of any purchase order or individual authorization for which authority has been delegated in § 17.99. All such contracts and agreements will be negotiated pursuant to 41 CFR Chapters 1 and 8. (38 U.S.C. 212, 213, 4117, 5053)

§ 17.99 [Amended]

23. Section 17.99 is amended by deleting "VA hospital" and "his" and inserting "VA medical center" and "his or her".

24. Section 17.100 is amended as follows:

(a) By deleting the words "he executes" and "he is" and inserting the words "the person executes" and "he or she is" in paragraph (h)(1).

(b) By deleting the word "station" and inserting the word "facility" in the first sentence of paragraph (1).

(c) By revising the introductory portion preceding paragraph (a) and paragraphs (a), (c), (d), (e), (f) and (k) and adding paragraph (g)(3) so that the added and revised material reads as follows:

§ 17.100 Transportation of claimants and beneficiaries.

Transportation at Government expense will be authorized for eligible claimants and beneficiaries. In no event shall payment be made under the provision of this section: unless the persons claiming reimbursement have been determined eligible based upon an annual declaration and certification of inability to defray expenses of such travel (except for the veteran receiving benefits for or in connection with a service-connected disability; for the cost of travel by privately-owned vehicle in any amount in excess of the cost of such travel by public transportation unless public transportation is not reasonably accessible or would be medically inadvisable; for the cost of travel in excess of the actual expense incurred by any person as certified by that person in writing.) (38 U.S.C. 111) Travel will be authorized for the following purposes:

(a) *Admission.* (1) Admission of applicants under §§ 17.47 and 17.54.

(2) Hospital admission for observation and examination.

(3) Admission for domiciliary care of applicants under § 17.47(c)(3) and (d).

* * * * *

(c) *Preparatory and posthospital care.* When necessary to the provision of medical services furnished veterans under § 17.60(e) and (f). The authority under this paragraph is subject to the exceptions stated in paragraph (h) of this section.

(d) *Authorized absence.* Transportation will not be furnished beneficiaries who are on authorized absence, to depart from or return to Veterans Administration health care facilities, except that if a patient or member in such status develops an emergent condition and the patient or member (or guardian, if there be one) is without funds to return such patient or member to a Veterans Administration health care facility, travel may be approved by the Director of the Veterans Administration facility to which the patient or member is to be returned.

(e) *Interfacility transfers for treatment, diagnosis, or domiciliary care.* Prior consent of the District Medical Director will be had for transfers of patients or members en bloc within the area, and of both District Medical Directors if interarea transfers are involved. Interfacility transfer will include transfer from a Veterans Administration medical center to nursing home care.

(f) *Discharge.* (1) Upon regular discharge from hospitalization for treatment, observation and examination, or nursing home, or domiciliary care, return transportation to the point from which the beneficiary had proceeded, or to another point if no additional expense be thereby caused the Government.

(2) A patient in a terminal condition may be discharged to his or her home or transferred to a hospital suitable and nearer that home, regardless of whether travel so required exceeds that covered in proceeding to the hospital of original admission.

(3) Transportation may be furnished to a point other than that from which a patient had proceeded to a hospital upon a showing of bona fide change of address of the patient's residence during the period of hospital care.

(4) No return transportation will be supplied a patient who receives an irregular discharge from hospital or nursing home care, unless the patient executes an affidavit of inability to defray the expense of return transportation.

(g) *Outpatient services.* * * *

(3) Claimants identified in § 17.30(m)(2) are entitled to reimbursement for transportation costs when authorized to report to a Veterans Administration health care facility. (38 U.S.C. 601(6))

* * * * *

(k) *Furnishing transportation and other expenses incident thereto.* In furnishing transportation and other expenses incident thereto, as defined, the Veterans Administration may (1) issue requests for transportation, meals, and lodging; or (2) reimburse the claimant, beneficiary or representative, for payment made for such purpose, upon due certification of vouchers submitted therefor, or (3) make mileage allowance. The provisions of § 17.100, 17.101 or 17.102 will be complied with in all instances when transportation costs are claimed. (38 U.S.C. 111)

* * * * *

§ 17.101 [Amended]

25. Section 17.101 is amended by deleting the word "his" in paragraph (b).

26. Immediately preceding § 17.119, a new center title is added to read "Automotive Equipment and Driver Training".

27. Section 17.119a is added to read as follows:

§ 17.119a Obtaining vehicles for special driver training courses.

The Administrator may obtain by purchase, lease, gift or otherwise, any automobile, motor vehicle, or other conveyance deemed necessary to conduct special driver training courses at Veterans Administration health care facilities. The Administrator may sell, assign, transfer or convey any such automobile, vehicle or conveyance to which the Veterans Administration holds title for such price or under such terms deemed appropriate by the Administrator. Any proceeds received from such disposition shall be credited to the applicable Veterans Administration appropriation. (38 U.S.C. 1903(e)(3))

28. A new § 17.123b is added and the former § 17.123b is amended and redesignated § 17.123c so that §§ 17.123b and 17.123c now read as follows:

§ 17.123b Posthospital outpatient dental treatment.

The Chief, Dental Service may authorize outpatient dental care which is reasonably necessary to complete treatment of a nonservice-connected dental condition which was begun while the veteran was receiving Veterans Administration authorized hospital care. (38 U.S.C. 612(b)(5))

§ 17.123c Patient responsibility in making and keeping dental appointments.

Any veteran eligible for dental treatment on a one-time completion basis only and who has not received such treatment within 3 years after filing the application shall be presumed to have abandoned the claim for dental treatment.

§ 17.155 [Amended]

29. Section 17.155 is amended as follows:

(a) By deleting the words "his death" and inserting the word "death" in the first sentence and by deleting the "he" and inserting the words "he or she" in the last sentence of paragraph (a).

(b) By deleting the words "his discretion he" and inserting the words "the Director's discretion he or she" in paragraph (b).

(c) By deleting the work "he" and inserting the words "the Director" in the first sentence of paragraph (f).

(d) By revising paragraph (c) as follows:

§ 17.155 Autopsies.

* * * * *

(c) If it is suspected that death resulted from crime or the cause of death is unknown and if the United States has jurisdiction over the area where the body is found, the Director of the Veterans Administration facility will inform the appropriate District Counsel of the known facts concerning the death. Thereupon the District Counsel will transmit all such information to the United States Attorney for such action as may be deemed appropriate and will inquire whether the United States Attorney objects to an autopsy if otherwise it be appropriate. If the United States Attorney has no objection, the procedure as to autopsy will be the same as if the death had not been reported to him or her.

* * * * *

§ 17.161 [Amended]

30. Section 17.161 is amended by deleting the title "Assistant Chief Medical Director for Administration and Facilities" and inserting the title "Assistant Chief Medical Director for Administration" in paragraph (b).

31. Immediately preceding § 17.165, the center title is changed to read "Aid to States for Care of Veterans in State Homes".

32. Section 17.165 is amended as follows:

(a) By deleting the words "of a war" in paragraph (c) and deleting "§ 17.166a(c)" and inserting "§ 17.166a(b)" in paragraph (d).

(b) By revising the introductory portion preceding paragraph (a) as follows:

§ 17.165 Recognition of a State home.

A State-operated facility which provides hospital, domiciliary or nursing home care to veterans must be formally recognized by the Administrator as a State home before Federal aid payments can be made for the care of such veterans. Any agency of a State (exclusive of a territory or possession) responsible for the maintenance or administration of a State home may apply for recognition by the Veterans Administration for the purpose of receiving aid for the care of veterans in such State home. A State home may be recognized if: (38 U.S.C. 210, 641)

* * * * *

§ 17.165a [Amended]

33. Section 17.165a is amended by deleting the words "his recommendation" and "his decision" and inserting the words "a recommendation" and "the decision".

§ 17.165b [Amended]

34. Section 17.165b is amended by deleting the word "war" in the last sentence and inserting the citation "(38 U.S.C. 641, 210)" at the end of the section.

35. Section 17.165c is revised to read as follows:

§ 17.165c Aid for period prior to recognition prohibited.

Payment of Federal aid will not be made for domiciliary, nursing home or hospital care for any period prior to the date of notification of recognition of a State home, and aid for domiciliary, nursing home or hospital care furnished any veteran in such home will not be paid for any period prior to the receipt of application for such care on behalf of such veteran except as provided for in § 17.166d. (38 U.S.C. 643)

36. Section 17.165d is added to read as follows:

§ 17.165d Prerequisites for payments to State homes.

No payment or grant may be made to any State home unless the State home meets the standards prescribed by the Administrator. These standards, with respect to nursing home care, shall be no less stringent than those prescribed by the Administrator for community nursing homes. (38 U.S.C. 642(a))

37. Sections 17.166, 17.166a, 17.166b and 17.166c are revised to read as follows:

§ 17.166 Aid for domiciliary care.

Aid may be paid to the designated State official for domiciliary care furnished in a recognized State home for any veteran if the veteran is eligible for domiciliary care in a Veterans Administration facility. (38 U.S.C. 641)

§ 17.166a Aid for nursing home care.

Aid may be paid to the designated State official for nursing home care furnished in a recognized State home for any veteran if:

(a) The veteran needs nursing home care and:

(1) Has a service-connected disability for which nursing home care is being provided, or

(2) Has a nonservice-connected disability and is unable to defray the expenses of nursing home care and so states under oath, or

(3) Was discharged or released from active military, naval or air service for disability incurred or aggravated in line of duty, or

(4) Is in receipt of, or but for the receipt of retirement pay would be entitled to receive, disability compensation, and

(b) The quarters in which the nursing home care is provided are in an area clearly designated for such care and not intermingled with those of either hospital patients or domiciliary members. (38 U.S.C. 641, 642(a))

§ 17.166b Aid for hospital care.

Aid may be paid to the designated State official for hospital care furnished in a recognized State home for any veteran if:

(a) The veteran is eligible for hospital care in a Veterans Administration facility, and

(b) The quarters in which the hospital care is carried out are in an area clearly designated for such care, specifically established, staffed and equipped to provide hospital type care, are not intermingled with the quarters of nursing home care patients or domiciliary members, and meet such other minimum standards as the Veterans Administration may prescribe.

§ 17.166c Amount of aid payable.

The amount of aid payable to a recognized State home shall be at the per diem rates of $5.50 for domiciliary care, $10.50 for nursing home care, and $11.50 for hospital care. In no case shall the payments made with respect to any veteran exceed one-half of the cost of the veteran's care in the State home. (38 U.S.C. 641)

§ 17.166d [Amended]

38. Section 17.166d is amended by deleting the word "he" and inserting the words "he or she" in the last sentence.

39. In § 17.210, paragraph (d) is added to read as follows:

§ 17.210 Sharing specialized medical resources.

* * * * *

(d) Reimbursement for medical care rendered to an individual who is entitled to hospital or medical services (Medicare) under subchapter XVIII of chapter 7 of title 42, United States Code, and who has no entitlement to medical care from the Veterans Administration will be made to such facility, or if the contract or agreement so provides to the community health care facility which is partly to the agreement in accordance with:

(1) Rates prescribed by the Secretary of Health, Education and Welfare, after consultation with the Administrator, and

(2) Procedures jointly prescribed by the Secretary and the Administrator to assure reasonable quality of care and service and efficient and economical utilization of resources. (38 U.S.C. 5053)

§ 17.212 [Amended]

40. Section 17.212 is amended by deleting "his" in the first sentence.

§ 17.220 [Amended]

41. Section 17.220 is amended by deleting "title IX of the Public Health Service Act" and inserting "part F, title XVI of the Public Health Service Act."

[FR Doc. 80-3089 Filed 1-30-80; 8:45 am]
BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1402-1]

Approval of a Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: This rule announces the Administrator's decision to approve a revision of the Virginia State Implementation Plan (SIP). The revision provides for the reduction of nonmethane hydrocarbon (NMHC) emissions from highway paving materials used by the Virginia Department of Highways and Transportation (DHT) through the use of emulsion or water-based asphalt rather than cutback or solvent-based asphalt and limits the NMHC emissions from the proposed refinery and terminal operations of the Hampton Roads Energy Company in Portsmouth, Virginia.

EFFECTIVE DATE: January 31, 1980.

ADDRESSES: Copies of the approved revision to the Virginia SIP and Rationale Document are available during normal business hours at the following locations:

United States Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. Attn: Ms. Eileen M. Glen.

Virginia State Air Pollution Control Board, Region VI, Pembroke One, Suite 610, 281 Independence Blvd., Virginia Beach, Virginia 23462. Attn: Mr. Lucian B. McDonald.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Heim, Chief, Air Programs Branch (3AH10), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597-8175.

SUPPLEMENTARY INFORMATION: On November 28, 1977, the Commonwealth of Virginia submitted to EPA, Region III a revision to the Virginia State Implementation Plan (SIP). The revision provides for the reduction of NMHC emissions through a program of substitution of emulsion-based asphalt for "cutback material" by the Virginia Department of Highways and Transportation (DHT). The Commonwealth certified that a public notice appeared in the appropriate newspaper and that a public hearing was held on September 20, 1977. The Commonwealth's submittal also included the original permit to construct the refinery and terminal issued to the Hampton Roads Energy Company (HREC) on December 8, 1975 by the Virginia State Air Pollution Control Board (VSAPCB) and the extension to this permit granted to HREC on October 5, 1977 by the VSAPCB. The Commonwealth requested the NMHC offset (achieved through the asphalt substitution program) and the October 5, 1977 permit be made part of the Virginia SIP.

Supplemental information was submitted on March 17, 1978, May 26, 1978, August 9, 1978, and October 5, 1979. This information included letters from the Commissioner of the Virginia DHT and the Deputy Attorney General confirming the emission offset and its enforceability. The August 9th submittal also included a revised permit issued to HREC on August 8, 1978. The October 5, 1979 submittal included the revised State permit issued on October 3, 1979 and amended on October 4, 1979.

This revision concerns the Hampton Roads Energy Company's proposed refinery and terminal in Portsmouth, Virginia. The Portsmouth area has been designated a nonattainment area with respect to National Ambient Air Quality Standards for Photochemical Oxidants. Therefore, this potential source of NMHC emissions must satisfy the requirements of EPA's December 21, 1976 Interpretative Ruling published at 41 FR 55524, amended and codified in Section 129 of the Clean Air Act Amendments of 1977, Public Law 95-95, 91 Stat. 685-796. These requirements include:

1. The new source must meet an emission limitation which specifies the lowest achievable emission rate (LAER) for such type of source.

2. The applicant must certify that all existing sources owned, operated or controlled by the applicant within the same AQCR are in compliance or in

compliance with the terms and conditions of an approved compliance schedule under a SIP or an enforcement order issued under Section 113 of the Clean Air Act.

3. Emission reductions (offsets) obtained from existing sources must be greater than the allowable emissions from the proposed new source.

4. The emission offsets must provide a positive net air quality benefit in the affected area.

The original SIP revision submitted on November 28, 1977 was deficient in that the offset obtained from the Virginia DHT was not specific and its enforceability was questionable. Furthermore, the permit (October 5, 1977) set annual emission rates for NMHC emissions rather than hourly limits. The Virginia State Air Pollution Control Board (VSAPCB) was notified of these deficiencies by EPA letter dated February 23, 1978.

On March 17, 1978, the VSAPCB submitted a letter from the Commissioner of the Virginia DHT agreeing to the specific reductions in the use of cutback asphalt and stating that this policy was legally binding on the DHT, its employees and its contractors. This submittal also included draft permit conditions specifying pounds per hour limitations rather than tons per year.

The May 26, 1978 submittal included a letter from the Virginia Deputy Attorney General stating that the Virginia DHT commitment to reduce NMHC emissions through the use of emulsion-based asphalt rather than cutback material was legally binding and enforceable.

The August 9, 1978 submittal included the revised permit issued to HREC on August 8, 1978. The revised permit specified NMHC emission limitations from combustion sources in pounds per hour.

The October 5, 1979 submittal included a revised State permit which extended the permit from October 8, 1979 to October 7, 1981. It also included a permit amendment issued to HREC on October 4, 1979 which clarified the requirement for an effective vapor recovery system at the marine terminal.

On October 10, 1978 (43 FR 46554) the Regional Administrator proposed the offset and permit as a revision to the Virginia SIP and provided for a 30-day comment period ending November 9, 1978.

Numerous comments were received during the public comment period and all were considered prior to reaching a decision. Significant comments have been summarized and addressed in the Rationale Document. Furthermore, additional information was requested from the Virginia State Air Pollution Control Board regarding the seasonal use of cutback asphalt and the NO_x monitor at Old Dominion University. This supplemental information was furnished by the VSAPCB on February 1 and February 6, 1979.

In response to these comments, as well as to statements from the VSAPCB and HREC, EPA published another Notice on May 1, 1979 (44 FR 25471) relative to the "seasonal" offset and the marine terminal emissions. During this subsequent comment period approximately 100 letters were received. These comments, as well as those received in response to the October 10, 1978 Notice, are addressed in the Rationale Document.

Today's approved revision to the Virginia SIP will provide a reduction in NMHC emissions of one thousand nine hundred thirty-one (1931) tons per year. This reduction is achieved through restricting the usage of cutback asphalts in road surfacing, and maintenance programs (See App. P, Rationale Document for an explanation of EPA's calculation). Thereby reducing the amount of NMHC used. The Virginia DHT will limit the amount of cutback asphalt used to 10% of the total amount; furthermore, the total use of cutback asphalt in the Richmond, Suffolk and Fredericksburg Highway Districts shall not exceed 4,850 tons per year. Emphasis on cutback usage reductions shall be during late spring-summer-early fall months, since this not only coincides with the periods of higher ozone concentrations but also coincides with the time-periods when most road-paving operations occur.

Finally, the approved revision limits NMHC emissions from the oil refinery storage facilities, process combustion, and fugitive sources to one thousand two hundred ninety-three (1293) tons per year.

The NMHC emissions from the terminal are limited to one hundred seventy-six and one-half (176.5) tons per year. If, after the product mix and distribution methods are finalized and emissions are determined to exceed the offsets obtained, additional offsets will be required prior to operation of the refinery and terminal. (See, letters dated May 29, 1979 and July 18, 1979 from the VSAPCB).

After evaluation of the State's submittal and the public comments received, the Administrator has determined that the Virginia revision meets the requirements of the Clean Air Act, as amended, the EPA December 21, 1976 Interpretative Ruling, and 40 CFR Part 51. Therefore, this amendment is approved as a revision to the Virginia Implementation Plan. Accordingly, 40 CFR § 52.2420 is amended and 40 CFR §§ 52.2425 and 52.2426 are added to reflect the Administrator's approval of this amendment.

In addition, amendments to § 52.2420 (Identification of Plan) of 40 CFR; Subpart VV (Virginia) which appeared in the November 9, 1977 **Federal Register** (42 F.R. 58405) were inadvertently listed under §§ 52.2420(c)(13) and 52.2420(c)(14). The proper designations of these amendments should be Sections 52.2420(c)(15) and (c)(16) respectively. In addition, an amendment to 40 CFR § 52.2420 which appeared in the August 3, 1978 **Federal Register** (43 F.R. 34129) was inadvertently listed under § 52.2420(c)(15). The proper description of this amendment should be § 52.2420(c)(19). This notice serves to make these corrections. Paragraphs (c)(1) through (c)(12), (c)(17), (c)(18), and (c)(20) through (c)(24) of 40 CFR Section 52.2420 remain unchanged.

Because issuance of the federal permits have delayed commencement of construction, EPA believes good cause exists for no further delay and therefore makes this SIP revision immediately effective upon publication of this notice.

Authority: 42 U.S.C. 1857c–5 and 1875g.

Dated: January 25, 1980.

Douglas Costle,

Administrator.

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

Subpart VV—Virginia

1. In Section 52.2420, the proper listing of paragraphs (c)(13) through (c)(19) should be as follows:

§ 52.2420 Identification plan.

* * * * *

(c) * * *

(13) AQMA designations were submitted on May 7, 1974 by the Governor of the State of Virginia.

(14) Revision deleting preface to the State air pollution control regulations submitted May 24, 1974 by the Virginia Air Pollution Control Board.

(15) An amendment to Section 2.05(a) (Variances) former Section 2.01(f) of the Commonwealth of Virginia Regulations for the Control and Abatement to Air Pollution submitted on August 14, 1975 by the Commonwealth Secretary of Commerce and Resources.

(16) A variance to allow the operation of the Alexandria City Incinerator in excess of the federally approved particulate emission limitations for incinerators until December 31, 1979, by

the Commonwealth Secretary of Commerce and Resources.

* * * * *

(19) Amendments to Part I, Subpart 1.01 (Certain Terms Defined) and to Part IV, Section 4.52 (former Section 4.705.13) of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution submitted on April 16, 1974, by the Commonwealth Secretary for Commerce and Resources.

2. In Section 52.2420, paragraph (c)(26) is added to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified

* * *

(26) On November 28, 1977 the State submitted an amendment to the Virginia SIP consisting of a permit extension and an emission offset for the Hampton Roads Energy Company's proposed refinery and terminal in Portsmouth, Virginia. This submittal was supplemented by the Commonwealth on March 17, 1978, May 26, 1978, August 9, 1978, and October 5, 1979. The March 17th submittal included a letter dated March 6, 1978 from the Commission of the Virginia Department of Highways and Transportation committing to a reduction of nonmethane hydrocarbon emissions through the substitution of emulsion-based asphalt for solvent-based asphalt thus providing the needed emission offset. This letter is an addendum to the Virginia SIP. The State-issued permit to HREC, as amended, is also made part of the Virginia SIP.

3. Section 52.2425 is added to read as follows:

§ 52.2425 Control of asphalt paving material.

(a) Notwithstanding any provisions to the contrary in the Virginia State Implementation Plan, the Virginia Department of Highways and Transportation shall limit its use of cutback asphalts such that:

(1) The total use of cutback asphalts shall not exceed 10% of the total liquid asphalt used in construction and maintenance operations; and

(2) The total use of cutback asphalts in the Richmond, Suffolk and Fredericksburg Highway Districts shall not exceed 4,850 tons per year; and

(3) Emphasis on cutback usage reductions shall be during late spring, summer, and early fall months.

(b) The Virginia Department of Highways and Transportation is required to submit to the Virginia State Air Pollution Control Board, on a quarterly basis, for each of the affected Districts the number of gallons of each class of asphalt used. Copies of all reports must also be forwarded to EPA, Region III.

4. Section 52.2426 is added to read as follows:

§ 52.2426 Hampton Roads Energy Co.

(a) The permit issued by the Virginia State Air Pollution Control Board on August 8, 1978 as amended on October 3 and 4, 1979 is hereby incorporated by reference.

(b) Nonmethane hydrocarbon emissions from the HREC refinery in Portsmouth, Virginia are not to exceed a total of 1293 tons per year.

(c) Nonmethane hydrocarbon emissions from the HREC terminal in Portsmouth, Virginia are not to exceed a total of 176.5 tons per year.

[FR Doc. 80-3169 Filed 1-30-80; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 78-256; RM-3081; RM-3177; RM-3225]

FM Broadcast Stations in Decatur and Farmer City, Ill.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns Channel 252A to Farmer City, Illinois, as its first FM assignment and Channel 257A to Decatur, Illinois, as its third FM assignment. This action was taken in response to a petition filed by Decatur Christian Radio, an opposition and counterproposal filed by James Mudd d.b.a. Farmer City Broadcasting, and comments and an alternate proposal filed by Town and Country Broadcasting Company.

EFFECTIVE DATE: March 10, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: January 23, 1980.

Released: January 31, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Decatur and Farmer City,[1] Illinois), BC Docket No. 78-256, RM-3081, RM-3177, RM-3225.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 43 FR 37723, released August 24, 1978, which proposed the assignment of Channel 252A to Decatur, Illinois, as its third FM assignment, in response to a petition from Decatur Christian Radio ("DCR"). An opposition and counterproposal, the assignment of Channel 252A to Farmer City, Illinois, were filed by James Mudd d.b.a. Farmer City Broadcasting ("Mudd").[2] Comments and an alternative proposal, the assignment of Channel 257A to Decatur, were filed by Town and Country Broadcasting Company ("Town and Country").[3] It is apparent from these pleadings that two options are available in this proceeding: (1) Assignment of both Channels 252A and 257A to Decatur, or (2) assignment of Channel 252A to Farmer City and Channel 257A to Decatur. For the reasons outlined below, we believe that the public interest favors adoption of the second course of action.

2. Decatur (pop. 87,000), seat of Macon County (pop. 125,010), is located approximately 250 kilometers (155 miles) southwest of Chicago and 70 kilometers (37 miles) east of Springfield, Illinois. It is served by local AM Stations WSOY (fulltime) and WDZ (daytime-only), and by Class B FM Stations WDZQ (Channel 236) and WSOY-FM (Channel 275). According to DCR, Decatur's population increased 15.4% between 1960 and 1970, making it fifth in population among Illinois cities. An unincorporated community of 2,217, Farmer City is located approximately 51 kilometers (32 miles) northeast of Decatur. It is, Mudd states, a major business and trade center for DeWitt County (population 16,975), a rich and growing agricultural area. Farmer City has at present no local aural service and Channel 252A is the only channel available for its use.[4]

3. The opposition of Farmer City is directed to the comparative aspects of

[1] This community has been added to the caption.

[2] The assignment of Channel 252A cannot be made to both Decatur and Farmer City since these communities are 51 kilometers (32 miles) apart and the required spacing is 105 kilometers (65 miles), pursuant to § 73.207(a) of the Commission's rules.

[3] The proposals of Mudd and Town and Country were submitted as support for their positions in this proceeding and have been treated accordingly as responsive pleadings.

[4] The allegations of DCR that Channels 221A and 224A are available for use in Farmer City are incorrect. A construction permit to operate on Channel 224A at LeRoy, Illinois (which is ten miles from Farmer City), was recently granted by the Commission and a Farmer City operation on Channel 221A would be short-spaced to Stations WEIC-FM in Charleston, Illinois, and WSSR in Springfield, Illinois.

Decatur and Farmer City as to which community should receive Channel 252A. However, since it is not necessary to make the choice, we have not detailed these arguments.

4. The assignment of Channel 252A to Farmer City would provide a first local service to the community, a major objective of our FM allocation rules. At the same time, as this assignment would not preclude assignment of Channel 257A to Decatur, the larger city can receive an additional channel to which its population clearly entitles it.[5] *Bakersfield, Calif.*, 5 FCC 2d 525, 531 (1966). The public interest, as noted earlier, is best served by assigning one channel to each community rather than two channels to Decatur. This approach satisfies the legitimate interests of both communities and sacrifices the interests of neither.

5. As for the question of preclusion, we see no difficulty with the proposed Channel 257A assignment.[6] Thus, while four communities with populations exceeding 1,000 would be denied use of the channel, one has existing aural services and the populations of the other three are small (below 2,000). Although Decatur has two Class B channel assignments, an additional Class B assignment is unavailable and intermixture is not an obstacle because both petitioners are willing to apply for and operate on the Class A channel despite the disadvantageous competition. See *Yakima, Wash.*, 42 FCC 2d 548 (1973).

6. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective March 10, 1980, the FM Table of Assignments (§ 73.202(b) of the rules), is amended with respect to the following communities:

City	Channel No.
Decatur, Illinois	236, 257A, 275
Farmer City, Illinois	252A

7. It is further ordered, that the petition of Decatur Christian Radio to assign Channel 252A to Decatur, Illinois, is denied.

8. It is further ordered, that this proceeding is terminated.

[5] This proposal was not formally accepted as a counterproposal since it did not conflict with any existing proposal. The previous Class A proposal provided adequate notice in our opinion.

[6] No preclusion study was submitted for Farmer City as it represents a first Class A assignment for a small community. See *Policy Statement to Govern Requests for Additional FM Assignments*, 8 FCC 2d 79 (1967).

9. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-3082 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-198; RM-3215]

FM Broadcast Station in Paradise, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns FM Channel 224A to Paradise, California, at the request of John C. Butler. This assignment will provide a second fulltime aural broadcast service to a growing community.

EFFECTIVE DATE: March 10, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Ira H. Smart or Mark N. Lipp, Broadcast Bureau, (202) 632-9660 or (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: January 22, 1980.

Released: January 31, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Paradise, California), BC Docket No. 79-198, RM-3215.

1. The Commission herein considers the *Notice of Proposed Rule Making*, adopted August 6, 1979, 44 FR 47963, which invited comments on a proposal to assign Channel 224A to Paradise, California, as that community's second Class A FM assignment, in response to a petition filed by John C. Butler ("petitioner"). Supporting comments were filed by petitioner in which he reaffirmed his intention to file for the channel, if assigned. An opposition was received from Robb Cheal ("Cheal"), receiver of North Valley Radio, Station KNVR (FM).[1] Petitioner filed reply comments.

[1] On October 25, 1979, the Commission denied a request for extension of time filed by Kragwood Broadcasting, Inc. ("Kragwood"), licensee of an FM station in Chico, California. Kragwood indicated it desired to file a counterproposal in this proceeding which would propose assignment of Channel 224A to a more deserving community than Paradise in Butte County. However, as the *Order* indicated, Kragwood, as licensee of the Chico station, would find it difficult to operate another station in Butte County without a prohibited signal overlap in violation of the Commission's rules (§ 73.240(a)(1)). Further, since numerous alternate channels are available for assignment to Butte County, we found no basis on which to delay action on the proposed channel for Paradise, California.

2. Paradise (pop. 14,539),[2] in Butte County (pop. 101,069), is located approximately 145 kilometers (90 miles) north of Sacramento, California. It is presently served by daytime-only AM Station KEWG and FM Station KNVR (Channel 244A). The *Notice* indicated that since alternate channels are available to precluded communities, that factor is not an impediment to the proposed assignment.

3. Petitioner argues in his comments that if population trends continue, Paradise will become the largest community in the county within a few years. He contends that the growth in the population of Paradise has brought new issues and problems to the community. Petitioner notes that although there are two existing stations which provide local coverage, neither station programs local news on weekends. He adds that the residents of Paradise could benefit by the additional news coverage that a second FM assignment could bring. In addition, petitioner points out that while the construction industry is the single most important element in the local economy, agriculture also continues to play a role.

4. In opposition, Cheal contends that the information supplied by petitioner no longer represents an accurate picture of the Paradise community. He notes that Paradise is currently served by a daily and twice-weekly newspaper in addition to the *Chico Enterprise Record*, which has established a news bureau in Paradise to cover local daily events there. Cheal adds that petitioner's representation of the news programming provided by KNVR is also outmoded, as KNVR(FM) now provides hourly local newscasts from 6:00 a.m. to 6:00 p.m. on weekdays and from 6:00 a.m. until noon on Saturdays. Cheal contends that these changes undermine petitioner's contention that another radio station is needed in Paradise. Cheal asserts that the intensified local coverage of Paradise by newspapers and the increased news programming by KNVR make petitioner's argument for a second Class A FM assignment to Paradise obsolete. Lastly, Cheal adds that the economic prospects for a second FM

[2] Population figures are taken from the 1970 U.S. Census.

station in Paradise are not good based on KNVR's experience.

5. In reply comments, petitioner asserts that despite limited media expansion, there remains a need for another radio station in Paradise due to the fact that it is the fastest-growing community in Butte County. Petitioner contends that the rapid growth of Paradise alone is a strong consideration favoring assignment of a second FM frequency to the community under the Commission's criteria. Further, petitioner states that as operator of the proposed station, he plans to institute a "telephone-talk" program to enable the residents of Paradise to communicate directly to their government leaders on a "town meeting" basis. Petitioner also stated that he plans to offer a substantial news operation which would broadcast local news seven days a week. Lastly, petitioner cites several cases to support its contention that Cheal's claim of economic hardship are not properly raised at the rule making stage of proceedings.[3]

6. We have carefully considered the record in this proceeding and conclude that it would be in the public interest to make the requested assignment so as to provide Paradise, California, with its second Class A FM assignment. It appears that Paradise is a growing community and although Paradise is presently served by two radio stations, the choice of another source of programming would benefit the public. The arguments in opposition appear to be primarily concerned with the competitive impact of another station in the market, but that is an issue which can be more appropriately resolved in the context of an application processing, and further consideration shall be deferred until that stage. Likewise, any issue in connection with the programming aspect of petitioner's application should await the application stage.

7. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective March 10, 1980, the FM Table of Assignments (§ 73.202(b)), is amended with respect to the community listed below:

City	Channel No.
Paradise, California	224A, 244A

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Ira H. Smart or Mark N. Lipp, Broadcast Bureau, (202) 632-9660 or (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307).)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-3083 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 79-43; RM-3140]

Television Broadcast Stations in Glenwood Springs and Alamosa, Colo., and Price and Vernal, Utah; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action reassigns VHF television Channel 3 from Alamosa, Colorado, to Glenwood Springs, Colorado, as its first local commercial television assignment. It is expected that a translator station presently operating on the Alamosa channel may continue to do so despite the deletion of the assignment. Channel changes were also necessary for unoccupied assignments at Price and Vernal, Utah.

EFFECTIVE DATE: March 10, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Glenwood Springs and Alamosa,[1] Colorado, and Price and Vernal, Utah), BC Docket No. 79-43, RM-3140.

Report and Order—Proceeding Terminated

Adopted: January 22, 1980.

Released: January 31, 1980.

1. In the *Notice of Proposed Rule Making,* adopted March 12, 1979, 44 FR 17197, we invited comments on a proposal to assign VHF television Channel 3 to Glenwood Springs, Colorado. To accommodate this assignment, it was also proposed to delete Channel 3 from Alamosa, Colorado, to substitute VHF television Channel 6 for Channel 3 at Price, Utah, and to substitute Channel 3 for Channel 6 at Vernal, Utah, each unoccupied.

2. Western Slope Communications, Inc. ("Western") proposes to operate a station on Channel 3 at Glenwood Springs, to serve portions of Eagle, Garfield, and Pipkin Counties, which have an estimated year-round population of 47,400 and visitors estimated to number between 30,000 to 40,000 winter and summer. In addition to the principal community, Glenwood Springs (pop. 4,106),[2] other communities which would be served by the station are Aspen and Vail, Colorado. Western claims that such a station would provide a predicted first Grade B television service to 43,500 people and a second Grade B service to an additional 71,800 persons. Ninety-six percent of the projected service area is stated to lack over-the-air television service, although cable television provides service to some of the local population centers. The area is reported to rely chiefly on mining, tourism and recreation, farming and ranching for economic support. Petitioner also notes the high level of cultural activities offered in the area.

3. Pikes Peak Broadcasting Company ("Pikes Peak"), the licensee of TV Station KRDO-TV, Colorado Springs, Colorado, and of translator Station KO3CO, Alamosa, Colorado, opposes the assignment of Channel 3 to Glenwood Springs, but states that if the Commission does make the allocation, it should permit a resultant short-spacing of 22.7 miles so as not to delete Channel 3 from Alamosa. Pikes Peak also urges that if Channel 3 is deleted from Alamosa, the Commission should, in any event, not require changes in the present operation of translator Station KO3CO, which has operated on Channel 3 in Alamosa for approximately 12 years and serves that place with a power of 100 watts. In a related matter, Pikes Peak initially sought, in a petition for reconsideration, to have the Commission set the *Notice of Proposed Rule Making* aside so as not to delete Channel 3 from Alamosa. We have, in a separate document, dismissed that petition since we had not yet taken a final action. Instead, we indicated that an opportunity would be afforded to comment on the proposal and that we would consider Pikes Peak's pleading as comments. As Pikes Peak's comments

[3] Petitioner cites the cases of *Adrian, Michigan,* 37 FCC 2d 1021, 25 RR 22 1731 (1972); *Sanders Brothers Radio Station* v. *FCC,* 309 U.S. 470 (1940); and *Carroll Broadcasting Co.* v. *FCC,* 250 F. 2d 440 (D.C. Cir. 1958).

[1] This community has been added to the caption.

[2] Population figures are taken from the 1970 U.S. Census.

pointed out, it believed that the communities of Aspen and Vail might require translators to obtain service from the proposed station on Channel 3. It also noted that the proposed station may require the termination of operations of at least six translators serving communities in the local area.

4. We have previously held that an adverse impact on existing translators are not appropriate circumstance to warrant the denial of a full-fledged local television station. See *Washington, D.C., and Fairfax, Va.*, 44 FR 58720 (1979); *Medford, Ore.*, 43 FR 1503 (1978). All translators are licensed subject to the subsequent authorization of a full television station which would affect the continued operation of the translator. See § 74.702(c)(3) of the Commission's rules. Moreover, the fact that translators may be needed by the Glenwood Springs station in order to reach places within its normal service area owing to terrain factors, does not weigh heavily against the assignment of the channel. As Pikes Peak itself pointed out, the broken terrain of much of Colorado calls for the use of translators; and in fact most of the stations in Colorado Springs and elsewhere in the State utilize them.

5. We do not find merit in Pikes Peak's further alternative approach of leaving Channel 3 assigned to Alamosa. There is scant prospect for the use of the channel for a full television station there especially in light of the 22-mile site restriction which would need to be complied with. However, in view of the rugged terrain between Alamosa and Glenwood Springs, there appears to be very little chance that the continued operation of the 100-watt Alamosa Channel 3 translator would cause any interference to the service area of the future Glenwood Springs Channel 3 station. Therefore, we are inclined to look favorably on a waiver request of the translator power rule, Section 74.735. Pending receipt and action on that waiver request Pikes Peak may continue to operate KO3CO with its presently authorized translator output power of 100 watts.

6. The Association for Maximum Service Telecasters ("AMST") has objected to the short-spacing, but has indicated that its objection would not be directed to the Channel 3 assignment to Glenwood Springs if the Alamosa channel were deleted. AMST also indicated that Western Slope should be required to show the existence of transmitter sites at Glenwood Springs and Price, Utah, which would be located the required minimum distance from each other. We find that the availability for those sites has been sufficiently shown for purposes of this rule making action. AMST has also alluded to the requirement that principal city signal be provided to Glenwood Springs. We are also satisfied on that matter.

7. The Mayor of Rifle, Colorado, has commented to the effect that if a station on Channel 3 at Glenwood Springs would cause interference to translators now serving the Rifle area, a supportive resolution previously adopted by the town council and mayor would be withdrawn. The Roaring Fork TV Association, Inc., has indicated that it would expect an immediate impact on six television translator stations serving communities in the general vicinity of Glenwood Springs. Roaring Fork believes it would be preferable, therefore, to use Channel 13 for a Glenwood Springs assignment. This, however, would not be possible because of an extreme short-spacing to the Channel 13 assignment at Colorado Springs.

8. Having given due consideration to these and other arguments that have been advanced on the record in this proceeding, we conclude that the public interest would be served by assigning Channel 3 to Glenwood Springs as proposed. Accordingly, pursuant to authority in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective March 10, 1980, the Television Table of Assignments (§ 73.606(b) of the rules, is amended with respect to the channel assignments to the following communities:

City	Channel No.
Alamosa, Colorado	*16
Glenwood Springs, Colorado	3–, *19+
Price, Utah	3+, *15
Vernal, Utah	6, *17+

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Louis C. Stephens, Broadcast Bureau, (202) 632–6302.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307).)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 80-3086 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 87

Aviation Services; Editorial Amendment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Amendment of the rules to add six frequencies which will be available to the aeronautical fixed service in Alaska without a showing that the licensee serves certificated air carriers. This action will bring the rules into conformity with licensing policy. The use of these frequencies was approved by the Interdepartment Radio Advisory Committee in 1970.

EFFECTIVE DATE: February 8, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Penny Wells, Private Radio Bureau (202) 632–7175.

SUPPLEMENTARY INFORMATION:

In the matter of editorial amendment of § 87.455(b)(2) of the Commission's rules. Order.

Adopted: January 22, 1980.

Released: January 24, 1980.

1. Section 87.455(b)(2) of the rules sets out a single frequency for use in the aeronautical fixed service in Alaska which is available to applicants regardless of whether they make the showing required by § 87.455(b)(1). That section requires that the licensees serve scheduled certificated air carriers as defined by the Civil Aeronautics Board. This frequency is authorized only in conjunction with authorizations for use of the aeronautical enroute frequencies specified in § 87.297(a).

2. Six additional frequencies were cleared some time ago for use under conditions similar to those described in § 87.455(b)(2) by the Interdepartment Radio Advisory Committee (IRAC). However, due to an oversight, our rules were not amended to reflect this. Licenses have been issued throughout this time period and dozens of stations are operating under this authority. This order will correct the omission of these frequencies from the rules.

3. Accordingly, the Commission's rules are being changed editorially. Authority for this amendment is contained in Sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended, and Section 0.231(d) of the Commission's rules. Since the amendment is editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

4. In view of the above, *it is ordered,* that the rule amendment set forth in the attached Appendix is adopted effective February 8, 1980.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

R. D. Lichwardt,

Executive Director.

Appendix

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 87—AVIATION SERVICES

1. In § 87.455, paragraph (b)(2) is amended to read as follows:

§ 87.455 Assignment of frequencies.

* * * * *

(b) * * *

(2) The following frequencies are available for assignment to aeronautical fixed stations in Alaska. These frequencies will be authorized only in conjunction with authorizations for use of the aeronautical enroute frequencies specified in 87.297(a).

Frequencies available:

kHz	*kHz*
2649.5	5311.5
4645	5889
4949	8016.5
5124	

[FR Doc. 80-3026 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 175

[Docket No. HM-168; Amdt. No. 175-11]

Aircraft Accessibility Requirements for Radioactive Materials

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This amendment changes the accessibility requirements pertaining to the transportation of radioactive materials aboard cargo-only aircraft. Prior to this amendment, radioactive materials in quantities acceptable only for cargo-only aircraft were required by § 175.85(b) to be carried in a location accessible to a crewmember during flight. This amendment revises § 175.85(b) to permit the carriage of radioactive materials in inaccessible locations. The change represents part of the MTB's efforts to keep crewmember exposure to radioactive materials as low as reasonably achievable (ALARA). It also facilitates the transportation of plutonium by air in a specially designed, highly crash resistant packaging (PAT-1) which, as a condition of its carriage, must be carried in the aftermost location on an aircraft which is often inaccessible.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: R. R. Rawl, Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20590, (202) 426-2311.

SUPPLEMENTARY INFORMATION: On December 11, 1978, the MTB published a Notice of Proposed Rulemaking (Docket HM-168; Notice 78-13; 43 FR 57928) which contained proposals to amend certain regulations pertaining to the transportation of hazardous materials aboard aircraft. One proposal in Notice 78-13 was to exclude certain classes of materials from the accessibility requirements of § 175.85. Even though the final rule under Docket HM-168 will be published in the near future, the MTB believes it should immediately address the issue of accessibility requirements for radioactive materials. This amendment is concerned solely with an exclusion from accessibility requirements for radioactive materials.

Six commenters in Docket HM-168 specifically addressed the proposal to except certain classes of materials from accessibility requirements and all comments were favorable. Therefore, the proposal is considered noncontroversial and, with respect to radioactive materials, is adopted in this amendment. To effect the change, the phrase "Except for radioactive materials, . . ." has been added to the introductory sentence of paragraph (b) of § 175.85. The MTB has elected to proceed expeditiously in this matter for several reasons. The requirement that radioactive materials be accessible is not in keeping with good radiation protection principles the MTB's stated objectives regarding radioactive materials, nor the proposed (42 FR 37427) segregation requirements in Docket HM-152.

Good radiation protection principles dictate that exposures be kept "As Low As Reasonably Achievable" (ALARA) and it is reasonable to load packages of radioactive materials as far as practical from crewmembers. Requiring accessibility has negligible safety value since there is little or nothing a crew could or should do to mitigate leakage from a radioactive materials package. The MTB is working to incorporate the ALARA principle into its regulations and this rulemaking is a step in that direction. Also, the requirements proposed in Docket HM-152 for the segregation of radioactive materials packages would be difficult to achieve on modern aircraft if the packages were required to be accessible.

Furthermore, recent actions by Congress, the Nuclear Regulatory Commission and the Department of Energy require that plutonium be carried on aircraft only in a highly crash resistant packaging (PAT-1). Due to certain crash associated conditions, specifically longitudinal crush, the PAT-1 package is restricted to the aftermost location of an aircraft. This requirement, when coupled with the previous requirement for accessibility of the package, essentially thwarted the carriage of plutonium by air.

Primary drafters of this document are R. R. Rawl and E. T. Mazzullo of the Office of Hazardous Materials Regulation, MTB.

In consideration of the foregoing, 49 CFR Part 175 is amended as follows:

In § 175.85, the first sentence of paragraph (b) is revised to read as follows:

§ 175.85 Cargo location

* * * * *

(b) Except for radioactive materials, each person carrying materials acceptable only for cargo-only aircraft shall carry those materials in a location accessible to a crewmember during flight. * * *

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1.)

Note.—The Materials Transportation Bureau has determined that this document will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C. on January 22, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-2747 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket 25; Notice 37]

Consumer Information Regulations Uniform Tire Quality Grading; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule; correction.

SUMMARY: This notice corrects an inadvertent error in the text of the National Highway Traffic Safety Administration's (NHTSA) final rule modifying the tread label format used under the Uniform Tire Quality Grading (UTQG) Standards (49 CFR 575.104).

FOR FURTHER INFORMATION CONTACT: Dr. F. Cecil Brenner, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202–426–1740.

SUPPLEMENTARY INFORMATION: On November 29, 1979, NHTSA published a notice (44 FR 68475) making minor modifications in the final format of tire tread labels used to convey UTQG information to consumers. That notice contained an inadvertent error in the text of Figure 2 of the regulation in that the words "one and one-half" were substituted for the words "one and a half" under the heading "Treadwear" in Part II of the tread label text. The notice is therefore revised to reflect the intended wording.

FR Doc. 79–36522 appearing at 44 FR 68475 is corrected at page 68477 in the third column as follows:

Figure 2, Part II of the Uniform Tire Quality Grading Standards, 49 CFR 575.104, is corrected by subsitution of the words "one and a half" in place of the words "one and one-half" under the heading "Treadwear".

The principal author of this notice is Richard Hipolit of the Office of Chief Counsel.

(Secs. 103, 112, 119, 201, 203; Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegation of authority at 49 CFR 1.50 and 501.8).

Issued on January 22, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80–2823 Filed 1–30–80 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1423]

Union Pacific Railroad Co. Authorized To Reconsign Unit-Grain-Train

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1423.

SUMMARY: Service Order No. 1423 authorizes the Union Pacific Railroad Company to reconsign a unit-grain-train to Tacoma, Washington, to improve car utilization due to an embargo against Koppel Grain Company which has a 75-car unit-grain train on hand at Ogden, Utah. Koppel requests the reconsignment to Continental Grain Company since the train cannot be reconsigned under its Transcontinental Freight Bureau Tariff.

DATES: Effective date: 10:00 a.m., January 18, 1980. Expiration date: 11:59 p.m., January 25, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275–7840.

Decided: January 18, 1980.

The Union Pacific Railroad Company (UP) has a 75-car unit-grain-train on hand at Ogden, Utah, which is destined to Koppel Grain Company at Long Beach, California. Because of an embargo against Koppel Grain, Koppel wants to reconsign this train to Continental Grain Company at Tacoma, Washington. The train is moving under authority of Transcontinental Freight Bureau Tariff 3029–P, ICC TCFB–3029–P, which provides in Item 2486.11–0 that diversion or reconsignment instructions will be accepted provided the unit to be diverted or reconsigned has not reached Rawlins, Wyoming. Since the train has passed Rawlins, the train cannot be reconsigned under the tariff. In order to improve car utilization, the UP requests authority to reconsign the train to Continental at Tacoma.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for maiing this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1423 Service Order No. 1423.

(a) *Union Pacific Railroad Company authorized to reconsign unit-grain-train.* The Union Pacific Railroad Company is authorized to reconsign one 75-car unit-grain-train now at Ogden, Utah, and which is consigned to Koppel Grain, Long Beach, California, to Continental Grain Company at Tacoma, Washington, moving under provisions of Transcontinental Freight Bureau Tariff 3029–P, ICC TCFB–3029–P, regardless of tariff provisions which prohibit reconsignments if the unit-train has passed Rawlins, Wyoming.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(c) The master waybill of the unit-grain-train authorized to be reconsigned by this order shall contain a notation that the train is reconsigned under authority of Service Order No. 1423.

(d) All tariff provisions not specifically modified by this order shall remain in effect.

(e) *Effective date.* This order shall become effective at 10:00 a.m., January 18, 1980.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 25, 1980, unless otherwise modified, amended or vacated by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–3156 Filed 1–30–80; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Opening of Certain National Wildlife Refuges in North Carolina, South Carolina, and Tennessee, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain national wildlife refuges in North Carolina, South Carolina, and Tennessee is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. The name and address of each affected refuge and the special regulations for each refuge are set forth below.

EFFECTIVE DATES: See the dates listed for each refuge under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

William C. Hickling, Area Manager, U.S. Fish and Wildlife Service, 279 Federal Building, Asheville, N.C. 28801. Telephone: 704–258–2850, Ext. 321.

Steven W. Frick, Refuge Manager, Mattamuskeet National Wildlife Refuge, Rt. 1, Box N–2, Swanquarter, N.C. 27885. Telephone: 919–926–4021.

Jerry L. Holloman, Refuge Manager, Pee Dee National Wildlife Refuge, P.O. Box 780, Wadesboro, N.C. 28710. Telephone: 704–694–4424.

Marvin T. Hurdle, Refuge Manager, Carolina Sandhills National Wildlife Refuge, Route 2, Box 130, McBee, South Carolina 29101. Telephone: 803–335–8401.

George R. Garris, Refuge Manager, Cape Romain National Wildlife Refuge, Rt. 1, Box 191, Awendaw, S.C. 29429. Telephone: 803–928–3368.

Paul Ferguson, Refuge Manager, Santee National Wildlife Refuge, Route 2, Box 66, Summerton, S.C. 29148. Telephone: 803–478–2217.

Samuel W. Barton, Refuge Manager, Cross Creeks National Wildlife Refuge, Route 1, Box 229, Dover, Tennessee 37058. Telephone: 615–232–7477.

J. C. Bryant, Refuge Manager, Hatchie National Wildlife Refuge, Box 187, Brownsville, Tennessee 38012. Telephone: 901–772–0501.

Wendell C. Crews, Refuge Manager, Reelfoot (and Lake Isom) National Wildlife Refuge, P.O. Box 98, Samburg, Tennessee 38254. Telephone: 901–538–2481.

SUPPLEMENTARY INFORMATION:

General

Sport fishing on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Impact Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

North Carolina

Mattamuskeet National Wildlife Refuge

Sport fishing on the Mattamuskeet National Wildlife Refuge, North Carolina, is permitted on approximately 40,000 acres. Sport fishing and bow fishing seasons extend from March 1, 1980, through November 1, 1980, except that the following areas are open to bank fishing during the entire year: (a) State Highway 94 Causeway; (b) in the immediate vicinity of the Lake Landing Water Control Structure; and (c) in the immediate vicinity of the Outfall Canal Water Control Structure and the Central Canal bridge, in the Mattamuskeet Lodge area. (1) Herring (alewife) dipping will be permitted from March 1 through May 15 from the canal banks and water control structures in the immediate vicinity of the following locations: (a) Waupoppin Canal control structure—from ½ hour before sunrise to ½ hour after sunset. (b) Outfall Canal and Lake Landing control structures—from ½ hour before sunrise to 10:00 p.m. (2) Boats and outboard motors will be permitted from March 1 through November 1, except in areas posted closed to motorboat use. Airboats are prohibited.

Pee Dee National Wildlife Refuge

Sport fishing on the Pee Dee National Wildlife Refuge, North Carolina, is permitted on approximately 44 acres. The sport fishing season is year-round on Brown Creek within 100 yards of Brown Creek Bridge on U.S. Highway 52; from April 1, 1980, through September 30, 1980, on Brown Creek within 100 yards of both Bennett Bridge on SR–1627 and lower Brown Creek Bridge on SR–1634, on Sullivan, Little and Ross Ponds (Anson County), Andrews Pond (Richmond County), and on the Pee Dee River (Anson and Richmond Counties); and from July 5, 1980, through September 30, 1980, on Arrowhead Lake (Anson County).

Fishing is permitted from sunrise to sunset. Only bank fishing is permitted, except in Andrews Pond and Arrowhead Lake. Jon boats, up to 14 feet, and canoes will be permitted in Andrews Pond and Arrowhead Lake. All motors are prohibited.

Only cane poles and rods and reels are permitted. Trotlines, set hooks, and nets are prohibited in Refuge waters. No special refuge fishing permit is required. Parking is permitted only in designated areas.

South Carolina

Cape Romain National Wildlife Refuge

Sport fishing on the Cape Romain National Wildlife Refuge, South Carolina, is permitted on approximately 610 acres. The sport fishing season on the refuge extends from March 15, 1980, through September 30, 1980.

Fishing is permitted during daylight hours only. Boats with electric motors are permitted. Other motors are prohibited. Boats must be removed from the refuge at the close of each day. Moore's Landing will be open daily from 5:00 a.m. until 8:00 p.m. EST, for launching and loading boats. Dogs are prohibited.

Carolina Sandhills National Wildlife Refuge

Sport fishing on the Carolina Sandhills National Wildlife Refuge, South Carolina, is permitted on approximately 150 acres. The fishing season is year-round on the Black Creek Bridge areas on State Road 33, State Road 145, and U.S. Highway 1 and Wire Road; from March 10, 1980, through October 5, 1980, on Martins Lake, and Pools A, B, C, D, G, and H; and from March 10, 1980, through September 7, 1980, on Lake 17, and Pools J and L and Lynches River; from July 21, 1980, through December 31, 1980, on Lake Bee; and from July 21, 1980, through September 7, 1980, on Lake 16.

Fishing is permitted from sunrise until ½ hour after sunset. Unpowered boats and boats with electric motors are permitted only in Martins Lake, Lakes 16 and 17, and Lake Bee. Other types of motors are prohibited. All other areas are open only for bank fishing within posted areas. Fish baskets, nets, set hooks, and trotlines are prohibited.

Santee National Wildlife Refuge

Sport fishing on the Santee National Wildlife Refuge, South Carolina, is permitted on approximately 16,000 acres. Sport fishing is permitted 24 hours per day except for waters within land units which are limited to daylight use, bank fishing only. Sport fishing is permitted year-round except that Cantey Bay, Black Bottom, Savannah Branch, and waters within all land units are closed from November 1, 1980, to February 28, 1981. The overnight mooring of boats on the refuge is prohibited.

Tennessee

Cross Creeks National Wildlife Refuge

Sport fishing on the Cross Creeks National Wildlife Refuge, Tennessee, is permitted on approximately 3,260 acres. The open season for Elk and South Cross Creek Reservoirs and the 15 refuge impoundments extends from April 1, 1980, through September 15, 1980. Sport fishing on Barkley Lake is open year-round.

Fishing is permitted in designated areas from 30 minutes before sunrise to 30 minutes after sunset, except on Barkley Lake, which is open 24 hours per day. Outboard motor size is limited to 6 horsepower or less in Elk and South Cross Creek Reservoirs and the 15 refuge impoundments. Motor size is not restricted on Barkley Lake. Methods of fishing on the two reservoirs and the 15 refuge impoundments are limited to rod and reel and/or pole and line.

Overnight mooring of boats is prohibited on the refuge. Fishermen must park in designated areas. No special refuge fishing permit is required.

Hatchie National Wildlife Refuge

Sport fishing on the Hatchie National Wildlife Refuge, Tennessee, is permitted on approximately 150 acres which includes all lakes and streams. The sport fishing season extends from April 1, 1980, through November 14, 1980. Fishing is permitted during daylight hours only.

Boats powered with electric outboard motors are permitted. Gasoline motors are prohibited.

Methods of fishing are limited to pole and line, or rod and reel, using natural or artificial baits. Footpaths may be used to reach all lakes from Hatchie River.

Lake Isom National Wildlife Refuge

Sport fishing on the Lake Isom National Wildlife Refuge, Tennessee, is permitted on approximately 750 acres. The sport fishing season on the refuge extends from March 16, 1980, through September 30, 1980.

Fishing with bows and arrows is prohibited at all times. Boats with motors of not more than 6 horsepower may be used. Fishing is permitted during daylight hours only.

Reelfoot National Wildlife Refuge

Sport fishing on the Reelfoot National Wildlife Refuge, Tennessee, is permitted on approximately 9, 092 acres. The fishing season on that portion of the refuge located north of Upper Blue Basin extends from February 15, 1980, through October 15, 1980. The fishing season on the portion of the refuge located south of Upper Blue Basin extends from January 21, 1980, until the day preceding opening of the 1980 waterfowl season. Fishing with bows and arrows is prohibited. Boats with motors of not more than 10 horsepower may be used. Fishing is permitted during daylight hours only.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Dated: January 24, 1980.

William C. Hickling,

Area Manager

[FR Doc. 80-3056 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

Fishery Conservation and Management; Apportionment of Reserve Amounts

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Final regulations.

SUMMARY: These regulations make additional amounts of fish available to foreign fishing in accordance with the provisions of the Groundfish of the Gulf of Alaska Fishery Management Plan (FMP) and the regulations implementing this FMP (See 44 FR 64410, 50 CFR 672.20(c) and 50 CFR 611.92(b)(1)(ii)). These regulations apply to vessels of the United States and foreign nations fishing for groundfish in the Gulf of Alaska.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION: Because of uncertainties about specifications of U.S. domestic annual harvest (DAH), including the extent to which U.S. vessels delivering to U.S. and foreign processors would harvest groundfish, the FMP established reserves of fish which could be apportioned to the total allowable level of foreign fishing (TALFF) if U.S. vessels did not harvest at anticipated levels.

On September 7, 1979, the Secretary of Commerce published an approved amendment to the FMP (44 FR 52214) which incorporated comments from, among others, the North Pacific Fishery Management Council. The Council suggested the establishment of certain reserve amounts of target species and their bycatch to assure an adequate supply of fish to U.S. vessels wishing to sell U.S.-caught fish to U.S. or foreign processors at sea. The amendment became effective November 1, 1979 (44 FR 64410).

The final regulations established standards and times of any reserve apportionment as well as a procedure for public comment on the extent to which vessels of the United States would harvest reserve amounts during the remainder of the year. The regulations provide that portions of the reserve amount will be released and added to TALFF as soon as practicable after January 2, March 2, May 2, and July 2 if it is determined that U.S. fishermen will not catch these amounts during the remainder of the fishing year.

Determination of Amount of Reserve Release

In accordance with the requirements of 50 CFR 672.20(c) and 50 CFR 611.92(b)(1)(ii), the Regional Director has determined that:

1. Twenty-five percent of the reserves of all species, except sablefish in the eastern regulatory area and "other rockfish" in the western and central regulatory areas, should be apportioned to TALFF.

2. The remaining reserves of all species in the Gulf of Alaska that are eligible for release on January 2, 1980, should be retained as reserves.

Amounts of reserves (metric tons) that are being apportioned to TALFF or retained as reserves are summarized in the following table:

Jan. 2, 1980, Reserve Apportionment (1,000's mt) by Regulatory Area

Species	Western	Central	Eastern	Total
Pollock:				
Apportioned	2.85	4.76	0.83	8.44
Retained	8.55	14.28	2.49	25.32
Pacific Cod:				
Apportioned	0.828	1.677	0.495	3.0
Retained	2.484	5.031	1.485	9.0
Flounders:				
Apportioned	0.52	0.735	0.42	1.675
Retained	1.56	2.205	1.26	5.025
Pacific Ocean Perch:				
Apportioned	0.135	0.395	0.72	1.25
Retained	0.405	1.185	2.16	3.75
Other Rockfish:				
Apportioned	0	0	0.325	0.325
Retained	0.06	0.16	0.975	1.195
Sablefish:				
Apportioned	0.105	0.19	0	0.295
Retained	0.315	0.57	1.42	2.305
Atka Mackerel:				
Apportioned	0.234	1.042	0.159	1.435
Retained	0.702	3.125	0.478	4.305
Squid:				
Apportioned	0.05	0.1	0.1	0.25
Retained	0.15	0.3	0.3	0.75
Rattails:				
Apportioned	0.165	0.355	0.14	0.66
Retained	0.495	1.065	0.42	1.98
Idiot Rockfish:				
Apportioned				0.188
Retained				0.562
Other Species:				
Apportioned	0.22	0.43	0.16	0.81
Retained	0.66	1.29	0.48	2.43

In making this determination, the Regional Director considered the need for DAH to be supplemented with reserves. As of January 1980 U.S. harvests for all species had been minimal. The Regional Director has concluded that 25 percent of the reserves, except as noted above, will not be required to supplement DAH and should be apportioned to TALFF. He further concluded that because of the uncertainty in the amounts that will be caught by U.S. fishermen, the remaining reserves should be retained until at least the next apportionment date, March 2, 1980, when the adequacy of DAH will be evaluated further.

The rapid expansion of the U.S. sablefish fishery in the eastern regulatory area in recent years and the small quantity of other rockfish available in the central and western areas make it inappropriate to apportion the reserves of those species in those areas to TALFF at this time.

Response to Public Comments

Only one comment was received during the comment period. It is summarized and responded to below:

Comment: Reserves of sablefish in each regulatory area should be apportioned to TALFF to support longline fishing for sablefish.

Response: No sablefish reserves in the eastern regulatory area or "other rockfish" in the western or central regulatory areas will be apportioned to TALFF because of the uncertainty of the need for these reserves to supplement DAH. Twenty-five percent of the total reserves of all other species are being apportioned to TALFF. The remaining reserves are being retained until at least March 2, 1980, because of the uncertainty of the adequacy of DAH.

An environmental impact statement was prepared for the FMP for the groundfish of the Gulf of Alaska and is on file with the Environmental Protection Agency (EPA). A negative assessment of environmental impact prepared for the reserve release provisions of the groundfish FMP is also on file with the EPA.

The Regional Director has determined that these regulations should be effective immediately for the following reasons:

A. The regulations implementing the FMP provide adequate advance notice and invite public comment on this action;

B. No regulatory restrictions are imposed on any person as a result of this action;

C. This action relates to the extension of a benefit; and

D. Immediate implementation is required to achieve full utilization of the fishery resources concerned.

E. This action is not significant in relation to criteria prescribed by EO 12044, and a regulatory analysis is not required.

Signed at Washington, D.C., this 28th day of January, 1980.

Winfred H. Meibohn,

Executive Director, National Marine Fisheries.

Authority: 16 U.S.C. Section 1801 *et seq.* 50 CFR 672.20 and 50 CFR 611.91 are amended by revising the Reserves and TALFF's only. Table I—OY–DAH–DAP–JVP–Reserve—and TALFF by Regulatory Area of paragraphs (a) and (b), respectively, as follows:

PART 611—FOREIGN FISHING

PART 672—GROUNDFISH OF THE GULF OF ALASKA

Table I—*OY–DAH–DAP–DNP–JVP–Reserve and TALFF by Regulatory Area (as Amended by the Jan. 2, 1980, Reserve Apportionment)*

[1,000's mt]

Species	Western	Central	Eastern	Total
Pollock:				
5. Reserve	8.55	14.28	2.49	25.32
6. TALFF	42.675	67.6	11.895	122.17
Pacific Cod:				
5. Reserve	2.484	5.031	1.485	9.0
6. TALFF	12.196	22.459	6.345	41.0
Flounders:				
5. Reserve	1.56	2.205	1.26	5.025
6. TALFF	8.14	11.375	5.78	25.295
Pacific Ocean Perch:				
5. Reserve	0.405	1.185	2.16	3.75
6. TALFF	1.95	5.46	10.925	18.335
Other Rockfish:				
5. Reserve	(1)	(1)	0.975	1.195
6. TALFF	(1)	(1)	4.95	5.505
Sablefish:				
5. Reserve	0.315	0.57	(1)	2.305
6. TALFF	1.515	2.01	(1)	4.215
Atka Mackerel:				
5. Reserve	0.702	3.125	0.478	4.305
6. TALFF	3.686	16.631	2.008	22.325
Squid:				
5. Reserve	0.15	0.300	0.300	0.75
6. TALFF	0.82	1.64	1.64	4.1
Rattails:				
5. Reserve	0.495	1.065	0.42	1.98
6. TALFF	2.772	6.002	1.114	9.888
Idiot Rockfish (*Sebastolobus*), Gulf-wide OY:				
5. Reserve				0.562
6. TALFF				3.182
Other Species:				
5. Reserve	0.66	1.29	0.480	3.43
6. TALFF	3.34	6.89	1.82	12.05

[1] No change.

[FR Doc. 80-3161 Filed 1-30-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 22
Thursday, January 31, 1980

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 ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-80-1]

Assignments and Adjustments to Firms; Allocation Level for Mail Hauling

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a proposed rule which would set an allocation level of one hundred (100) percent of base period use not subject to an allocation fraction of motor gasoline for all mail hauling by the United States Postal Service (USPS). The proposed rule would also permit ERA, in considering applications for allocation assignments and adjustments, to treat as a separate firm all or part of an integrated business enterprise. It is reported that during the shortages of the past summer, USPS vehicles were unable to receive adequate volumes of motor gasoline and that, in part, this was caused by the allocation regulations.

DATES: Written comments by April 4, 1980; requests to speak by February 21, 1980, 4:30 p.m.; hearing date, February 28, 1980.

ADDRESSES: All comments, requests to speak and statements to: Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-80-1, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Hearing Location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2214-B, 2000 M Street NW., Washington, D.C. 20461, (202) 254-5201
William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 634-2170
Gerald Emmer (Regulations & Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, (202) 254-3910
Sue D. Sheridan or Joel Yudson (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6754 or 252-6744

SUPPLEMENTARY INFORMATION:

I. Mail Hauling and Related Definitions

II. Assignments and Adjustments to Firms

III. Procedural Matters

IV. Written Comment and Public Hearing Procedures

I. Mail Hauling and Related Definitions

This notice proposes amendments to ERA's allocation regulations. The first proposal concerns the allocation of motor gasoline to United States Postal Service (USPS) facilities. We have been informed that during the shortages of the past summer, USPS vehicles were unable to receive adequate volumes of motor gasoline and that, in part, this was caused by the allocation regulations.

Section 211.103(b) of 10 CFR Part 211 sets forth the several categories of first priority users who are entitled to an allocation level of one hundred (100) percent of their base period use not subject to an allocation fraction. One class of users which have a first priority are bulk purchasers which engage in "cargo, freight and mail hauling by truck." At present, neither cargo, freight nor mail hauling is defined in the regulations. "Truck" is defined in 10 CFR 211.102 as a motor vehicle with a gross vehicle weight rating in excess of 20,000 pounds and includes less than one percent of the gasoline-powered vehicles used in mail delivery. Under the current regulations, mail hauling by all USPS vehicles other than "trucks" would be in the second priority and have an allocation level of 100 percent of base period use subject to an allocation fraction (under 10 CFR 211.103(c)(3)). When shortages occurred during the past summer, most suppliers had allocation fractions of less than one and reduced deliveries to second priority customers.

To the extent that the language "mail hauling by truck" in § 211.103(b)(8) excludes the vast majority of mail delivery vehicles from access to their full base period use, it may be inconsistent with the priority established by section 4(b)(1)(B) of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159, EPAA) requiring that to the maximum extent practicable refined petroleum products shall be provided for the maintenance of services which serve the public at large. The amendment we are proposing would amend § 211.103(b)(8) to provide an allocation level of 100 percent of base period use not subject to an allocation fraction for mail hauling, without reference to the types of motor vehicle involved. Specifically, § 211.103(b)(8) would be amended to include 100 percent of base period use not subject to an allocation fraction for "cargo and freight hauling by truck and mail hauling."

We have also proposed to define mail hauling and cargo and freight hauling. Cargo and freight hauling would mean the transportation of goods in the regular course of business. Mail hauling would mean the transportation and delivery of letters, printed matter and parcels by or under contract to the United States Postal Service. As proposed, mail hauling would not include private firms engaged in similar businesses, such as courier services or parcel carriers. We have tentatively concluded that privately operated firms performing these activities should be treated the same as other businesses that deal directly with the public. In other words, such firms could receive second priority allocations as commercial users or first priority allocations to the degree that their activities would be included in "cargo and freight hauling by truck." We specifically request coments on an alternative definition of mail hauling that would not be limited to governmental postal systems.

As a further conforming change, we propose to amend our definition of bulk purchaser. Currently only bulk purchasers are eligible to receive allocations of gasoline. Under the present regulations, bulk purchasers include ultimate consumers that receive product either (a) into a storage tank under control of that firm at a fixed location, (b) with respect to use in agricultural production, into a storage tank with a capacity not less than 50 gallons or (c) for use in cargo, freight

and mail hauling by truck. Under the latter clause, any firm engaged in cargo, freight and mail hauling by truck, regardless of whether it has a storage tank at a fixed location, may receive an allocation. In practice, this latter provision does not work smoothly. It is not clear how a firm without a storage tank at a fixed location can regularly receive its allocation from a particular supplier, particularly if its hauling activity ranges over hundreds of miles. If the original intent of the regulation was to provide trucks with a priority at retail sales outlets, the inclusion of such users as bulk purchasers does not accomplish that result. Therefore, since we are proposing to amend and clarify our definitions of mail hauling and cargo and freight hauling, it is also appropriate to propose to amend our definition of bulk purchaser to provide that firms engaged in such uses will only be entitled to receive an allocation if they have a storage tank in place at a fixed location.

II. Assignments and Adjustments to Firms

The second proposed amendment concerns the treatment of an end-user or a wholesale purchaser as a firm eligible to receive allocations under § 211.11.

Under the regulations in effect prior to August 1979, first priority firms were entitled to receive their current requirements for gasoline instead of being limited to 100 percent of their base period use. Under those regulations, a certification to their supplier of increased requirements would have enabled such firms in many instances to meet their needs without having to apply to ERA for an assignment or adjustment as is currently required.

However, in August 1979 when we changed the allocation levels for first priority users, § 211.11(b)(1) became relevant to first priority users because for the first time they required ERA approval to receive gasoline for new facilities. That section provides that a firm, for purposes of qualifying as a wholesale purchaser-consumer or end user, means "all parts of the parent and the consolidated or unconsolidated entities (if any) which it directly or indirectly controls which act as ultimate consumers * * *." (A similar definition is included in § 211.11(b)(2) for resellers.) Under these definitions, ERA has had limited flexibility in making allocation assignments or adjustments to separate new facilities of existing corporate entities. This lack of flexibility was a contributing factor in the lack of adequate supplies of motor gasoline for USPS vehicles during the past summer.

For instance, under the existing regulations the entire USPS would be deemed a "firm." Thus, individual new USPS facilities are not eligible to receive separate assignments of a base period use based on their own needs considered independently from the entire USPS. To be entitled to receive additional gasoline for a new facility, the USPS would be required to seek an adjustment to the base period use of the entire agency which, under § 211.13(e), could only be granted to prevent serious hardship or gross inequity under the exceptions procedures of Subpart D of 10 CFR Part 205.

This proposal would enable ERA to make needed assignments and adjustments for *both* first and second priority users more expeditiously than under the current rule. The proposal would amend § 211.11(b) to permit ERA to treat as a separate "firm," in considering applications by wholesale purchasers and end users for allocation assignments, adjustments [1] or other relief, any part of a parent or consolidated or unconsolidated entity which it controls, including any site or facility. The change would give ERA the same discretion with respect to ultimate consumers and resellers.

It is important to note that for purposes of determining supply obligations and allocation entitlements, a firm would continue to mean all parts of the parent and consolidated and unconsolidated entities under its control except in those specific instances designated by ERA. In addition, by this change, we would not intend thereby to affect the outcome of petitions filed under § 211.106 relating to single firm treatment for retail sales outlets (to which Ruling 1974–13 would continue to apply). Furthermore, this change would not affect the treatment of a "firm" for pricing purposes.

The proposed amendment would permit ERA to treat as a separate firm any part of a parent reseller or ultimate consumer, or consolidated or unconsolidated entities which are under the parent organization's control. However, we specifically request comments regarding the alternative of providing this flexibility only for ERA's treatment of applications from ultimate consumers.

[1] The proposed amendment would be applicable to ERA's consideration of petitions for adjustments when such petitions are otherwise authorized by the allocation regulations. In a typical case, the USPS would be authorized under the proposed rule to request an *assignment* for a new facility, but would be able to apply for an *adjustment* to the base period use of a facility that already had a base period use only under the procedures of Subpart D of Part 205. Under the existing regulations, DOE's office of Hearings and Appeals is not constrained by the provisions of section 211.11.

III. Procedural Matters

A. *Section 404 of the DOE Act.* Pursuant to the requirements of Section 404(a) of the DOE Act, we are referring this proposed rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The FERC will have until the close of the comment period to make this determination.

B. *Section 7 of the FEA Act.* Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of the notice was sent to the EPA Administrator. The Administrator commented that he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. *Executive Order 12044.* Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to prepare a regulatory analysis for those significant regulations which can be expected to have major economic consequences. The Executive Order further requires the agencies to establish criteria for determining which regulations require regulatory analyses. DOE's implementing Order 2030.1 (44 FR 1032, January 3, 1979) requires preparation of a regulatory analysis for all significant regulations which are likely to have a major impact. The proposed amendment is clearly significant under the criteria set forth in DOE Order 2030.1, since it affects important policy concerns. However, the proposal is unlikely to have a major impact, since it is not likely to impose gross economic costs of $100 million per year and does not fit any of the other criteria set forth in the Order for determination of likely major impact. Since the proposed amendments to Part 211 are not likely to have a major

economic impact, a regulatory analysis is not required.

IV. Written Comment and Public Hearing Procedures

A. *Written Comments.* You are invited to participate in this proceeding by submitting data, views or arguments with respect to the matters contained in this notice. Comments should be submitted by 4:30 p.m., e.s.t., on the date set forth in the "Dates" section of this notice, to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Assignments and Adjustments to Firms; Allocation Level for Mail Hauling." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. *Public Hearing.* 1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in the notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m., e.s.t., on the date set forth in the "Dates" section of this notice. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., e.s.t., on the next to the last business day before the hearing. You will be required to submit one hundred copies of your statement to the address for submission of statements indicated in the "Addresses" section of this notice, before 4:30 p.m., e.s.t., on the day before the hearing.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. It will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m., local time, on the day before the hearing. If you wish to have a question asked at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE, Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue SW., Washington, DC., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcript of the hearing from the report.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, we propose to amend Part 211 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., January 24, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. Section 211.11 is amended by adding a new paragraph (b)(3) to read as follows:

§ 211.11 Basis for purchaser's entitlement to allocation.

* * * * *

(b) *End-users and wholesale purchasers as a firm.* * * *

(3) The ERA may, in considering applications for assignments, adjustments or other relief, treat as a separate firm any part of the parent or consolidated or unconsolidated entities that it controls including any separate site or facility.

* * * * *

2. Section 211.102 is amended by revising the definition of "bulk purchaser" and inserting the new definitions of "cargo and freight hauling" and "mail hauling" in the appropriate alphabetical order to read as follows:

§ 211.102 Definitions.

* * * * *

"Bulk purchaser" means any firm which is an ultimate consumer which, as part of its normal business practices, purchases or obtains motor gasoline from a supplier and either (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location, and (b) with respect to use in agricultural production, receives delivery into a storage tank with a capacity not less than 50 gallons substantially under the control of that firm.

"Cargo and freight hauling" means the transportation of goods in the regular course of business.

"Mailing hauling" means the transportation and delivery of letters, printed matter and parcels by or under contract to the United States Postal Service.

* * * * *

3. Section 211.103 is amended in paragraph (b)(8) to read as follows:

§ 211.103 Allocation levels.

* * * * *

(b) *Allocation levels not subject to an allocation fraction.* * * *

(8) *Cargo and freight hauling by truck and mail hauling.* * * *

[FR Doc. 80-3174 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-NE-18]

Airworthiness Directives; Pratt & Whitney Aircraft JT8D -1, -1A, -B, -7, -7A, and -7B Turbofan Engines; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Federal Aviation Administration will hold a public meeting for the purpose of receiving

comment and data pertaining to the Notice of Proposed Rulemaking (NPRM) issued November 30, 1979 (44 FR 72181).

DATE: The meeting will be held on February 6, 1980, at 10 a.m.

ADDRESS: The meeting will be held in the 4th floor conference room, at the Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Donald F. Perrault, Propulsion Section, ANE-214, Engineering and Manufacturing Branch, Flight Standards Division; telephone: (617) 273-7347.

SUPPLEMENTARY INFORMATION: The FAA will conduct a meeting open to the public on February 6, 1980, beginning at 10 a.m., to afford interested parties the opportunityto present their views and to submit relevant data in connection with the NPRM issued on November 30, 1979 (44 FR 72181). The proposed Airworthiness Directive would require an ultrasonic and visual inspection of all JT8D-1 and -7 model engines, in accordance with Pratt and Whitney Aircraft Alert Service Bulletin No. 5022, by July 1, 1981.

A stenographic transcript of the meeting will be made and placed in the public rules docket. Written comment may also be submitted by February 12, 1980.

Issued in Burlington, Massachusetts, on January 23, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-3058 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-13-M

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Improving Government Regulations; Semiannual Agenda of Significant Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Semiannual agenda of significant regulations under development or review.

SUMMARY: In accordance with Executive Order 12044, the Railroad Retirement Board hereby publishes its semiannual agenda of significant regulations under development or review.

EFFECTIVE DATA: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: E. E. Koch, Chief Executive Officer, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312-751-4930.

SUPPLEMENTARY INFORMATION: Pursuant to section 20(a) of Public Law 96-101, known as the Milwaukee Railroad Restructuring Act, the Board has commenced the development of regulations to carry out the duties imposed upon the Board by that Act. Those regulations will set forth the procedures which the Board will follow in administering section 10 of the Act, Supplementary Unemployment Insurance, section 11, Employment of Milwaukee Railroad Employees, and section 12, New Career Training Assistance.

Although under the standards established by the Board these regulations would not be required to be considered as significant regulations, the Board's Chief Executive Officer has chosen, in his discretion, to treat these regulation as significant. Therefore, the proposal for regulations has been transmitted to the three member Board for preliminary review in accord with the Board's report under Executive Order 12044.

The Board is in the process of reviewing the proposal for regulations to determine the necessity of having regulations to implement the Milwaukee Railroad Restructuring Act. The Board is also exploring alternate approaches that might be taken to accomplish the desired result. In addition, the Board is presently planning the steps to be followed in providing notice and obtaining public comments and is establishing target dates to complete each step of the process. The Board has not as yet determined if a regulatory analysis of these regulations must or should be made.

Information concerning the status of the promulgation of these regulations may be obtained by contacting Ms. Sally A. Marn, Milwaukee Road Administrator, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60601, telephone number 312-751-4528 (FTS 387-4528).

In addition, as the Board stated in its report under Executive Order 12044 and in the agenda published in the **Federal Register** on July 31, 1979, a review and revision of existing regulations has been commenced by this agency. The parts of the present regulations under the Railroad Retirement Act which are currently being reviewed and revised are as follows:

PART 208—ELIGIBILITY FOR AN ANNUITY

PART 210—EXECUTION AND FILING OF AN APPLICATION FOR AN ANNUITY

PART 214—ANNUITY BEGINNING DATE

PART 220—DEFINITION AND CREDITABILITY OF SERVICE

PART 222—DEFINITION AND CREDITABILITY OF COMPENSATION

PART 225—COMPUTATION OF ANNUITY

PART 232—SPOUSES' ANNUITIES

PART 237—INSURANCE ANNUITIES AND LUMP SUMS FOR SURVIVORS

PART 238—RESIDUAL LUMP-SUM PAYMENTS

PART 239—PROOFS REQUIRED IN SUPPORT OF CLAIMS FOR BENEFITS

PART 250—REPORTS AND INFORMATION TO BE FILED BY EMPLOYEES

Finally, the Board has commenced review and revision of its regulations under the Railroad Unemployment Insurance Act, Part 300, *et seq.*, its regulations concerning garnishment of benefits and salaries paid by the Board, the Emergency Regulations, Part 395, and the regulations dealing with employee responsbilities and conduct, Part 396.

Information concerning the status of the review and revision of the above-listed parts of the Board's regulations may be obtained by contacting Mr. Steven A. Bartholow, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, telephone number 312-751-4944 (FTS 387-4944).

By Authority of the Board.

Dated: January 23, 1980.

R. F. Butler,

Secretary of the Board.

[FR Doc. 80-2997 Filed 1-30-80; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

General Grazing Regulations; Livestock Trespass

January 23, 1980.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: It is proposed to amend 25 CFR 151.24 by deleting that portion of the per diem penalty in states subject to the Eight Circuit ruling in *United States ex rel. Chase* v. *Wald*, 557 F.2d 157 (8th Cir. 1977), namely North Dakota, South Dakota, Nebraska, and Minnesota; and to strengthen the means of coping with livestock grazing trespass by providing for impoundment and sale of trespass livestock. The expenses incurred in gathering, impounding, caring for, and disposing of livestock shall be included in any settlement with the trespasser.

The circumstances which created this need include the decision of the United States Court of Appeals of the Eight Circuit, *United States ex rel. Chase* v. *Wald, supra*. That court ruled that existing regulations which provide for a penalty of $1 per head for each animal thereof for each day of trespass (25 CFR 151.24) were invalid and held that a civil penalty for livestock trespass on Indian lands of one dollar per animal for each day of trespass is an invalid exercise of the Secretary of the Interior's rulemaking authority and conflicts with the provision codified in 25 U.S.C. 179, which the court read as limiting such trespass penalty to one dollar per animal and imposing no per diem penalty.

The Eighth Circuit's decision is in direct conflict with the decision of the Tenth Circuit in *United States ex rel. Whitehorse* v. *Briggs*, 555 F.2d 283 (10th Cir. 1977) which upheld the per diem penalty. Despite the direct conflict between the circuits the Supreme Court refused certiorari. 434 U.S. 1002 (1977). The intended effect of this action is to assure compliance with a decision of the United States Court of Appeals for the Eighth Circuit while enforcing the per diem penalty in the other circuits; to discourage unauthorized use and abuse of Indian trust lands, and to provide for reimbursement of all expenses incurred in gathering, impounding, caring for, and disposing of trespass livestock.

DATES: Comments must be received on or before: April 29, 1980.

ADDRESSES: Written comments should be directed to: Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: George E. Davis, Range Conservationist, Division of Trust Services, Office of Trust Responsibilities, Bureau of Indian Affairs, Washington, D.C. 20245. Telephone: (202) 343–4004.

SUPPLEMENTARY INFORMATION: The primary author of this document is George E. Davis whose address and telephone number are provided above.

This notice is published pursuant to the authority of 25 U.S.C. 466 and 25 U.S.C. 179, delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The Department of the Interior has determined that this proposed revision does not significantly affect the quality of the environment and does not require an environmental impact statement under section 102 (2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332 (2)(c).

It is proposed to revise § 151.24 of subchapter N-Grazing, of Chapter I, Title 25, of the Code of Federal Regulations to read as follows:

§ 151.24 Livestock trespass.

(a) *Acts prohibited on Indian trust, restricted or Government lands.* The following acts are prohibited on Indian trust or restricted lands under the jurisdiction of the Bureau of Indian Affairs:

(1) The grazing upon or driving across any individually owned, tribal, or Government lands of any livestock without an approved grazing or crossing permit.

(2) Allowing livestock to drift and graze on trust or restricted Indian lands without an approved permit.

(3) The grazing of livestock upon trust or restricted Indian lands within an area closed to grazing of that class of livestock.

(4) The grazing of livestock by permittee upon an area of trust or restricted Indan lands withdrawn from use for grazing purposes to protect it from damage by reason of the improper handling of livestock, after the receipt of notice from the Superintendent of such withdrawal, or refusal to remove livestock upon instructions from the Superintendent when an injury is being done to the Indian lands by reasons of improper handling of livestock.

(b) *Unauthorized grazing.* The owner of any livestock grazing in trespass on trust or restricted Indian lands is liable to a penalty of $1 per head for each animal thereof for each day of trespass (except in North Dakota, South Dakota, Nebraska and Minnesota where the penalty shall be $1 per head of cattle regardless of the number of days of trespass), together with the reasonable value of the forage consumed by their livestock and damages to property injured or destroyed, and for expenses incurred in impoundment and disposal. The Superintendent shall take action to collect all such penalties and damages, reimbursement for expenses incurred in impoundment and disposal, and seek injunctive relief when appropriate. All payments for such penalties and damages shall be credited to the landowners where the trespass occurs, and reimbursement for expenses incurred in impoundment and disposal shall be credited as appropriate.

(c) *Notice and order to remove.* (1) When it has been determined that a violation exists and the owner of the unauthorized livestock is known, written notice shall be served upon the alleged violator or his agent by certified mail with return receipt requested, or personal delivery and a copy of the notice shall be sent to any known lien holder. The notice shall set forth the act constituting the violation, the legal description of the land where the livestock were observed, the verification of brands in the State Brand Book, and the regulation alleged to have been violated. The notice shall also instruct the alleged violator to remove the livestock within a specified time, allow a specified time from receipt of the notice to show that there has been no violations, or to make settlement under § 151.24(d). If the alleged violator fails to comply with the notice, the Superintendent may impound the livestock under § 151.24(f).

(2) When neither the owner of the unauthorized livestock nor his representative is known, the Superintendent may proceed to impound the livestock under § 151.24(f).

(d) *Settlement.* The amount due the Indian landowner and/or the United States in settlement for unauthorized grazing use shall be determined by the Superintendent as follows:

(1) A penalty of $1 for each animal thereof for each day of trespass, except in the states of Minnesota, Nebraska, North Dakota, and South Dakota where the penalty shall be $1 for each animal

without regard to the number of days of trespass.

(2) A reasonable value of forage consumed based upon the average rate reveived per month for comparable grazing privileges on the reservation for the kind of livestock concerned, or the estimated commercial value for such privileges if no comparable grazing privileges are sold.

(3) Damages to Indian or Government property injured or destroyed.

(4) All expenses incurred in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under § 151.24(f).

(5) Neither the imposition of any civil penalty nor any action by the Secretary of the Interior shall preclude either any civil action by the United States, an Indian, or an Indian tribe for damages caused by trespassing livestock or prosecution for any offense involved with such trespass.

(e) *Demand for Payment.* Where the livestock have been removed, but satisfactory settlement has not been made within the time prescribed under § 151.24(c), a certified letter, return receipt requested, shall be sent or personally delivered to the livestock owner or his agent, and a copy of the letter shall be sent to any known lien holder. The letter shall demand immediate settlement and advise the violator that unless settlement is received within five working days from date of receipt, the case may be referred to the Department of Justice for appropriate action.

(f) *Impoundment and disposal.* Unauthorized livestock remaining on trust or restricted Indian or Government lands which are not removed therefrom within the period prescribed in § 151.24(c) may be impounded and disposed of by the Superintendent as provided herein:

(1) A written notice of intent to impound shall be sent by certified mail, return receipt requested, or personally delivered to the owner, or his agent, and a copy of the notice shall be sent to any known lien holder. Any time after five days of delivery of the notice, the unauthorized livestock may be impounded.

(2) Where the owner or his agent is unknown, or a known owner or his agent refuses to accept delivery of the notice, a notice of intent to impound shall be published in a local newspaper, posted at the nearest community building and tribal council headquarters, and at a post office near the Indian or Government lands involved. Any time after five days of posting of the notice, the unauthorized livestock may be impounded.

(3) Unauthorized livestock that are owned by persons given notice under paragraphs (f)(1) and (2) of this section may be impounded without further notice any time within the 12-month period following the effective date of a notice given under this subsection.

(g) *Notice of public sale.* Following the impoundment of unauthorized livestock, a notice of sale of impounded livestock shall be published in a local newpaper, posted at the nearest community building and tribal council headquarters, and at a post office near the Indian or Government lands involved. The notice will describe the livestock and specify the date, time and place of sale. The date set shall be at least five days after the publication and posting of such notice. Any known owners or agents and known lien holders shall be notified in writing by certified mail, return receipt requested, or by personal delivery of the sale, and the procedure by which the impounded livestock may be redeemed prior to the sale as described in § 151.24(h).

(h) *Redemption.* Any owner or known lien holder of the impounded livestock may redeem them an any time before the time set for the sale by submitting proof of ownership and the settlement of all obligations described in § 151.24(d).

(i) *Sale.* If the livestock are not redeemed before the time fixed for their sale, they shall be sold at public sale to the highest bidder. If a satisfactory bid is not received, the livestock may be reoffered for sale, condemned and destroyed, or otherwise disposed of. When livestock are sold by the Superintendent pursuant to these regulations, he shall furnish the purchaser a bill of sale or other written instrument evidencing the sale.

(j) *Distribution of proceeds.* The net proceeds of the sale, after deduction of the prescribed penalty and the deduction of the necessary costs and expenses of the Secretary of the Interior as provided in § 151.14(d), shall be paid to the owner of the animal upon satisfactory proof of ownership submitted within six months of the date of the sale. Net proceeds of the sale of an animal, not paid to the owner, shall be deposited in the United States Treasury to the credit of the landowners where the trespass occurred.

Rick Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 80-3057 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-02-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Improving Government Regulations; Delay In Publication of Agenda of Significant Regulatory Activity

AGENCY: Equal Employment Opportunity Commission.

ACTION: Delay in Publication of Agenda of Significiant Regulatory Activity, January 31, 1980, Semiannual Agenda.

SUMMARY: The EEOC announced that it would publish its Agenda of Significant Regulatory Activity on January 31, 1980. This notice is to inform the public that it will not be published until February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Federick D. Dorsey, Director, Office of Policy Implementation, 2401 E. Street, NW., Washington, D.C. 20506, 202-634-7060.

Signed at Washington, D.C., this 24th day of January 1980.

Eleanor H. Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc. 80-3344 Filed 1-30-80; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 158

[CGD 77-029]

Ocean Dumping Surveillance System; Change In Comment Date

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; change in comment date.

SUMMARY: The Coast Guard intended to establish a 60-day comment period for the proposed rule on ocean dumping surveillance system. The wrong data was published in the **Federal Register** dated December 13, 1979 (FR Doc. 79-38294, 44 FR 72188). Following a correction to the intended date of February 11, 1980, a request has been received to move the comment closing date back to the originally published date of March 3, 1980. Because the change may have created undue burden and hardship for the public, the Coast Guard is restoring the original date of March 3, 1980.

DATE: Comments must be received on or before March 3, 1980. For further information contact: Lt. (jg.) John M. Holmes, Regulations Officer, Marine

Safety Council, U.S. Coast Guard, Telephone: (202) 426–1477.

(Pub. L. 92–532, Title I, sec. 106; 86 Stat. 1059 (33 U.S.C. 1418); 49 CFR 1.46(n)(5))

Dated: January 24, 1980.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 80–3094 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–14–M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans' Benefits; Institutional Awards

AGENCY: Veterans Administration.

ACTION: Proposed regulation amendment.

SUMMARY: The Veterans Administration is proposing to increase the amount of monthly compensation, pension or retired pay payable to a chief officer of a non-Veterans Administration institution on behalf of an incompetent veteran patient from $50 to $60. The need for this action results from enactment of the Veterans' and Survivors' Pension Improvement Act of 1978 which increased the amount of benefits payable to hospitalized veterans without dependents from $50 to $60.

DATES: Comments must be received before March 3, 1980. It is proposed to make this change effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until March 11, 1980.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle Jr. (202–389–3005).

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 3203(a) the amount of pension payable to a veteran without spouse or child who is being furnished domiciliary or nursing home care or hospitalization by the Veterans Administration, is subject to reduction to $60 monthly. This amount, which was $50, was increased to $60 monthly by the enactment of Pub. L. 95–588, (92 Stat. 2497), effective January 1, 1979.

Under § 3.852(b) the amount of an institutional award of pension, compensation or retired pay payable to the chief officer of a non-Veterans Administration institution on behalf of an incompetent veteran has been in agreement with the amount payable under 38 U.S.C. 3203(a). Consequently, we are proposing to amend § 3.852(b) so as to increase the amount of an institutional award payable to the chief officer of a non-Veterans Administration institution on behalf of a veteran from $50 to $60 monthly.

Under the procedures for implementing Executive Order 12044, "Improving Government Regulations" (44 FR 7026 (1979)) we have determined that this proposed regulation change is nonsignificant. It imposes no compliance costs or reporting burdens and it has no effect on the environment, public businesses or institutions.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections, regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until March 11, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: January 23, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

§ 3.850 [Amended]

1. Section 3.850 is amended to delete the words "widow or widower" and to insert the words "surviving spouse" in paragraph (a)(1)(ii) and to delete the words "wife or husband" and insert the word "spouse" in paragraph (a)(2).

§ 3.851 [Amended]

2. Section 3.851 is amended to delete the words "wife (or husband)" and to insert the word "spouse" in the second sentence.

3. Section 3.852 is amended as follows:

(a) By deleting the words "wife (or husband)" and inserting the word "spouse" in the first sentence of paragraph (b)(2);

(b) By revising the introductory portion of paragraph (b) preceding subparagraph (1) as follows:

§ 3.852 Institutional awards.

* * * * *

(b) In an institutional award of pension, compensation or retirement pay there may be paid to the chief officer of a non-Veterans Administration institution on behalf of the veteran an amount not in excess of $60 per month. An institutional award of disability pension will not exceed $25 per month if the award is apportionable under § 3.454(a). (38 U.S.C. 210(c))

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[FR Doc. 80–3090 Filed 1–30–80; 8:45 am]

BILLING CODE 8320–01–M

38 CFR Part 17

Medical Benefits; Women's Air Forces Service Pilots

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: This regulation is proposed to show that service in the WASPs (Women's Air Forces Service Pilots), or other similar group(s) may be considered active duty for the purpose of VA medical benefit entitlement when the Secretary of Defense certifies and issues a discharge under honorable conditions. This proposal implements law.

DATES: Comments must be received on or before March 3, 1980. We propose to make this section effective as of November 23, 1977.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until March 11, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph Fleckenstein (202–389–3785), 810 Vermont Ave., NW., Washington, DC 20420.

SUPPLEMENTARY INFORMATION: Section 17.31(b)(7) is added to implement section 401, Pub. L. 95–202 (91 Stat. 1433). It permits the consideration of the service of members of the Women's Air Forces Service Pilots or similar group(s) as active duty when determined by the Secretary of Defense to be active duty and the Secretary issues a discharge under honorable conditions to such members.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding this proposal to the Administrator of Veterans Affairs

(271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), until March 11, 1980. Any person visiting the VA Central Office for the purpose of inspecting such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field facility will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: January 23, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

In § 17.31, paragraph (b)(7) is added to read as follows:

§ 17.31 Duty periods defined.

Definitions of duty periods applicable to eligibility for medical benefits are as follows:

* * * * *

(b) *Active duty.* The term "active duty" means

* * * * *

(7) Service of any person as a member of the Women's Air Forces Service Pilots, or the service of any person in any similarly situated group the members of which rendered service to the Armed Forces of the United States in a capacity considered civilian employment or contractual service at the time such service was rendered, when the Secretary of Defense has:

(i) Determined that the service of such group constitutes active military service, and

(ii) Issued the members a discharge from such service under honorable conditions. (Pub. L. 95–202, 91 Stat. 1433).

[FR Doc. 80–3091 Filed 1–30–80; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL 1404–1]

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period on proposed regulations.

SUMMARY: In response to requests, this notice extends the time in which written comments may be submitted on the proposed regulations on guidelines for test procedures for the analysis of pollutants.

DATES: The comment period is to extend to 30 days from the time that notice is published in the **Federal Register** that the relevant support data on which the proposed guidelines are based have been compiled and are available for public review. Notice of availability should appear within the next two weeks.

FOR FURTHER INFORMATION CONTACT: Dr. Robert B. Medz, Quality Assurance and Monitoring Systems Division, Office of Research and Development, Environmental Protection Agency (RD–680), 401 M Street SW., Washington, D.C. 20460 or call (202) 426–4727.

SUPPLEMENTARY INFORMATION: On December 3, 1979, (44 FR 69464), the EPA published in the **Federal Register** proposed amendments to 40 CFR Part 136, "Guidelines for Test Procedures for the Analysis of Pollutants." The public comment period established was 60 days from the date of publication (December 3, 1979). Comments were requested to be submitted on or before February 1, 1980.

Since publication of the proposed amendments, the Agency has received comments stating that the support data referred to in the proposal were unavailable and consequently, a critical review and evaluation of the analytical procedures were not possible. The respondents requested an extension of the comment period until such information was made available for public review. The EPA considered the requests to have merit. Accordingly, the comment period is extended 30 days from the time the support data are made available from public reivew and comment. A **Federal Register** notice will be published concerning the availability of the relevant support data.

Copies of the pertinent support documents for the proposed analytical procedures will be distributed to the Public Information Reference Unit at the EPA Headquarters in Washington, D.C. and to each of the EPA Regional Offices, where they will be made available for public review (for inspection and copying only).

Dated: January 28, 1980.

Stephen J. Gage,

Assistant Administrator for Research and Development.

[FR Doc. 80–3079 Filed 1–30–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 50

[FRL 1402–7]

National Ambient Air Quality Standards; Establishment of Standard Review Docket for Nitrogen Dioxide

AGENCY: Environmental Protection Agency.

ACTION: Establishment of Standard Review Docket.

SUMMARY: On April 30, 1971, the U.S. Environmental Protection Agency published National Ambient Air Quality Standards (NAAQS) for Nitrogen Dioxide (NO_2) in the **Federal Register.** Since the promulgation of the long-term standard, scientific studies have suggested that some adverse health effects of NO_2 are associated with short-term peak exposures rather than chronic exposure to lower levels. In the 1977 amendments to the Clean Air Act, Congress directed the EPA to review the scientific basis for a short-term standard and promulgate such a standard unless it could be shown that a standard was not requisite to the protection of the public health.

A substantial amount of information has been received by EPA on the possible establishment of a short-term NO_2) standard and the review of the long-term standard. Because of the many complex issues that have become apparent, the Administrator has decided to establish a standard review docket in advance of a decision whether to propose revised standards or a new short-term standard, or to announce a final decision to retain the existing standards.

DATE: There is no deadline for comments at this time.

ADDRESS: Comments and information should be submitted to: United States Environmental Protection Agency, Central Docket Section OAQPS–78–9, Mail Drop A–130, 401 M. Street SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Joseph Padgett, Strategies and Air Standards Division (MD–12), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5204 (FTS 629–5204).

SUPPLEMENTARY INFORMATION: On April 30, 1971, the U.S. Environmental Protection Agency published in the **Federal Register** (36 FR 8186) National Ambient Air Quality Standards (NAAQS) for nitrogen dioxide (NO_2) at a level of 0.05 ppm (100 $\mu g/m^3$), averaged

over 1 year. The scientific and technical bases for the standards are contained in the air quality criteria document for oxides of nitrogen (AP–84), published by the Environmental Protection Agency in January 1971.

Since the promulgation of the long-term NO_2 standard, scientific studies have suggested that some adverse health effects of NO_2 are associated with short-term peak exposures rather than chronic exposure to lower levels. In the 1977 Amendments to the Clean Air Act, Congress directed EPA to review the scientific basis for a short-term standard and promulgate such a standard unless it could be shown that a standard was not requisite to protect public health for short-term exposure from NO_2.

EPA's Office of Research and Development subsequently prepared a draft criteria document setting forth the scientific basis for a short-term standard, *Health Effects of Short-Term Exposure to Nitrogen Dioxide*, an external review draft of which was issued in December 1977. The draft health effects document was reviewed by a subcommittee of EPA's Science Advisory Board on February 22, 1978.

On March 27, 1978, EPA announced in the **Federal Register** (43 FR 21753) that a public meeting would be held to receive comments on the need for a short-term NO_2 standard. The public meeting was held April 19, 1978. During the meeting and afterward, comments and a substantial amount of information were received related to establishment of a short-term NO_2 standard.

Subsequently, EPAS decided to combine its review of the need for a short-term NO_2 standard with the review of the original criteria document for oxides of nitrogen and the existing NAAQS for NO_2 under Sections 108(c) and 109(d)(1) of the Act. On December 12, 1978, EPA announced in the **Federal Register** (43 FR 58117) the availability of an appropriately expanded external review draft of the revised criteria doucment. The Science Advisory Board's Clean Air Scientific Advisory Committee (CASAC) subsequently, on January 29, and 31, 1979, held a public meeting to review the external review draft. In July 1979, EPA released a second external review draft for public comment and CASAC review. A CASAC public meeting to review the second external review draft is anticipated for February 1980.

During the last two years, a substantial amount of information has been received by EPA on the possible establishment of a short-term NO_2 standard and the review of the long-term NO_2 standard. Because of the many complex issues that have already become apparent as criteria document revision and standard reevaluation have proceeded, the Administrator has decided to establish a standard review docket in advance of a decision whether (1) to propose revised standards or new short-term standards or (2) to announce a final decision to retain the existing standards. The docket will facilitate public access to the documents and information referred to above and to other pertinent documents that may be written or received by EPA in the future. Until further notice, interested parties who wish to submit comments or information to the air quality standard review docket should use the following docket number and address:

United States Environmental Protection Agency, Central Docket Section OAQPS–78–9, Mail Drop A–130, 401 M Street, SW., Washington, D.C. 20460.

Should the Agency subsequently decide, as a result of its review, that proposal of new or revised nitrogen dioxide standards is appropriate, relevant parts of the standard review docket and the docket already established for criteria document revision will be incorporated in a rulemaking docket as provided in Section 307(d) of the Clean Air Act. If a rulemaking docket is established, the balance of the standard review and criteria revision dockets will continue to be available for public reference. (The existing docket established for revision of the criteria document is ECAO–CD–78–2, Mail Drop 52, Research Triangle Park, North Carolina 27711.)

Both the standard review and criteria document revision dockets are available for public review during regular business hours at the Central Docket Section, Room 2903B Waterside Mall, 401 M Street, S.W. Washington, D.C. 20460.

Dated: January 17, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80–3162 Filed 1–30–80; 8:45 am]

BILLING CODE 1402–7–M

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40 CFR Part 52

[FRL 1402–5]

Availability of Implementation Plan Revision for State of Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and advance notice of proposed rulemaking.

SUMMARY: EPA announces today that the State of Idaho Implementation Plan revision due for submittal by January 1, 1979 under the Clean Air Act Amendments of 1977 has been received and is available for public inspection. The public is invited to submit written comments to the record which will be held open for the receipt of public comments for a minimum period of thirty (30) days. A Notice of Proposed Rulemaking describing the Plan and the action that EPA intends to take regarding the proposed revisions will be published in the **Federal Register** after the initial thirty (30) day public comment period has closed. A second period for the submittal of written comments will extend for thirty (30) days after the publication of the Notice of Proposed Rulemaking.

DATE: Comments are due by March 3, 1980.

ADDRESSES: The Idaho submittal may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.
Library, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101.
State of Idaho, Department of Health and Welfare, Statehouse, Boise, ID 83720.
State of Idaho, Department of Health and Welfare, 2110 Ironwood Parkway, Coeur d'Alene, ID 83814.
State of Idaho, Department of Health and Welfare, 636 Pershing, Pocatello, ID 83201.
State of Idaho, Department of Health and Welfare, 1525 Idaho, Lewiston, ID 83501.

COMMENTS SHOULD BE ADDRESSED TO: Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Michael J. Schultz, Air Programs Branch, M/S 625, Environmental Protection Agency, Telephone No. (206) 442–1226 (FTS 399–1226).

SUPPLEMENTAL INFORMATION: Section 172 of the Clean Air Act, as amended in August 1977, requires that States submit revisions to their implementation plans by January 1, 1979 to provide for the attainment of the national ambient air quality standards (NAAQS) in areas designated non-attainment. On March 3, 1978 (43 FR 8962) EPA designated certain areas in Idaho as non-attainment. Specific requirements for an approvable Part D SIP are described in a General Preamble published in the April 4, 1979, **Federal Register** (44 FR 20372); supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and

November 23, 1979 (44 FR 67182). The General Preamble is hereby incorporated into this advance Notice of Proposed Rulemaking.

The State has responded by preparing implementation plan revisions as required by the Act for the non-attainment designation referred to above. The purpose of this notice is to call the public's attention to the fact that this revision has been formally submitted to EPA and is available for public inspection at the locations noted above. The public is encouraged to submit written comments regarding the proposed revisions and thus participate in this rulemaking activity.

Those interested may wish to first read the General Preamble for proposed rulemaking as published by the EPA which identifies the major considerations that will guide EPA's evaluation of SIP revisions. A more detailed description of the Idaho revision will be published in the **Federal Register** at a later date as part of a Notice of Proposed Rulemaking.

(Sec. 110, 172, Clean Air Act (42 U.S.C. 7410, 7502)).

Dated: January 21, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 80-3093 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 61

[FRL 1402-6; Docket No. OAQPS 79-14]

Proposed Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer; Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of deadline for written comments.

SUMMARY: On October 10, 1979, the Environmental Protection Agency proposed in the **Federal Register** (44 FR 58642) a policy and procedures for identifying, assessing, and regulating carcinogens emitted into the ambient air from stationary sources. In the same **Federal Register** (44 FR 58662), EPA published an advance notice of proposed rulemaking, soliciting comments on draft generic work practice and operational standards for volatile organic compounds which could be applied quickly to reduce emissions of airborne carcinogens from certain source categories. This notice extends the deadline by two weeks for written comments on the proposed policy and generic standards.

DATES: Written comments on the proposed policy and generic standards should be postmarked no later than February 21, 1980. Notice of intent to appear at a public hearing should be postmarked no later than February 22, 1980. Hearings will be held in Washington, D.C. on March 10, 1980; in Boston, Massachusetts on March 12, 1980; and in Houston, Texas on March 13, 1980. Written comments responding to, supplementing, or rebutting written or oral comments received at public hearings must be submitted within 30 days after the hearing date.

ADDRESSES: All written comments should be addressed to: Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460. ATTN: OAQPS 79-14. The locations of the hearings were published in the **Federal Register** on Dec. 6, 1979, 44 FR 70196.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Padgett, telephone 919-541-5204 (FTS 629-5204).

SUPPLEMENTARY INFORMATION: The deadline for written comments has been extended at the request of the Environmental Defense Fund, the American Industrial Health Council, the Natural Resources Defense Council, the American Petroleum Institute and other interested organizations. The additional time is provided to enable commenters to incorporate consideration of the carcinogen policy recently promulgated by the Occupational Safety and Health Administration (45 FR 5002, January 22, 1980).

Dated: January 24, 1980.

David Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 80-3173 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 85

[FRL-1401-4]

Emission Control System Performance Warranty Regulations—Short Test Establishment; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: Section 207(b) of the Clean Air Act requires the Administrator, after making certain findings, to promulgate regulations establishing an emissions short test which is correlatable with the Federal Test Procedure, and which, when used in conjunction with a State inspection program, could trigger an emissions performance warranty. Regulations to establish the short test were proposed on May 25, 1977 at 42 FR 26742 (hereinafter "proposal"), and the comment period for this proposal closed in October 1977. This notice reopens the period for comment on the proposal for the limited purpose of providing interested persons with an opportunity to comment on information gathered since the close of the original period for comment.

DATES: Comments received by the Central Docket Office on or before March 3, 1980 will be considered in the final rulemaking. The Agency intends that final reguations will be promulgated so as to be applicable to 1981 and later model year vehicles.

ADDRESS: Send 10 copies of written comment to: Public Docket MSAPC-A-79-57, Central Docket Section (A-130), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Bruce Everling, Office of Mobile Source, Air Pollution Control, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 755-0596

or

Richard W. Nash, Inspection/Maintenance Staff, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105 (313) 668-4412.

SUPPLEMENTARY INFORMATION: Public comment: The scope of materials which may be submitted during the 30 day comment period is limited to those portions of the May 25, 1977, proposal directly affected by the additional information described below. To the extent that the new information impacts upon the warranty regulations proposed on April 20, 1979, (44 FR 23784) or the aftermarket part certification program proposed on August 8, 1979 (44 FR 46686), comments may be submitted to public dockets EN-79-6 and EN-79-8, respectively.

Section 207(b) of the Clean Air Act, as amended (Act), requires motor vehicle manufacturers to warrant each motor vehicle's "emission control device and systems" for the motor vehicle's useful life. The Act requires two separate rulemakings for implementation of the warranty. The first set of regulations must establish test methods to ascertain whether a vehicle in actual use complies with emissions standards ("short test").[1] The second set of regulations must

[1] Section 207(b) of the Clean Air Act, 42 U.S.C. 7526(b) (Supp. I, 1977), requires that any test available for determining emissions compliance of in-use vehicles be capable of being correlated with the Federal Test Procedure conducted under Section 206(a)(1).

establish a warranty program under which an owner of a vehicle that fails to demonstrate in such a short test that it complies with emissions standards, may have the vehicle repaired by its manufacturer without cost to the owner if the owner had operated and maintained the vehicle in accordance with the manufacturer's written maintenance instructions. On May 25, 1977, EPA published a Notice of Proposed Rulemaking (NPRM) regarding establishment of the short test. On April 20, 1979, EPA proposed regulations to establish the warranty program.

Since the time of publication of the short test NPRM, EPA continued to gather data and perform analyses of that data in developing the final rule. Although data is continuing to be generated, all data used in development of the final rule was complete by April 1979. Upon request, EPA made all data and analyses available to the public as they were generated.

On December 21, 1979, the Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA), filed a petition with the Administrator [2] requesting an opportunity to consider and comment on new data collected, technological changes to later model year vehicles, and new regulations adopted or proposed by the Agency since the time of the original proposal. MVMA wishes to comment on these changes and new data as they apply to the proposal on the basis that they have altered EPA's original perception of the section 207(b) short test.

EPA believes that the NPRM adequately apprised interested persons of the subjects and issues before the Agency, and that adequate opportunity was given to consider and comment on those subjects and issues, as well as on the sources of data and the alternative ways that EPA would consider using the data. Nevertheless, the Agency has decided to provide interested persons with an opportunity to comment on any specific data or analyses not available previously for comment. For that limited purpose, EPA is reopening the comment period for an additional 30 days beginning on January 31, 1980.

Due to the limited time remaining for promulgation of final regulations applicable to the 1981 model year, EPA does not plan to grant any extensions to the 30 day comment period. However, the Agency believes that the comment period is adequate for interested persons to address the issues discussed below.

In order to allow interested persons to focus their comments on the effect, if any, which specific new data or analyses have had on the proposed regulations, there is set out below a summary of the new data and EPA analyses and conclusions drawn from the data. All underlying information is available for inspection (or referenced) in Public Docket MSAPC–A–79–57, located at the address listed above.

Explanatory Information

Proposed Section 207(b) Short Test Regulations

In the May 25, 1977 proposal, five short tests correlatable to the Federal Test Procedure (FTP) were proposed (idle, Federal 3 Mode, Clayton Key Mode, Federal Short Cycle and NY/NJ Composite tests). The proposal also set forth methods by which a combination of standards (cutpoints) would identify vehicles failing the FTP when used with the short test procedures.

The test data available at the time of the proposal indicated that short test failure was unable to predict certification test failure with absolute certainty. Incorrect certification test failure predictations by the short test (errors of commission) and incorrect certification test passing predictions (errors of omission)were observed. Several methods of correlation analysis were proposed for the purpose of defining the extent of these errors. Methodologies for relating cutpoint selection and correlation errors were also proposed.

The proposal suggested that cutpoint selections could be made either for each model year (i.e., cutpoints applicable to 1985 model year vehicles would be selected using test data for 1985 model year vehicles) or for groups of model year cars (i.e., cutpoints applicable to several model years). It was suggested, on the basis of then available information, that cutpoints would have to be selected on a yearly basis. Cutpoint selection by the EPA or by the State was proposed, with possible contribution of data by the vehicle manufacturers.

The proposal listed the sources of test data which EPA planned to use in selecting the final correlating short tests and their related cutpoints. Requirements for test equipment, engineering practices and record keeping also were proposed to assure that the state emission test programs would be conducted in a manner which would maintain predicted correlation results in practice.

Final Section 207(b) Short Test Regulations

EPA plans to promulgate final Section 207(b) short test regulations applicable to 1981 and later model year vehicles after review of all comments, including additional comments received as a result of this notice. EPA presently is focusing consideration on three of the proposed short tests and potential cutpoints. The tests, potential cutpoints, equipment requirements, errors of commission and excess emissions identified are set forth in Table 1.

These results are based upon data for 2207 vehicles collected in the Portland, Oregon emission test program, [3] and

[3] Element 1 of the EPA Portland Program (which is contained in computer files located in the EPA Laboratory, Ann Arbor, Michigan), is the first of three elements comprising the Portland study. Element 1 was completed in April 1979, and is the only element used in developing the short test regulations. EPA staff in Ann Arbor will cooperate to the fullest practicable extent in supplying the Portland data in an acceptable format to persons requesting the data.

Table 1

	Idle	Two speed idle	Two mode loaded
Description	Idle	1. Idle 2. 2,500 RMP 3. Idle	1. 30 MPH/9 HP. 2. Idle.
Cutpoints	1.2 percent CO 220 ppm HC	1.0 percent CO [1] 200 ppm HC [1]	1.2 percent CO.[2] 220 ppm HC.[2]
Equipment	Garage analyzer	Garage analyzer tachometer.	Garage analyzer dynamometer.
Errors of Commission	5.6 percent	4 percent	7 percent.
Excess Emissions [3] Identified HC	82 percent	81 percent	93 percent.
Excess Emissions Identified CO	84 percent	83 percent	93 percent.

[1] Cutpoints apply to the lowest HC (hydrocarbon measured on parts per million) and lowest CO (carbon monoxide measured in percent) emissions observed at idle. These standards can also be applied to the 2,500 RPM mode.

[2] Cutpoints apply to both idle and loaded mode, such that vehicle failure results if the cutpoints are exceeded in either model.

[3] Excess emissions are emission levels above the Federal standards.

[2] Letter from Theodore Souris, Bodman, Longley & Dahling, to Douglas M. Costle, Administrator, EPA, and attached "Motor Vehicle Manufacturers Association's Petition for Reproposal", December 21, 1979.

reflect the effect of existing equipment, real world engineering practice and vehicles in actual use. Other available test data for 3706 vehicles in eight cities were reviewed and found to support an assumption that similar results will occur in different geographic locations, at different altitudes or with different vehicles.

The methodology EPA is considering using to establish short test standards, utilizing the above data, is contained in a technical document located in the public docket.[4] The results cited in Table 1 are contained in the document, as well as explanatory information on EPA's current approach in establishing a short test.

The proposal discussed several alternative approaches, but suggested the need for annual selection of cutpoints for each model year. EPA presently is considering grouping all vehicles into one class with uniform short test standards. Such standards would be based on data from previous model year vehicles, which is a less stringent approach than that emphasized in the proposal, since future model year vehicles are expected to be subject to more stringent Federal standards, and therefore have similar or lower error of commission rates. For this reason, the cutpoints listed in Table 1 would remain valid for 1981 and future year vehicles. the basis for this approach is contained in the technical document cited above.

The additional Portland data and other supportive data and methodology have been made available to the public upon request. However, MVMA has expressed a desire that it, and other interested persons, be provided an opportunity to comment on the new data, as well as the methods used to analyze the data and the results derived from EPA analyses. The information is available for inspection in public docket MSAPC–A–79–57, and EPA will consider only those comments addressing the impact, if any, this information has on the proposal. Accordingly, the comment period is extended for the above-described purpose until March 3, 1980.

Dated: January 24, 1980.

David D. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 80–3059 Filed 1–30–80; 8:45 am]

BILLING CODE 6560–01–M

[4] EPA, "Light Duty Vehicle and Light Duty Truck Emission Performance Warranty; Short Tests and Standards," December 1979 (IMS–009/ST–1).

5–A31012 0012(00)(30–JAN–80–12:50:35)

F4702

40 CFR Part 87

[Docket No. OMSAPC–78–1; FRL 1362–6]

Control of Air Pollution From Aircraft and Aircraft Engines: Proposed Amendments to Standards: Announcement of Availability of Economic Impact Assessment and Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: On March 24, 1978, EPA proposed a number of changes to gaseous emissions regulations applicable to several classes of newly manufactured and newly certified aircraft engines (43 FR 12615). The purpose of the present notice is to announce the availability of two reports dealing with aircraft gas turbine smoke visibility and to invite public comments. The comment period is being reopened for 30 days to allow additional time for review and comment of these documents.

DATE: All relevant comments received on or before February 29, 1980, will be considered.

ADDRESS: Interested persons may participate in this rulemaking by submitting written comments to the Administrator, Environmental Protection Agency, Attention: Central Docket Section, Room 2903 (A–130), 401 M Street, SW., Washington, D.C. 20460. Ten copies are requested but not required.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Munt, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105 (313) 668–4378.

SUPPLEMENTARY INFORMATION: On July 17, 1973, the Environmental Protection Agency (EPA) promulgated 40 CFR Part 87 establishing aircraft emission standards and test procedures (38 FR 19088). Several provisions of Part 87 are applicable to exhaust emissions of smoke from various categories of aircraft gas turbine engines (§§ 87.21(a), 87.21(b), 87.21(c), 87.21(e)).

On March 24, 1978, EPA proposed amendments to the standards for newly manufactured and newly certified aircraft engines (40 CFR Part 87) and proposed standards for in-use aircraft engines were published (43 FR 12615). The closing date for comments on the proposed action was announced as July 24, 1978, but was subsequently extended to December 2, 1978.

On August 29, 1979, EPA technical staff completed a report "Evaluation of Aircraft Smoke Standards for the Criterion of Invisibility," SDSB–79–25, which was placed in the public docket (OMSAPC–78–1). This report was intended to form the technological basis for the establishment of final revised smoke standards applicable to certain categories of aircraft gas turbine engines.

On October 26, 1979, a petition was submitted by General Motors Corporation requesting that finalization of smoke standards be delayed to provide opportunity for consideration of new information developed in their laboratories which shows that some of the information in the EPA report is not applicable to turboprop-type gas turbine engines. Their petition stated that a report summarizing the most current technical information bearing on this issue would be submitted at a later date.

On December 12, 1979, a report entitled "Determination of Visibility of Smoke Plumes from Turboprop Powered Aircraft," Engineering Department Report No. 10127, was submitted by General Motors Corporation. The GM report and their petition have been added to EPA public docket OMSAPC–78–1 along with the EPA report referred to earlier.

The agency is announcing the availability of these documents at this time to stimulate public comment and to solicit any additional new technical information bearing on the visibility characteristics of smoke emitted by aircraft gas turbine engines, for consideration by EPA before the revised smoke standards are finalized.

Dated: January 24, 1980.

David D. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80–3092 Filed 1–30–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5773]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each communty.

ADDRESSES: See table below.

FOR FURTHER INFORTMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program; (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5148, 451 7th Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer or insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Locations	#Depth in feet above ground. *Elevation in feet (NGVD)
Kentucky	City of Bardstown, Nelson County	Beech Fork	Just upstream of U.S. Highway 31E (New Haven Road)	*487
		Withrow Creek Tributary	Just upstream of Jones Avenue extended	*571
		Town Creek	Approximately 75 feet downstream of Old Gilkey Run Road	*487
			Just upstream of Broadway	*567
			Approximately 75 feet upstream of northernmost crossing of Old Bloomfield Road.	*580
	Maps available at Planning Commission Office, 113 E. Steven Foster, Bardstown, Kentucky 40004.			
	Send comments to Mr. B. J. Greenwell, 113 E. Steven Foster, Bardstown, Kentucky 40004, or Mayor Guthrie M. Wilson, City Hall, Bardstown, Kentucky 40004.			
Kentucky	Unincorporated Areas of Nelson County.	Rolling Fork	Just upstream of State Highway 31E	*472
		Pottinger Creek (Backwater flooding from Rolling Fork).	Just upstream of State Highway 247	*477
		Rowan Creek	Just upstream of State Highway 49 Bridge	*502
		Town Creek	Just upstream of Old Gilkey Run Road	*490
			Approximately 100 feet upstream of Louisville and Nashville Railroad	*575
		East Fork Simpson Creek	Just upstream of Country Road	*636
		Withrow Creek	Confluence of Withrow Creek and Withro Creek Tributary	*487
		Withow Creek Tributary	Kenneth Avenue Extended (Avenue located in the City of Bardstown)	*560
		Beech Fork	Confluence of Beech Fork and Withrow Creek	*485
	Maps available at the Nelson County Planning Commission, 113 East Steven Foster, Bardstown, Kentucky 40004.			
	Send comments to Mr. B. J. Greenwell, Nelson County Planning Commission, Steven Foster, Bardstown, Kentucky 40004, or Mayor Charles Roberts, Nelson County Judge, Nelson County Courthouse, Bardstown, Kentucky 40004.			
Kentucky	City of New Haven, Nelson County.	Rolling Fork	Mousers Alley (extended)	*470
			Approximately 500 feet downstream of U.S. Highway 31E	*472
	Maps available at Planning Commission Office, 113 E Steven Foster, Bardstown, Kentucky 40004.			
	Send comments to Mr. B. J. Greenwell, Planning Commission, 113 E Steven Foster, Bardstown, Kentucky 40004, or Mayor George Barry, New Haven City Hall, New Haven, Kentucky 40051.			
Louisiana	Town of Carencro, Lafayette Parish.	Beau Basin	Just upstream of Armand Street	*41
			Just downstream of Belizare Street	*42
		Gaston Coulee	At Andre Street	*41
			At St. Anne St.	*41
	Maps available at City Hall, Andre Street, Carencro, Louisiana 70520.			
	Send comments to Mayor Tommy J. Angelle or Ms. D. L. Lemaire, Town Clerk, P.O. Drawer 10, Carencro, Louisiana 70520.			
Louisiana	Town of Church Point, Acadia Parish.	Bayou Plaquemine Brule	Just upstream of Louisiana Highway 95	*44
			Just upstream of Louisiana Highway 35	*45
	Maps available at City Hall, 105 S. Main Street, Church Point, Louisiana 70525.			
	Send comments to, Mayor Harold Beaugh, or Ms. Mildred Bellard, City Clerk, City Hall, 105 S. Main Street, Church Point, Louisiana 70525.			
Massachusetts	Bourne, Town, Barnstable County	Cape Cod Bay	Northeast Coastline	*11
		Cape Cod Canal	Confluence with Cape Cod Bay	*11
			Confluence with Buzzards Bay	*15
		Buzzards Bay	Coastline north of Scraggy Neck	*15
			Coastline south of Scraggy Neck	*14
	Certain areas of the community are subject to flood with velocity (wave action). See maps for areas affected by Zone V3, V10 designations.			
	Maps available at the Office of the Town Clerk, 24 Perry Avenue, Buzzards Bay, Massachusetts.			
	Send comments to Mr. Robert W. Parady, Chairman of the Board of Selectmen, 24 Perry Avenue, Buzzards Bay, Massachusetts 02532.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Locations	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Montvale (Borough), Bergen County.	Bear Brook	At center of Van Riper Road crossing of Bear Brook	*315
		Cherry Brook	150 feet upstream from center of Middletown Road crossing of Cherry Brook.	*190
		Echo Glen Brook	30 feet upstream from center of Akers Avenue crossing of Echo Glen Brook.	*296
		Fieldstone Brook	160 feet north of the intersection of Dogwood Lane and Valemont Road.	*188
		Laurel Brook	At limit of Detailed Study (approximately 3,025 feet above mouth)	*341
		Mill Brook	30 feet upstream from center of Grand Avenue West crossing of Mill Brook.	*279
			At center of Summit Avenue crossing of Mill Brook	*363
		Muddy Creek	50 feet upstream from center of Kinderkamack Road crossing of Muddy Creek.	*158
		Pascack Brook	100 feet upstream from center of Grand Avenue crossing of Pascack Brook.	*144
			At center of Magnolia Avenue crossing of Pascack Brook	*193
		Stateline Brook	At Corporate Limits	*210
	Maps available at Municipal Building, Memorial Drive, Montvale, New Jersey.			
	Send comments to Honorable Arthur V. Gelnaw, Mayor, Borough of Montvale, Municipal Building, Memorial Drive, Montvale, New Jersey 07645.			
New York	Ogdensburg, City, St. Lawrence County.	Oswegatchie River	Lake Street	*249
			Ogdensburg Dam (Downstream)	*255
			Ogdensburg Dam (Upstream)	*265
			Upstream Corporate Limits	266
	Maps available at the Office of Planning and Development, City Hall, Ogdensburg, New York.			
	Send comments to Mr. Gerald Johnson, City Manager, City Hall, 330 4th Street, Ogensburg, New York 13669.			
North Carolina	Town of Haw River, Alamance County.	Haw River	Just upstream Southern Railway	*506
		East Back Creek	Just upstream Southern Railway	*515
			Just upstream U.S. Highway to (East Main Street)	*517
		Haw River Tributary "A" (Backwater Flooding from Haw River).	Just upstream Long Street	*507
	Maps available at Town Hall, 403 E. Main Street, Haw River, North Carolina 27258.			
	Send comments to Mayor J. W. Smith or Mr. Aubrey L. Agnew, Mayor Protem, Town Hall, 403 E. Main Street, Haw River, North Carolina 27258.			
North Carolina	Town of Hope Mills, Cumberland County.	Rockfish Creek	Just upstream of South Main Street (NC 59)	*91
		Little Rockfish Creek	Just upstream of Legion Road (State Route 1132)	*94
			Just upstream of Lake View Road (Hope Mills Dam)	*95
			Just downstream of Lake View Road (Hope Mills Dam)	*103
	Maps available at Town Hall, 3700 S. Main Street, Hope Mills, North Carolina 28348.			
	Send comments to Mayor Edward Herring or Mr. A. N. Brafford, Town Manager, Town Hall, 3700 S. Main Street, Hope Mills, North Carolina 28348.			
North Carolina	City of Lumberton, Robeson County.	Lumber River	Just downstream of Chippena Street	*115
			Approximately 350 feet upstream of Alamac Road	*119
			Just upstream of Interstate 95	*124
		Fivemile Branch	Just upstream of Interstate 95	*125
		Meadow Branch	Just upstream of Interstate 95	*125
			Just downstream of U.S. Highway 301	*132
		Pole Cat Branch	Just upstream of Walnut Street	*129
			Just downstream of U.S. Highway 301	*131
		Ivey Branch	Just upstream of U.S. Highway 301	*130
	Maps available at City Hall, 501 E. 5th Street, Lumberton, North Carolina 28358.			
	Send comments to Mayor F. K. Biggs, or Mr. Ray Griffin, City Manager, City Hall, 501 E. 5th Street, Lumberton, North Carolina 28358.			
North Carolina	Mebane, Town of Alamance County.	Mill Creek	Just upstream of State Highway 119	*570
		McAdams Creek	Just upstream of State Route 1997 Extended	*606
		Lake Michael Tributary	Just upstream of State Route 1306	*612
		Eastside Creek	Just upstream of State Highway 119	*593
			Just upstream of State Route 1996	*613
		Haw Creek	Just upstream of Interstate Highway 85	*604
	Maps available at Town Hall, 106 E. Washington Street, Mebane, North Carolina 27302.			
	Send comments to Mayor Glendal Stephenson or Ms. Virginia Whitfield, Town Manager, 106 E. Washington Street, Mebane, North Carolina 27302.			
Pennsylvania	Maxatawny, Township, Berks County.	Sacony Creek	Upstream Kutztown/Maxatawny Corporate Limits	*406
			Private Lane which intersects Deysher Road Upstream	*409
			Deysher Road crossing	*410
		Little Sacony Creek	Conrail crossing	*443
			Bowers Road crossing	*453
			Fleetwood Road crossing Upstream	*462
			Approximately 400 feet upstream of Fleetwood Road crossing	*469
			Upstream Corporate Limits	*475
	Maps available at the Maxatawny Township Municipal Building.			
	Send comments to Mr. Carl Zettlemoyer, Chairman of the Board of Supervisors of Maxatawny, c/o Ruth Randazzo, Route 1, Box 219, Kutztown, Pennsylvania 19530.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Locations	#Depth in feet above ground *Elevation in feet (NGVD)
Pennsylvania	Phoenixville, Borough, Chester County.	Schuylkill River	Downstream Corporate Limits	*101
			State Route 113 upstream	*106
			Upstream Corporate Limits	*110
		French Creek	Confluence with Schuylkill River	*102
			State Route 113 (Upstream)	*109
			Paradise Street (Downstream)	*113
			Upstream Corporate Limits (Downstream)	*118
	Maps available at the Phoenixville Municipal Building, 140 Church Street			
	Send comments to Mr. Joseph Fabian, Council President of Phoenixville, 140 Church Street, Phoenixville, Pennsylvania 19460.			
Pennsylvania	Royersford, Borough, Montgomery County.	Schuylkill River	Downstream Corporate Limits	*113
			100' upstream Main Street Bridge	*115
			Conrail Bridge	*116
			Upstream Corporate Limits	*118
	Maps available at the Borough Hall, Royersford, Pennsylvania 19460			
	Send comments to Mr. Robert L. Weikel, Borough Manager of Royersford, 300 Main Street, Royersford, Pennsylvania.			
Pennsylvania	Schuylkill, Township, Chester County.	Schuylkill River	Downstream Corporate Limits	*93
			Pawling Road	*96
			Downstream of Conrail	*97
			Upstream of Conrail	*98
			Upstream Corporate Limits	*101
		Pickering Creek	Confluence with Schuylkill River	*100
			State Route 23	*100
			Upstream side of Pickering Dam	*110
			6,850 feet upstream of Pickering Dam	*112
			Downstream of White Horse Road	*114
			Upstream of White Horse Road	*115
			Downstream of Creek Road	*128
			Upstream of Creek Road	*130
			Upstream Corporate Limits	*132
	Maps available at the Schuylkill Township Building, 801 Valley Park Road			
	Send comments to Mr. Lawrence Drake, Chairman of the Board of Supervisors of Schuylkill, 801 Valley Park Road, Phoenixville, Pennsylvania 19460.			
South Carolina	City of Forest Acres, Richland County.	Gills Creek	Just upstream of Forest Drive (State Highway 12)	*169
			Just downstream of Forest Lake Dam	*172
			Just upstream of Forest Lake Dam	*179
		Pen Branch	Just upstream of Belt Line Boulevard	*197
			Just upstream of Budon Court	*216
		Orphanage Branch	Just upstream of Sunnyside Drive	*212
		Eightmile Branch	Just downstream of Gamewell Drive	*172
			Just downstream of Javrec Court	*181
			Approximately 75 feet downstream from Covenant Road	*197
			Just upstream of Covenant Road	*202
			Just upstream of Deerfield Drive	*218
		Tributary E-1	Just upstream of Roberts Spring Road	*204
			Just upstream of Barnes Spring Road	*217
	Maps available at City Administrator's Office, 5205 Trenholm Road, Forest Acres, South Carolina 29206.			
	Send comments to Mr. F. C. Benton, City Administrator or James Scott, Planning Commissioner, 5205 Trenholm Road, Columbia, South Carolina 29206.			
Texas	City of Bryan, Brazos County	Carters Creek	At confluence of Briar Creek	*274
			Just upstream of Harvey Road (FM 158)	*283
		Tributary B	Approximately 80 feet downstream of Old Reliance Road	*309
			Just upstream of Moss Street	*312
		Briar Creek	Just downstream of Briar Crest Drive	*283
			Approximately 80 feet upstream of Broadmore Street	*296
			Just upstream of Villa Maria Road	*305
		Hudson Creek	Just downstream of HWY 58	*279
		Burton Creek	Just upstream of West Frontage Road-State HWY 6 Bypass	*268
			Just upstream of Tangle Wood Drive	*283
		Tributary C	At confluence with Burton Creek	*282
		Tributary D	Just downstream of Texas Avenue	*294
			Just upstream of Villa Maria Road	*300
		Still Creek	Approximately 80 feet upstream of FM 2818	*280
			Approximately 30 feet upstream of FM 1687 (Sandy Point Road)	*296
			Just upstream of Mumford Road	*307
		West Fork of Still Creek	Approximately 10 feet downstream of U.S. HWY 190	*326
		Tributary A	Approximately 50 feet upstream of confluence with Still Creek	*298
		Cottonwood Branch	Approximately 500 feet upstream of FM 2818	*295
			Approximately 50 feet upstream of Palasota Drive	*320
	Maps available at City Hall, 28th and Regent, P.O. Box 1000, Bryan, Texas 77801			
	Send comments to Mayor Richard Smith or Mr. Ernest Clark, City Manager, 28th and Regent, P.O. Box 1000, Bryan, Texas 77801.			
Texas	City of Castle Hills, Bexar County	Olmos Creek	Just upstream southwestern corporate limits (Jackson Keller Road)	*772
			Just upstream of U.S. Highway 410 Westbound Access Road	*778
		Olmos Creek Tributary	Just upstream of Irongate Street	*806
	Maps available at City Secretary's Office, Castle Hills City Hall, 6915 West Avenue, San Antonio, Texas 78213.			
	Send comments to Mayor H. P. Lundblade or Dawn Rogers, City Secretary, Castle Hills City Hall, 6915 West Avenue, San Antonio, Texas 78213.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Locations	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Lockhart, Caldwell County.	Town Creek	Just upstream of East Market	*478
			Just upstream of North Commerce Street	*495
			Just downstream of North Blanco Street	*510
			Just upstream of Stueve Road	*536

Maps available at City Hall, 308 W. San Antonio Street, Lockhart, Texas 78644.

Send comments to Mayor W. E. Chesser or Mr. C. E. Massey, City Manager, City Hall, 308 W. San Antonio Street, Lockhart, Texas 78644.

Washington	Clallam County Unincorporated Areas.	Dungenes River	Intersection of river and Woodstock Road	*83
			Intersection of river and U.S. Highway 101	*248
		Morse Creek	75 feet upstream of intersection of creek and Chicago, Milwaukee, St. Paul and Pacific Railroad Bridge.	
			Intersection of creek and Four Seasons Road	*110
				*56
		Elwha River	40 feet upstream of intersection of river and Elwha Road	*72
			Intersection of river and Washington Highway 112	*100
		Indian Creek	Intersection of creek and U.S. Highway 101	*495
		Whiskey Creek Tributary	50 feet upstream of intersection of tributary and State Highway 112	*356
		Clallam River	50 feet downstream of intersection of river and Weel Road	*19
		Bogachiel River	Confluence with Calawah river	*90
		Calawah River	Intersection of river and U.S. Highway 101	*221
		Elk Creek	10 feet downstream of intersection of creek and County Road	*351
		Soleduck River	Intersection of river and downstream crossing of U.S. Highway 101	
			100 feet upstream of intersection of river and Maxfield Road	*272
			Intersection of river and upstream crossing of U.S. Highway 101	*404
		Lake Creek	Intersection of creek and Tyee Street	*397
		Tumwater Creek	150 feet upstream of intersection of creek and U.S. Highway 101	*171
		Ennis Creek	30 feet upstream of intersection of creek and County Road	*88
		White Creek	Intersection of creek and corporate limits of the City of Port Angeles	*322
		Valley Creek	Intersection of creek and the corporate limits of the City of Port Angeles.	*150
		Dry Creek	Intersection of creek and the corporate limits of the City of Port Angeles.	*199
		Mill Creek	75 feet upstream of intersection of creek and U.S. Highway 101 (Town of Forks corporate limits).	*298
		Warner Creek	40 feet upstream of intersection of creek and U.S. Highway 101 (Town of Forks corporate limits).	*301
		Ford Creek	75 feet upstream of intersection of creek and Peterson Road	*320
			Intersection of Peterson Road and East Divison Street	#1
		Straight of Juan de Fuca	Intersection of Jamestown Road and Cemetery Road	*12
		Lake Pleasant	100 feet upstream of Tyee Street	*399

Maps available from Clallam County Courthouse, 223 East 4th, Port Angeles, Washington.

Send comments to Mr. Dick Lotzgesell, Chairman, Board of County Commissioners, Clallam County, Clallam County Courthouse, Office of the Commissioner, 223 East 4th, Port Angeles, Washington 98362.

Washington	Fife (City), Pierce County	Wapato Creek	Intersection of 12th Street East and channel	*10
			Intersection of Goldau Road and 20th Street East	*15
			Approximately 140 feet upstream from intersection of 54th Avenue East and channel.	*18
			West of the intersection of Valley Avenue and the southern corporate limits.	*20

Maps available from City Hall, 5209 Pacific Highway East, Tacoma, Washington.

Send comments to the Honorable Joe Vraves, Mayor, City of Fife, City Hall, 5209 Pacific Highway East, Tacoma, Washington 98424.

Washington	Toledo (City), Lewis County	Cowlitz River	Intersection of Alder Street and Fifth Street	*100
			Intersection of Fifth Street and Augustus Street	*100
			Easternmost end of Augustus Street	*102
			Approximately 280 feet upstream of the intersection of 2nd Street and Hemlock Street.	*106

Maps available at City Hall, 130 Second Street, Toledo, Washington.

Send comments to Ms. Shirley Grubb, Acting Mayor, City of Toledo, City Hall, P.O. Box 236, Toledo, Washington.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19867; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2841 Filed 1-30-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 81 and 83

[Gen. Docket No. 80-1; RM-3101; RM-3128; and RM-3129]

Allocating Spectrum for an Automated Inland Waterways Communications System (IWCS) Along the Mississippi River and Connecting Waterways; Correction

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry Order And Notice Of Proposed Rule Making.

SUMMARY: This errata makes two editorial typographical corrections and inserts file numbers of certain applications for the sake of clarity.

DATES: Comments be received on or before March 24, 1980 and reply comments must be received on or before April 23, 1980.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION: Robert DeYoung or Walter Weaver, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Errata

Released: January 25, 1980.

In the matter of Amendment of Parts 2, 81 and 83 of the Commission's Rules to Allocate Spectrum for an Automated Inland Waterways Communications System (IWCS) along the Mississippi River and Connecting Waterways and, Maritime Mobile Radio Services: Improvement in Service Through Provision for Automated VHF Common Carrier Systems and, VHF Frequency Assignments To The Maritime Radio Services In the New Orleans and Lower Mississippi Rivers Areas and on the coastlines of the contiguous states; Gen. Docket No. 80-1, RM-31101, RM-3128, RM-3129.

1. In the Notice of Proposed Rule Making, Order and Notice of Inquiry in the above-captioned proceeding, (FR Doc. 80-1369, 45 FR 3064, Jan. 16, 1980) released January 11, 1980, FCC 80-2, several corrections are needed for purposes of clarification.

2. Paragraph 3, page 4, Petition W-P-G-2279 should read: W-P-C-2279 * * *.

3. Paragraph 33 should read: IT IS FURTHER ORDERED, that the applications filed by Waterway Communications System, Inc. prior to the filing of RM-3101, File Nos. 70 through 77-M-L-35, ARE DISMISSED without prejudice as moot.

4. Attachment C, number 1, is corrected to read: * * * will provide 50 channels per megahertz.

Federal Communications Commission,

William J. Tricarico,

Secretary.

[FR Doc. 80-3188 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-27; RM-3275]

FM Broadcast Station in Snowmass Village, Colo.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes assignment of a first Class A FM channel to Snowmass Village, Colorado, in repsonse to a petition filed by Pitkin County Broadcasters, Inc. The proposed channel could provide for a station which could bring a first local aural broadcast service to Snowmass Village.

DATES: Comments must be filed on or before March 24, 1980. Reply comments must be filed on or before April 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assingments*, FM Broadcast Stations. (Snowmass Village, Colorado), BC Docket No. 80-27, RM-3275.

Adopted: January 22, 1980.

Released: January 31, 1980.

1. *Petitioner, Proposal, Comments*—(a) *Notice of Proposed Rule Making* is given concerning amendment of the FM Table of Assignments § 73.202(b) of the Commission's rules) as it relates to Snowmass Village, Colorado.

(b) Petition for rule making [1] was filed on behalf of Pitkin County Broadcasters, Inc. ("peititioner"), seeking the assignment of FM Channel 280A to Snowmass Village, Colorado.[2] Supporting comments were filed by Mountain Wireless, Inc. An opposition was filed by Recreation Broadcasting of Aspen, Inc. ("RBA"), licensee of FM Station KSPN, Aspen, Colorado, to which petitioner replied.

(c) Channel 280A can be assigned to Snowmass Village in conformity with the minimum distance separation requirements.

2. *Community Data*—(a) *Location.* Snowmass Village, in Pitkin County, is located in the western part of Colorado, approximately 24 kilometers (15 miles) from Aspen, Colorado.

(b) *Population.* Snowmass Village—1500 [3]; Pitkin County—6,185.[4]

(c) *Local Aural Broadcast Service.* None. It receives service from FM Station KSPN (Channel 249A), Aspen, Colorado.

4. *Community Status.* Petitioner claims that Snowmass Village has been a communtiy for about 11 years and has been incorporated as a town for about a year. Therefore, no population figures were included in the Bureau of Census publications. However, it notes that the Snowmass Planning commission estimates a population of 1,500 in the community, and projects a population of 15,000 by 1990. Petitioner adds that the Rand McNally Trade Atlas publishes a seasonal population figure of 8,000. Petitioner attaches a letter from the General Manager of the Snowmass Resort which states that cultural activities include a ballet company, concerts, theatre groups, and a host of recreational activities. There has been a 55% increase in retail sales between 1975 and 1977 for all industries in Pitkin County, according to petioner. It asserts that Snowmass Vilalge is growing and has developed a need for its own radio service. Petitioner urges that a broadcast station at Snowmass Village would aid in promoting employment, expansion of business, publicizing of cultural and recreational facilities and opportunities, and public knowledge of national and international news.

5. RBA, in opposition, contends that other than a general allegaton that the resort has been recently incorporated as a town, petitioner shows nothing in the record to demonstrate either the boundaries of the so-called town or indicates that the resort functions as a town. RBA argues that the resort was developed as a result of favorable skiing

[1] Public Notice of the petition was given on December 21, 1978, Report No. 1156.

[2] Petitioner had previously referred to the requested community as Snowmass in its petition. It later amended its petition to clarify its intention to serve Snowmass Village as distinguished from the community of Snowmass which is located less than 5 kilometers (3 miles) from Snowmass Village. Petitioner notes that Snowmass Village is a newer community and substantially larger than Snowmass. It also indicates that no other change in its petition is necessary since the difference of less than 3 miles would not affect any presently licensed or assigned facilities.

[3] There is no Census figure listed for Snowmass Village. However, petitioner states that the Snowmass Planning commission estimates a population of 1,500.

[4] Population figure taken from the 1970 U.S. Census.

conditions in the Aspen area and is one of several such resorts but does not qualify as a community by Commission standards. RBA cites Commission decisions in which similar requests were rejected.[5] Although petitioner indicates that Snowmass Village needs its own voice because of cultural activities, RBA contends that such matters hardly establish a community for the purpose of obtaining an FM assignment. RBA asserts that petitioner has failed to establish that Snowmass Village is a community or that it is otherwise entitled to an FM assignment.

6. In reply, petitioner contends that Snowmass Village has been incorporated and is organized and functioning as a town and there is no need to disassociate the town from the resort. It points out that Snowmass Village has a Mayor, City Council, two private schools, a bank, fire department, police force and civic organizations. It notes also that a new post office is under construction. Petitioner distinguishes the cited cases of *Coker, Alabama,* as not being an incorporated community, while *Camp Lejeune* relied too heavily on Jacksonville, North Carolina, for its economic well-being, and *Boca Chica Key, Florida,* another military installation, had declined substantially and planned to close. Finally, petitioner argues that while Snowmass Village was incorporated so recently that it does not yet have all the services that may be considered "indicia of a community," it already has the more important ones.

7. We are satisfied from the information supplied by petitioner that Snowmass Village has the necessary indicia to classify the place as a community. As an incorporated town with an autonomous governing body, it is able to function so as to provide service to residents. It appears that these residents, an identifiable unit, have separate interests, albeit resort-oriented, and needs which can be addressed by local broadcast service. Thus, we have no difficulty finding Snowmass Village to possess enough community characteristics to warrant a proposal for a local FM channel assignment.

8. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as it pertains to Snowmass Village, Colorado, as follows:

City	Channel No.	
	Present	Proposed
Snowmass Village, Colorado	.....	280A

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements, are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

10. Interested parties may file comments on or before March 24, 1980, and reply comments on or before April 14, 1980.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, 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 procedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or writen) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, replay comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-3080 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

[5] RBA cites *Camp Lejeune, N.C.*, 43 FR 33772 (1978); *Boca Chica Key, Fla.*, 43 FR 38607 (1978); and *Coker, Ala.*, 43 FR 26082 (1978).

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47 CFR Part 73

[BC Docket No. 80-22; RM-3286]

FM Broadcast Station in Mt. Vernon, Ohio; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes the assignment of Channel 252A to Mt. Vernon, Ohio, as its second FM assignment, in response to a petition filed by Bellevue Community Broadcasting. The proposal would offer a diversity of local broadcast ownership in Mt. Vernon.

DATES: Comments must be filed on or before March 24, 1980. Reply comments must be filed on or before April 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 22, 1980.

Released: January 31, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Mt. Vernon, Ohio), BC Docket No. 80–22, RM–3286.

1. The Commission has before it a petition for rule making filed by Bellevue Community Broadcasting ("Petitioner"), proposing the assignment of FM Channel 252A to Mt. Vernon, Ohio, as its second FM assignment.[1] No comments have been filed.

2. Mt. Vernon (pop. 13,373) [2] the seat of Knox County (pop. 41,795), is located in the center of the State of Ohio. It is approximately 65 kilometers (40 miles) northeast of Columbus. Mr. Vernon is presently served by the co-owned stations WMVO(AM) and WMVO–FM (Channel 229).

3. Petitioner states that the public interest will be served by a diversity of media ownership within the Mt. Vernon area. According to petitioner, his diversity of ownership will result in different views and programming being presented to listeners of the community. At present WMVO(AM) and FM are co-owned and simultaneously broadcast a portion of their daily programming. Petitioner has submitted a community profile of Mt. Vernon which adequately supports a need for a second FM assignment to that community.

4. Petitioner alleges that a proposd Class A FM station operating with maximum power and antenna height would serve, in addition to Mt. Vernon, several nearby communities without local aural service.

5. Channel 252A may be assigned to Mt. Vernon without affecting any existing FM assignment. However, the transmitter site must be located 8 kilometers (5 miles) north of the community. Since this location is within 250 miles of the U.S.-Canada border, Canadian concurrence must be obtained.

6. The requested assignment of Channel 252A to Mt. Vernon would cause no new preclusion on the adjacent channels (Channels 249A, 250, 251, 253, 254, 255). Only co-channel (Channel 252A) preclusion occurs. This newly precluded area is only a small section around the proposed transmitter site and does not contain any communities over 1,000 persons.

[1] Public Notice of the petition was given on January 3, 1979, Rept. No. 1157.

[2] Population figures are taken from the 1970 U.S. Census.

7. Since Mt. Vernon already has a Class B channel assigned and operating, the proposed Class A assignment would create intermixture of classes of channels. However, we generally permit this type of intermixture where, as here, there is a person interested in applying for the Class A channel despite the competitive disadvantage. See *Yakima, Washington*, 42 FCC 2d 548 (1973).

8. In view of the apparent need for a second FM station in Mt. Vernon, and the fact that no significant new preclusion would result from this assignment, we believe that consideration of the proposal described above would be in the public interest.

9. Accordingly, it is proposed to amend, the FM Table of Assignments, § 73.202(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Mt. Vernon, Ohio	229	229,252A

10. Authority to institutte rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

11. Interested parties may file comments on or before March 24, 1980, and reply comments on or before April 14, 1980.

12. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, 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 assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communication's Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceedings, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of te Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80–3081 Filed 1–30–80; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 80-24; RM-3527]

FM Broadcast Station in Boyce, La.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM assignment to Boyce, Louisiana, in response to a petition filed by Robert Allen. The proposed channel can be used to bring a first local aural broadcast service to the community.

DATES: Comments must be filed on or before March 24, 1980, and reply comments must be filed on or before April 14, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 22, 1980.

Released: February 1, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Boyce, Louisiana), BC Docket No. 80-24, RM-3527.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making[1] was filed by Robert Allen ("petitioner"), proposing the asignment of FM Channel 252A to Boyce, Louisiana, as a first FM assignment. No responses to the petition have been received.

(b) The channel can be assigned in compliance with the minimum distance separation requirements.

(c) Petitioner states he will file for the channel, if assigned.

2. *Community Data*—(a) *Location.* Boyce, in Rapides Parish, is located on the west bank of the Red River, approximately 161 kilometers (100 miles) southeast of Shreveport, Louisiana.

(b) *Population.* Boyce—1,240[2]; Rapides Parish—18,078.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that Boyce's present commercial and service economy consists of three types: Strip highway commercial development; central business district; and a small percentage of scattered neighborhood developments. He asserts that the proposed station would provide the community with a local information source for disaster and flood warnings, local news, public affairs and entertainment programming. Petitioner has submitted demographic data with respect to Boyce in order to show the need for a first local aural broadcast service in that community.

4. We believe it appropriate to consider the proposed assignment to bring a first local aural broadcast service to Boyce, Louisiana, and to that end are proposing to amend § 73.202(b) of the Commission's rules, the FM Table of Assignments, by the following addition:

City	Channel No.	
	Present	Proposed
Boyce, Louisiana	.....	252A

5. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements, are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

6. Interested parties may file comments on or before March 24, 1980, and reply comments on or before April 14, 1980.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, 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, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-3084 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on November 19, 1979, Report No. 1200.

[2] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 80-23; RM-3486]

FM Broadcast Stations in Blue Earth and St. James Minn.; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the deletion of FM Channel 265A from Blue Earth, Minnesota, and its reassignment to St. James, Minnesota, in response to a petition filed by Richard Rogers. The proposed St. James station could provide for a first local aural broadcast service to that community.

DATES: Comments must be filed on or before March 24, 1980, and reply comments must be filed on or before April 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 22, 1980.

Released: February 1, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Blue Earth and St. James, Minnesota), BC Docket No. 80-23, RM-3486.

1. The Commission has before it a petition for rule making [1], filed by Richard Rogers ("petitioner"), requesting the deletion of FM Channel 265A from Blue Earth, Minnesota, and its reassignment to St. James, Minnesota. Channel 265A at Blue Earth is unoccupied and unapplied for. No responses to the petition have been received.

2. Blue Earth (pop. 3,965) [2], in Faribault County (pop. 20,896), is located approximately 161 kilometers (100 miles) southwest of Minneapolis, Minnesota. It is served locally by daytime-only AM Station KBEW. It has one FM assignment, Channel 265A. St. James (pop. 4,027), in Watonwan County (pop. 13,298), is located approximately 199 kilometers (120 miles) southwest of Minneapolis, Minnesota. It has no local aural broadcast service or FM assignments.

3. Petitioner states that neither St. James, nor any other community in Watonwan County, has any aural broadcast service, or FM channel assignments. In support of its petition, petitioner has submitted information with respect to St. James in order to demonstrate the need for the assignment of a first FM channel.

4. The proposed assignment meets the minimum distance separation requirements. The channel deletion at Blue Earth represents the only change in any existing assignments in the Table of Assignments by petitioner's proposal. As indicated, Blue Earth already has a local aural broadcast service, and no interest has been expressed for use of the FM channel assigned to that community.[3] Since the proposed assignment could be used to bring a first local aural broadcast service to St. James, a somewhat larger community than Blue Earth, we are proposing the reassignment of Channel 265A from Blue Earth to St. James, Minnesota.

5. In view of the foregoing, and pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is proposed to amend the FM Table of Assignments (§ 73.202(b)) to read as follows:

City	Channel No.	
	Present	Proposed
Blue Earth, Minnesota	265A	.....
St. James, Minnesota	.....	265A

6. Authority to institute rule making proceedings, showings required, cutoff procedures, and filing requirements, are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

7. Interested parties may file comments on or before March 24, 1980, and reply comments on or before April 14, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, 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 assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignments is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four

[1] Public Notice of the petition was given on September 19, 1979, Rept. No. 1192.

[2] Population figures are taken from the 1970 U.S. Census.

[3] In a letter from counsel for John E. Linden, the Commission was informed that although counsel's client was interested in applying for the Blue Earth assignment, it is no longer desirous of doing so.

copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-3085 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-25; RM-3477]

FM Broadcast Station in Centralia, Mo.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposed the assignment of a Class A FM channel to Centralia, Missouri, in response to a petition filed by Kenneth W. Kuenzie and Ronald R. Wenneker. The proposed channel could provide for a station which can render a first FM aural broadcast service to the community.

DATES: Comments must be filed on or before March 24, 1980. Reply comments must be filed on or before April 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFOMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 22, 1980.

Released: February 1, 1980.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Centralia, Missouri), BC Docket No. 80-25, RM-3477.

1. *Petitioner, Proposal, Comments*—(a) *Notice of Proposed Rule Making* is given concerning amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's rules) as it relates to Centralia, Missouri.

(b) A petition for rule making [1] was filed by Kenneth W. Kuenzie and Ronald R. Wenneker ("petitioners"), proposing the assignment of FM Channel 221A to Centralia, Missouri, as that community's first FM assignment. No responses to the petition were filed.

(c) Channel 221A can be assigned to Centralia in compliance with the minimum distance separation requirements.

(d) Petitioners state that they will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Centralia, in Boone County, is located approximately 200 kilometers (125 miles) west of St. Louis, Missouri.

(b) *Population.* Centralia—3,623; Boone County—80,000.[2]

(c) *Local Aural Broadcast Service.* None.

3. *Economic Data.* Petitioners state that Centralia is an important agricultural area in which there are also several industries, including publishing and electronics. In addition, several universities are located nearby. Demographic data has been presented to show the necessity of having an FM channel assigned to Centralia to meet the growing needs of the agricultural, industrial, and educational communities.

4. In view of the need for a first local aural broadcast service in Centralia, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as it pertains to Centralia, Missouri:

City	Channel No.	
	Present	Proposed
Centralia, Mo		221A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements, are contained in the attached Appendix below and are incorporated by reference herein.

Note:—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

6. Interested parties may file comments on or before March 24, 1980, and reply comments may be filed on or before April 14, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, 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 assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this preceding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for

[1] Public Notice of the petition was given on September 19, 1979, Report No. 1192.

[2] Population data are taken from the 1979 U.S. Census.

examination by interested parties during regular business hours in the Commission's Public Reference Room at it headquarters, 1919 M Street, NW., Washington, D.C.

FR Doc. 80-3087 Filed 1-30-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-26; RM-3332]

FM Broadcast Station in Ravenswood, W. Va.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM assignment to Ravenswood, West Virginia, in response to a petition filed by Rex Osborne. The proposed channel could provide for a first full-time local aural broadcast service to Ravenswood.

DATES: Comments must be filed on or before March 24, 1980. Reply comments must be filed on or before April 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 22, 1980.

Released: February 1, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Ravenswood, West Virginia), BC Docket No. 80-26, RM-3332.

1. *Petitioner, Proposal, Comments.* (a) A petition for rulemaking[1] was filed by Rex Osborne ("petitioner"), proposing the assignment of either FM Channel 272A or 288A to Ravenswood, West Virginia. The proposal of Channel 288A conflicts with a pending proposal for assignment of the same channel to Greenup, Kentucky (BC Docket No. 79-180). Therefore, rather than delay the proposal of a Class A assignment to Ravenswood, we are considering the alternative proposal to that community.

(b) The channel can be assigned in compliance with the minimum distance separation requirements.

(c) Petitioner states he will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Ravenswood, in Jackson County, is located approximately 39 kilometers (24 miles) southwest of Parkersburg, West Virginia.

(b) *Population.* Ravenswood—2,240; [2] Jackson County—20,903.

(c) *Local Aural Broadcast Service.* Ravenswood is served locally by daytime-only AM Station WMOV.

3. *Economic Data.* Petitioner asserts that the most recent figures of the Ravenswood Chamber of Commerce show its population to be over 5,000. He states that manufacturing is the predominant industry in the Ravenswood area. Petitioner has submitted demographic and economic data with respect to Ravenswood in an effort to show the need for an FM assignment.

4. Since Ravenswood is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 272A to Ravenswood, West Virginia, requires coordination with the Canadian Government before it can be adopted.

5. In view of the fact that the proposed FM channel could provide a first full-time local aural broadcast service, the Commission proposes to amendment the FM Table of Assignments, § 73.202(b) of the rules, with regard to Ravenswood, West Virginia, as follows:

City	Channel No.	
	Present	Proposed
Ravenswood, W. Va		272A

6. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

7. Interested parties may file comments on or before March 24, 1980, and reply comments on or before April 14, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

[1] Public Notice of the petition was given on March 14, 1979, Report No. 1167.

[2] Population figures are taken from the 1970 U.S. Census.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-3088 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. MC 137 [1]]

No Suspend Zone—Motor Common Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Interstate Commerce Commission is considering establishment of a "no suspend zone" for freight rates published by motor common carriers of property. Here, the Commission is considering a no suspend zone for general application to the entire industry. In the subproceedings in Ex Parte No. MC-135, Master Certificates and Permits, the Commission proposes to consider refinement of the concepts raised here for application to each of the various specialized segments of motor common carriers of property. We contemplate that a no suspend zone developed in this proceeding or in Ex Parte No. MC—135 would only apply for rates published individually by carriers and would not extend to rate changes proposed by carriers collectively through a rate bureau.

Within the no suspend zone, proposed rates would neither be suspended nor investigated on grounds that the rates appear to be unreasonably high or low. The no suspend zone is expected to enhance ratemaking flexibility and rate competition, resulting in lower rates on balance and a greater diversity of rate/service alternatives to the benefit of the shipping and consuming public and the motor common carrier system. The approach is based in part on the recommendations contained in the Initial Report (published May, 1979) of the Motor Carrier Task Force. Copies of this document are available from the Commission's Secretary.

DATES: Comments are due March 3, 1980.

ADDRESSES: Send an original and 15 copies of comments to: Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 275-7693.

SUPPLEMENTARY INFORMATION: The Task Force recommended that rates for transportation of traffic handled pursuant to the relaxed entry procedures be published in individual tariffs to the carriers.

It is our belief that, through establishment of no suspend zone, increased competition may be readily translated into rates which are more representative of market conditions. The net result should be improved transportation, distribution, and location practices which produce benefits for the economy.

By this notice the Commission is seeking public comments on the Task force proposal the FTC petition, and possible amendments to both, as discussed herein, to establish a zone within which motor carriers may raise and lower their rates without risk of suspension or investigation on grounds that the rates are unreasonably high or low. We contemplate that proposed rates within this no suspend zone would be immune from challenge at the suspension level by other carriers of any mode of transportation, their rate bureaus, shippers, consignees, or any other persons, or by this Commission, unless the rates appear to be unfair and destructive competitive practices, unduly prejudicial and preferential, unjustly discriminatory, beyond the scope of the proponent's operating authority, or in violation of an outstanding order or regulation of this Commission. Otherwise, rate changes within the zone might be taken at any time and as needed, within the carrier's managerial discretion. We also seek comments on establishment of a more limited no notice zone within which rate changes would not be noticed and published nor subject to suspension or investigation on any grounds whatsoever. We further contemplate that these competitive ratemaking freedoms would only apply for rates published individually by carriers and would not extend to rate increases (or reductions) proposed by carriers collectively through a rate bureau.

The Task force recommended that the no suspend zone be established around a base rate; once a carrier has established its base rate subject to protest and possible suspension, the carrier may then, by tariff publication, designate a no suspend zone around that base rate within which its rates may fluctuate freely without fear of protest, except on limited grounds, from competing carriers or modes, or from shippers. The Task Force concluded that downside rate flexibility would enhance competition, while upside rate flexibility would provide incentive to assure that the full spectrum of service levels is available to shippers and receivers." Thus, the no suspend zone would enable motor carriers to respond rapidly to varying market conditions with rates which are competitively priced and which offer a broad variety of rate/service options, while at the same time enhancing the ability of carriers to meet their service commitments.

The Task Force recommended that the ceiling and floor of the zone be based on cost formulas. A "presumption of reasonableness" would attach to rates within the zone, and such rates could not be suspended unless they are "clearly unreasonable, predatory, or discriminatory, or represent an embargo on traffic." The Task Force also contemplated the creation, for certain segments of the motor common carrier industry, of a narrow "no notice zone" within the zone and built around the same base rate. Within this no notice zone a common carrier would be free to contract rate changes with shippers without public notice or publication, thus augmenting carrier responsiveness to changing local circumstances.

On April 6, 1979, the Federal Trade Commission filed a petition containing a similar proposal, which it also designated as a "zone of reasonableness". FTC suggested that, at least initially, present rates should be used as the base rate around which the zone would be contructed, and that the zone's bottom limit should be 40 to 50 percent below present rates. FTC recommended that rates on the downside of the zone be considered reasonable beyond any challenge, while rates on the upside of the zone be presumed reasonable but subject to protest.

The Commission's suspension authority is derived from 49 USC § 10708 (formerly section 216(g) of the Interstate Commerce Act). The United States Supreme Court has found that the Commission has complete discretion in the exercise of its suspension power. In *Arrow Transportation Co.* v. *Southern R. Co.*, U.S. 658 (1963), the Court found that sole and exclusive power to suspend is vested in the Commission and withdrawn from the judiciary. In *United States* v. *SCRAP*, 412 U.S. 669 (1973), the Court reaffirmed this principle, finding that a district court injunction against

[1] In formulating this notice we have considered the Federal Trade Commission (FTC) petition docketed as No. 37160, Zone of Reasonableness—Petition for Rulemaking that proceeding will be closed and the petition transferred to the docket in this rulemaking.

rates which the Commission refused to suspend "constitutes a direct interference with the Commission's discretionary decision whether or not to suspend the rates." In *In re Trans Alaska Pipeline Rate Cases*, 436 U.S. 631(1978), the Court found that the Commission has power ancillary to its suspension authority to establish maximum interim rates which it would allow to go into effect during the suspension period. Finally, in *Southern R. Co.* v. *Seaboard Allied Milling Corp.*, decided June 11, 1979, (no. 78–575), the Court held that the Commission's decision not to investigate, like a decision not to suspend, is discretionary and not subject to judicial review.

In addition, we take note of our general authority under 49 U.S.C. 10321 to prescribe rules for carrying out our responsibilities under the statute. We believe that authority permits adoption of general policies appropriate to particular classes of cases if they are consistent with the statute, based on consideration of all relevant factors, and rationally explained. Moreover, in the area of ratemaking, the Supreme Court has consistently accorded administrative agencies broad discretion to fashion effective and expeditious methods for performing their regulatory functions. See, e.g., *Permian Basin Area Rate Cases*, 390 U.S. 747, 776–777 (1968). As now informed, we believe that these statutory and judicial authorities provide ample basis for the proposed establishment of a no suspend zone.

We believe that the language of 49 USC 10708, as interpreted by the decisions of the Supreme Court, provides authority sufficient to permit establishment of a no suspend zone.[2]

Participants in this proceeding should also address the following matters:

1. Does the Commission's statutory authority (49 USC 10708) permit adoption of a no suspend zone? Might the Commission establish a no notice zone by blanket special permission under 49 USC 10762(d)?

2. In a competitive motor transportation environment, will a no suspend zone or no notice zone promote ratemaking flexibility and competitive pricing? Will they tend to foster reasonable rate levels and reliable service to shippers?

3. What effects will the proposal have on other modes of transportation? How might a no suspend zone for motor common carriers best be structured in view of our policies and pending proceedings regarding railroad ratemaking flexibility?

4. Should base rates, around which the zones would be calculated, be selected or are present rates practical and adequate for use as base rates? Should a cost formula, or some other approach, be used to devise the base rate? If so, what formula or other approach would be most appropriate?

5. In order to remain at a reasonable level, the base rate may require adjustments from time to time to take account of changes in activity and inflation on carrier operating cost. There are three alternative ways the adjustment could take place. First, the Commission could adjust the base; second, rate bureaus could propose adjustments that would be approved by the Commission and third, individual carriers could adjust their own individual bases. What are the relative merits of these three alternatives?

(a) In the event the Commission elects to adjust the base itself, should it develop and apply productivity and inflation standards or indicies for the motor common carrier industry generally, or by territories, or for specialized segments of the industry, or for individual carriers, how should standards or indicies be designed, and which standards or indices might be most appropriate? Should the Commission consider base readjustments for prospective changes in productivity and inflation?

(b) We believe non-competitive collection ratemaking carriers a potential for abuse in the absence of rate regulation. In the event the Commission elects to allow rate bureaus to propose increases in the base rates should they be treated as general rate increases? Are there any circumstances where the proposal should apply to increases in actual rates proposed by carriers collectively through a rate bureau or only for rates proposed by individual carriers entirely on their own initiative?

(c) If individual carriers are allowed to establish their own individual bases for the zone, one alternative is to allow any rate approved by the Commission, using the zone or using other procedures, to become the base for future changes? Is this practical? Are other alternatives available? Should the size of the zone be subject to change depending on changes in the rate of inflation and other factors?

6. What should be the upward and downward limits of the no suspend zone? "There should be expressed in terms of percentages above and below the base rate, such as 7% up and 25% down. N.B. the Commission is not limiting the zone to these particular numbers. No party should assume that larger percentages are out of the question." If the no suspend zone is fairly narrow, would a no notice zone within it still be useful?

The size of the zone is of special concern to the Commission. We wish to provide sufficient downward ratemaking flexibility to enable regulated motor carriers to compete with each other and with carriers of other modes, so that the benefits of competition can be fully realized by the shipping public and by consumers. Under the Commission's liberalized entry policy, new actual or potential competition should, for most segments, deter carriers from abusing their freedom to raise rates. However, an upward limit to the zone is necessary as long as there are even minimal barriers to entry. Otherwise, competitive abuses, could occur. On the other hand, upward rate flexibility must be sufficient to take account of transportation characteristics which are relatively costly to efficient carriers, to assure adequate service to those shippers and receivers whose traffic is less attractive, and to permit higher rates for premium services.

7. What factors, particularly measures of carrier costs, should be taken into account in calculating the upper and lower bounds of the no suspend zone or the no notice zone?

8. Should the extent of carrier competition be quantified and considered in establishing zone limits?

9. What other factors, in addition to cost of service and competition, should be considered in calculating the size of the zones?

10. We believe that a no suspend zone could encourage competition and increase efficiency by permitting quick rate adjustments for, for example, backhaul, seasonal, and other demand sensitive movements. We seek comments on these specific points.

11. Should the Commission attach a presumption of reasonableness to rates which it does not suspend? If so, should rates within the no suspend zone be presumed reasonable subject to protest, and rates within the no notice zone be declared reasonable beyond challenge? Or should all rates below the base rate be declared reasonable while rates on the upside of either zone be presumed reasonable but subject to protest? Should shippers or other interested parties remain free to file formal complaints on the reasonableness of rates falling within either of these zones? Should guidelines be drawn to limit complaints to certain situations only?

[2] Although three of the cases cited involved railroad or oil pipeline rates, the statutory language interpreted by the Court was the same as that applicable to motor carriers.

12. Should separate no suspend zones (and no notice zones) be developed for general commodities carriers and for specialized commodities carriers? Should separate zones be developed for each segment or groups of segments of specialized carriers (e.g., household goods carriers, heavy haulers, steel and metal haulers, bulk materials carriers, etc.) to reflect particular cost and operating conditions and the degree of competition among firms? What should be the criteria for differentiating among the different segments in this respect (costs, competition, fluctuation in demand or other relevant circumstances)? If costs, how should cost be calculated? By what formulas? With what evidence?

In this proceeding we are considering adoption of uniform zone limits (such as 7 percent up and 25 percent down) for all motor common carriers of property. However, differing cost and market factors may warrant establishment of separate no suspend zones (and no notice zones) for various specialized carrier segments. The limits of a general zone adopted in the proceeding for the entire industry may be expanded or contracted in one or both directions for each of the various specialized carrier segments to be addressed in the twelve sub-proceedings [4] to Ex Parte No. MC–135, Master Certificates and Permits. In those sub-proceedings, we intend to examine the need for varying zones for each of the carrier segments, and the limits of such zones. The degree of refinement, if any, or changes to a general zone if adopted in this proceeding, would depend on the particular competitive conditions shown to exist in each of the specialized fields, based on the record made in each of those sub-proceedings. Thus, the broad issues regarding adoption of a no suspend zone will be resolved here and parties to the sub-proceedings who wish to comment on the concept must do so in this proceeding. The sub-proceedings will rely on the record here insofar as broad issues are concerned. These issues may not be relitigated in the sub-proceedings.

13. Is the no suspend zone and a no notice zone best suited for application to point-to-point or distance commodity rates published independently by individual carriers? Or, if adopted should the zones also be applied to other proposed changes in tariff rates, charges, or provisions such as classification rating and class rates, truckload minimum weights, LTL minimum charges, accessorial charges, arbitrary or differential rates and charges, aggregate rates or charges, pickup or delivery charges, stopoff charges, capacity load charges, detention charges, allowances, released rates, or proposed changes in tariff rules or regulations, or practices?

14. What is the appropriate relationship between a no suspend zone and the existing fuel surcharge? Should the fuel surcharge apply when a firm is setting rates under the no suspend zone mechanism? Should the fuel surcharge be included in the calculation of the initial base rate?

15. Is it desirable for the Commission to use parallel regulatory schemes to control rates: one based on rate flexibility using a no suspend zone as described here, the other based on collective ratemaking under some general rate of return standard to limit carrier profitability?

16. Should carriers who chose to use one of these ratesetting mechanisms initially be permitted to switch to the other at a later date? If so, under what conditions? For example, should carriers who initially choose to operate under collective ratemaking, including perhaps a rate of return ceiling, be allowed to switch to the no suspend zone mechanism at a future date and use collectively determined rates as the "base rates" for the purpose of calculating the zone? Or, should the base rate be calculated from the initial "rate in effect" at the time the zone was promulgated with whatever standard adjustments were applied in the intervening period?

17. Should a carrier be allowed to use the no suspend zone mechanism for some rates while relying on collective ratemaking for others? Would the simultaneous use of these two mechanisms create difficulties for justifying or scrutinizing collectively proposed general rate increases?

18. How would the interaction of this proposal, the continuation of collective ratemaking, and the Commission's deliberations in Ex Parte No. MC–128, *Revenue Need Standards in Motor Carrier General Increase Proceedings* affect carriers and shippers?

Oral hearing and oral argument do not appear necessary at this time but may be scheduled later. Anyone wishing to present views and evidence will be permitted to do so by submitting for consideration written statements of facts, views and arguments on the subject mentioned above or any other subjects pertaining to the proceeding. Those involved in the sub-proceedings in Ex Parte No. 135 are reminded that the only issue relative to the no suspend zone that will be determined in those proceedings is whether refinements to the zone, if adopted here, will be made for particular groups. The petition filed by FTC on April 6, 1979, under Docket No. 37160, Zone of Reasonableness—Petition for Rulemaking, will be incorporated into the record in this proceeding and that docket number will be closed.

Dated: December 31, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Chairman O'Neal not participating. Vice Chairman Stafford, concurring in part, dissenting in part. Commissioner Gresham concurring.

Agatha L. Mergenovich,

Secretary.

Vice Chairman Stafford (Concurring in Part, Dissenting in Part)

My support for this proceeding is based on the usefulness which this record may provide Congress in its review of the motor carrier laws. Likewise, the data developed should assist the Commission in reaching its decision in the Ex Parte MC–135 cases. I dissent, however, from the negative statements made regarding the existing regulatory scheme and the current ratemaking process, and I would not limit this flexibility to individual carrier increases. I am also concerned about certain legal issues which are overlooked. For example, how does the "no-notice zone" impact on the common carrier obligation? Likewise, do the parties in the Ex Parte MC–135 cases have sufficient notice of the direct relation of this proceeding? Finally, I am concerned that some of the listed questions imply that we intend to implement this change prior to Congressional action in the motor carrier area. I believe this would violate our commitment to Congress to await possible statutory revisions.

Commissioner Gresham (Concurring)

I believe that the information which will be gathered in this proceeding may be useful to Congress in its reexamination of the laws which govern regulation of the motor carrier industry. For this reason I have agreed to the institution of this proceeding.

[FR Doc. 80-3157 Filed 1-30-80; 8:45 am]

BILLING CODE 7035-01-M

[4] Sub-No. 1—Heavy and Specialized Haulers (including oilfield haulers and others); Sub-No. 2—Temperature Controlled Service; Sub-No. 3—Lumber and building materials; Sub-No. 4—Metals; Sub-No. 5—Bulk Materials; Sub-No. 6—Household Goods; Sub-No. 7—Armored Car & Related Services; Sub-No. 8—Vehicles (Haulaway); Sub-No. 9—Wrecker Service; Sub-No. 10—Boats; Sub-No. 11—Courier Services; Sub-No. 12—Film Carriers.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

20 CFR Parts 404 and 416

[Regs. Nos. 4 and 16]

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Experiments To Improve the Hearing Process by Having SSA Represented at the Hearing

AGENCY: Social Security Administration, HEW.

ACTION: Notice of public meetings.

SUMMARY: The Social Security Administration (SSA) announced proposed regulations in the **Federal Register** on January 11, 1980 (page 2345) dealing with a hearing experiment in four locations. The experiment would allow an SSA representative to present and defend SSA's case at a hearing before an Administrative Law Judge if the claimant is represented by an attorney at the hearing.

As stated in the Notice of Proposed Rule Making, the experiment is only one part of SSA's extensive efforts to improve the overall disability decisionmaking process. The thrust of all the changes under consideration is to provide better decisions earlier in the process, to sharpen the issues presented to the Administrative Law Judge and to streamline the process.

Recognizing the significance of these issues, we will conduct public hearings on the proposal during the 60-day public comment period. Comments are invited also on what other changes can be made to improve the decisionmaking process.

DATES: The hearings will be held in the four experimental sites as follows:

February 6, 1980—Phoenix, Ariz.
February 20, 1980—Roanoke, Va.
February 21, 1980—Columbia, S.C.
February 27, 1980—Boston, Mass.

ADDRESSES:

City, Date, and Place

Phoenix, Arizona
February 6, 1980
10:00 a.m.
Harasupai Room
Adams Hotel
Central at Adams
Phoenix, AR

Contact: Mr. Tony Vierra, Social Security Administration, 100 Van Ness Avenue, San Francisco, California 94102, telephone (415) 556-7029.

City, Date, and Place

Roanoke Virginia
February 20, 1980
1:00 p.m.
4th Floor Conf. Room
Poff Federal Building
210 Franklin Road
Roanoke, VA

Contact: Mr. Tom Niessen, Social Security Administration, P.O. Box 8788, 3535 Market Street, Philadelphia, Pennsylvania 19101, telephone (215) 596-1508.

City, Date, and Place

Columbia, South Carolina
February 21, 1980
1:00 p.m.
Room 817
Strom Thurmond Federal Building
1835 Assembly Street
Columbia, SC

Contact: Ms. Karen Pittman, Social Security Administration, Suite 2001, 101 Marietta Tower, Atlanta, Georgia 30323, telephone (404) 221-2475.

City, Date, and Place

Boston, Massachusetts
February 27, 1980
10:00 a.m.
Miniham Lecture Hall
C. F. Hurley Employment
Security Bldg.
Government Center
Boston, MA

Contact: Ms. Karen Reibstein, Social Security Administration, Room 1109, John F. Kennedy Federal Building, Boston, Massachusetts 02203, telephone (617) 223-6811.

If you wish to reserve speaking time or want more information, please contact the individual listed for your location. Oral comments should be limited to five (5) minutes, and may be supplemented in writing at the public meetings. Written comments may also be made to the Commissioner, of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203 before the close of the comment period on March 11, 1980.

FOR FURTHER INFORMATION CONTACT: Jack Camilleri, (703) 235-1808.

Dated: January 30, 1980.

William J. Driver,

Commissioner of Social Security.

[FR Doc. 80-3522 Filed 1-30-80; 12:03 pm]

BILLING CODE 4110-07-M

Notices

Federal Register
Vol. 45, No. 22
Thursday, January 31, 1980

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

Federal Grain Inspection Service

Detroit Grain Inspection Service, Inc. and Grain Inspection Services, Inc.; Expansion of Geographic Areas

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the expansion of the geographic areas of the Grain Inspection Services, Inc., Battle Creek, Michigan, and Detroit Grain Inspection Service, Inc., Detroit, Michigan, both existing official agencies, to perform official inspection services under the authority of the United States Grain Standards Act, as amended, in the Saginaw, Michigan, area.

EFFECTIVE DATE: February 24, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: The June 29, 1979, issue of the **Federal Register** (44 FR 37964) contained a notice from the Federal Grain Inspection Service (FGIS) requesting applications for designation to provide official services under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act") for the nonexport locations in the Saginaw, Michigan, area. A total of three applications were received, two of which met the criteria for designation specified in section 7(f)(1)(A) of the Act. The two applicants are: Kenneth R. Hagelshaw, Grain Inspection Services, Inc., 247 First Street, Battle Creek, Michigan 49017, and; Roy A. Marchetti, Detroit Grain Inspection Service, Inc., 111 East Tarned Street, Detroit, Michigan 48226 ("applicants").

Grain Inspection Services, Inc., and the Detroit Grain Inspection Service, Inc., were originally designated as official agencies on August 31, 1978, and September 11, 1978, respectively. Both agencies were assigned geographic areas in which they would operate. The geographic area assigned in this notice is in addition to the applicants' original areas and will form a contiguous area in which each of the applicants will respectively provide official services. Each of the applicants applied for a portion of the entire Saginaw, Michigan, proposed geographic area. The two portions applied for by the applicants and, hereby assigned, comprise the entire area as was announced in the June 29, 1979, **Federal Register.**

The FGIS announced the names of the applicants and requested comments on the applicants in the December 7, 1979, issue of the **Federal Register** (44 FR 70504–05). One comment was received. The commenter favored the assignment of the geographic area, as applied for by Grain Inspection Services, Inc., to Mr. Hagelshaw because of his experience in grain inspection as well as his past history of prompt and professional service.

Geographic areas are assigned to each official agency pursuant to section 7(f)(2) of the Act. The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

After consideration of all information available, the comment received, and in view of the applicants each applying for a portion of the proposed area, the Administrator of the FGIS determined that each agency would be assigned to service the area for which they applied. Such assignments will facilitate official services in the area and therefore be in the best interest of the public. The portions designated to the applicants and described in this notice constitute the entire geographic area as originally proposed. The area assigned to each agency is as follows:

Grain Inspection Services, Inc.: The northern Iosco County line; the Lake Huron, Saginaw Bay shoreline from the northern Iosco County line south and east to State Route 53; State Route 53 south to State Route 46; State Route 46 west to Interstate 75; Interstate 75 southeast to the southern Saginaw County line; the Saginaw County line west to State Route 52; State Route 52 north to the northern Saginaw County line; the Saginaw County line north to the western Bay County line; the Bay County line north to the western Arenac County line; the Arenac County line north; the northern Arenac County line east to the western Iosco County line; the western Iosco County line north to the northern Iosco County line.

Detroit Grain Inspection Service, Inc.: The area assigned is described in two segments:

(1) State Route 53 north from State Route 46 to the Lake Huron shoreline; the Lake Huron shoreline east and then south to State Route 46, State Route 46 west to State Route 53.

(2) The northern Shiawassee County line from State Route 52 east to the western Genesee County line; the Genesee County line north; the northern Genesee County line east to Interstate 75; Interstate 75 north to State Route 46; State Route 46 east to State Route 24; State Route 24 south to the northern Lapeer County line; the Lapeer County line west to the eastern Genesee County line; the Genesee County line south; the southern Genesee County line; the western Genesee County line north to Interstate 69; Interstate 69 southwest to the western Shiawassee County line; the western Shiawassee County line north to State Route 21; State Route 21 east to State Route 52; State Route 52 north to the northern Shiawassee County line.

Effective February 24, 1980, Grain Inspection Services, Inc., and Detroit Grain Inspection Service, Inc., will be responsible for providing official services under the Act to the areas as indicated above.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide offical inspection services not requiring a licensed inspector to all other areas within their respective geographic area.

Interested persons may obtain a map the total geographic area of each Agency and a list of their specified service points by contacting the designated agencies or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8525.

(Secs. 8, 9, Pub. L. 94–582, 90 Stat. 2870, 2875 (7 U.S.C. 79, 79a)).

Done in Washington, D.C. on: January 25, 1980.

L. E. Bartelt,

Administrator.

[FR Doc. 80–3039 Filed 1–30–80; 8:45 am]

BILLING CODE 3410–02–M

Grain Inspection Services, Inc.; Assignment of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Grain Inspection Services, Inc., Battle Creek, Michigan, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT:

J. T. Abshier, Director., Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: The Grain Inspection Services, Inc. (the "Agency"), 24 First Street, Battle Creek, Michigan 49017, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 31, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned in an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2641). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as orginally proposed.

The geographic area assigned to the Agency is:

Bounded: on the north by the northern Mason County line from Lake Michigan east; the eastern Mason County line south to Newaygo County; the northern Newaygo County line east; the eastern Newaygo County line south to Montcalm County; the Montcalm County line east to Gratiot County; the northern Gratiot County line east to U.S. Route 27;

Bounded: on the east by U.S. Route 27 south to U.S. Route 127; U.S. Route 127 south to the Michigan-Ohio State line the Michigan-Ohio State line west to the eastern Williams County line, in Ohio; the Williams County line south to Definance County;

Bounded: on the south by the southern Williams County line west; the Ohio-Indiana State line north; the Michigan-Indiana State line west to Lake Michigan; and

Bounded: on the west by the Lake Michigan shoreline north to the northern Mason County line.

The above eastern and western boundaries have been restated for clarification purposes and do not alter the geographic area as originally proposed in any way.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: North Star Elevator, North Star, Michigan, in Gratiot County; and Crop Aid, Hudson, Michigan, in Lenawee County.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by the Detroit Grain Inspection Service, Inc., Detroit, Michigan: St. Johns Co-op., St. Johns, Michigan, in Clinton County.

These locations have been restated to more accurately describe the locations by listing the elevator sites serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8525.

(Sec. 8, 9, Pub. L. 94–582, 90 Stat. 2870, 2875 (7 U.S.C. 79, 79a))

Done in Washington, D.C. on: January 24, 1980.

L. E. Bartelt,

Administrator.

[FR Doc. 80–3038 Filed 1–30–80; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

Northwest Region, Ochoco National Forest Grazing Advisory Board; Meeting

The Ochoco National Forest Grazing Advisory Board will meet at 10:00 a.m., April 11, 1980, in the Forest Supervisor's Office, Federal Building, Prineville, Oregon.

The purpose of this meeting is to discuss subjects concerning the develpment of allotment management plans and utilization of range betterment funds as presented by board members, permittees, and the general public.

The meeting will be open to the public. Persons who wish to attend should notify Jack Royle, P.O. Box 490, Prineville, Oregon 97754; phone (503) 447–6247. Written statements may be filed with the committee before or after the meeting.

Bill Olson,

Acting Forest Supervisor.

January 22, 1980.

[FR Doc. 80–3012 Filed 1–30–80; 8:45 am]

BILLING CODE 3410–11–M

[SAC 050595]

Partial Termination of Proposed Withdrawal and Reservation of Land

Notice of the Forest Service, United States Department of Agriculture, application SAC 050595 for withdrawal and reservation of land from prospecting, location, entry, and purchase under the mining laws for the establishment of recreation sites within the Tahoe National Forest located in Yuba, Placer, Nevada, and Sierra Counties, California, was published as FR Doc. 62–11996 on pages 12004, 12005, and 12006 of the issue of December 5, 1962. The applicant agency has cancelled its application as to the following described land:

Mount Diablo Meridian

Schoolhouse Creek

T. 18 N., R. 7 E.,
Sec. 13, Lots 3 and 4.
T. 18 N., R. 8 E.,
Sec. 19, Lot 1 and NE¼NW¼.

Celestial Valley

T. 18 N., R. 8 E.,
Sec. 22, N½SW¼SW¼NE¼, SW¼SW¼

SW¼NE¼,SE¼SE¼NW¼, and NE¼SW¼.

Little Willow Creek

T. 18 N., R. 8 E.,
Sec. 28, E½NE¼NW¼, SE¼NW¼, SE¼SW¼NW¼, and N½NW¼SW¼.

Freeman's Crossing

T. 18 N., R. 8 E.,
Sec. 28, SW¼SW¼SE¼.

Frog Hollow

T. 19 N., R. 8 E.,
Sec. 24, N½SW¼SW¼ and SW¼SW¼SW¼.

Casa Loma

T. 15 N., R. 11 E.,
Sec. 6, Lots 1, 2, and 3, and N½ of Lot 14.

Chicken Hawk

T. 15 N., R. 11 E.,
Sec. 34, SW¼NW¼SE¼.

South Yuba No. 2

T. 17 N., R. 11 E.,
Sec. 8, NW¼NW¼ and N½SW¼NW¼.

South Yuba No. 4

T. 17 N., R. 11 E.,
Sec. 9, Lot 7 and SE¼NE¼.

Fordyce Creek

T. 17 N., R. 12 E.,
Sec. 2, SE¼SE¼;
Sec. 12, NW¼NW¼.

Eagle Lakes

T. 17 N., R. 12 E.,
Sec. 12, SW¼NE¼, SE¼NW¼, and W½SE¼.

McMurray Lake

T. 18 N., R. 12 E.,
Sec. 5, SW¼NE¼.

Culbertson Lake

T. 18 N., R. 12 E.,
Sec. 22, NW¼NW¼.

Carr Lake

T. 18 N., R. 12 E.,
Sec. 28, S½NW¼NW¼.

Feeley Lake

T. 18 N., R. 12 E.,
Sec. 28, SW¼NE¼NE¼, S½NW¼NE¼, W½SE¼NE¼, S½NE¼NW¼, and SE¼NW¼.

Tamarack Lakes

T. 20 N., R. 12 E.,
Sec. 8, SW¼.

Lower Salmon Lake

T. 21 N., R. 12 E.,
Sec. 28, N½SW¼, N½NW¼SW¼SW¼, N½NE¼SW¼SW¼, and N½SE¼SW¼;
Sec. 29, E½NE¼SE¼ and NE¼SE¼SE¼.

Baer Spring

T. 14 N., R. 13 E.,
Sec. 18, NE¼NW¼.

Tadpole

T. 15 N., R. 13 E.,
Sec. 4, Lot 7 (less patented S½S½W½).

Flat Ravine

T. 15 N., R. 13 E.,
Sec. 22, NE¼NE¼, SW¼NE¼, and N½SE¼NE¼.

Cold Springs

T. 17 N., R. 13 E.,
Sec. 25, N½N½, except 23 acres of patented land in NE¼NE¼.

Indian Springs

T. 17 N., R. 13 E.,
Sec. 30, Lot 1, SW¼NE¼, and S½NE¼NW¼.

Tollhouse

T. 18 N., R. 13 E.,
Sec. 16, NW¼NE¼.

Meadow Lake

T. 18 N., R. 13 E.,
Sec. 22, NE¼SW¼NE¼, W½SW¼NE¼, SE¼SE¼NW¼, and W½W½SE¼.

Baltimore Lake

T. 18 N., R. 13 E.,
Sec. 28, W½SW¼.

Lincoln Creek

T. 20 N., R. 13 E.,
Sec. 9, S½NE¼.

Dorsey Meadows

T. 20 N., R. 13 E.,
Sec. 10, S½NW¼, NW¼SW¼, and N½SW¼SW¼.

Talbot

T. 15 N., R. 14 E.,
Sec. 2, Lots 19 and 22.

Castle Peak

T. 17 N., R. 14 E.,
Sec. 2, SE¼.

Round Valley

T. 17 N., R. 14 E.,
Sec. 2, Lots 1 and 2, and S½NE¼.

Magonigal Camp

T. 17 N., R. 14 E.,
Sec. 6, Lot 4.

Lower Lola Montez Lake

T. 17 N., R. 14 E.,
Sec. 8, S½NE¼ and W½SE¼.

Upper Lola Montez Lake

T. 17 N., R. 14 E.,
Sec. 8, N½SW¼.

Cascade Lakes

T. 17 N., R. 14 E.,
Sec. 32, NW¼.

Sand Ridge Lake

T. 18 N., R. 14 E.,
Sec. 34, SE¼SW¼ and SW¼SE¼.

Paradise Lake

T. 18 N., R. 14 E.,
Sec. 26, E½NE¼.

Red Rock

T. 16 N., R. 16 E.,
Sec. 22, W½SW¼;
Sec. 27, NW¼NW¼.

Therefore, pursuant to the regulations contained in 43 CFR Part 2550, such lands at 10:00 a.m. March 3, 1980, will be relieved of the segregative effect of the above mentioned application.

Joan B. Russell,
Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 80-3011 Filed 1-30-80; 8:45 am]
BILLING CODE 4310-84-M

Prescott National Forest Grazing Advisory Board; Notice of Meeting

The Prescott National Forest Grazing Advisory Board will meet at 9 A.M. on February 29, 1980, at the Forest Supervior's Office in Prescott, Arizona.

The purpose of this meeting is to review items of mutual interest to grazing permittees and the Forest Service. Discussion will be limited to use of range betterment funds and management planning.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Prescott National Forest, 344 South Cortez Street, Prescott, Arizona, telephone number 602–445–1762. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation:

Members of the public will be given an opportunity for comments and questions following discussion by the Advisory Board.

Dated: January 25, 1980.

Donald H. Bolander,
Forest Supervisor.

[FR Doc. 80-3000 Filed 1-30-80; 8:45 am]
BILLING CODE 3410-11-M

Science and Education Administration

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Science and Education Administration announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.

Date: February 18–20, 1980.

Time: 8:30 a.m.–5:00 p.m.—February 18. 8:30 a.m.–3:30 p.m.—February 19. 8:30 a.m.–4:00 p.m.—February 20.

Place: Holiday Inn, 6515 International Dr., Orlando, Florida.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: Time will be made for non-member statements on February 19, or the public may file written comments before or after the meeting with the contact person below.

Purpose: On February 19 the Board will hold an open forum to hear statements by food and agricultural research and extension users regarding their comments about funding, priorities, or other concerns about Food and Agricultural research and extension.

On February 18, 19, 20 the Board will be drafting its report to the President and the Congress regarding its appraisal of the 1981 executive budget as it relates to food and agricultural research and extension.

Contact Person for Agenda and more Information: Dr. James Meyers, Science and Education Administration, U.S. Department of Agriculture, Washington, DC 20250, telephone 202-447-3684.

Done At Washington, D.C. this 24th day of January 1980.

James Nielson,

Deputy Director, Joint Planning and Evaluation.

[FR Doc. 80-3150 Filed 1-30-80; 8:45 am]

BILLING CODE 3410-03-M

CIVIL AERONAUTICS BOARD

[Order 80-1-170]

Agreements Adopted by the International Air Transport Association Regarding Conditions of Carriage—Cargo

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of January, 1980.

Agreement CAB 2698, R-41; Agreement CAB 2699, R-49; Agreement CAB 2700, R-43; Agreement CAB 3119, Agreement CAB 7648, R-107; Agreement CAB 24475, R-4 and R-5, Docket 25280; Agreement CAB 25186, R-12, Docket 27573; Agreement CAB 25954, R-1, R-2, and R-3, Docket 27573; Agreement CAB 26701, R-9; Agreement CAB 27886, R-3.

Order

By petition dated January 18, 1980, Varig, S.A., has requested an extension of the stay granted in Order 79-7-166 [1] and expiring on January 26, 1980, so as to permit Varig to use its current air waybills containing the prior IATA cargo conditions of carriage until April 1, 1980.

In support of its petition, Varig states that: the Board in Order 79-10-101, October 17, 1979, modified the language prescribed for Article 1(6) of the conditions of carriage without extending the stay; it was not notified by IATA of the adoption of the change by the membership until December 10, 1979; it promptly ordered new air waybills at that time; it was subsequently informed by its printer on January 2, 1980, that its deadline could not be met and delivery would be made until the middle of February. Contending that it will require an additional month to complete the exchange of waybills at all stations, the carrier requests that it be granted an extension of the stay until April 1, 1980.

Comments in support of Varig's petition have been filed by various carriers,[2] all of whom, while citing similar printing and distribution difficulties, have requested extensions of various lengths. Trans Mediterranean, a Lebanese carrier, has encountered unusual difficulties and has been forced to seek printers abroad. Consequently, it has requested an extension through May 15, 1980.

We have determined there is a sufficient basis for a stay through May 15, 1980; accordingly, we stay the notice requirement of Order 79-7-166 for that period. As carriers other than Varig and Trans Mediterranean may require additional time, we have also determined in the interest of uniformity to make this a blanket extension, giving, in effect, all carriers the same amount of time to print and distribute their new waybills. On the other hand, it is imperative that shippers receive the benefit of the new liability conditions as soon as possible. Toward that end, we will condition our approval to require that the new liability rules be applied to all shipments carried on or after January 26, 1980, and we expect that the shippers will be given oral notification of the governing conditions of carriage not reflected in the air waybill. Further, we shall require that, in 14 days from the date of service of this order, written notice setting forth the governing conditions of carriage must accompany all air waybills. In addition, those carriers who already have waybill stock which complies with Orders 78-8-10, 79-7-166 and 79-10-101, will be permitted to phase in their air waybills at any time prior to May 15. Since this is the second stay of Order 78-8-10, we do not intend to grant any further extensions.

Accordingly,

1. We grant an extension of the stay imposed in Order 79-7-166 through May 15, 1980, to all carriers requiring additional time to incorporate notice of the new conditions of carriage in their air waybills, provided that: as between the carrier and the shipper, the new conditions of carriage shall apply in the interim, and that shippers are given oral notification of the new conditions of carriage;

2. We require that, in 14 days from the date of service of this order, shippers be given written notice setting forth the governing conditions of carriage; and

3. We permit introduction of the new air waybills containing the condition of carriage mandated in Orders 78-8-10, 79-7-166 and 79-10-101 on or before May 15, 1980.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

All Members concurred.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-3099 Filed 1-30-80; 8:45 am]

BILLING CODE 6320-01-M

[1] Order 79-7-166 withdrew the conditional approval of Article 1(6) of the new IATA Cargo-Conditions of Carriage prescribing certain specific language therefor. Further, it stayed the effectiveness of Order 78-8-10, withdrawing Board approval and antitrust immunity from the then current conditions of carriage for six months, to allow carriers to prepare print and distribute new air waybills.

[2] Lot Polish Airlines, El Al, TWA and Trans Mediterranean.

Application for an All-Cargo Air Service Certificate

January 25, 1980.

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations (effective November 8, 1978) notice is hereby given that the Civil Aeronautics Board has received an application, Docket 37402, from Ryan Aviation Corporation, Hanger #19, Mid-Continent Airport, Wichita, Kansas 67209 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provision of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before February 21, 1980. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-3098 Filed 1-30-80; 8:45 am]

BILLING CODE 5320-01-M

[Order 80-1-164; Dockets 27048, 32661, 32750, 32855, and 33699]

Bahamasair Holdings, Ltd., et al.; Final Order on Applications for Foreign Air Carrier Permits

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of January, 1980.

Application of Various Foreign Air Carriers for foreign air carrier permits pursuant to section 402 of the Federal Aviation Act of 1958, as amended.

By Order 79-12-68, December 13, 1979, we directed all interested persons to show cause why we should not dismiss without prejudice the applications of Bahamasair Holdings, Ltd. (Docket 27048), Mober Aviation, Inc. (Docket 32661), CAT d/b/a Afrikan Airlines (Docket 32750), Hyack Air Limited (Docket 32855), and Air Algerie (Docket 33699). We noted that our tentative decision to dismiss these applications was purely a housekeeping measure and was not a decision on the merits of any of the applications. Each applicant could refile for any or all of the authority it requested so long as its new application contains all of the information required by Part 211 and Subpart Q of Part 302 of our Rules. Any such application would be given a new docket number.

The order directed persons objecting to our tentative decision to dismiss these applications to file their objections not later than January 16, 1980. In addition, the order provided that in the event no objections were filed, all further procedural steps would be deemed waived, and the secretary would enter an order making final our tentative decision.

No objections to Order 79-12-68 have been filed.

Accordingly,

1. We make final our tentative decision set forth in Order 79-12-68;

2. We dismiss without prejudice the applications of Bahamasair Holdings, Ltd. (Docket 27048), Mober Aviation, Inc. (Docket 32661), CAT d/b/a Afrikan Airlines (Docket 32750), Hyack Air Limted (Docket 32855), and Air Algerie (Docket 33699); and

3. We shall publish this order in the **Federal Register** and serve it on each of the foreign airlines listed in paragraph 2.

By the Civil Aeronautics Board.

All Members concurred.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-3097 Filed 1-30-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Maritime Administration

Retrofitting of Seven MA Design T8-S-100b Tankers and Two MA Design OB8-S-90a OBOs To Comply With the Port and Tanker Safety Act of 1978 (Public Law 95-474); Intent To Compute Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of Section 502(b) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost for retrofitting seven MA Design T8-S-100b tankers and two MA Design OB8-S-90a OBOs to comply with the Port and Tanker Safety Act of 1978 (P.L. 95-474).

Any person, firm or corporation having any interest (within the meaning of Section 502(b)) in such computations may file written statements by the close of business on March 21, 1980, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets, N.W., Washington, D.C. 20230.

Dated: January 25, 1980.

By Order of the Maritime Subsidy Board, Maritime Administration.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-2972 Filed 1-30-80; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Marine Fisheries Advisory Committee; Public Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, notice is hereby given of meetings of the Marine Fisheries Advisory Committee (MAFAC) and three Subcommittees. The Committee meeting (MAFAC XXIV) will be held on Thursday and Friday, February 21 and 22, 1980 at the Bayview Room, Kona Kai Club, 1551 Shelter Island Drive, San Diego, California 92106, with meetings starting at 8:30 a.m. Adjournment is planned for noon on Friday.

Two Subcommittees will meet from 2:30 p.m. to 5:30 p.m. on Wednesday, February 20, 1980, at the Kona Kai Club, address noted above. The Subcommittee on Marine Recreational Fishing will meet in the Bayview Room and the Subcommittee on Consumer Affairs will meet in the Marine Room.

Agenda items for the MAFAC Committee meeting include: Impact of Coastal Zone Management Plans on fisheries (including port development and construction of onshore facilities, territorial sea interjurisdictional management, and habitat protection and enhancement); Reports of two Subcommittees noted above which meet on February 20; progress report on actions taken by the National Marine Fisheries Service (MNFS) on Recommendations of Subcommittee on Seafood Processing Effluent Guidelines; discussion of agenda items for June 3-5, 1980 meeting in Anchorage, Alaska, and other miscellaneous items. The Committee and Subcommittee meetings are open to the public and there will be seating or approximately 30 public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact:

Ms. Phyllis Bentz, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634-7355.

At the discretion of the Chairperson, intested members of the public may be permitted to speak at times which allow an orderly conduct of Committee business, and a reasonable time relationship between the Committee's discussion of a given subject and comments to that same subject by a member of the public.

Interested members of the public who wish to submit written comments should do so at the address noted above. To receive due consideration and facilitate their inclusion in the record of the meeting, written statements should be received within 10 days after the close of the Committee meeting.

Dated: January 28, 1980.

Jack W. Gehringer,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 80-3154 Filed 1-30-80; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC

20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street SW., Washington, D.C. 20324.

Patent application 6-035, 574: Low Friction Servo Valve; filed May 3, 1979.
Patent application 6-042, 470: Fluidic Pressure Ratio Sensor; filed May 25, 1979.
Patent application 6-043, 982: High Piezoelectric Coupling X-Cuts of Lead Potassium Niobate, Pb2 KNb5015, for Surface Acoustic Wave Applications; filed May 31, 1979.
Patent application 6-048, 874: Multiple Diameter Wire Bundle Support; filed June 15, 1979.
Patent application 6-048, 875: Laser Tensile Test Sample Holder; filed June 15, 1979.
Patent application 968,873: Alloy for Brazing Silicon to Metal; filed Dec. 22, 1979.
Patent 4,161,041: Pseudo Random Number Generator Apparatus; filed Oct. 6, 1978, patented July 10, 1979; not available NTIS.
Patent 4,161,434: Method for Separating Trialuminum Nickelide Fibers from an Aluminum Matrix; filed Oct. 12, 1978, patented July 17, 1979; not available NTIS.
Patent 4,161,826: Method of Deagglomeration of Aluminum Powder; filed Mar. 9, 1978; patented July 24, 1979; not available NTIS.
Patent 4,162,222: Grease Compositions; filed Aug. 15, 1978; patented July 24, 1979; not available NTIS.
Patent 4,162,777: Canted Spar with Intermediate Intercostal Stiffeners; filed May 2, 1978; patented July 31, 1979; not available NTIS.

U.S. Department of Agriculture, Program Agreements and Patents Branch, Administrative Service Division, Federal Building, Science and Education Administration, Hyattsville, MD 20782

Patent 4,141,174: Quantitative Apparatus for Sampling Athropods Associated with Field Crops; filed May 27, 1977, patented Feb. 27, 1979; not available NTIS.
Patent 4,141,302: Furrow Opener and Apparatus for No-Tillage Transplanters and Planters; filed Oct. 21, 1977, patented Feb. 27, 1979; not available NTIS.
Patent 4,146,705: Method for Increasing Solution Viscosity of 'Arthrobacter stabilis' Polysaccharides; filed June 17, 1977, patented Mar. 27, 1979; not available NTIS.
Patent 4,152,199: Interpolymer Paper Strength Additives; filed May 30, 1975; patented May 1, 1979; not available NTIS.
Patent 4,152,214: Production of Homodeoxyharringtonine and Other Cephalotaxine Esters by Tissue Culture; filed Oct. 7, 1977; patented May 1, 1979; not available NTIS.
Patent 4,152,278: Wax Esters of Vegetable Oil Fatty Acids Useful as Lubricants; filed May 19, 1978; patented May 1, 1979; not available NTIS.
Patent 4,152,333: Synthetic Cephalotaxine Esters Having Antileukemic Activity; filed Feb. 22, 1978, patented May 1, 1979; not available NTIS.
Patent 4,152,422: Attractant for Male Mediterranean Fruit Fly; filed Feb. 3, 1978, patented May 1, 1979; not available NTIS.

U.S. Environmental Protection Agency, Room W513, 401 M Street SW., Washington, D.C. 20460.

Patent application 6-015, 079: Process for Fixing Arsenic Bearing Materials and Arsenic Containing Composites Formed by Said Process; filed Feb. 26, 1979.
Patent application 798,544: Fluidized Bed Systems; filed May 19, 1977.
Patent application 876,099: Hopper; filed Feb. 8, 1978.
Patent application 882,673: Method of and Apparatus for Reducing Back Corona Effects; filed Mar. 2, 1978.
Patent 3,923,174: Non-Stop Refuse Collection Container; filed July 22, 1974, patented Dec. 2, 1975; not available NTIS.
Patent 4,033,117: Solid Fuel Fired Gas Turbine System Having Continuously Regenerating Granular Filter; filed Jan. 8, 1976, patented July 5, 1977; not available NTIS.
Patent 4,138,880: Vapor Emission Recovery and Measuring Method and Vapor Recovery Collection Boot; filed May 27, 1977, patented Feb. 13, 1979; not available NTIS.
Patent 4,153,020: Method and Apparatus for Spark Control of Engine Knock; filed July 26, 1977, patented May 8, 1979; not available NTIS.

U.S. Department of Health, Education, and Welfare, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205.

Patent application 6-030, 315: Synthesis of Optically Pure Thromboxanes; filed Apr. 16, 1979.
Patent application 6-031, 749: Synthesis of 4a-aryldecahydroisoquinolines; filed Apr. 20, 1979.
Patent application 964,969: Method of Apparatus for Destroying Organic Matter to Facilitate Trace Inorganic Element Analysis; filed Nov. 30, 1978.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

Patent application 6-037,089: Regeneration of Waste Metallurgical Process Liquor; filed May 8, 1979.
Patent application 6-044,434: Process for Recovering Ni(II), Cu(II) and Co (II) from an Ammoniacal-Ammonium Sulfate Leach Liquor; filed June 1, 1979.
Patent application 6-044,814: Process for Extracting Uranium Values from a Uranium-Containing Carbonaceous Oreo; filed June 1, 1979.
Patent 4,156,656: Preparation of Hydrosulfides; filed June 13 1978; patented May 29, 1979; not available NTIS.
Patent 4,157,204: Face Ventilation System for Coal Mines; filed July 27, 1978; patented June 5, 1979; not available NTIS.
Patent 4,157,371: Method of Agglomerating Fine Powders; filed Mar. 1975; patented June 5, 1979; not available NTIS.

Office of Naval Research, Field Support Group, Room 221, Arlington, VA 22217.

Patent 4,107,401: Super High Energy Density Battery; filed Jan. 24, 1978; Patented Aug. 15, 1978; not available NTIS.
Patent 4,148,514: Tension Release Latch; filed June 30, 1975; patented Apr. 10, 1979; not available NTIS.
Patent 4,150,346: Acoustic Periodic Structure; filed Nov. 9, 1977; patented Apr. 17, 1979; not available NTIS.
Patent 4,156,106: Multiplex-Data Bus Modulator/Demodulator; filed Dec. 22, 1977; patented May 22, 1979; not available NTIS.
Patent 4,156,824: Composite Low Frequency Transducer; filed Dec. 15, 1977; patented May 29, 1979; not available NTIS.
Patent 4,158,368: Magnetostrictive Transducer; filed May 12, 1976; patented June 19, 1979; not available NTIS.
Patent 4,160,169: Parallel Scanning System; filed Feb. 13, 1978; Patented July 3, 1979; not available NTIS.
Patent 4,160,314: Degraining, a Three Step Process to Obtain Propellant Samples from Case Bonded Motors; filed Apr. 28, 1978; patented July 10, 1979; not available NTIS.
Patent 4,161,691: Multi-Purpose Digital Measuring Apparatus; filed Mar. 6, 1978; patented July 17, 1979; not available NTIS.
Patent 4,161,780: Spin Rate Timing System; filed June 23, 1978; patented July 17, 1979; not available NTIS.

National Aeronautics & Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-4, Washington, D.C. 20546.

Patent application 6-027,558; Direction Sensitive Laser Velocimeter; Filed Apr. 6, 1979.
Patent application 6-060,435: Solar Tracking System; filed Feb. 25, 1979.
Patent application 6-061,327: Serial Data Correlator/Code Translator; filed July 27, 1979.
Patent 4,033,286: Chemical Vapor Deposition Reactor; filed July 12, 1976; patented July 5, 1977; not available NTIS.
Patent 4,159,262: Catalytic Trimerization of Aromatic Nitriles and Triaryl-S-Triazine

Ring Cross-Linked High Temperature Resistant Polymers and Copolymers Made Thereby; filed May 12, 1977; patented June 26, 1979; not available NTIS.

Patent 4,159,634: Toggle Mechanisms for Pinching Metal Tubes; filed May 19, 1978; patented July 3, 1979; not available NTIS.

Patent 4,160,254: Microwave Dichroic Plate; filed Feb. 16, 1978; patented July 3, 1979; not available NTIS.

Patent 4,160,508: Controller Arm for a Remotely Related Slave Arm; filed Aug. 19, 1977; patented July 10, 1979; not available NTIS.

Patent 4,16,661: System for Automatically Switching Transformer Coupled Lines; filed Mar. 9, 1978; patented July 17, 1979; not available NTIS.

Patent 4,161,731: Thickness Measurement System; filed Oct. 31, 1977; patented July 17, 1979; not available NTIS.

Patent 4,161,747: Shock Isolator for Operating a Diode Laser on a Closed-Cycle Refrigerator; filed Feb. 24, 1978; patented July 17, 1979; not available NTIS.

[FR Doc. 80-3019 Filed 1-30-80; 8:45 am]

BILLING CODE 3510-04-M

Office of the Secretary

Non-Discrimination on the Basis of Age in Programs or Activities Receiving Federal Assistance

The Department of Commerce (DOC) gives notice that, until such time as it has adopted and published its own specific implementing regulations, it will operate in accordance with the regulations developed by the Department of Health, Education, and Welfare, the agency responsible for promulgating general regulations to implement the provisions of the Age Discrimination Act of 1975, as amended (Act), see 45 CFR Part 90. Since the effective date of the HEW regulations was July 1, 1979, that becomes the effective date for acceptance of age discrimination complaints by all operating units of the DOC who carry on programs of Federal financial assistance.

All age discrimination complaints will be screened and those deemed sufficient will be forwarded to the Federal Mediation and Conciliation Service in accordance with 45 CFR 90.43. Any person, individually or as a member of a class or on behalf of others, may file a complaint with the DOC alleging age discrimination, as such is defined in the HEW general regulations. Complaints concerning recipients and beneficiaries of assistance from the Economic Development Administration, the National Oceanic and Atmospheric Administration, the National Bureau of Standards, the National Telecommunications and Information Administration, the United States Travel Service, the Regional Action Planning Commissions and the Minority Business Development Agency (formerly Office of Minority Business Enterprise) shall be addressed to the Director, Office of Civil Rights, Room 4065, U.S. Department of Commerce, Washington, DC 20230.

Dated: January 23, 1980.

Calvin Brooks,

Director, Office of Civil Rights.

[FR Doc. 80-3007 Filed 1-30-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Levels of Restraint for Certain Man-Made Fiber Textile Products From Haiti

January 28, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing by the application of swing the level of restraint established for man-made fiber brassieres in Category 649, produced or manufactured in Haiti, and decreasing by an equivalent amount the restraint level for man-made fiber hosiery in Category 632, both during the agreement period which began on May 1, 1979 and extends through April 30, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), April 12, 1979 (44 FR 21843), and December 20, 1979 (44 FR 75441))

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 17, 1979 provides, among other things, for percentage increases in certain specific ceilings during an agreement year (swing), balanced by equivalent reductions in other specific ceilings. Pursuant to the terms of the agreement, the restraint level for Category 649 is being increased by 69,490 dozen to 1,062,198 dozen and the level for Category 632 is being reduced by an equivalent square yard amount to 1,557,924 dozen pairs for the agreement year which began on May 1, 1979.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On November 14, 1979, there was published in the **Federal Register** (44 FR 65620) a letter dated November 7, 1979 from the Chairman for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Haiti, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption during the twelve-month period which began on May 1, 1979 and extends through April 30, 1980. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the levels of restraint established for man-made fiber textile products in Categories 632 and 649 during that period.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

January 28, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, *Washington, D.C.*

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on November 7, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Haiti.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 17, 1979 between the Governments of the United States and Haiti; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 28, 1980, and for the twelve-month period which began on May 1, 1979 and extends through April 30, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Categories 632 and 649, produced or manufactured in Haiti, in excess of the following amended twelve-month levels of restraint:

Category	Amended 12-mo level of restraint [1]
632	1,557,924 dozen pairs.
649	1,062,198 dozen.

[1] The levels of restraint have not been adjusted to reflect any imports after April 30, 1979.

The actions taken with respect to the Government of Haiti and with respect to imports of man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-3184 Filed 1-30-80; 8:45 am]

BILLING CODE 3510-25-M

COUNCIL ON WAGE AND PRICE STABILITY

Availability of Proposed Form PM-1—Second Program Year

On January 25, 1980, the Council on Wage and Price Stability submitted to the Office of Management and Budget (OMB) a request for forms clearance for Form PM-1 (Second Program Year). This form is a modification of Forms PM-1 and PM-1A, which had previously been approved by OMB. The modifications were needed to account for changes in the price standards between the first and second program years as well as to clarify the form and instructions to improve the quality of the data submitted to the Council.

The proposed form is available from the Council's Office of Public Affairs, Council on Wage and Price Stability, 600 17th Street, N.W., Room 200, Washington, D.C., 20506. Any comments may be submitted to the Council as well as to the Office of Management and Budget pursuant to OMB's separate **Federal Register** Notice.

Issued in Washington, D.C., January 25, 1980.

R. Robert Russell,

Director, Council on Wage and Price Stability.

[FR Doc. 80-3076 Filed 1-30-80; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Defense Advisory Committee on Women in the Services (DACOWITS), Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Excutive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., February 26, 1980 in Rm. 3D318 and from 9:30 a.m. to approximately 1:00 p.m., February 27, 1980 in Room 1E801, The Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to plan the itinerary/program for the Seminar on Women in the Services to be held in conjunction with the Semi-annual Meeting scheduled for April 21-25, 1980 in Washington, D.C.

Persons desiring to make oral presentations or submit written statements for consideration at the Executive Committee Meeting must contact Captain Mary J. Mayer, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Rm. 3D322, The Pentagon, Washington, D.C. 20301, telephone 202-697-5655 no later than February 12, 1980.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

January 28, 1980.

[FR Doc. 80-3024 Filed 1-30-80; 8:45 am]

BILLING CODE 3810-70-M

Joint Strategic Target Planning Staff, Scientific Advisory Group, Closed Meeting

Pursuant to the provisions of Section 10 of Pub. L. 92-463, effective January 5, 1973 as amended by Pub. L. 94-409, notice is hereby given that a closed meeting of the Joint Strategic Target Planning Staff Scientific Advisory Group will be held at Offutt Air Force Base, Nebraska, during the period:

Tuesday, April 1, 1980 through Thursday, April 3, 1980.

The entire meeting is devoted to the discussion of classified information within the meaning of Section 552b(c)(1), Title 5 of the U.S. Code, and therefore will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

January 28, 1980.

[FR Doc. 80-3023 Filed 1-30-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Surprise Valley Area Service, Proposed New Electrical Facilities; Intent To Prepare Draft Environmental Impact Statement

The Bonneville Power Administration (BPA) hereby gives public notice of its intent to prepare and circulate a draft environmental impact statement (EIS).

BPA's EIS will address the location, construction, and operation of a proposed high-voltage transmission line from Malin, Oregon, to Alturas, California. These facilities are required to satisfy a low-voltage condition created by load increases experienced by the Surprise Valley Electric Cooperative, a BPA customer, as well as to provide for additional load growth. The greater loads stem from expanded use of irrigation in the Co-op's service area. Pacific Power & Light Company (PP&L), over whose facilities BPA now transmits power to the Alturas area, has indicated that it no longer has the excess capacity in its system to accommodate this increase.

Other electrically feasible plans of service will also be studied in the EIS. In addition to electrical transmission, we will consider the alternatives of local generation, conservation, and no action, as well as alternatives which are beyond BPA's jurisdiction.

Scoping for the EIS on this project will include consultations with (1) PP&L to identify on a one-utility basis, feasible electrical plans of service; (2) the U.S. Forest Service, the principal Federal permit-granting authority; and (3) other involved Federal, State, regional, and local agencies, as well as appropriate environmental organizations and landowners. While times and places have not yet been established, scoping meetings are also being planned. The specifics of the meetings will be announced separately at a later date.

Tentatively, we plan to file the draft environmental statement with the Environmental Protection Agency (EPA) in May 1981.

Although the completed draft EIS will be subject to extensive public and agency review, BPA is interested in receiving input to the EIS preparation process so that concerns identified now can be fully considered in development of the draft EIS.

Any suggestions or questions regarding the EIS should be directed to the Environmental Manager, Bonneville Power Administration, U.S. Department of Energy, P.O. Box 3621—SJ, Portland, Oregon 97208: Phone (503) 234–3361, Extension 5137.

Dated at Portland, Oregon, this 24th day of January, 1980.

Sterling Munro,

Administrator.

[FR Doc. 80–3151 Filed 1–30–80; 8:45 am]

BILLING CODE 6450–01–M

Conservation and Solar Applications

Federal Photovoltaic Utilization Program Advisory Committee; Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Federal Photovoltaic Utilization Program Advisory Committee.

Date and Time: Wednesday, February 20, 1980—1:00 p.m.–4:30 p.m.

Place: Department of Energy, 1000 Independence Avenue SW., Forrestal Building, Room 6E083, Washington, D.C. 20585.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue SW., Forrestal Building, Room 8G087, Washington, D.C. 20585, Telephone: 202–252–5187.

Purpose of Committee: The Committee was established by Pub. L. 95–619, Title V, to assist the Secretary in the establishment and conduct of a program to insure that photovoltaic electric systems acquired by the Federal Government reflect, to the maximum extent practicable, the most advanced and reliable technologies; to schedule such purchases so that they will stimulate the early development of a permanent low-cost private photovoltaic production capability in the United States; and to stimulate the private sector market for photovoltaic power systems.

Tentative Agenda: 1:00 p.m.—Presentation by DOE on Overall photovoltaic Program and Federal photovoltaic Utilization Program (FPUP); 2:00 p.m.—Selection of Committee Chairperson; 2:30 p.m.—Discussion and Adoption of Operational Guidelines; 3:30 p.m.—Planning of Next Meeting; 4:00 p.m.—Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting concerned and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of information Public Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

Executive Summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C. on January 25, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80–3136 Filed 1–30–80; 8:45 am]

BILLING CODE 6450–01–M

Conservation and Solar Applications

Food Industry Advisory Committee and Subcommittees; Notice of Open Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meetings:

Name: Food Industry Advisory Committee and Subcommittees.

Date and Time: Tuesday, February 19, 1980—1:00 p.m. to 5:00 p.m.; Wednesday, February 20, 1980—9:00 a.m. to 5:00 p.m.

Place: Sheraton Town House Hotel, 2961 Wilshire Boulevard, Los Angeles, California 90010.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue SW., Room 8G087, Washington, D.C. 20585, Telephone: 202–252–5187.

Purpose of Committee: To provide the Secretary of Energy with recommendations and advice with respect to the development and implementation of policies and programs affecting the food industry.

Tentative agenda: February 19, 1980—Subcommittee meetings from 1:00 p.m. to 5:00 p.m. in rooms listed below: Supply Subcommittee—Town House Room; Technology Implementation—California Room; Technology Development—Commonwealth Room; Transportation and Distribution—San Gabriel Room.

February 20, 1980—Full Committee—Outer Terrace Room.

Special presentations arising out of subcommittee work and reports on projects scheduled for completion in February as follows:

9:00 a.m.—Report from Transportation and Distribution Subcommittee—Recommendation on continuation of gasoline users conversion to diesel; report on work in progress.

10:30 a.m.—Final report of Supply Subcommittee—on energy contingency planning, including a presentation by Cliff Gardner, GAO; energy derived from biofuels, and nonfood sources, summary of AGRIMOD, energy allocation programs.

12:00 noon—Lunch.

1:00 p.m.—Technology Development Subcommittee—Recommendations regarding equipment manufacturers; report on cellulosic waste to liquid fuels project; review of *Energy and Food*, review of DOE sponsored workshops and ten project proposals for possible implementation within DOE.

2:45 p.m.—Technology Implementation—Presentations regarding state energy conservation plans; barriers to implementation of energy supply technologies; energy conservation guides; pilot guide for food consumers; catalog of energy conservation technologies; financial incentives.

4:00 p.m.—Trade association presentations.

4:30 p.m.—Public Comment (10 minute rule).

Public Participation: The meetings are open to the public. The Chairpersons of the Committee and Subcommittees are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or Subcommittees will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting concerned and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive Summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C. on January 23, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80–2999 Filed 1–30–80; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. ERA–FC–80–001; ERA Case No. 52416–6120–22, 23–22]

Acceptance of Exemption Request Pursuant to the Interim Rules of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Exemption Request Pursuant to the Interim rules of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On October 2, 1979, Puget Sound Power & Light Company (Puget Sound) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a permanent peakload powerplant exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) (42 U.S.C. 8301 *et seq.*) which prohibits the use of petroleum or natural gas in new powerplants. Criteria for petitioning for a peakload exemption from the provisions of FUA are published at 10 CFR Parts 501.3 and 503.41 (44 FR 28544, May 15, 1979), and at (44 FR 28996, May 17, 1979). Puget Sound proposes to install two 81,000 KW oil- and/or gas-fired combustion turbine units and certifies for each unit that it will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

FUA imposes statutory prohibitions against the use of petroleum or natural gas by new powerplants. ERA's decision in this matter will determine whether the proposed powerplant qualifies for the requested peakload powerplant exemption.

ERA has accepted this petition pursuant to 10 CFR 501.3 and 501.64. In accordance with the provisions of Sections 701(c) and (d) of FUA and 10 CFR Parts 501.31 and 501.33, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before March 17, 1980. A request for a public hearing must be made by any interested person within this same 45-day period.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, box 4629, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Docket Number ERA–FC–80–001 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B–110, Washington, D.C. 20461, Phone (202) 634–2170.

James W. Workman, Director, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3128, Washington, D.C. 20461, Phone (202) 254–7442.

Marilyn Ross, Office of General Counsel, 6G–087 Forrestal Bldg., Washington, D.C. 20461, Phone (202) 252–2967.

Robert L. Davies, Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128, Phone (202) 634–6557.

SUPPLEMENTARY INFORMATION: The Economic Regulatory Administration (ERA), on May 15 and 17, 1979, published in the **Federal Register** interim rules to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or the Act). The Act prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption to do so has been issued by ERA.

Puget Sound Power & Light Company (Puget Sound) submitted a sworn statement to each of the two petitions by Mr. D. H. Knight, Vice President of Puget Sound, as required by 10 CFR Part 503.41(b)(1). In his statement, Mr. Knight certifies that each of the proposed oil- and/or gas-fired combustion turbines (Whitehorn Generating Station Units 2 and 3) will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant. He also certified that the maximum design capacity of each of the powerplants is 81,000 KW and that the maximum generation that will be allowed during any 12-month period is the design capacity times 1,500 hours or 121,500,000 Kwh.

Under the requirements of 10 CFR Part 503.41(b)(2), the Administrator of the Environmental Protection Agency or the Director of the appropriate state air pollution control agency must certify to the Secretary of the Department of Energy that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The certification requirement is therefore waived with respect to this petition.

Puget Sound also furnished the information required by 10 CFR Parts 502.11 (Petroleum and natural gas consumption), 502.12 (Conservation measures), and 502.13 (Environmental impact analysis).

ERA retains the right to request additional relevant information from Puget Sound at any time during the pendency of these proceedings where circumstances or procedural requirements may so require.

The public file, containing documents on these proceedings and supporting materials is available for inspection upon request at: ERA, Room B–110, 2000 M Street NW., Washington, D.C. 20461, Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C. on January 22, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–2987 Filed 1–30–80; 8:45 am]

BILLING CODE 6450–01–M

Shockley's Exxon Service & Towing; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Coe's Shockley's Exxon Service & Towing, 2340 High Street and County Line Road, Delano, CA 93215. This Proposed Remedial Order charges Coe Shockley's Exxon Service & Towing with pricing violations in the amount of $6,638.73, connected with the resale of motor gasoline during the period August 1, 1979 through October 16, 1979 in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556–7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR § 205.193.

Issued in San Francisco, California on the 8th day of January, 1980.

June F. Wallach,

Acting District Manager, Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 80–2988 Filed 1–30–80; 8:45 am]

BILLING CODE 6450–01–M

Canadian Crude Oil Allocation Program Supplemental Allocation Notice for the January 1 Through March 31, 1980, Allocation Period

In accordance with § 214.32(c) of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214,

the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect the export levels of Canadian light crude oil and Canadian heavy crude oil for the month of February 1980.

Since October 1979, exports of crude oil from Canada have been authorized on a monthly basis instead of a quarterly basis. Consequently, the volumes listed in the Allocation Notice issued on December 29, 1979 (45 FR 1664, January 8, 1980), represented only volumes to be exported in January. This Supplemental Notice lists only Canadian crude oil volumes which will be exported in the month of February.

The issuance of Canadian crude oil rights for February 1980 to refiners and other firms is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists: (1) The name of each refiner and other firm to which rights have been issued; (2) the base period volume [1] of Canadian crude oil for each refiner's first or second priority refinery; (3) the base period volume of Canadian light and heavy crude oil, respectively, for each refiner's first or second priority refinery; (4) the nominations to ERA for Canadian light and heavy crude oil, respectively, of each refiner or other firm; (5) the number of rights for Canadian light and heavy crude oil, respectively, expressed in barrels per day, issued to each such refiner or other firm; and (6) the specific first or second priority refineries for which rights are applicable.

The NEB has formally advised ERA that the total volume of Canadian light crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, for the month of February 1980 will be 50 barrels/day (B/D), all of which is operationally constrained through the Union Oil pipeline from the Reagan field in Canada to the Thunderbird refinery (second priority) at Cut Bank, Montana. The total volume of Canadian heavy crude oil authorized for export and subject to allocation under Part 214 will be 123,340 B/D for the month of February.

Pursuant to 10 CFR 214.35, ERA is continuing to give effect to the operational constraint regarding the Thunderbird refinery in the revised issuance of Canadian crude oil rights for the month of February set forth in the Appendix. The Canadian light and heavy crude oil rights were computed in accordance with the formulas set forth in the Allocation Notice issued on December 29, 1979, (45 FR 1664, January 8, 1980). However, the total amount of heavy crude oil available permitted allocations only through the first three steps specified in § 214.31(a)(3).

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before 30 days from the publication of this Notice.

Issued in Washington, D.C. on January 25, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix.—*Canadian Allocation Program Rights—February 1980*

[Barrels per day]

Refiner/refinery	Priority	Base period volumes			Nominations		Allocation [1]	
		Total Canadian runs	Canadian light Crude oil	Canadian heavy Crude oil	Light	Heavy	Light	Heavy
Amoco:								
Whiting, Ind	II	26,751	25,560	1,191	0	10,000	0	574
Casper, Wyo	II	2,991	2,991	0	0	0	0	0
Mandan, N.D	II	8,995	8,995	0	0	0	0	0
Sugar Creek, Mo	II	317	317	0	0	0	0	0
Arco: Cherry Point, Wash	II	34,225	34,225	0	0	0	0	0
Ashland:								
Buffalo, N.Y	II	36,752	32,033	4,719	0	0	0	0
Findlay, Ohio	II	2,198	33	2,165	0	0	0	0
St. Paul Park, Minn	I	[3]14,707	[2]13,127	[2]1,580	35,000	31,000	0	[3]31,000
Clark: Blue Island, Ill	II	18,764	18,764	0	0	0	0	0
Consumers Power:								
Essexville, Mich	I	13,872	13,872	0	0	0	0	0
Marysville, Mich	I	27,306	27,306	0	0	0	0	0
Conoco:								
Billings, Mont	I	25,994	25,994	0	25,994	0	0	0
Denver, Colo	II	4,639	4,639	0	4,638	0	0	0
Ponca City, Okla	II	1,188	1,188	0	1,188	0	0	0
Wrenshall, Minn	I	20,651	20,651	0	20,651	0	0	0
CRA:								
Coffeyville, Kans	II	318	318	0	0	0	0	0
Phillipsburg, Kans	II	173	173	0	0	0	0	0
Scottsbluff, Nebr	II	401	401	0	0	0	0	0
Crystal: Carson City, Mich	II	1,104	1,104	0	0	0	0	0
Dow Chemical, U.S.A.: Bay City, Mich	II	2,767	2,767	0	0	0	0	0
Energy Cooperative: East Chicago, Ind	II	10,804	10,267	537	0	0	0	0
Exxon: Billings, Mont	I	15,908	15,908	0	16,500	0	0	0
Farmers Union: Laurel, Mont	I	13,439	13,439	0	13,500	0	0	0
Gladieux: Fort Wayne, Ind	II	774	774	0	0	0	0	0
Gulf: Toledo, Ohio	II	13,253	13,253	0	0	0	0	0
Husky:								
Cheyenne, Wyo	II	4,865	4,865	0	0	0	0	0
Cody, Wyo	II	806	806	0	0	0	0	0
Koch: Pine Bend, Minn	I	[2]44,383	[2]3,396	[2]40,987	0	95,000	0	[3]74,383
Lake Superior D.P.: Ashland, Wisc	I	125	125	0	0	0	0	0
Lakeside: Kalamazoo, Mich	II	1,240	1,240	0	0	0	0	0
Laketon: Laketon, Ind	II	141	10	131	0	200	0	63
Little America:								
Casper, Wyo		2,248	2,248	0	0	0	0	0
Sinclair, Wyo	II	709	709	0	0	0	0	0
Marathon: Detroit, Mich	II	10,301	10,159	142	30,000	10,000	0	69

[1] Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974 through October 31, 1975) on a barrels per day basis.

Appendix.—*Canadian Allocation Program Rights—February 1980—Continued*

[Barrels per day]

Refiner/refinery	Priority	Base period volumes			Nominations		Allocation[1]	
		Total Canadian runs	Canadian light Crude oil	Canadian heavy Crude oil	Light	Heavy	Light	Heavy
Mobil:								
Buffalo, N.Y	II	24,995	24,995	0	0	6,036	0	0
Ferndale, Wash	II	45,444	45,444	0	0	10,975	0	0
Joliet, Ill	II	14,606	2,132	12,474	0	12,989	0	6,016
Murphy: Superior, Wisc	I	25,625	20,253	5,372	12,000	8,000	0	8,000
NCRA: McPherson, Kans	II	836	836	0	0	0	0	0
Pester Refining Co.: El Dorado, Kans	II	196	196	0	0	0	0	0
Phillips:								
Great Falls, Mont	II	1,222	1,222	0	0	0	0	0
Kansas City, Kans	II	3,352	3,105	247	0	0	0	0
Rock Island: Indianapolis, Ind	II	1,063	1,063	0	0	0	0	0
Shell:								
Anacortes, Wash	II	55,919	55,919	0	30,000	0	0	0
Wood River, Ill		8,673	8,673	0	0	0	0	0
Sohio: Toledo, Ohio	II	29,182	29,182	0	15,000	10,000	0	0
Sun: Toledo, Ohio	II	16,427	16,427	0	0	0	0	0
Tenneco: Chalmette, La	II	1,767	1,767	0	0	0	0	0
Texaco:								
Anacortes, Wash	II	41,229	41,229	0	0	0	0	0
Casper, Wyo		1,380	1,380	0	0	0	0	0
Lockport, Ill		1,244	1,244	0	0	0	0	0
Texas American: West Branch, Mich	II	2,011	2,011	0	0	0	0	0
The Refinery Corp.: Commerce City, Colo.	II	174	174	0	0	0	0	0
Thunderbird: Cut Bank, Mont	II	554	554	0	50	0	*50	0
Total Petroleum: Alma, Mich		9,727	3,020	6,707	0	8,000	0	3,235
Union Oil of California: Lemont, Ill	II	11,711	11,711	0	10,000	20,000	0	0
United Refining: Warren, Pa	II	9,917	9,789	128	0	0	0	0
Wyoming Refining Co.: New Castle, Wyo.	II	676	676	0	0	0	0	0
Total priority I		202,010	154,071	47,939	123,645	134,000	0	113,383
Total priority II		469,029	440,588	28,441	90,876	88,200	50	9,957
Total I and II		671,039	594,659	76,380	214,521	222,200	50	123,340

[1] Although nominations were made on a quarterly basis, allocations reflect the volumes of crude oil which must be exported from Canada only during the month of February.
[2] Adjusted.
[3] Adjustments to base period volumes not given effect in allocation of Canadian heavy crude oil.
[4] Operational constraint.

[FR Doc. 80-3145 Filed 1-30-80; 8:45 am]

BILLING CODE 6459-01-M

Energy Emergency Handbook

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of the Energy Emergency Handbook.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that the *Energy Emergency Handbook* (EEH) has been completed and will be available for purchase in February 1980. The public can acquire the EEH for $25.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. This purchase cost is for a one year subscription and includes the original document plus three periodic updates. Copies of the EEH have already been sent to the Governors, state energy offices, public utility commissions, and the DOE regional offices. Copies of the EEH are available for public review at the national and regional DOE offices:

National Office: Room GA-142, 1000 Independence Avenue SW., Washington, D.C. 20545.

Region I, 150 Causeway Street, Boston, Mass. 02114.

Region II, 26 Federal Plaza, New York, N.Y. 10007.

Region III, 1421 Cherry Street, Philadelphia, Pa. 19102.

Region IV, 1655 Peachtree Street NE., Atlanta, Ga. 30309.

Region V, 175 West Jackson Boulevard, Chicago, Ill. 60604.

Region VI, 2626 Mockingbird Lane, Dallas, Tex. 75235.

Region VII, 324 East 11th Street, Kansas City, Mo. 64106.

Region VIII, 1075 S. Yukon Street, Lakewood, Colo. 80226.

Region IX, 111 Pine Street, San Francisco, Calif. 94111.

Region X, 1992 Federal Office Building, 915 Second Avenue, Seattle, Wash. 98174.

FOR FURTHER INFORMATION CONTACT:

Energy Liaison Center, Economic Regulatory Administration, Department of Energy, Room 4126, 2000 M Street NW., Washington, DC 20461, 202-252-5155.

Grant Garrison, Office of General Counsel, Department of Energy, Room 5E064, Forrestal Building, Washington, DC 20585, 202-252-2900.

SUPPLEMENTARY INFORMATION:

I. Background Statement.
II. Summary of Handbook Contents.
III. Availability of Handbook.

I. Background Statement

Two prior notices on the EEH have appeared in the **Federal Register.** On March 22, 1979, ERA issued a notice of the development of the EEH and the opportunity for public comment (44 FR 17551). That notice indicated that the EEH was being developed as the result of recommendations made by the Winter Energy Emergency Plans Task Force of Winter 1977 and that it would replace the "Energy Emergency Planning Guide: Winter 1977-78." It also indicated that the EEH was designed to inform state and local governments of both federal and state emergency measures that are available to manage energy emergencies.

On August 14, 1979, ERA issued a notice of current status on the development of the EEH (44 FR 47586). That notice discussed the public comments on the EEH and indicated that the measures originally proposed

for incorporation in the EEH were being reviewed and updated in light of recent legislative actions and current energy policies. It also indicated that a subsequent Federal Register Notice would inform the public of the availability of the EEH. The notice appearing today serves that purpose.

II. Summary of Handbook Contents

The Energy Emergency Handbook is designed to serve as a reference source for individuals and offices with energy emergency management responsibilities. The following chapters have been developed to be responsive to the changing demands energy emergencies place on both the private and public sectors.

Chapter 2, New Initiatives, provides summaries of major new initiatives and proposals for coping with energy emergency or pre-emergency situations. Initiatives are administrative or legislative in origin. They include federal programs as well as innovative state and local approaches to a specific problem. Narrative descriptions contained in this chapter highlight the specific program or proposal or summarize the major provisions of a new piece of legislation.

Chapter 3, Federal Energy Emergency Organizations, provides the user with a listing and description of the primary activities of the Department of Energy offices and other Federal agencies having specific responsibilities during short-term energy emergencies.

Chapter 4, Federal Energy Emergency Actions, discusses selected energy emergency response actions that may be taken by the Federal government, either on its own initiative, or in conjunction with state and local governments and private industry. It concentrates on the actions most commonly used or most likely to be implemented on a voluntary or mandatory basis in a short-term energy emergency.

Each action is described according to the following format:

- *Objective*—a brief statement of the intent of the action.
- *Status*—a statement of the current condition of the action (i.e., implemented or standby). If an action has been implemented recently a chronology of actions taken with appropriate citations is given.
- *Operation*—a description of the operational procedures and the scope of the action. Also presented here are key provisions of the program, eligibility requirements, allowable uses and limitations of the action and effective duration.
- *Reference and Publications*—citations of appropriate laws, regulations and published material for further information on each action.

Chapter 5—State Energy Emergency Actions, presents a variety of actions which may be initiated at the state level in response to a short-term energy emergency. This chapter follows the same format as Chapter 4, with the *Operation* section expanded to include a discussion of typical implementation procedures, including the method for initiating the action; any special laws or executive orders required for implementation; and the anticipated impacts of the action on the energy emergency.

The EEH also contains State and Federal directories. These directories, covering important State and Federal personnel, include name, addresses, telephone, telex, and TWX (or facsimile) numbers and descriptions of the duties of each individual with energy emergency responsibilities. Updates to the directories will periodically be made available since changes in personnel, office locations, and telephone numbers frequently occur. The directories have been designed so that the user is able to identify the appropriate organizational component with emergency responsibilities although the names and addresses of individuals with emergency responsibilities may change.

The Appendices of the EEH include lists of major legislative authorities related to energy emergencies (Appendix A), and the 34 major oil refining companies (Appendix B).

III. Availability of the Handbook

In February 1980, the public can purchase a copy of the EEH for $25.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. This purchase price includes periodic updates.

Issued at Washington, D.C. on January 22, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

[FR Doc. 80-3143 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-114]

International Minerals and Chemical Corp.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

International Minerals and chemical corporation (International) filed an application for certification of an eligible use of natural gas to displace fuel oil at its facility in blue Mountain, Mississippi with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on November 30, 1979. Notice of that application was published in the **Federal Register** (45 FR 1135, January 4, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed International's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that International's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on January 25, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix I

January 25, 1980.

Re ERA Certification of Eligible Use, ERA Docket No. 79-CERT-114, International Minerals and Chemical Corporation.

Mr. Kenneth F. Plumb,

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254-8202. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79-CERT-114.

Sincerely,

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Enclosure.

By the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the International Minerals and Chemical Corp., ERA Docket No. 79–CERT–114

Application for Certification

Pursuant to 10 CFR Part 595, International Minerals and Chemical Corporation (International) filed an application for certification of an eligible use of 9,000 Mcf of natural gas per month at its facility in Blue Mountain, Mississippi, with the Administrator of the Economic Regulatory Administration (ERA) on November 30, 1979. The application states that the eligible seller of the gas is the IMC Exploration Company (IMC) and the gas will be transported by the Tennessee Pipeline Company, and the Ripley Gas Company. The application and supplemental information indicates that the use of this natural gas is estimated to displace approximately 70,000 gallons of No. 2 fuel oil (.01 percent sulfur) per month. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of 9,000 Mcf of natural gas per month at International's Blue Mountain facility purchased from IMC is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facility purchased from the same eligible seller.

Issued in Washington, D.C., on January 25, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–3144 Filed 1–30–80; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 79–32–NG]

Midwestern Gas Transmission Co.; Application for Amendment to Existing Authorization To Import Natural Gas

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of receipt of application and invitation to submit petitions to intervene in the proceedings.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy gives notice of receipt of an application of Midwestern Gas Transmission Company (Midwestern) filed on October 31, 1979, in ERA Docket No. 79–32–NG for authorization pursuant to Section 3 of the Natural Gas Act for amendment of the import authorization granted by ERA in its order of August 9, 1979 in Docket No. 79–04–NG. ERA then amended ordering paragraph (F) of FPC Opinion No. 521 to the extent that Midwestern was authorized to import an additional daily volume of 350,000 Mcf per day during a period beginning November 16, 1978, to and including October 31, 1980, or until a total volume of 114,000,000 Mcf has been imported whichever comes first. Midwestern now seeks authority to increase this additional daily volume to a maximum of 600,000 Mcf per day with no change in the duration or total volume. Petitions to intervene are invited.

DATES: Petition to intervene are due on or before February 20, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, 2000 M Street NW., Room 4126, Washington, DC 20461, telephone (202) 254–8202.

Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, 1000 Independence Ave., SW., Forrestal Building, Room 5E064, Washington, DC 20585, telephone (202) 252–2900.

SUPPLEMENTARY INFORMATION: Midwestern seeks to have the authorization granted by ERA in its order issued on August 9, 1979 at Docket No. 79–04–NG amended only to the extent that the daily rate up to 350,000 Mcf per day will be increased to up to 600,000 Mcf per day. This requested increased daily volume is based on information available to Midwestern from TransCanada Gas Pipelines Limited (TransCanada) that it now expects to have, from time to time, daily quantities of up to 600,000 Mcf available for export Midwestern from Canada. No other amendments to authorizations granted pursuant to Midwestern's original application filed on March 13, 1979 have been requested. The current import authorization allows for a total 114,000,000 Mcf to be imported through October 31, 1980. No change has been requested in this total, only in the maximum daily authorized volume.

OTHER INFORMATION: The ERA invites petitions for intervention in this proceedings. Such petitions are to be filed with the Economic Regulatory Administration, Room 4126, 2000 M St., NW, Washington, DC 20461, in accordance with the requirements of rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed not later than 4:30 p.m., on February 20, 1980.

Any person wishing to become a party to this proceedings or to participate as a party in any hearing which may be convened therein must file a petition to intervene. Any person desiring to make any protest with reference to the application should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by a party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

Copies of Applicants' petitions are available for public inspection and copying in Room B–120, 2000 M Street, NW., Washington, D.C. 20461, between the hours of 8 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on January 25, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Opeations, Economic Regulatory Administration.

[FR Doc. 80–3142 Filed 1–30–80; 8:45 am]

BILLING CODE 6450–01–M

Dennis Wesley Chevron; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Dennis Wesley Chevron, 505 W. Silverlake Blvd., Los Angeles, CA 90026. This Proposed Remedial Order charges Dennis Wesley Chevron with pricing violations in the amount of $7,281.90, connected with the resale of motor gasoline during the period August 1, 1979, to November 19, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from June Wallach, Acting District Manager for Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556–7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in San Francisco, California on the 16th day of January 1980.

June F. Wallach,

Acting District Manager, Office of Enforcement, Western District.

[FR Doc. 80-3138 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

John's Chevron Station; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to John's Chevron Service, 3631 Beverly Blvd., Los Angeles, CA 90004. This Proposed Remedial Order charges John's Chevron Service with pricing violations in the amount of $1,513.34, connected with the resale of motor gasoline during the period August 1, 1979, to October 13, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from June Wallach, Acting District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. Within 15 days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in San Francisco, California on the 16th day of January 1980.

June F. Wallach,

Acting District Manager, Office of Enforcement, Western District.

[FR Doc. 80-3137 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Ted's Arco; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Taghi Lauassani; dba Ted's Arco, 2110 Old Middlefield Road, Mountain View, CA 94043. This Proposed Remedial Order charges Ted's Arco with pricing violations in the amount of $535.55, connected with the resale of motor gasoline during the period August 1, 1979 through October 27, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in San Francisco, California on the 11th day of January, 1980.

June F. Wallach,

Acting District Manager of Enforcement, Western District.

[FR Doc. 80-3140 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following retransfer: RTD/SW(EU)-109, from West Germany to Sweden, 10 irradiated fuel rods, containing 1,849 grams uranium, 57.3 grams U-235 (3.098%), for irradiation test and examination. Upon completion of these tests, the rods are to be returned to West Germany for further examination.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Deparment of Energy.

Dated: January 28, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-3139 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of November 26 Through November 30, 1979

Notice is hereby given that during the week of November 26 through November 30, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Within 20 days after publication of this notice, any person who wishes to participate in the proceeding which the Department of Energy will conduct the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before March 3, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause show. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

January 24, 1980.

Herb's Union 76, Wilmette, Ill., BRO-0200, motor gasoline

On November 26, 1979, Herb's Union 76, 1618 Sheridan Road, Wilmette, Illinois 60091, filed a Notice of Objection to a Proposed Remedial Order that the Department of Energy Central District Office of Enforcement issued to the firm on September 12, 1979. The Proposed Remedial Order found that during the period August 1, 1979 through September 7, 1979 Herb's Union 76 committed pricing violations of $643.41 in connection with the sale of motor gasoline in the State of Illinois.

[FR Doc. 80-2977 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; December 31, 1979, Through January 4, 1980

Notice is hereby given that during the period December 31, 1979 through January 4, 1980, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a

written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date or receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of act or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

January 24, 1980.

Chevron U.S.A., Inc., San Francisco, Calif., DEE–5917 carbon dioxide

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR 212.83(c)(2). The exception request, if granted, would permit Chevron to exclude costs associated with the production of carbon dioxide, which it intends to sell, in computing its maximum lawful prices for price controlled refined products. On January 4, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

District of Columbia, Washington, D.C., DEE–8329 motor gasoline

The District of Columbia filed an Application for Exception from the provisions of the DOE motor gasoline allocation regulations. The exception request, if granted, would increase the monthly gasoline allocation of each retail outlet within the District or establish a mechanism which would automatically result in exception relief of this nature if certain criteria were satisfied. On January 2, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Musolino and Sons, Inc., Alexandria, Va., DEE–6199 gasohol

Musolino and Sons, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Musolino and Sons to purchase additional quantities of unleaded gasoline for the purpose of marketing gasohol. On January 4, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Best-Way Marketing, DEE–2608; Collinsville, Okla.
Limehouse Gulf Station, DEE–7511; Charleston, S.C.
Marine Oil Co., BEE–0396; Fulton, Ky.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Burns Service Center, DEE–4430; Action, Mass.
Dick's Texaco Service, DEE–7438; Glendale, Calif.
FS Services, Inc., DEE–7938; Bloomington, Ill.
Tidmore Oil Co., DEE–6022; Washington, D.C.

[FR Doc. 80–2983 Filed 1–30–80; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; January 7 Through January 11, 1980

Notice is hereby given that during the period January 7 through January 11, 1980, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–1200, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays.

Dated: January 24, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Fina Jobbers Association, Inc., State of Georgia, DEE–5568 motor gasoline

Fina Jobbers Association, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit branded jobbers of American Petrofina, Inc. to receive increased supplies of motor gasoline. On January 11, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

Flour Corp., Irvine, Calif., DEE–7117 motor gasoline

The Flour Corporation filed an Application for Exception which, if granted, would increase the firm's allocation of motor gasoline for the purpose of fueling its employee van-pool program. In considering the firm's request, the DOE found that the van-pool program conserved significant volumes of motor gasoline. Consequently, on January 9, 1980, the DOE issued a Proposed Decision and Order which determined that Flour's request be granted.

R. H. Bowles Co., Yakima, Wash., BEE–0043 gasohol

R. H. Bowles Company filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would increase the firm's allocation of unleaded gasoline so that it could blend and market gasohol. On January 7, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Tomahawk Oil Co., Hiawatha, Kan., BEE–0331 gasohol

The Tomahawk Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would increase the firm's allocation of unleaded motor gasoline so that it could blend and sell gasohol. On January 11, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

J. M. Davis Industries, Inc., Morehead City, N.C., DEE–8081 gasohol

J. M. Davis Industries, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would increase the firm's allocation of unleaded motor gasoline so that it could blend and market gasohol. On January 7, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Whirlpool Corp., Benton Harbor, Mich., BEE–0232 consumer products

Whirlpool Corporation (Whirlpool) filed an Application for Exception from the provisions of 10 CFR 430, the Energy Conservation Program for Consumer Products. In its Application, Whirlpool requests that it be permitted to modify the energy efficiency test procedures specified in 10 CFR 430, Subpart B, Appendix J, which are applicable to two categories of clothes washers manufactured by Whirlpool. On January 11, 1980, the DOE issued a Proposed Decision and Order in which it determined that the Whirlpool exception request be denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No. and Location

Citadel Corp., BXE–0126; Washington, D.C.
Forrest General Chevron Service, DEE–7274; Hattiesburg, Miss.
Mickey's Anchor, BEE–0277; Dudley, Mass.
Murray Pet. Co., Inc., DEE–6993; Bakersfield, Calif.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No. and Location

D. C. Curl, DEE–2911; Memphis, Tex.
Loden Oil Co., DEE–7491; Batesville, Miss.
Montbello Conoco, DEE–3308; Denver, Colo.
Rainbow Car Wash, DEE–6044; Madison, S. Dak.
W. J. Fletcher Arco, DEE–2960; Medford, N.J.
Warelubco, Inc., DEE–2396; Washington, D.C.
Williams General Store, DEE–7706; Tunbridge, Vt.

[FR Doc. 80–2984 Filed 1–30–80; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; November 26 Through November 30, 1979

Notice is hereby given that during the period November 26 through November 30, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the data of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decison and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

January 24, 1980.

Commonwealth Oil Refining Co., Inc., Washington D.C. DEE–8020, crude oil

Commonwealth Oil Refining Co., Inc. filed an Application for Exception in which the firm requested that the Office of Hearings and Appeals issue an Order which would enable it to obtain additional crude oil supplies during the September–December 1979 period. On November 30, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Gas Marketing, Inc., Stafford, Kans., DEE–7646, crude oil

Gas Marketing, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Gas Marketing to sell the crude oil which it produces from the Bayou Boullion 3–D Lease at prices in excess of applicable ceiling prices. On November 27, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Gas Service, Inc., Nashua, N.H., DEE–0056, Reporting requirements

Gas Service, Inc. filed an Application for Exception from the reporting requirements set forth in Form EIA–149 ("Natural Gas Supply, Requirements, and Usage"). The exception request, if granted, would relieve the firm of the obligations to file the form with the Energy Information Administration. On November 28, 1979, the Department of Energy issued a Proposed Decision and Order which determined that partial exception relief should be granted modifying the data which the firm must submit in order to simplify gathering the required data.

R. W. Tyson Producing Co., Inc., Jackson, Miss., DEE—3143, DEE—3144, DEE—3145, DEE—3146, DEE—3147, crude oil

R. W. Tyson Producing Company, Inc. filed Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from five crude oil producing properties: McClellan-Vickers No. 1 Well, McClellan No. 1 Well, Vickers No. 2 Well, Federal Land Bank No. 3 Well, and Carter No. 3 Well, located on the Ovett Field in Jones County, Mississippi, at upper tier ceiling prices. On November 30, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to all of the above properties, with the exception of Federal Land Bank No. 3 Well which was denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Anthony R. Barone, DEE–6721; Philadelphia, PA.
B&B Oil Company, Inc., DEE–5854; Spokane, WA.
Hawk Oil Company, Inc., DEE–5801; Scranton, PA.
M. D. Fisher Oil, DEE–4880; New Braunfels, TX.
Melton's Exxon, DEE–5474; Camden, SC.
Mission Car Wash, DEE–5198; San Gabriel, CA.
Publix Oil Company, DEE–8115; Washington, DC.
Schapeler Oil Company, DEE–7086; Rockville, MO.
Stefano's Gasoline, DEE–5183; Lodi, CA.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Alf M. Jorgensen, DEE–5407; Old Saybrook, CT.
Camp Springs Car Wash, DEE–5203; Camp Springs, MD.
D & D Gulf Service, DEE–7179; Fitchburg, MA.
Fredericksburg Amoco, DEE–5789; Fredricksburg, VA.
Freeman's Mobil S.C., DEE–6501; Cape Girardeau, MO.
Freeway Autocare Shell, DEE–7539; Phoenix, AZ.
Gibble Oil Company, DEE–4343; Okalahoma City, OK.
Guadalajara Gas, DEE–5280; Los Angeles, CA.
Jack's Arco, DEE–6185; Belmont, MA.
Laconia Car Wash Corp., DEE–7156; Laconia, NH.
Mojave Pet. Co., DEE–2743; Austin, TX.
Reilly's Coin-Op Car, DEE–6356; Stockton, CA.
Savoley & Shepard Sunoco Station, DEE–5352; Lowell, MA.
South Braintree Mobil, DEE–4739; S. Braintree, MS.
Williams Grocery, DEE–6639; Edniburg, MS.
Woodbrook Cities Service, DEE–6202; Baltimore, MD.
Yates Stores, Inc., DEE–3091; Laredo, TX.

[FR Doc. 80–2995 Filed 1–30–80; 8:45 am]
BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of January 7 Through January 11, 1980

Notice is hereby given that during the week of January 7 through January 11, 1980, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Within 20 days after publication of this notice, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205–194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20462. Issued in Washington, D.C.

January 24, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Warwick Oil Corp., Lafayette, La., BRO–0733, crude oil

On January 8, 1980, Warwick Oil Corporation, P.O. Box 52745, Oil Center Station, Lafayette, Louisiana 70505 filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on November 6, 1979. In the Proposed Remedial Order the Southwest District found that during the period January 1976 through November 1977, Warwick Oil Corporation committed pricing violations in the State of Louisiana in connection with the production and sale of crude oil. According to the PRO, Warwick's violations resulted in overcharges to its customers of $89,250.

[FR Doc. 80–2986 Filed 1–30–80; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1403–1]

Bicycling and Air Quality Information Document; Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of bicycling and air quality information document.

SUMMARY: The Bicycling and Air Quality Information Document is now available from EPA. This document meets part of the requirements of Section 108(f)(1) (ix), (x) and (xi) which requires EPA to provide information on processes, procedures, and methods which will reduce or control air pollutants. The Act emphasizes bike lanes, secure bicycle storage facilities, measures that limit portions of road surfaces or certain sections of a metropolitan area to non-motorized vehicles, and employer participation in programs to promote bicycling. The Bicycling and Air Quality Information Document is intended to provide urban areas with better information on bicycle strategies for use in development of State Implementation Plans. It summarizes the major factors affecting bicycle use and documents ways to increase bicycle use through a comprehenisve program of measures, including engineering safety education, and enforcement. Data on bicycle program effectiveness is reviewed, and potential air quality and energy impacts of bicycle strategies are discussed. The importance of integrating bicycle strategies into the 3–C transportation planning process is shown. Other implementation considerations such as legislation, institutional structure and funding sources are given. Case studies illustrate strong bicycle program implementation in Davis (California), Madison (Wisconsin), Denver (Colorado), and the States of North Carolina and California.

Availability: The document is intended to help air quality planners, transportation planners, local officials, and citizens develop and implement bicycle strategies. Limited copies are available from EPA. To obtain copies, State and local officials should contact respective EPA regional offices. Federal officials should contact EPA headquarters. All others can buy the document from the National Technical Information Service.

Dated: January 27, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

Addresses

Region, Bicycle Coordinator, and States in Region

I—Denny Lawton, Environmental Protection Agency, Room 2302 JFK Federal Bldg., Boston, Massachusetts 02203, FTS 8–223–5630, 617–223–5630; Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
II—John Filippelli, Environmental Protection Agency, Room 1005, 26 Federal Plaza, New York, New York 10007, FTS 8–264–7665, 212–264–7665; New Jersey, New York, Puerto Rico, Virgin Islands.
III—Peter Cosier/Bill Belanger, Environmental Protection Agency, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, FTS 8–597–8990 (Cosier), 215–597–8990; Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.

IV—Don Stone, Environmental Protection Agency, 345 Courtland NE., Atlanta, Georgia 30308, FTS 253–2864, 404–881–2864; Alabama, Georgia, Florida, Mississippi, North Carolina, South Carolina, Tennessee, Kentucky.

V—Michelle Rockawich, Environmental Protection Agency, Air Pollution Division, 230 S. Dearborn Street, Chicago, Illinois 60604, FTS 8–886–6082, 321–886–6082; Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota.

VI—Ragan Broyles, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270, FTS 8–729–2742, 214–767–2742; Arkansas, Louisiana, Oklahoma, Texas, New Mexico.

VII—Wayne Leidwanger, Environmental Protection Agency, Room 249, 324 E. 11th Street, Kansas City, Missouri 64106, FTS 8–758–2880, 816–374–2880; Iowa, Kansas, Missouri, Nebraska.

VIII—Barry Levene, Environmental Protection Agency, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203, FTS 8–327–3711, 303–837–3711; Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota.

IX—Eric Ginsburg, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, FTS 8–556–6695, 415–556–6695; Arizona, California, Nevada, Hawaii.

X—David DeBryun, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington, 98101, FTS 8–399–1226, 206–442–1226; Alaska, Idaho, Oregon, Washington.

EPA Headquarters: Nina D. Rowe, Bicycle Coordinator, Environmental Protection Agency, ANR–445, Office of Transportation and Land Use Policy, 401 M Street SW., Washington, D.C. 20460.

National Technical Information Service, Springfield, VA 22151.

[FR Doc. 80-3071 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP—180401; FRL 1403–5]

California Department of Food and Agriculture; Crisis Exemption to Use Bromoxynil on Garlic To Control Broadleaf Weeds

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that the California Department of Food and Agriculture (hereafter referred to as "California") has availed itself of a crisis exemption to use bromoxynil on approximately 13,000 acres of garlic in California to control broadleaf weeds. Since treatment was expected to exceed 15 days, California submitted a request for a specific exemption for continuation of this use of bromoxynil.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to California, garlic yield is reduced by competition for minerals, light, and water by the following broadleaf weeds: Russian thistle, mare's tail, common groundsel, London rocket, pineapple weed, wild sunflower, may weed, and blue (purple) mustard. California stated that common groundsel is a particularly costly pest to garlic growers. Garlic is frequently rotated to lettuce to which groundsel is closely related and is difficult to control without lettuce phytotoxicity problems. California stated that garlic production is valued at $24.7 million and that losses could reach $2.5 million this year due to abandoned, weed-infested fields or reduced yields. California further stated that the lack of effective controls and the impending garlic season made immediate treatment necessary. California used Buctril (EPA Reg. No. 359–564) and Brominal 2EC (EPA Reg. No. 264–204) at a rate of 0.5 to 1.0 pound active ingredient in 40 to 100 gallons of water by ground and at least 5 gallons of water by air per acre. A 24-hour field reentry interval and a 112-day pre-harvest interval were to be observed. Since treatment was to exceed 15 days, California submitted a request for a specific exemption to continue this program until April 30, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 24, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-3070 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1403–8]

Motor Vehicle Pollution Control Waiver of Carbon Monoxide Emission Standards; Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing to consider applications for waiver of 1981 and 1982 model year light-duty vehicle emission standard for carbon monoxide (CO).

SUMMARY: On January 8, 1980, Automobile Peugeot (Peugeot) applied under section 202(b)(5) of the Clean Air Act, as amended, for a waiver of the effective date of the 1981 and 1982 CO emission standard for one of its engine families. On January 14, 1980, Regie Nationale des Usines Renault (Renault) reapplied for a CO Waiver for one of its engine families covered by an earlier waiver request which had been denied by the Administrator in a decision published on December 3, 1979 (44 FR 69417). The denial of Renault's original request was based on Renault's failure to establish that space limitations prevent the incorporation of effective emission control equipment into the vehicle of this engine family.

DATES: This notice announces that EPA will hold a public hearing in Washington, D.C., on February 12, 1980, and continuing through February 13, 1980, if necessary, to consider Peugeot's and Renault's waiver applications and any other manufacturer's application received by February 6, 1980. Interested parties may also submit written comments to the public docket on these waiver applications until February 25, 1980, to ensure consideration of those comments in the Administrator's evaluation of these waiver applications.

ADDRESS: All public portions of the CO waiver applications and other relevant information are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at: U.S. Environmental Protection Agency, Central Docket Section (A–130), Room 2903B, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 (Docket Number EN–80–1).

FOR FURTHER INFORMATION CONTACT: Mr. Glenn Unterberger, Manufacturers Operations Division, (EN–340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472–9421.

SUPPLEMENTARY INFORMATION: Under section 202(b)(5)(A) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(5)(A) (1977) ("Act"), at any time after August 31, 1978, any manufacturer may file with the Administrator an application requesting the waiver of the effective date of the carbon monoxide (CO) emission standard applicable to any model of light-duty motor vehicles and engines manufactured by the applicant during model years 1981 and 1982. Section 202(b)(5)(C) requires the Administrator to issue a decision granting or denying such waiver within 60 days after receipt of the application and after public hearing. Guidelines for the submission of such waiver requests have been previously published in the

Federal Register, 43 FR 47272, October 13, 1978.

Section 202(b)(1)(A) requires that emissions of CO from 1981 and later model year light-duty motor vehicles be reduced by 90% from 1970 CO emission standards. A CO emission standard of 3.4 grams per vehicle mile, determined to achieve such reduction and made applicable by regulation to 1981 and later model year light-duty vehicles, has been published in the Federal Register 43 FR 37972, August 24, 1978. If the Administrator determines that a waiver from the CO standard of 3.4 grams per vehicle mile (gpm) should be granted, he must, simultaneously with such determination, prescribe by regulation CO emission standards to apply to those model vehicels or engines to which the waiver applies. Under section 202(b)(5)(B) the maximum CO level for which a waiver may be granted is 7.0 gpm.

Under section 202(b)(5)(C), the Administrator may grant such a waiver only if he finds that protection of the public health does not require attainment of the statutory CO standard of 3.4 gpm for those model years and vehicles for which the waiver is sought. In addition, a waiver may be granted only if the Administrator determines that (1) such waiver is essential to the public interest or the public health and welfare of the United States, (2) the applicant has made all good faith efforts to meet the established standards, (3) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy, and (4) studies and investigations of the National Academy of Sciences and other information available to him have not indicated that technology, processes, or other alternatives are available to meet such standards.

In order for a waiver to be granted, the Administrator must determine that the applicant has provided information sufficient to satisfy each of the waiver criteria set out above. However, the Administrator is not required to make his determination solely on the record of the public hearing, and may consider any additional information as well. All information considered by the Administrator will be included in the public docket.

EPA has held public hearings regarding CO waiver applications on three separate occasions. The first hearing, which considered applications submitted by General Motors, Chrysler, American Motors, Volkswagen, Toyota and BL Cars, commenced July 9, 1979 and lasted four days. The Administrator's consolidated decision on those waiver applications was published on September 13, 1979. (44 FR 53376). The second hearings were conducted on September 12, 1979, and considered waiver applications from Toyo Kogyo, Nissan, Fuji Heavy Industries and Renault. The consolidated decision was published on December 3, 1979. (44 FR 69416). The third hearings, conducted on November 5, 1979, considered new waiver requests by Toyota, Chrysler, American Motors and General Motors for models previously denied waivers and requests by Lotus regarding vehicle models not previously addressed. A consolidated decision on this third set of waiver requests has been announced and will be published in the Federal Register shortly.

In addition to testimony provided by each waiver applicant, testimony has been given at these hearings by other automobile manufacturers and by several emission control system part supplies. Information considered for each of these decisions is contained in Public Dockets EN–79–4, EN–79–17 and EN–79–19, respectively. Each new docket in these waiver proceedings incorporates the previous waiver hearing docket by reference. Thus, Public Docket EN–80–1, pertaining to this latest group of waiver applications, will incorporate each of the three aforementioned dockets.

Peugeot submitted its CO waiver application on January 8, 1980. The sixty day decision period specified in the Act requires the Administrator to decide on the application on or before March 10, 1980. The Renault reapplication was submitted on January 14, 1980, and the Administrator's decision is therefore required on or before March 14, 1980.

EPA will hold a public hearing on Peugeot's and Renault's waiver applications and on applications received from any other motor vehicle manufacturers on or before February 6, 1980, in the General Services Administration Auditorium, 7th and D Streets, SW., Washington, D.C. 20460, commencing at 8:00 a.m. on February 12, 1980. EPA encourages all manufacturers still planning to request a CO waiver to file their applications by the February 6 deadline. This will facilitate review of as many outstanding waiver applications as possible in one consolidated proceeding. Submitting applications at a reasonable time before the scheduled proceedings will facilitate the Administrator in making a timely decision.

PROCEDURES: The public hearing is intended to provide an opportunity for interested persons to state their views or arguments, or to provide pertinent information concerning the action requested of the Administrator by the applicant. Any person desiring to make an oral statement at the hearing should file a notice of such intention and 10 copies of the proposed testimony and other relevant material in the Central Docket Section at the address listed above no later than February 6, 1980. If feasible at least 75 copies of such statement or material for the hearing record and for general circulation should be submitted to the Presiding Officer at the time of the hearing. In addition, any person may submit written questions at any time during the hearing to be propounded to the witnesses by the hearing panel to the extent practicable. Relevant statements and information not specifically required by the hearing panel may be filed in the public docket until February 25, 1980, to insure their consideration in the Administrator's evaluation of the waiver applications at issue. Submissions received after that date will be considered to the extent practicable in reaching decisions within the time periods specified by the Act.

Where appropriate, representatives of the applicants will be required under the subpoena authority of section 307(a)(1) of the Act to attend the hearing and respond to questions propounded by the hearing panel. Moreover, other parties may also be subpoenaed to produce relevant information and provide testimony before the hearing panel. Section 307(a)(1) also authorizes the administration of oaths to testifying parties.

The Presiding Officer will have the responsibility for maintaining order, excluding irrelevant or repetitious material, scheduling presentation, directing that corroborative material be submitted in writing and, to the extent possible, notifying participants of the time at which they may appear.

As was the case in the previous three CO waiver public hearings, presentations by the participants in this hearing should be addressed exclusively to the following considerations:

1. Whether protection of the public health requires attainment of the established CO standard of 3.4 gpm for the model years to which the waiver would apply.

2. Whether the requested waiver is essential to the public health and welfare of the United States.

3. Whether the applicants have made all good faith efforts to meet the CO standard for those model years and vehicles for which the waiver is sought.

4. Whether effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy.

5. Whether studies and investigations of the National Academy of Sciences and other information indicate that alternatives are available to meet such standards.

6. The level of CO emissions, not to exceed 7.0 gpm, which could be met in each of the model years for which a waiver is requested and which would reflect the greatest degree of emission control achievable by use of available technology, giving appropriate consideration to the cost of applying such technology within the available time period.

A verbatim record of the proceedings will be made and will be available for public inspection. A copy of the transcript may be requested from the reporter during the hearing and will be made at the expense of the person so requesting. Copies of other documents in the public record may also be obtained as specified in 40 CFR Part 2.

Dated: January 25, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-3065 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-30174; FRL 1403-4]

Pesticide Programs; Receipt of Application to Conditionally Register a Pesticide Product Containing New Active Ingredient

AGENCY: Office of Pesticide Programs, Environmental Protecton Agency (EPA, or the Agency).

ACTION: Notice of receipt of applicion.

SUPPLEMENTARY INFORMATION: Texas Biological Controls, Rt. 1, PO Box 163F4, Bastrop, TX 78602, has submitted to EPA an application to conditionally register the pesticide product Locustcide (EPA File Symbol 43356-R) containing 100% of the active ingredient *nosema locustae* which has not been included in any previously registered pesticide product. The application proposes that the pesticide be classified for general use for grasshopper control.

Notice of approval or denial of this application to conditionally register Locustcide will be announced in the **Federal Register.** Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR 162.6), the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved. Notice of receipt of this application does not indicate a decision by the Agency on the application.

COMMENTS/INQUIRIES: Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed, to Product Manager (PM) 17, Mr. Franklin Gee, Room E-341, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/426-9417.

The Comments must be received on or before March 3, 1980, and should bear a notation indicating the EPA "File Symbol 43356-R". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by Texas Biological Controls, as well as all written comments filed in connection with this notice, will be available for public inspection in the Product Manager's Office from 8:30 am. to 4:00 p.m., Monday through Friday, excluding holidays.

(Section 3(c)(4), FIFRA and 40 CFR 162.6.)

Dated: January 25, 1980.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 80-3069 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-59002; FRL 1403-2]

Pesticides and Toxic Substances; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of application for exemption from premanufacture requirements for test marketing purposes; request for comments.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under Section 5(h) the Agency may, upon application, exempt any person from any requirement of Section 5 permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to publish in the **Federal Register** a notice of receipt of any such application. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATES: The Agency must either approve or deny this application by March 1, 1980. Persons should submit written comments on the application no later than February 15, 1980.

ADDRESS: Written comments should bear the identifying notation "OPTS-59002", and should be submitted in triplicate, if possible, to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, 401 M St. SW., Washington, D.C. 20460. All comments submitted and other nonconfidential information in the public record are available for public inspection from 9:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room 447, East Tower, at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. George Bagley, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460 (202/426-3936).

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. (Notice of availabity of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558)). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with Section 5(d) and any applicable requirement of Section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemical substances that are subject to testing rules under Section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under Section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of Section 5. In particular, Section 5(h)(1) authorizes EPA, upon application, to exempt persons for any requirement of Section 5(a) or Section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register**.

EPA has proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979 and 44 FR 59764, October 16, 1979) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concering the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy (44 FR 28564, May 15, 1979) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Dated: January 28, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

Test Marketing Exemption Application No.: 5AHQ–0180–0106

Close of Application Review Period: March 1, 1980

Applicant's Identity: Hercules Inc., Wilmington, DE 19889

Chemical Indentity: Dipropylene glycol polyester of byproducts from the manufacturer of dimethyl ester of 1,4-benzene-dicarboxylic acid.

Specific Use Information: 90-day humidity aging tests of rigid urethane foam and other performance tests.

Data:

The product is shipped molten and is loaded at a temperature range of 100–110° C (212–230° F).

Physical data	
Boiling point, 760 mm hg	Not applicable.
Vapor pressure @ 25°C	0.03 mm Hg dipropylene glycol.
Vapor density (air = 1)	4.6 dipropylene glycol.
Solubility in water percent by weight.	Appreciable.
Viscosity at 25°	32,000 cps max.
Specific gravity (H_2O = 1)	1.15 typical.
Percent volatile by volume	Unknown.
Evaporation rate (butyl acetate = 1).	<1.
Ph	
Fire and explosion hazard data	
Flash point	183° (361°F) COC.
Auto ignition temperature	Unknown.
Flammable limits in air	Lower 1.3 dipropylene glycol.
Percent by volume	Upper 8.5 dipropylene glycol.
Extinguishing media	Not applicable.
Special fire-fighting procedures.	Cool containers with water if exposed to fire.
Unusual fire and explosion hazards.	None.

Hazardous ingredients		*TSV–TWA values adopted by ACGIH 1979*
Free dipropylene glycol	10–15%	Not established.
Cobalt	<.50 ppm	0.1 mg/m³.

Reactivity Data: The substance is stable, no conditions to avoid, no incompatibility (materials to avoid), no hazardous decomposition products, and hazardous polymerization will not occur.

The manufacturer states that the company's manufacturing process and normal customer handling of the material minimize the opportunity for worker exposure.

[FR Doc. 80–3067 Filed 1–30–80; 8:45 am]

BILLING CODE 6560–01–M

[OPTS—51018; FRL 1403–3]

Pesticides and Toxic Substances; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of a premanufacture notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register**. This Notice announces receipt of a PMN and provides a summary.

DATE: Persons who wish to file written comments on a PMN should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number "5AHQ0180–0099" and should be submitted in triplicate, to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460.

Nonconfidential portions of the PMN and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E–447 at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Wilson, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426–3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. (Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558)). The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms (44 FR 2242, January 10, 1979). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see the section entitled "Notice in the **Federal Register**" on p. 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under Section 5(d)(2) EPA must publish in the

Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under Section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the Section 5(d)(2) notice is subject to § 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** Notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

EPA has 90 days to review a PMN once the Agency receives it (Section 5(a)(1)). The Section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under Section 5(c), EPA may for good cause extend the review period for up to an aditional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under Section 5(a)(1)(A).

(Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604))

Dated: January 28, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No.: 5AHQ–0180–0099.

Close of Review Period: April 8, 1980.

Manufacturer's Identity: Witco Chemical, 633 Court St., Brooklyn, NY 11231.

Specific Chemical Identity: Fatty acid, tall oil, epoxidized C7 alkyl, and C9 alkyl ester mixture.

Use: The product is used as an epoxy plasticizer in vinyl chloride polymer plastics. The manufacturer states that it is not intended or expected to be used in drinking water contact materials.

Data: Physical/Chemical Properties:

Specifications (applicable to both C7–C9 mixed ester and C8 ester of epoxidized tall oil fatty acid):

Color (Gardner)	1 maximum.
Specific gravity at 25°C	0.920 ± 0.010.
Oxirane oxygen (ASTM D 1692–73).	4.8% minimum.
Iodine value (Wijis method)	2.5 maximum.

Properties of laboratory preparation of C7–C9 mixed ester and C8 ester of epoxidized tall oil fatty acid made from the same lot of tall oil fatty acid:

	C7–C9 mixed ester	C8 ester
Color (Gardner)	1	1
Specific gravity at 25° C	0.916	0.917
Oxirane oxygen (ASTM D 1692–73)	4.96	4.97%
Iodine value (Wijis method)	1.79	1.73
Acid value (mg KOH/g)	0.72	0.06
Refractive index 25° C	1.4565	1.4568
Moisture	0.05%	0.05%
Flash point (C.O.C.)	220	220
Solubility in water, 20% C	<0.01%	<0.01%

Human Exposure and Environmental Release:

The manufacturer stated that the product will be manufactured at a site in Taft, Louisiana with 8 workers employed in the operating unit. According to the manufacturer, this manufacturing operation normally runs 24 hours per day for 200–300 days per year, and the manufacturer estimates that between 50,000 kg and 10,000,000 kg of the product will be manufactured each year during the first three years of production. The company claims that due to the enclosed and continuous nature of the manufacturing process, worker exposure to the product under normal operating conditions is nil.

The manufacturer stated its belief that direct exposure of workers to the liquid product will occur only in accidental situations such as spills or leaks during loading or transferring of the product, and that its low volatility makes inhalation or other vapor exposure improbable. The manufacturer stated that it was unable to give any estimate of the exposure of workers to this substance at sites outside of its control. No estimates of consumer exposure were provided.

The company claims that because of the enclosed and continuous nature of the manufacturing process and the low volatility and water solubility of the product, environmental release of the product under normal operating conditions is nil.

[FR Doc. 80–3068 Filed 1–30–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1403–6]

Science Advisory Board; Water Quality Criteria Subcommittee; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the Water Quality Criteria Subcommittee of the Science Advisory Board will be held on February 22, 1980, beginning at 9:00 a.m., in the Shenandoah Conference Room A and B, Ramada Inn Rosslyn, 1900 North Fort Myer Drive, Arlington, Virginia.

This is the fifth meeting of the Water Quality Criteria Subcommittee. The Agenda includes consideration of the Subcommittee's revision of the draft report on the methodologies used in the development of water quality criteria to protect aquatic life and human health for the 27 specified pollutants, listed in the **Federal Register,** Part V, pages 15926–15981, March 15, 1979, and for the 26 specified pollutants listed in the **Federal Register,** Part III, pages 43660–43697, July 25, 1979, and on selected criteria documents.

The meeting is open to the public. Because of the limited seating capacity of the meeting room, all members of the public desiring to attend must preregister no later than February 19, 1980, and receive a confirmed reservation from Dr. J. Frances Allen, Staff Officer, Water Quality Criteria Subcommittee, or Ms. Anita Najera, (202) 472–9444.

Dated: January 28, 1980.

Richard M. Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 80–3066 Filed 1–30–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–71]

Germania Federal Savings & Loan Association, Alton, Ill.; Final Action Approval of Conversion Application

Dated: January 25, 1980.

Notice is hereby given that on January 23, 1980, the Federal Home Loan Bank

Board ("Board"), as governing head of the Federal Savings and Loan Insurance Corporation, by Board Resolution No. 80–53 approved the application of Germania Federal Savings and Loan Association, Alton, Illinois for permission to convert to the stock form of organization. Copies of the application are available for inspection through the Secretariat of said Board, 1700 G. Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Board at the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80–3096 Filed 1–30–80; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL RESERVE SYSTEM

F & M National Corp.; Acquisition of Bank

F & M National Corporation, Winchester, Virginia, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Massanutten Bank and Trust, Harrisonburg, Virginia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 25, 1980. 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.

Board of Governors of the Federal Reserve System, January 23, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80–3054 Filed 1–30–80; 8:45 am]

BILLING CODE 6210–01–M

First Union Bancorp.; Acquisition of Bank

First Union Bancorporation, St. Louis, Missouri, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 90 per cent or more of the voting shares of First National Bank of Neosho, Neosho, Missouri. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 1980. 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.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80–3049 Filed 1–30–80; 8:45 am]

BILLING CODE 6210–01–M

Johnson State Bancshares, Inc.; Formation of Bank Holding Company

Johnson State Bancshares, Inc., Johnson, Kansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 95 per cent or more of the voting shares of The Johnson State Bank, Johnson, Kansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 25, 1980. 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.

Board of Governors of the Federal Reserve System, January 23, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80–3051 Filed 1–30–80; 8:45 am]

BILLING CODE 6210–01–M

Indiana National Corp.; Proposed Acquisition of Indiana Mortgage Corporation

Indiana National Corporation, Indianapolis, Indiana, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of Indiana Mortgage Corporation, Indianapolis, Indiana.

Applicant states that the proposed subsidiary would engage in the activities of making, acquiring for its own account or for the account of others, loans and other extensions of credit such as would be made, for example, by a mortgage company; servicing loans and other extensions of credit for any person; and leasing real property or acting as agent, broker, or advisor in leasing such property. These activities would be performed from offices of Applicant's subsidiary in Indianapolis, Indiana. The geographic areas to be served with respect to each activity are as follows: servicing permanent income property mortgage loans and leasing real property or acting as agent, broker or advisor in leasing such property, the State of Indiana excluding Lake and Porter Counties but including those Ohio and Kentucky counties located within the Cincinnati and Louisville SMSA's; originating and servicing residential mortgage loans, the eight counties in the Indianapolis SMSA; origination of permanent income property mortgage loans and interim construction and land development loans, the Indiana counties of Bartholomew, Boone, Brown, Clinton, Delaware, Hamilton, Hancock, Hendricks, Howard, Johnson, Madison, Marion, Monroe, Montgomery, Morgan, Owen, Putnam, Shelby, Tippecanoe, and Tipton. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of 25.4(b).

Interested persons may express their views 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 25, 1980.

Board of Governors of the Federal Reserve System, January 22, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3052 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

Minnesota Banc Holding Co.; Formation of Bank Holding Company

Minnesota Banc Holding Company, Waterville, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 81.3 per cent of the voting shares of Citizens State Bank of Waterville, Waterville, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 25, 1980. 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.

Board of Governors of the Federal Reserve System, January 24, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3053 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

New England Merchants Company, Inc., Acquisition of Bank

New England Merchants Company, Inc., Boston, Massachusetts, has applied for the Board's approval under § 3(a)(5) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(5)) to merge with Massachusetts Bay Bancorp, Inc., Lawrence, Massachusetts. The factors that are considered in acting on the application are set forth in §3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 25, 1980. 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.

Board of Governors of the Federal Reserve System, January 23, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3048 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

River Valley Bancshares, Inc.; Formation of Bank Holding Company

River Valley Bancshares, Incorporated, Lewiston, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 79.6 percent of the voting shares of Lewiston State Bank, Lewiston, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 22, 1980. 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.

Board of Governors of the Federal Reserve System, January 22, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3055 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

The Salida Corp.; Formation of Bank Holding Company

The Salida Corporation, Salida, Colorado, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 95 per cent or more of the voting shares of The Chafee County Bank, Salida, Colorado. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 25, 1980. 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.

Board of Governors of the Federal Reserve System, January 24, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3046 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

Zions Utah Bancorp.; Acquisition of Bank

Zions Utah Bancorporation, Salt Lake City, Utah, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 99 per cent of the voting shares of Zions First National Bank of Orem, Orem, Utah. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 25, 1980. 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.

Board of Governors of the Federal Reserve System, January 24,1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3047 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

Zions Utah Bancorp.; Acquisition of Bank

Zions Utah Bancorporation, Salt Lake City, Utah, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 98.8 per cent of the voting shares of Zions First National Bank of Cedar City, Cedar City, Utah. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 25, 1980. 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.

Board of Governors of the Federal Reserve System, January 24, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3050 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on January 18, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before February 19, 1980, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Interstate Commerce Commission

The ICC requests an extension without change clearance of Annual Report, Form C-1, required to be filed by some 160 persons furnishing cars to railroads or express companies (other than refrigerator car lines owned or controlled by railroad companies) and owning or operating 10 or more cars. ICC states that the data collected are used for economic regulatory purposes. Reports are mandatory and available for public use. The ICC estimates reporting burden will average two hours per annual report.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-3152 Filed 1-30-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Notice of Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of February 1980:

National Advisory Mental Health Council
February 13-15, 1980, 9:30 a.m.
Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland
Open—February 13
Closed—Otherwise
Contact: Mrs. Zelia Diggs, Room 9-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-4333
Purpose: The National Advisory Mental Health Council advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.
Agenda: On February 13 the meeting will be open for discussion of NIMH policy issues. These will include current administrative, legislative, and program developments. Otherwise, the Council will conduct a final review of grant applications for Federal assistance and these sessions will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Life Course, Review Committee
February 27-29, 1980, 9:00 a.m.
Counsel Room & Quorum Room, Sheraton Inn Washington-Northwest, 8727 Colesville Road, Silver Spring, Maryland 20910
Open—February 27, 9:00-10:00 a.m.
Closed—Otherwise
Contact: Mrs. Diana Souder, Room 9C-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1367
Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of child, family, and aging, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00-10:00 a.m., February 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. The NIMH Committee Management Officer who will furnish upon request summaries of the meetings and rosters of the committee members is Mrs. Zelia Diggs, Office of the Associate Director for Extramural Programs, NIMH, Room 9-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-3016 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-88-M

Health Services Administration

Assistance Under the Public Health Service Act Project Grants for General Family Planning Training; Announcement of Availability of Grants

The Health Services Administration announces that competitive applications

are now being accepted for grants for fiscal year 1980 for general family planning training projects. These grants are authorized by section 1003(a) of the Public Health Service Act (42 U.S.C. 300–01(a)) which authorizes the Secretary of Health, Education, and Welfare to make grants to public or nonprofit private entities to provide training for personnel to carry out family planning service programs described in section 1001 of the Public Health Service Act (42 U.S.C. 300). The amount available under this announcement is $2,000,000.

The Secretary will make grants to eligible applicants to assist in the establishment and operation of projects which will promote the purposes of section 1003 of the Act, taking into account the degree to which the project meets the requirements of the regulations (see 42 CFR § 59.205 and § 59.206).

Applications are invited for the following 10 grants:

One general training grant for HEW Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont);

One general training grant for HEW Region II (New Jersey, New York, Puerto Rico, and Virgin Islands);

One general training grant for HEW Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia);

One general training grant for HEW Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee);

One general training grant for HEW Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin);

One general training grant for HEW Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas);

One general training grant for HEW Region VII (Kansas, Missouri, Nebraska, and Iowa);

One general training grant for HEW Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming);

One general training grant for HEW Region IX (American Samoa, Arizona, California, Guam, Hawaii, Nevada, Trust Territory of Pacific Islands, and Wake Island); and

One general training grant for HEW Region X (Alaska, Idaho, Oregon, and Washington).

Applications must be submitted to the appropriate A–95 Clearinghouse Agency (see Office of Management and Budget Circular A–95, Revised) and to the appropriate Health Systems Agency(s) at least 60 days before the due date for completed applications to the Bureau of Community Health Services.

Application kits, including all necessary forms, instructions, and information relating to the grant applications may be obtained upon written request from: Grants Management Branch, Bureau of Community Health Services, 5600 Fishers Lane, Room 6–49, Rockville, Maryland 20857.

Completed applications must be received by May 1, 1980. Completed applications should be submitted to the Grants Management Branch at the above address.

Dated: January 21, 1980.

George I. Lythcott,

Administrator, Health Services Administration.

[FR Doc. 80-3002 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-84-M

Assistance Under the Public Health Service Act Project Grants for Family Planning Nurse Practitioner Training; Announcement of Availability of Grants

The Health Services Administration announces that competitive applications are now being accepted for award of grants in fiscal year 1980 for family planning, nurse practitioner training.[1] These grants are authorized by section 1003(a) of the Public Health Service Act (42 U.S.C. 300a–1(a) which authorizes the Secretary of Health, Education, and Welfare to make grants to public or nonprofit private entities to provide training for personnel to carry out family planning service programs described in section 1001 of the Public Health Service Act (42 U.S.C. 300). The amount available under this announcement is $1,000,000.

The Secretary will make grants to eligible applicants to assist in the establishment and operation of projects which will promote the purposes of section 1003 of the Act, taking into account the degree to which the project meets the requirements of the regulations (see 42 CFR § 59.205 and § 59.206).

Applications are invited for the following five grants: One nurse practitioner training grant for HEW Regions I, II, and III; One nurse practitioner training grant for HEW Region IV; One nurse practitioner tranining grant for HEW Region V; One nurse practitioner training grant for HEW Regions VI and VII; One nurse practitioner training grant for HEW Regions VIII, IX, and X.

Applications must be submitted to the appropriate A–95 Clearinghouse Agency (see Office of Management and Budget Circular A–95, Revised) and to the appropriate Health Systems Agency(s) at least 60 days before the due date for completed applications to the Bureau of Community Health Services.

Applications kits, including all necessary forms, instructions, and information relating to the grant applications may be obtained upon written request from: Grants Management Branch, Bureau of Community Health Services, 5600 Fishers Lane, Room 6–49, Rockville, Maryland 20857.

Completed applications must be received by April 1, 1980. Completed applications should be submitted to the Grants Management Branch at the above address.

Dated: January 21, 1980.

George I. Lythcott,

Administrator, Health Services Administration.

[FR Doc. 80-3003 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-84-M

[1] Such courses also may be called "obstetric-gynecologic nurse practitioner" training or "women's health care nurse practitioner" training.

National Institute for Occupational Safety and Health

Grants for Research and Demonstrations Relating to Occupational Cutaneous Hazards and Diseases

The National Institute for Occupational Safety and Health (NIOSH) announces that competitive grant applications are being invited for research and demonstration projects which will study occupational cutaneous hazards and diseases.

Up to $2,000,000 will be made available over a three-year period to support new grant applications in the area of occupational cutaneous hazards. Grant applications will be subjected to a competitive review procedure. Grantees will be expected to cost share a minimum of five percent.

Authority

Grants will be awarded and administered by NIOSH under the research and demonstration grant authority of Section 20(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(1)). Program regulations applicable to these grants are contained in Part 87 of Title 42, Code of Federal Regulations, "Research and Demonstration Grants Pertaining to Occupational Safety and Health." Except as otherwise indicated, the basic

grant administration policies of the Public Health Service are applicable to this program. This program is not subject to OMB Circular A-95.

Eligible Applicants

Eligible applicants may be universities, colleges, research institutions and other public and private nonprofit organizations including State and local governments.

Background

The most *pervasive* current occupational *health problem* in the United States is widespead, debilitating, *work-related skin disorders.* More people suffer from occupational skin disorders than any other single category of occupational disease in America. The Bureau of Labor Statistics (BLS) has reported that skin diseases and disorders have accounted for more than 40 percent of all reported occupational diseases in recent years. Moreover, inadequate reporting masks the true incidence, which is suspected to be from 10 to 15 times greater than reported in the BLS data. Today, it is generally accepted that these disorders impose a serious personal and economic burden in terms of lost production, lost wages, increased medical costs, family disruption, personal discomfort and ill health.

Program Requirements

Intensive Scientific Investigation is Needed in a number of scientific and technological areas relative to workplace skin hazards. This Program Announcement identifies the present scope of NIOSH's interest in these problems. NIOSH is the principal federal organization responsible for research under the Occupational Safety and Health Act. The Institute is responsible for identifying occupational hazards and for recommending standards and approaches to limit them. Research sponsored by NIOSH offers an early step toward the development of standards which will have a far-reaching impact on the elimination or otherwise mitigation of cutaneous hazards in the workplace.

Research Goals and Scope

The goal of this announcement is to encourage *high quality* research and demonstration grants in the following specific domains:

Data Systems Research

Projects to identify the potential extent and societal impact of occupational skin disease—

- Develop a unified data collecting system that will properly identify high risk industries, processes, and agents. The system should possess: (1) a process-specific classification; (2) a specific hazardous substance file; (3) a specific hazardous physical process file; and (4) a system for correlating 1, 2, and 3.

Biochemical and Physiological Research

Studies to elucidate the nature of occupational skin disease—

- Develop new models for studying percutaneous absorption and estimating systemic uptake. These models should focus and elucidate the biochemical and physiological aspects of penetration as they may be affected by hydration, organic solvents, age, and by the physiochemical characteristics of the penetrant;
- Elucidate the structural (cellular) and biochemical aspects of non-allergic inflammatory reactions (direct irritation).
- Determine differences in pathophysiologic patterns as influenced by molecular characteristics of the irritant, rates of penetration, metabolism, lysosomal and kinin activities. These characteristics should be correlated with irritant capacity and type of irritant damage.
- Examine the action of marginal irritants on cell organelles.
- Determine the cellular and biochemical, or metabolic factors associated with the "turning off" of the inflammatory response on continued exposure.
- Determine the long-term cutaneous effect of polychlorinated biphenyls and dioxins in humans.
- Determine the biologic mechanisms involved in the pathogenesis of adverse skin effects of acnegenic agents, such as PCBs, dioxins, and dibenzofurans. Attention should be given to the action of such agents and metabolites on sebaceous cells, on keratinocytes, on lipid metabolism, on cutaneous flora which produce lipolytic enzymes, on endocrine activity (including direct or indirect androgenic effects), and on pigmentation and its relation to porphyrin metabolism and ultraviolet radiation reactivity.

Epidemiological Research

Studies which consider the epidemiology of occupational cutaneous diseases—

- Determine the long-term cutaneous effect of polychlorinated biphenyls and dioxins in humans.
- Determine the chronic effects, particularly those relating to skin, of exposure of workers and their families to 2, 3, 7, 8, tetrachlorodibenzodioxin in the last thirty years.
- Examine the dermatological manifestations of other occupational illnesses.
- Determine systemic manifestations (acute and chronic) of toxic substances absorbed through the skin.

Test Methdology Research

Projects to improve test methodologies and facilitate early identification of cutaneous hazards—

- Appraise current methods for predicting cutaneous hazards and develop new methods for assessing adverse effects, other than contact dermatitis or photosensitization, such as detection of marginal irritants, acnegenic substances, granulomatous agents, and pigment altering substances.
- Develop research methodologies, including non-biological screening techniques, to determine the potential cutaneous hazards of all existing and new commercial substances, processes and agents.

Control Technology Research

Studies to develop new and improved methods to prevent occupational skin disease—

- Develop new or improved methods to prevent skin penetration by specific types of compounds.
- Adapt existing methods, as well as develop new methods, of monitoring and controlling cutaneous hazards in the workplace.
- Seek to use innovative approaches, such as alternative materials, engineering controls, process modification, and protective equipment to prevent occupational skin disease problems already identified, and to solve emerging problems.

Health Education Research

Projects to increase awareness of the importance of occupational skin diseases—

- Develop education and training programs for health professionals, workers, and management to increase their awareness of occupational skin diseases.

Criteria for Review

Applications will be reviewed by an appropriate peer review group on the basis of scientific merit, including an assessment of the importance of the proposed research problem; the novelty and originality of the approach; the training, experience, and research competence or promise of the investigator(s); the adequacy of the experimental design; the suitability of the facilities; and the appropriateness of the requested budget relative to the work proposed. Demonstration grant

applications will be reviewed additionally on the basis of the following criteria:

1. Degree to which project objectives are clearly established, obtainable, and for which progress toward attainment can and will be measured.

2. Availability, adequacy and competence of personnel, facilities, and other resources needed to carry out the project.

3. Degree to which the project can be expected to yield or demonstrate results that will be useful and desirable on a national or regional basis.

4. The substantive merit and potential contribution of the project toward developing knowledge and techniques for meeting the objectives of the Occuptional Safety and Health Act.

5. Extent of and expected cooperation of industry, unions, or other participants in the project, where applicable.

Application and Award

Applications should be submitted on Form PHS–398 (or PHS–5161–1 for State and local governments). Forms should be available from the institutional business offices or from the addresses listed below. The conventional presentation for grant applications should be utilized and the points identified under Criteria for Review must be fulfilled.

Care should be taken in following the instructions included with the application form making certain to fulfill the points identified under the heading "Criteria for Review."

An original and six copies (original and two for State and local governments) of the application should be sent or delivered to: Application Receipt, Division of Research Grants, NIH, Room 240, Westwood Building, Bethesda, Maryland 20205.

In the upper left hand corner of the face page under the words "Grant Application",: the application must be labelled "In Response to Program Announcement: (CDC–NIOSH—OECSP–80—1) The name of the applicant institution, principal investigator, and title of the proposed project should be sent to NIOSH at: Grants Administration and Review Branch, OECSP, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 8–63, Rockville, Maryland 20857.

The proposed timetable for receiving applications and awarding grants is as follows:

Application deadline	Review group meeting date	Expected start date
Mar 1	June	Dec. 1.
July 1	October/November	Apr 1.
Nov. 1	February/March	July. 1.

Applications received after a particular deadline date will be considered with the applications received for the next deadline date.

Awards will be made based on priority score ranking and emphasis area, as well as, availability of funds.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph West, Grants Management Officer, NIOSH, 5600 Fishers Lane, Room 8–35, Rockville, Maryland 20857, telephone: (301) 443–3122.

or

Mr. Roger A. Nelson, Research Grants Program Officer, NIOSH, 5600 Fishers Lane, Room 8–63, Rockville, Maryland 20857, telephone: (301) 443–4496.

(Catalog of Federal Domestic Assistance Program No. 13.262, Occuptional Safety and Health Research Grants)

Dated: January 23, 1980.

William A. Felsing, Jr.,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 80–3015 Filed 1–30–80; 8:45 am]

BILLING CODE 4110–87–M

Lockout and Interlock Systems and Devices; Request for Information

AGENCY: National Institute for Occupational Safety and Health, (NIOSH), Center for Disease Control, Public Health Service, HEW.

ACTION: Notice of request for information.

SUMMARY: NIOSH is requesting information concerning the use of effective lockout and interlock devices, systems, and procedures for the protection of workers.

A lockout device or system maintains a machine, system, or process in a safe condition during maintenance, repair, or trouble shooting. There are basically three types of situations where lockout devices or systems are involved for hazard reduction.

(1) Locking out to prevent movement or motion commonly involves electrically powered equipment, but does include hydraulic, pneumatic, steam and other energy sources.

(2) Lockouts are used to prevent hazardous atmospheric generation, most commonly encountered in confined space work, through the control of the process functions.

(3) Lockouts are used to preclude exposure to electrical currents. Some examples are mechanical means to block moving parts of machines, isolation of process piping systems by locking control valves, and electrical disconnect switches.

An interlock device or system causes a machine, system, or process to go to a safe condition without operator intervention. Electrical and mechanical interlocks play a vital role in ensuring that machines, systems, and processes are operated in a safe manner. Such interlocks are deliberately built into the design of the system in order to make sure that certain predetermined conditions are satisfied before subsequent events or operational activities are allowed to take place. Examples are pressure switches, mechanical linkages, and limit switches.

The information being requested will be used by NIOSH to develop criteria for comprehensive recommendations for occupational safety and health standards.

DATES: Comments concerning this notice should be submitted by (60 days after publication).

ADDRESS: Comments and recommendations should be submitted in writing to: Mr. John A. Gerard, Chief, Standards and Consultation Branch, Division of Safety Research, *SCB No. 101*, National Institute for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, WV 26505.

FOR FURTHER INFORMATION CONTACT: Eugene D. Regad, Safety Engineer, Standards and Consultation Branch, Division of Safety Research, NIOSH, (304) 599–7574 or FTS 923–7574.

SUPPLEMENTARY INFORMATION: NIOSH conducts research and experimental programs to develop criteria for new and improved occupational safety and health standards. NIOSH is currently collecting information and data pertaining to lockout and interlock systems and devices. Interested persons are invited to submit information, suggestions and comments they believe relevant to criteria for interlocks and lockouts. At this time NIOSH is particularly interested in information in the following areas:

(1) What recommendations are appropriate in guides for determining lockout and/or interlock application? Cite examples and application.

(2) What training and motivation methods are effective in instructing workers in lockout and/or interlock systems operations?

(3) What types of permits and records have been found necessary or useful in safe operation of lockouts and/or interlocks?

(4) What devices are available to retrofit equipment that does not have interlocks or lockout facilities?

(5) What devices are available for interlock or lockout functions in new equipment designs?

(6) What is the appropriate content for manuals and procedures for implementing lockout and/or interlock systems, including removal and/or restart practices? Cite examples and specific application.

(7) What statistical data has been collected on accidents and injuries, including near-misses, related to problems with interlocks and/or lockouts?

(8) Are there case studies and investigation reports available to NIOSH on accidents, injuries and near-misses? Provide appropriate copies.

(9) Is there an appropriate warning or information symbol for lockouts or interlocks? What should be the role of related symbols in lockout and interlock systems?

All information received in response to this notice, except that designated as trade secret and protected by Section 15 of the Occupational Safety and Health Act, will be available for examination and copying at the above address.

Dated: January 23, 1980.

William A. Felsing, Jr.,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 80-3014 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-87-M

National Institutes of Health

Allergy and Clinical Immunology Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Research Committee, National Institute of Allergy and Infectious Diseases on March 13 and 14, 1980, Building 31A, Conference Room 4, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9:00 a.m. until 11:00 a.m. on March 13 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public on March 13 from 11:00 a.m. until 5:00 p.m., and on March 14 from 9:00 a.m. until 5:00 p.m. for the review, discussion, and evaluation of individual grant applications. These applications, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496-7465 will provide substantive program information.

Dated: January 23, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3029 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Animal Resources Review Commitee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Animal Resources Review Committee, Division of Research Resources, March 5, 1980, Conference Room 7, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public on March 5 from 11:00 a.m. to adjournment, during which time there will be a brief staff presentation on the current status of the ARB Program as it relates to the function of the Primate Research Centers and the current status of primate supply. The Committee will select future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 5 from 8:00 a.m. to 11:00 a.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5175, will furnish substantive program information.

Dated: January 25, 1980.

(Catalog of Federal Domestic Assistance Programs No. 13.306, National Institutes of Health)

Suzanne L. Fremeau,

National Institutes of Health Committee Management Officer.

[FR Doc. 80-3031 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Animal Resources Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Animal Resources Review Committee, Division of Research Resources, March 12-14, 1980, Conference Room 9, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public on March 12 from 8:30 a.m. to 5:00 p.m., during which time there will be a workshop on mycoplasmosis in rodents. The session beginning at 8:30 a.m. on March 13, 1980 will be open for a brief staff presentation on the current status of the Animal Resources Program. The Committee will select future meeting dates. Attendence by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 13 from 11:00 a.m. to 5:00 p.m. and March 14 from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications submitted to the Laboratory Animal Sciences Program. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda,

Maryland 20205, (301) 496–5175, will furnish substantive program information.

Dated: January 25, 1980.

(Catalog of Federal Domestic Assistance Programs No. 13.306, National Institutes of Health)

Suzanne L. Fremeau,

National Institutes of Health, Committee Management Officer.

[FR Doc. 80–3042 Filed 1–30–80; 8:45 am]

BILLING CODE 4110–08–M

Biomedical Library Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on March 10–11, 1980, convening each day at 8:30 a.m. in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on March 11, and the meeting of the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications on March 12 from 9:00 a.m. to 12:00 noon in the 9th floor Conference Room of the Federal Building, 7550 Wisconsin Avenue, Bethesda, Maryland.

The meeting on March 10 will be open to the public from 8:30 to 11:00 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the regular meeting and the subcommittee meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications, as follows: March 10 from 11:00 a.m. to 5:00 p.m., March 11 from 8:30 a.m. to adjournment; and March 12 for the subcommittee meeting from 9:00 a.m. to 12:00 noon. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, telephone number: 301–496–4191, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

Dated: January 23, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.879—National Institutes of Health.)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–3044 Filed 1–30–80; 8:45 am]

BILLING CODE 4110–08–M

Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, March 14 and 15, 1980, National Institutes of Health, Building 10, Room 7N214. This meeting will be open to the public from 9:30 a.m. to 5:00 p.m. on March 14 and 9:00 to 12 noon on March 15 for disscusion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 12 noon to adjournment March 15 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Director, Division of Intramural Research, NHLBI, NIH Building 10, Room 7N214, phone (301) 496–2116.

Dated: January 23, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institute of Health.

[FR Doc. 80–3034 Filed 1–30–80; 8:45 am]

BILLING CODE 4110–08–M

Cellular and Molecular Basis of Disease Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cellular and Molecular Basis of Disease Review Committee, National Institute of General Medical Sciences, on March 10–11, 1980 at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on March 10, 1980 from 8:30 a.m. until 10:30 a.m. for background information and discussion of issues relevant to the National Institute of General Medical Sciences and its National Research Service Award training activities and research programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 10, 1980 from 10:30 a.m. until 6:00 p.m. and on March 11, 1980 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Public Information Officer, NIGMS, National Institutes of Health, Room 9A10, Westwood Building, Bethesda, Maryland 20205 (Telephone: 301/496–7301) will provide a summary of the meeting and a roster of committee members.

Dr. Lee Van Lenten, Executive Secretary, Cellular and Molecular Basis of Disease Review Committee, NIGMS, National Institutes of Health, Room 950, Westwood Building, Bethesda, Maryland 20205 (Telephone: 301/496–6125) will furnish substantive program information.

Dated: January 23, 1980.

(Catalog of Federal Domestic Assistance Program No. 13–863, General Medical Sciences)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–3033 Filed 1–30–80; 8:45 am]

BILLING CODE 4110–08–M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, on March 1–2,

1980, at the Islandia Hyatt House, 1441 Quivira Road, San Diego, California.

This meeting will be open to the public from 8:00 p.m. to 9:00 p.m. on March 1, 1980, to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 1, 1980, from 9:00 p.m. to recess, and from 8:30 a.m. on March 2, 1980 to adjournment; for the review, discussion and evaluation of an individual contract proposal. The proposal and the discussions could reveal personal information concerning individuals associated with the proposal, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 4A–21, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Room 548B, phone (301) 496–7363, will furnish substantive program information.

Dated: January 25, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3030 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Maternal and Child Health Research Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Maternal and Child Health Research Committee, National Institute of Child Health and Human Development, on March 17–18, 1980, in the Landow Building, Conference Room A, first floor, 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on March 17 from 9:00 a.m. to 10:30 a.m. to discuss items relative to the Committee's activities including announcements by the Director, Deputy Director, Associate Director for Scientific Review and the Chiefs of the Human Learning and Behavior and the Clinical Nutrition and Early Development Branches and the Executive Secretary of the Committee. Concept clearance for contract programs of the Center for Research for Mothers and Children will be discussed. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6) and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 17 from 10:30 a.m. to adjournment on March 18 for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 7C09, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members. Dr. Jane Showacre, Executive Secretary, Maternal and Child Health Research Committee, NICHD, Landow Building, Room 7C09, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1696, will furnish substantive program information.

Dated: January 25, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.865, National Institutes of Health.)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3043 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Minority Access to Research Careers Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Minority Access to Research Careers Review Committee, National Institute of General Medical Sciences, on March 6–7, 1980, 9:00 a.m., National Institutes of Health, Building 31–C, Conference Room 7.

This meeting will be open to the public on March 6, 9:00 a.m., to 12:00 a.m. The meeting will consist of opening remarks and discussion of procedural matters. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S. Code 552b(c)(6), the meeting will be closed to the public on March 6 from 1:00 p.m. to 5:00 p.m., and on March 7 from 9:00 a.m., until adjournment, for the scientific review, discussion and evaluation of institutional and individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Public Information Officer, NIGMS, Westwood Building, Room 9A–10, 5333 Westbard Avenue, Bethesda, Maryland 20205, telephone (301) 496–7301, will furnish summary minutes of the meeting and a roster of committee members.

Substantive program information may be obtained from Mrs. Dolores Lowery, Acting Executive Secretary, Westwood Building, Room 950, Bethesda, Maryland 20205, telephone (301) 496–7941.

Dated: January 23, 1980.

(Catalog of Federal Domestic Assistance Program 13.880, General Medical Sciences)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3032 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Study Sections; Meetings February–March 1980

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for February and March 1980 and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to Study Section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Marian Oakleaf, Acting Chief, Grants Inquiries Office, Division of Research Grants, Westwood Building,

National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301–496–7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each Executive Secretary whose name, room number, and telephone number are listed below each study section. Anyone planning to attend a meeting should contact the Executive Secretary to confirm the exact meeting time. All times are A.M. unless otherwise specified.

Study section	February–March 1980 meetings	Time	Location
Allergy and Immunology: Dr. Morton Reitman, Rm. 320, Tel. 301–496–7380.	February 22–25	7:00 p.m	Miramar Hotel, Santa Barbara, CA.
Applied Physiology and Orthopedics: Ms. Ileen E. Stewart, Rm. 350, Tel. 301–496–7581.	February 28–March 1	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Bacteriology and Mycology: Dr. Milton Gordon, Rm. 304, Tel. 301–496–7340.	February 21–23	8:30	Holiday Inn, Bethesda, MD.
Bioanalytical and Metallobiochemistry: Dr. Asher Hyatt, Rm. 310, Tel. 301–496–7733.	February 22–24	9:00	Miramar Hotel, Santa Barbara, CA.
Biochemical Endocrinology: Dr. Norman Gold, Rm. A–17, Tel. 301–496–7430.	February 27–29	8:30	Holiday Inn, Bethesda, MD.
Biochemistry: Dr. Adolphus P. Toliver, Rm. 318, Tel. 301–496–7516.	February 27–March 1	9:00	Linden Hill, Bethesda, MD.
Biophysics and Biophysical: Chemistry A, Dr. James C. Cassatt, Rm. 236, Tel. 301–496–7060.	February 29–March 2	9:00	Holiday Inn, Rosslyn, VA.
Biophysics and Biophysical: Chemistry B, Dr. John B. Wolff, Rm. 236, Tel. 301–496–7070.	February 21–23	8:30	Linden Hill, Bethesda, MD.
Bio-Psychology: Dr. A. Keith Murray, Rm. 220, Tel. 301–496–7058.	March 3–6	9:30	Sheraton Inn, Silver Spring, MD.
Cardiovascular and Pulmonary: Dr. Constance E. Weinstein, Rm. 339, Tel. 301–496–7901.	March 3–7	8:00	Holiday Inn, Georgetown, DC.
Cardiovascular and Renal: Dr. Rosemary S. Morris, Rm. 339, Tel. 301–496–7901.	February 20–23	8:30	Holiday Inn, Bethesda, MD.
Cell Biology: Dr. Gerald Greenhouse, Rm. 2A–04, Tel. 301–496–7020.	March 5–7	8:30	Room 9, Bldg. 31, Bethesda, MD.
Chemical Pathology: Dr. Edmund Copeland, Rm. 353, Tel. 301–496–7078.	February 19–21	8:00	Holiday Inn, Bethesda, MD.
Communicative Sciences: Dr. Michael Halasz, Rm. 321, Tel. 301–496–7550.	March 12–14	8:30	Room 7, Bldg. 31, Bethesda, MD.
Diagnostic Radiology and Nuclear Medicine: Dr. Catharine Wingate, Rm. 219, Tel. 301–496–7650.	February 25–27	8:30	Holiday Inn, Chevy Chase, MD.
Endocrinology: Mr. Morris M. Graff, Rm. 333, Tel. 301–496–7346.	March 17–20	7:00 p.m	Vacation Village Hotel, San Diego, CA.
Epidemiology and Disease Control: Dr. Ann Schluederberg, Rm. 234, Tel. 301–496–7246.	February 27–March 1	8:30	Shoreham-Americana Hotel, Washington, DC.
Experimental Therapeutics: Dr. Anne R. Bourke, Rm. 319, Tel. 301–496–7839.	February 27–March 1	8:30	Kenwood Country Club, Bethesda, MD.
Experimental Virology: Dr. Eugene Zebovitz, Rm. 206, Tel. 301–496–7474.	March 4–7	8:30	Keystone Lodge, Keystone, CO.
General Medicine A: Dr. Harold Davidson, Rm. 354, Tel. 301–496–7797.	February 22–23	9:00	El Prado Inn, Santa Barbara, CA.
General Medicine B: Dr. William Davis, Jr., Rm. 322, Tel. 301–496–7730.	March 5–8	8:30	Linden Hill, Bethesda, MD.
Genetics: Dr. David Remondini, Rm. 349, Tel. 301–496–7271.	February 21–23	9:00	Room 6, Bldg. 31, Bethesda, MD.
Hematology: Dr. Clark Lum, Rm. 355, Tel. 301–496–7508.	February 28–March 1	8:30	In Town Motel, Bethesda, MD.
Human Development: Dr. Miriam Kelty, Rm. 303, Tel. 301–496–7025.	March 4–7	8:30	Gramercy Inn, Washington, DC.
Human Embryology and Development: Dr. Arthur Hoversland, Rm. 221, Tel. 301–496–7597.	March 5–8	8:30	Linden Hill, Bethesda, MD.
Immunobiology: Dr. Mischa Friedman, Rm. 233, Tel. 301–496–7780.	March 5–7	8:30	Linden Hill, Bethesda, MD.
Immunological Sciences: Dr. Lottie Kornfeld, Rm. 233, Tel. 301–496–7179.	February 27–29	8:30	Linden Hill, Bethesda, MD.
Mammalian Genetics: Dr. Halvor Aaslestad, Rm. 349, Tel. 301–496–7271.	March 6–8	9:00	Room 10, Bldg. 31, Bethesda, MD.
Medicinal Chemistry A: Dr. Ronald Dubois, Rm. A–27, Tel. 301–496–7108.	March 5–8	9:00	Marriott Hotel, Bethesda, MD.
Metabolism: Dr. Robert Leonard, Rm. 334, Tel. 301–496–7091.	March 3–5	8:30	Room 10, Bldg. 31, Bethesda, MD.
Microbial Chemistry: Dr. Eileen Raizen, Rm. 357, Tel. 301–496–7130.	February 29–March 2	8:30	Stapleton Plaza, Denver, CO.
Molecular Biology: Dr. Donald Disque, Rm. 328, Tel. 301–496–7830.	February 21–23	8:30	Holiday Inn, Bethesda, MD.
Molecular Cytology: Dr. Ramesh Nayak, Rm. 222, Tel. 301–496–7149.	February 28–March 1	8:30	Rm. A, Landow Bldg., Bethesda, MD.
Neurological Sciences: Dr. Edwin Bartos, Rm. 207, Tel. 301–496–7000.	March 13–15	8:30	Sheraton Inn, Silver Spring, MD.
Neurology A: Dr. William Morris, Rm. 326, Tel. 301–496–7095.	March 5–8	9:00	Room 8, Bldg. 31, Bethesda, MD.
Neurology B: Dr. Willard McFarland, Rm. A–25, Tel. 301–496–7422.	February 20–23	8:30	Wellington Hotel, Washington, DC.
Nutrition: Dr. John R. Schubert, Rm. 204, Tel. 301–496–7178.	February 27–29	8:30	Room 7, Bldg. 31, Bethesda, MD.
Oral Biology and Medicine: Dr. Thomas Tarpley, Jr., Rm. 325, Tel. 301–496–7818.	February 22–25	8:30	Marriott Hotel, New Orleans, LA.
Pathobiological Chemistry: Dr. Ellen Archer, Rm. A–26, Tel. 301–496–7820.	February 18–21	8:30	Holiday Inn, Bethesda, MD.

Study section	February-March 1980 meetings	Time	Location
Pathology A: Dr. Harold Waters, Rm. 337, Tel. 301-496-7305.	February 21-24	8:00	Howard Johnson Hotel, New Orleans, LA.
Pathology B: Dr. Earl Fisher, Rm. 352, Tel. 301-496-7244.	March 5-7	8:30	Linden Hill, Bethesda, MD.
Pharmacology: Dr. Joseph Kaiser, Rm. 206, Tel. 301-496-7408.	February 26-28	8:30	Holiday Inn, Bethesda, MD.
Physiological Chemistry: Dr. Harry Brodie, Rm. 338, Tel. 301-496-7837.	February 28-March 1	8:30	Ramada Inn, Arlington, VA.
Physiology: Dr. Martin Frank, Rm. 209, Tel. 301-496-7878.	February 21-23	9:00	Sheraton Inn, Silver Spring, MD.
Radiation: Dr. Robert L. Straube, Rm. 219, Tel. 301-496-7073.	March 5-7	9:00	Holiday Inn, Chevy Chase, MD.
Reproductive Biology: Dr. Dharam Dhindsa, Rm. 307, Tel. 301-496-7318.	February 25-28	8:30	Holiday Inn, Chevy Chase, MD.
Social Sciences and Population: Ms. Carol Campbell, Rm. 210, Tel. 301-496-7906.	February 29-March 2	8:30	Shoreham-Americana, Washington, DC.
Surgery, Anesthesiology and Trauma: Dr. Keith Kraner, Rm. 336, Tel. 301-496-7771.	March 6-7	8:30	Holiday Inn, Arlington, VA.
Surgery and Bioengineering: Dr. Joe Atkinson, Rm. 348, Tel. 301-496-7506.	February 28-29	8:30	Holiday Inn (Airport), Arlington, VA.
Toxicology: Dr. Raymond Bahor, Rm. 226, Tel. 301-496-7570.	March 7-9	8:30	Holiday Inn, Washington, DC.
Tropical Medicine and Parasitology: Dr. Betty June Myers, Rm. 319, Tel. 301-496-7494.	February 27-March 1	8:30	Connecticut Inn, Washington, DC.
Virology: Dr. Claire Winestock, Rm. 309, Tel. 301-496-7605.	March 6-8	8:30	Room 6, Bldg. 31, Bethesda, MD.
Visual Sciences A: Dr. Orvil E. A. Bolduan, Rm. 439, Tel. 301-496-7280.	March 3-5	9:00	Hyatt House, Arlington, VA.
Visual Sciences B: Dr. Luigi Giacometti, Rm. 325, Tel. 301-496-7251.	March 13-16	9:00	Holiday Inn, Georgetown, DC.

(Catalog of Federal Domestic Assistance Program Nos. 13.333, 13.337, 13.349, 13.393–13.396, 13.386–13.844, 13.846–13.871, 13.876, National Institutes of Health, HEW)

Dated: January 23, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3045 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Transportation Biology and Immunology Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Committee, National Institute of Allergy and Infectious Diseases on March 10, 1980 in Building 31, Conference Room 7, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9:00 a.m. until 11:00 a.m. to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to the public from 11:00 a.m. until 5:00 p.m. for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496–7465 will provide substantive program information.

Dated: January 23, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health.)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3035 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Office of Education

Guaranteed Student Loan Program; Special Allowance for Quarter Ending December 31, 1979

The Commissioner announces that for the three-month period ending December 31, 1979, and under the statutory formula of section 438(b) of the Higher Education Act of 1965, a special allowance at an *annual rate* of nine percent will be paid to holders of eligible loans in the Guaranteed Student Loan Program.

Using the statutory formula, the special allowance for this *three-month* period was computed by determining the average of the bond equivalent rates of the 91-day Treasury bills for this period (12.40 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (8.90) upward to the nearest one-eighth of one percent (9.00), and by dividing the resultant percent by four (2.25 percent). Thus, the special allowance to be paid for this period will be 2.25 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

(Catalog of Federal Domestic Assistance No. 13.460, Guaranteed Student loan Program).

(20 U.S.C. 1087–1(b)).

January 25, 1980.

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-3027 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-02-M

Health Education Assistance Loan Program; Variable Interest Rate for Quarter Ending March 31, 1980

The Commissioner announces that for the three month period ending March 31, 1980, the variable interest rate on loans in the Health Education Assistance Loan (HEAL) Program shall be at the annual rate of 12⅝ percent.

Using the regulatory formula (45 CFR 126.13(a) (2) and (3)), the Commissioner normally would compute the variable rate for this three month period by adding the fixed annual rate (7 percent) plus a variable component which is calculated by determining the average of the bond equivalent rates of the 91-day Treasury bills for the preceding calendar quarter (12.40 percent), by subtracting 3.5 percent from that average, and by rounding the resultant percent (8.90) upward to the nearest one-eighth of one percent (9.00).

However, the regulatory formula also provides that the annual rate of the variable interest rate for a three month period shall be reduced to the highest one-eighth of one percent which would result in a rate not in excess of 12 percent for any twelve month period. For the three previous quarters the

variable interest at the annual rate has been as follows: 13¼ percent for the quarter ending June 30, 1979; 11 percent for the quarter ending September 30, 1979; and 11⅛ percent for the quarter ending December 31, 1979. Therefore, in order not to exceed the rate of 12 percent for the twelve month period ending March 31, 1980, the variable interest rate for the quarter ending March 31, 1980, will be at an annual rate of 12⅝ percent.

(Catalog of Federal Domestic Assistance No. 13.574, Health Professions Educational Assistance Act Insured Loans).

William L. Smith,

U.S. Commissioner of Education.

January 25, 1980.

[FR Doc. 80-3028 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-02-M

Social Security Administration

Redelegations of Authority To Make Determinations of Continuing Eligibility for Supplemental Security Income Benefits

Section 1611(c)(1) of the Social Security Act, as amended (the Act), authorizes the Secretary of Health, Education, and Welfare (the Secretary) to redetermine an individual's eligibility for, and the amount of, supplemental security income (SSI) benefits under title XVI of the Act, at such time or times as may be provided by the Secretary. Authority to make determinations of continuing eligibility for SSI benefits has been delegated by the Secretary to the Commissioner of Social Security (the Commissioner), with authority to redelegate (38 FR 15648, dated June 14, 1973). The Commissioner previously redelegated this authority to certain management and technical positions in the Social Security Administration (SSA). Notice is given that the Commissioner has also redelegated this authority to the following positions located in SSA's Office of Central Records Operations, Office of Central Operations;

Delegates	Scope of authority
1. Redetermination Clerks and Lead Redetermination Clerks, Redeterminations Units, Redeterminations Processing Sections, Post-Eligibility Operations Branch, Division of Claims Operations.	1.—3. SSI redetermination cases assigned to their components, to the extent permitted by their functional responsibilities, as defined by their position descriptions and operational instructions.
2. Program Analysts, Post-Eligibility Operations Branch, Division of Claims Operations.	
3. All positions in the direct line of supervision above the positions specified in items 1. and 2. above.	

These redelegations are effective on the date that this notice is published in the **Federal Register**. Further redelegations may not be made. If any delegate exercises the subject authority before this notice is published in the **Federal Register**, that action is affirmed and ratified.

Dated: January 22, 1980.

William J. Driver,

Commissioner of Social Security.

[FR Doc. 80-3060 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Reassumption of Jurisdiction—Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Hayward, Wis.

January 21, 1980.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8.

The Indian Child Welfare Act of 1978 provides, subject to certain specified conditions, that Indian tribes may petition the Secretary of the Interior for reassumption of jurisdiction over Indian child custody proceedings.

This is notice that a petition has been received by the Secretary from the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, for the tribal reassumption of jurisdiction over child custody proceedings. The petition is under review, and may be inspected and copied at the Great Lakes Agency, Bureau of Indian Affairs, Ashland, Wisconsin 54806.

Rick Lavis

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-3001 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[Coal Lease Application M43083(ND)]

Proposal to Lease Federal Coal; Notice of Hearing

The Department of the Interior, Bureau of Land Management, Dickinson District Office, P.O. Box 1229, Dickinson, North Dakota, 58601 hereby gives notice that a public meeting/hearing will be held on March 6, 1980 at 7:30 p.m., MST in the Civic Center in Beulah, North Dakota to discuss a proposal to lease Federal coal. Application has been made to the United States to lease certain coal resources in the public lands hereinafter described. The purpose of the meeting/hearing is to obtain public comments on the draft environmental assessment and on the following items: (1) The method of mining to be employed to obtain maximum economic recovery of the coal; (2) The impact that mining the coal in the proposed leasehold may have on the area, including but not limited to impacts on the environment; and (3) Methods of determining the fair market value of the coal to be offered.

The coal resource to be evaluated consists of the lower two seams of the Beulah-Zap bed (to be surface mined) in

the following described land located approximately four miles southeast of Beulah, North Dakota:

T. 143 N., R. 87 W., 5th p.m.
Section 8, N½SE¼.
Containing 80 acres.

The estimated total strippable reserves are 1,003,000 tons. The coal quality is as follows: 6900 BTU/lb.; Sulfur—0.98 percent and Ash—7.60 percent. The Beulah-Zap coal bed averages 12 feet thick over 40 acres of the described lands.

A copy of the Environmental Assessment, the case file, and the comments submitted by the public on fair market value, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Dickinson District Office, Bureau of Land Management, P.O. Box 1229, Dickinson, North Dakota 58601.

Dated: January 25, 1980.

Gerald F. Pittman,

Acting District Manager.

[FR Doc. 80-3017 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-84-M

Arizona Strip District Grazing Advisory Board; Notice of Meeting

Notice is hereby given that the Arizona Strip District Grazing Advisory Board will meet at 10:00 a.m. on Monday, March 17, 1980, at the Four-Seasons Motor Inn and Convention Center, Suite No. 8, 747 East St. George Boulevard, St. George, Utah.

The purpose of the meeting is to discuss the implementation of Allotment Management Plans on the Vermillion Resource Area and range improvement plans for the entire District.

The meeting will be open. Any person wishing to make a presentation to the Board or submit a written statement should contact the official designated below at least five (5) days prior to the meeting.

Further information concerning this meeting may be obtained from the District Manager, Bureau of Land Management, 196 East Tabernacle Street, St. George, Utah 84770. (801 673-3545)

Billy R. Templeton,

District Manager.

January 22, 1980.

[FR Doc. 80-3010 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-84-M

Socorro District Grazing Advisory Board; Meeting Notice

Notice is hereby given in accordance with Public Law 94-579, that a meeting of the Socorro District Grazing Advisory Board will be held on Tuesday, March 4, 1980.

The meeting will begin at 9:00 a.m. in the Hospitality Room of the First State Bank at 103 Manzanares Avenue NE, Socorro, New Mexico.

The agenda for the meeting will include:

(1) Discussion of the East Socorro Rangeland Program Document.

(2) Public comment period.

(3) Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 1:00 and 2:00 p.m. or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 198 Neel Avenue NW., P.O. Box 1217, Socorro, New Mexico 87801, by February 29, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Arlen P. Kennedy,

District Manager.

January 17, 1980.

[FR Doc. 80-3009 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Advisory Board; Alaska Regional Technical Working Group Committee; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92-643.

The Alaska Regional Technical Working Group Committee of the National Advisory Board will hold a meeting on February 19-20, beginning at 9:00 a.m. in Suite 311, Sheraton Hotel, 446 E. 5th, Anchorage, Alaska.

The meeting will cover the following principal subjects:

—Detailed discussion of working group function and organization
—A scoping session for sale 60, Lower Cook Inlet
—Updates on tract selections for sales 57 (Norton Basin), 70 (St. George Basin), and 71 (second generation Beaufort Sea)

The meeting is open to the public. Public attendance may be limited by the space available. Summary minutes of the meeting will be available at the Alaska OCS Office for public inspection and copying three weeks after the meeting.

For further information, contact Gordy Euler at the Alaska OCS Office, (907) 276-2955.

Dated: January 21, 1980.

Esther C. Wunnicke,

Manager, Alaska OCS Office.

[FR Doc. 80-3006 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-84-M

NATIONAL COMMISSION ON AIR QUALITY

Meeting

The National Commission on Air Quality hereby gives notice of a meeting scheduled for February 11, 1980. The meeting will be held in Room No. 269 (auditorium) of the Main Post Office located at 1823 Stout Street, in Denver, Colorado, and will begin at 9:00 a.m.

The agenda for the meeting will include the following items:

1. Discussion of activities of the Commission's Research Committee.

2. Testimony on use of economic incentives in controlling air pollution.

Questions about the meeting should be directed to Mr. Morris A. Ward at (202) 245-6355.

National Commission on Air Quality.

William H. Lewis, Jr.,

Director.

[FR Doc. 80-3419 Filed 1-30-80; 8:45 am]

BILLING CODE 6820-98-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Capitol Reef National Park, Torrey, Utah 84711.

The applicant requests a permit to capture and release Utah prairie dogs (*Cynomys parvidens*) for scientific purposes enhancing their survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, DC 20240.

This application has been assigned file number PRT 2–4828. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: January 28, 1980.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80–3102 Filed 1–30–80; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Chincoteague National Wildlife Refuge, PRT 2–374, P.O. Box 62, Chincoteague, Virginia 23336.

The applicant requests a renewal of his permit to capture, toe clip, and relocate Delmarva Peninsula fox squirrels (*Sciurus niger cinereus*) within the Chincoteague National Refuge for scientific purposes.

Applicant: Ronald F. Robbins, PRT 2–6234, Route 1, Headrick, OK 73549.

The applicant requests a permit to purchase 1 male captive bred Hawaiian goose (*Branta sandvicensis*) from the St. Louis, Missouri Zoo and 1 female and 1 male from the Denver Colorado Zoo for purposes of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: January 28, 1980.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80–3101 Filed 1–30–80; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permit; Receipt of Application

Applicant: Kansas City Zoological Park, Kansas City, Missouri 64132.

The applicant requests a permit to export in foreign commerce three white-handed gibbons *(Hylobates lar)* to the Agropecuaria El Caobanal, S.A. (Reserva Fauna Silvestre Caobanal), Guatemala for enhancement of propagation and survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–4707. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: January 25, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80–3103 Filed 1–30–80; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permit; Receipt of Application

Applicant: Earl W. and Olive Lippoldt, P.O. Box 2067, South Padre Island, Texas 78597.

The applicant requests renewal of their permit to salvage sick or injured Atlantic ridley *(Lepidochelvys kempi)*, hawksbill *(Eretmochelys imbricata)* and leatherback *(Dermochelys coriacea)* sea turtles, and to add authorization to move eggs to a protected nest.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–3340. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: January 28, 1980.

Fred L. Bolwahnn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80–3100 Filed 1–30–80; 8:45 am]

BILLING CODE 4310–55–M

[INT FEIS 80–5]

Office of the Secretary

Agricultural Development of Public Lands in Southwest Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement (FEIS) on agricultural development of public rangelands in Elmore, Owyhee, and Twin Falls Counties in southwestern Idaho.

SUPPLEMENTARY INFORMATION: The Department of the Interior Bureau of Land Management, has prepared a FEIS that addresses the impacts associated with the proposed agricultural development of public rangelands in southwest Idaho.

The proposed action would allow agricultural expansion under the Desert Land Act and Carey Act on 111,015 acres of public land. Six alternatives to the proposed action were analyzed, ranging from development of no new lands to a maximum development of 176,310 acres.

No final decision regarding this issue will be made for at least 30 days from the date of this **Federal Register** notice.

Copies of the FEIS are available for inspection at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240, Telephone: (202) 343–5717.

Boise District Office, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702, Telephone: (208) 334–1582.

Idaho State Office, Bureau of Land Management, Federal Building, 500 West Fort Street, Boise, Idaho, 83724, Telephone: (208) 384–1582.

A limited number of single copies may be obtained from the Idaho State Director, the Boise District Manager, and the Office of Public Affairs, Bureau of Land Management at the above addresses.

Dated: January 28, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-2999 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

[U-910]

Utah; Announcement of Intensive Wilderness Inventory Decision on Unit Protested

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Utah State Director's decision on a protest received on Unit UT-050-070 which was inventoried under the Intermountain Power Project (IPP) special project. The original decision was to designate an 84,771 acre area as a wilderness study area (WSA). That decision is not changed as a result of the protest received and is now in effect. That portion of the unit not designated as a WSA is dropped from further wilderness review and the restrictions imposed by Section 603 of the Federal Land Policy and Management Act (FLPMA) are no longer in effect. The portion of the unit designated as a WSA will remain under restrictions imposed by Section 603 of FLPMA.

FOR FURTHER INFORMATION CONTACT: Herbert Hunt, wilderness specialist, Richfield, Utah (801) 896-8221.

Dated: January 23, 1980.

Gary J. Mich,

State Director.

[FR Doc. 80-3018 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 164]

Assignment of Hearings

January 25, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB 55 (Sub-29F), Seaboard Coast Line Railroad Company Abandonment Near Gordonville and Bartow, in Polk County, FL, now assigned for hearing on February 11, 1980 will be held at the Counsel Chambers, City Hall, 250 North Central Avenue, Bartow, FL.

AB 9 (Sub-13), St. Louis-San Francisco Railway Company Abandonment Near Wister and Antlers, In (Leflore and Pushmataha Counties), OK, now being assigned for hearing on March 4, 1980 (9 days), at Antlers, OK, in a hearing room to be designated later.

MC 133485 (Sub-26F), International Detective Service, Inc., now being assigned for hearing on March 19, 1980 (3 days), at Providence, RI, in a hearing room to be designated later.

MC 30521 (Sub-1F), H&L Bloom, Inc., now being assigned for hearing on March 24, 1980 (1 week), at Providence, RI, in a hearing room to be designated later.

MC 78687 (Sub-58F), Lott Motor Lines, Inc., now being assigned for hearing on March 10, 1980 (2 days), at New York, NY, in a hearing room to be designated later.

MC 19311 (Sub-59F), Central Transport, Inc., now being assigned for hearing on March 12, 1980 (3 days), at New York, NY. in a hearing room to be designated later.

MC113855 (Sub-481F), International Transport, Inc., now being assigned for hearing on March 13, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 142703 (Sub-13 & 14F), Intermodal Transportation Services, Inc., now assigned for continued hearing on March 12, 1980 (3 days), at Columbus, OH, in a hearing room to be designated later.

MC 85934 (Sub-97F), Michigan Transportation Company, now assigned for hearing on January 28, 1980 is canceled and transferred to Modified procedure.

MC 103926 (Sub-72F), W. T. Mayfield Sons Trucking Company, now assigned for hearing on February 5, 1980 will be held at the Social Security Administration, Southeastern Programs Service Center, 2001 12th Avenue, North Birmingham, AL.

MC 121060 (Sub-81F), Arrow Truck Lines, Inc., now assigned for hearing on February 7, 1980 will be held at the Social Security Administration, Southeastern Programs Service Center, 2001 12th Avenue, North Birmingham, AL.

MC 41406 (Sub-97F), Artim Transportation System, Inc., now assigned for hearing on February 13, 1980 will be held at the Grand Jury Room, U.S. Courthouse, 1800 5th Avenue, North Birmingham, AL.

MC C 7996, Film Transit, Inc., v Cape Air Freight, Inc., now being assigned for prehearing conference on March 10, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC FC 77834, Plymouth Transport, Inc. Transferee and Danella Bros., Inc., Transferor now assigned for hearing on February 13, 1980 will be held in the New Court House, 601 Market Street, Philadelphia, PA.

AB 19 (Sub-42F), Baltimore and Ohio Railroad Company, Allegheny and Western Railway Company, Buffalo, Rochester and Pittsburgh Railway Company & Pittsburg and Western Railroad Company Abandonment and Discontinuance of Service between New Castle Branch, Big Run Branch and Marquis Spur, PA, now assigned for hearing on February 25, 1980 will be held on the First Floor Police Training Room, New Castle Municipal Building, New Castle, PA, and on February 27, 1980 will be held on the 2nd Floor Counsel Chambers, New Castle Municipal Building, New Castle, PA.

MC 116254 (Sub-241F), Chem-Haulers, Inc., now assigned for hearing on January 28, 1980 is canceled and transferred to Modified Procedure.

MC 142941 (Sub-35F), Scarborough Truck Lines, Inc., now assigned for hearing on February 20, 1980 will be held at the Federal Building, B-20, 125 South State Street, Salt Lake City, UT.

MC 115523 (Sub-176F), Clark Tank Lines, and MC 125916 (Sub-11F), Norwood Transportation, Inc., now being assigned for hearing on February 21, 1980 will be held at the Federal Building, B-20, 125 South State Street, Salt Lake City, UT.

MC 145980 (Sub-2F), H. C. Cook & Bobby Joe Cook, d.b.a. Cook Trucking, now being assigned for hearing on February 25, 1980, will be held in the Court Room 2, Room 215, Federal Building & Courthouse, 111 South Wolcott, Casper, WY.

MC 105120 (Sub-17F), Freightways Express, Inc., now assigned for hearing on January 21, 1980 is canceled and transferred to Modified Procedure.

MC C 10162, Dodds Truck Line, Inc. and Dodds Truck Line, Inc., Operator and Lessee of Bennett Truck Line, Inc., now assigned for hearing on January 21, 1980 is canceled and transferred to Modified Procedure.

MC 133485 (Sub-27F), International Detective Service, Inc., now being assigned for hearing on March 6, 1980 (2 days), at Providence, RI in a hearing room to be designated later.

MC 147907F, White's Garage, Inc., now being assigned for hearing on March 10, 1980 (1 week), at Boston, MA in a hearing room to be designated later.

MC 125433 (Sub-207F), F-B Truck Line Company, now assigned for hearing on March 4, 1980 at San Francisco, CA is canceled and Application Dismissed.

MC 65802 (Sub-65F), Lynden Transport, Inc., now assigned for hearing on February 11, 1980 will be held in Room No. 2866, Federal Building, 915 Second Ave., Seattle, WA.

MC 121423 (Sub-3F), Boyd Naegeli, Inc., now assigned for hearing on February 20, 1980 will be held in Suite 600-4th floor, 411-West 7th Street, Neil P. Anderson Building, Fort Worth, TX.

MC 145500 (Sub-1F), East Texas Cartage Company, now assigned for hearing on February 25, 1980 will be held in Suite 600-4th floor, 411-West 7th Street, Neil P. Anderson Building, Fort Worth, TX.

MC 26396 (Sub-223F), Popelka Trucking Company d.b.a. The Waggoners, now assigned for hearing on February 5, 1980

will be held in Room No. 5230, 316 North 26th Street, Billings, MT.
MC 129631 (Sub-63F), Pack Transport, Inc., now assigned for hearing on February 6, 1980 will be held in Room No. 5230, 316 North 26th Street, Billings, MT.
MC 136605 (Sub-93F), Davis Bros. Dist., Inc., now assigned for hearing on February 11, 1980 will be held in Room No. 5000, 316 North 26th Street, Billings, MT.
FD 21478, Great Northern Pacific & Burlington Lines, Inc., Merger, Etc.—Great Northern Railway Company Et al., and FD 21478 (Sub-4), Great Northern Pacific & Burlington Lines Inc.—Merger, Etc.—Great Northern Railway Company, Et al. (Chicago, Milwaukee, St. Paul & Pacific Railroad Company Application for Inclusion in Burlington Northern, Inc. Pursuant to Condition 33), now assigned for prehearing conference on January 29, 1980 is postponed to February 5, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 52858 (Sub-114), Convoy Company, now assigned for hearing on February 6, 1980 will be held in Room No. 1083, Federal Building, 1961 Stout Street, Denver, CO.
MC 111545 (Sub-265F), Home Transportation Company, Inc., now assigned for hearing on February 11, 12, 13, 1980 will be held at the Brown Palace Hotel, 321 17th Street, Denver, CO and on February 14, 15, 1980 will be held in Room No. 1083, Federal Building, 1961 Stout Street, Denver, CO.
MC 129631 (Sub-63F), Pack Transport, Inc., now assigned for hearing on February 6, 1980 is canceled and transferred to Modified Procedure.
MC 144672 (Sub-9F), Victory Express, Inc., now assigned for hearing on January 28, 1980 is canceled and transferred to Modified Procedure.
MC 14715 (Sub-1F), Passaic Valley Coach Lines, d.b.a. Passaic Valley Coaches, now being assigned for hearing on March 10, 1980 (2 days), at Newark, NJ, in a hearing room to be designated later.
MC 138627 (Sub-52F), Smithway Motor Xpress, Inc., now assigned for hearing on February 7, 1980 (2 days) at Omaha, NE in the Grand Jury Room, U.S. District Courthouse, 215 North 17th Street.
MC 108859 Clairmont Transfer, Co., now being assigned for hearing on March 25, 1980 (9 days) at Escanaba, MI, location of hearing room will be by subsequent notice.
MC 142416 (Sub-1 M1F), now assigned for hearing on February 25, 1980 (1 week) at Casper, WY, in Court Room 2, Room 215, Federal Building & Courthouse, 111 South Wolcott.
MC 531 (Sub-380F), Younger Brothers, Inc., now assigned for hearing on February 26, 1980 (2 days) at New Orleans, LA in Room 648 Abury Bldg., 600 South Street and also in Room 125, Hall Boggs Federal Bldg., 500 Camp Street.
MC 145370 (Sub-1F), Pharr Brothers, Inc., now assigned for hearing on February 28, 1980 (2 days) at New Orleans, LA in Room 125, Hall Boggs, Federal Bldg., 500 Camp Street.
MC 112801 (Sub-224F), Transport Service Co., now assigned for hearing on March 3, 1980 (1 day) at New Orleans, LA in Room 125, Hall Boggs Federal Bldg., 500 Camp Street.
MC 142207 (Sub-25F), Brannan Systems, Inc., now assigned for hearing on March 4, 1980 (4 days) at New Orleans, LA in Room 125, Hall Boggs Bldg., 500 Camp Street.
MC 45764 (Sub-31F), Robbins Motor Transportation, Inc., now being assigned for hearing on March 12, 1980 (3 days) at New York, NY in a hearing room to be designated later.
MC 133937 (Sub-31F), Carolina Cartage Company, Inc., Transferred to Modified Procedure.
MC 117169 (Sub-5F), Beasley Trucking Inc., now assigned for hearing on March 4, 1980 (9 days) at Denver, CO is canceled and application dismissed.
MC 138882 (Sub-183F), Wiley Sanders Truck Lines, Inc., now assigned for hearing on March 4, 1980 (2 days) at San Francisco, CA, locations of the hearing room will be by subsequent notice.
MC 113855 (Sub-469F), International Transport, Inc., now assigned for hearing on February 25, 1980 (2 days) at at Denver CO is canceled and application dismissed.
MC 145568 (Sub-9F), Gulf-Midwestern, Inc., now assigned for hearing on February 26, 1980 (2 days) at Denver, CO in Room No. C-503, U.S. Courthouse, 1961 Stout Street.
MC 145568 (Sub-10F), Gulf-Midwestern, Inc., now assigned for hearing on February 28, 1980 (2 days) at Denver, CO in Room C-503, U.S. Courthouse, 1961 Stout Street, also in Room No. 239—Second Floor, Federal Building, 1961 Stout Street.
MC 22301 (Sub-27F), Sioux Transportation Company, Inc., now assigned for hearing on February 26, 1980 (2 weeks) at Chicago, IL at De Paul College of Law, 25 East Jackson Street.

Note.—Report to Room No. 931 for hearing room assignment.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3147 Filed 1-30-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 80-2057 appearing at page 5410 in the issue for Wednesday, January 23, 1980, on page 5411, in the first column, under the heading *"Motor Carriers of Property"*, insert *"Notice No. 240"*.

BILLING CODE 1505-01-M

Southwestern Freight Bureau; Released Rates Application

ACTION: Released Rates Application No. 1936.

SUMMARY: Southwestern Freight Bureau, Agent seeks authority on behalf of member carriers participating in its Tariff ICC SWFB 3003 series to publish a released value rate applying from Saskatoon, Saskatchewan to Gore, Oklahoma on Uranium Oxides (a nuclear material) in drums, minimum weight 80,000 pounds per car. The net effect will be to limit participating rail carriers' liability to a released or declared value not to exceed 10 cents per pound.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. C. M. Herzberg, Tariff Publishing Officer, Southwestern Freight Bureau, 1015 Locust Street, St. Louis, MO 63101.

FOR FURTHER INFORMATION CONTACT: Mr. Howard J. Rooney, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, telephone (202) 275-7390.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730, formerly section 20(11) of the Interstate Commerce Act, to publish released value rates in the tariffs of Southwestern Freight Bureau, Agent.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3148 Filed 1-30-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Stress Management for Corrections Personnel; Special Announcement

This announcement, the third in a planned series of seven, continues Program Solicitation SD-20, "Development of Staff Training Materials," originally published in the National Institute of Corrections' Annual Program Plan for Fiscal Year 1979, subsequently withdrawn, and then reinstated in October 1979.

The Institute is at this time soliciting proposals for development of information and training materials, packages, and manuals—including basic curricula—in the area of stress management for corrections personnel.

Designed for use by correctional agency trainers, the materials and curricula developed by the grantee are to be tailored for (1) line staff and (2) supervisory managerial staff.

Maximum funds available for this project are $30,000. Estimated length of project is six months.

Applicants should prepare a concept paper—maximum of five pages (doubled spaced), one of which contains budget information—entitled, "Stress Management Training for Correctional Personnel," and submitted in six copies to: National Institute of Corrections, 320 First Street, N.W., Washington, D.C. 20534.

The deadline for submission is March 31, 1980. If further information is needed, please contact William Wilkey or Mary Lou Commiso of the Institute's staff at 202–724–3106.

Robert L. Smith,

Director.

[FR Doc. 80-3005 Filed 1-30-80; 8:45 am]

BILLING CODE 4410-36-M

Employee Grievance Decisions in Correctional Agencies; Special Announcement

This announcement, the fourth in a planned series of seven, continues Program Solicitation SD–20, "Development of Staff Training Materials," originally published in the National Institute of Corrections' Annual Program Plan for Fiscal Year 1979, subsequently withdrawn, and then reinstated in October 1979.

The Institute is at this time soliciting proposals for development of a compliation (case law format) of employee grievance arbitration decisions in corrections over the last twenty-five years.

Maximum funds available for this project are $35,000.

Applicants should prepare a concept paper—maximum of five pages (doubled spaced), one of which contains budget information—entitled, "Employee Grievance Decisions in Correctional Agencies," and submitted in six copies to: National Institute of Corrections, 320 First Street, NW., Washington, D.C. 20534.

The deadline for submission is March 31, 1980. If further information is needed, please contact William Wilkey or Mary Lou Commiso of the Institute's staff at 202–724–3106.

Robert L. Smith,

Director.

[FR Doc. 80-3006 Filed 1-30-80; 8:45 am]

BILLING CODE 4410-36-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-5]

Accident Reports, Safety Recommendations and Responses; Availability

Aircraft Accident Report

Inlet Marine Inc., Gates Learjet Century III, Model 25C, Anchorage International Airport, Anchorage, Alaska, December 4, 1978 (NTSB–AAR–79–18).—The National Transportation Safety Board on January 23 released its formal investigation report on the crash of Gates Learjet N77RS which occurred during the landing phase following a visual approach. The aircraft was detroyed. Light to moderate icing was forecast in clouds below 12,000 ft in the Anchorage area and turbulence, accompanied by gusting winds, was reported in the airport vicinity. The flight path was normal almost to touchdown when the aircraft suddenly pitched up and began to bank steeply from side to side. The aircraft rolled to the right and continued over until the right wing struck the ground alongside runway 06R.

Of the seven occupants on board, the two pilots and three passengers were killed, including Mrs. Ted Stevens, wife of the senior U.S. Senator from Alaska. Senator Stevens and one other passenger survived.

On a 4-to-1 vote, the Safety Board determined that the probable cause of the accident was an encounter with strong, gusting crosswinds during the landing attempt, which caused the aircraft to roll abruptly and unexpectedly. The ensuing loss of control resulted from inappropriate pilot techniques during the attempt to regain control of the aircraft. Suspected light ice accumulations on the aerodynamic surfaces may have contributed to a stall and loss of control. The majority of the Board approving the probable cause comprised Chairman James B. King, Vice Chairman Elwood T. Driver, Member Patricia A. Goldman, and Member G. H. Patrick Bursley.

Member Francis H. McAdams disagreed with the majority for holding that loss of control was due to inappropriate pilot techniques and that "suspected" light ice accumulations may have contributed. In a separate statement included in the investigation report, Member McAdams said that in his opinion the probable cause was:

* * * an encounter with strong gusting crosswinds accompanied by strong vertical and horizontal wind shear, resulting in loss of control of the aircraft.

An increased rate of descent was probably induced by the encounter with the low altitude wind shear at a critical point in the landing, accompanied by strong horizontal gusts, and ice accumulation on the wings. The stall warning system was negated by ice accumulation and the aircraft rolled abruptly to the left due to a stall or partial stall of the left wing. The minimal altitude made the pilot's response time critical and under the circumstances produced a situation where the pilot's ability to make a safe landing or a go-around was greatly diminished. The aircraft's ability to cope under these circumstances was marginal at best due to its low roll sensitivity, and a safe recovery may have been beyond the normal capability of the pilot.

As a result of this accident and several others involving general aviation aircraft, the Safety Board reiterates the following recommendations made to the Federal Aviation Administration on April 13, 1978 (43 FR 18073, April 27, 1978):

Develop, in cooperation with industry, flight recorder standards (FDR/CVR) for complex aircraft which are predicated upon intended aircraft usage. (A–78–27)

Draft specifications and fund research and development for a low-cost FDR, CVR, and composite recorder which can be used on complex general aviation aircraft. Establish guidelines for these recorders, such as maximum cost, compatible with the cost of the airplane on which they will be installed and with the use for which the airplane is intended. (A–78–28)

In the interim, amend 14 CFR to require that no operation (except for maintenance ferry flights) may be conducted with turbine-powered aircraft certificated to carry six passengers or more, which require two pilots by their certificate, without an operable CVR capable of retaining at least 10 minutes of intracockpit conversation when power is interrupted. Such requirements can be met with available equipment to facilitate rapid implementation of this requirement. (A–78–29)

Railroad Accident Report

Derailment of Union Pacific Railroad Freight Train at Granite, Wyoming, July 31, 1979 (NTSB–RAR–79–12).—Also on January 23 the Safety Board released its formal investigation report concerning the derailment of Union Pacific freight train No. GRX 31. The train, eastbound, was moving on main track No. 2 at 75 mph when the second and third locomotive units derailed and overturned in a 3°05.8′ curve, separated from the lead unit, destroyed the track, and caused the following 81 freight cars to derail. Two locomotive units were heavily damaged, 80 freight cars were destroyed, and two overpass bridges of Interstate 80 were damaged extensively. Total damage was estimated at $5 million.

The Safety Board determined that the probable cause of this accident was the loss of braking capability because of a closed angle cock in the train line, which resulted in the engineer's inability to control the speed of the train, and the failure of the conductor in the caboose to apply the train brakes in emergency when the spied became excessive.

As a result of its investigation of this accident, the Safety Board on January 10 issued to Union Pacific four recommendations (Nos. R–79–78 through 81) calling for instruction of employees concerning train brake tests, review of operating rules examination and retesting procedures, establishment of a monitoring system for employee

compliance with rules for operating trains, and equipment of locomotives with brake pipe flow indicators to enable engineers to measure trainline air flow. Also on January 10 the Safety Board issued to Federal Railroad Administration four additional recommendations (Nos. R–79–82 through 85) which asked that train brake testing requirements for Union Pacific under 49 CFR Part 232 be enforced, that railroads be required to regularly instruct and test employee's knowledge of operating rules, that monitoring for rule compliance on the Union Pacific be reviewed to insure that supervision can adequately enforce provision of a safe and efficient operation, and that a study be made of the feasibility for requiring locomotives to be equipped with brake pipe flow indicators to enable engineers to measure trainline air flow. (See also 45 FR 5852, January 24, 1980.)

Aviation Safety Recommendation Letters

A–80–8.—On January 21 the Safety Board issued the following "Class II, Priority Action" safety recommendation to the Federal Aviation Administration:

Disseminate to all Boeing 727 operators and flightcrews information of the type included in Boeing Operations Manual Bulletin 75–7 and TWA Flight Operations Safety Bulletin 79–3 which address control problems associated with high-speed asymmetrical leading edge slat configuration on B–727 aircraft. (A–80–8).

The recommendation was issued as a result of investigation of the high-speed spiral dive which a Trans World Airlines B–727 took while cruising at 39,000 feet last April 4 near Saginaw, Mich. The aircraft did not recover from the dive until the aircraft reached an altitude between 5,000 and 6,000 feet m.s.l. despite flightcrew actions to counteract the maneuver. The aircraft was then landed under emergency conditions at an alternate airport. The aircraft was damaged extensively, and the No. 7 leading edge slat on the right wing, the No. 10 spoiler panel, and several other components were missing.

During its investigation, the Safety Board examined the effects of full extension of the No. 7 slat on aircraft performance and control during level flight and descent. Using a Boeing engineering simulator, it was determined that the extended slat will generate a right roll which will be countered by the autopilot until its roll authority is exceeded. At the onset, the roll is readily recognizable and controllable as long as lateral controls are used with minimal delay and only to the extent needed to return the aircraft to a wings-level attitude. The Board notes that if the application of corrective controls is delayed and then used to full travel, an uncontrollable, steep descending spiral will develop. This occurs at certain Mach number and angle of attack relationships where the extended slat generates rolling moments that exceed the control authority available to the pilot. The spiral will continue until Mach number and angle of attack values are reduced or until the slat separates from the aircraft. The simulation results confirm the flightcrew's description of the spiral dive and the loss of roll control until the slat separated from the aircraft. Under certain conditions, recovery would not be possible.

The Safety Board believes that an extended No. 7 slat precipitated control problems that culminated in a loss of control. The Board is also aware of TWA Safety Bulletin 79–3 and Boeing Operations Manual Bulletin 75–7 that, to a degree, inform flightcrews of the recognition and control aspects of an asymmetric slat configuration. The board believes that flightcrews must be able to recognize and react to such a condition and that there is a need to more widely disseminate comprehensive guidance to flightcrews.

A–80–9 and 10.—On December 15, 1979, a Hughes 269C helicopter crashed 2 miles west of West Milton, Ohio, fatally injuring the pilot who was the only person on board the aircraft. Preliminary investigation has indicated that an in-flight separation of the tailboom occurred at the P/N 269A2324–7 tailboom center attach fitting which broke into more than three pieces that separated with the left and right tailboom support struts. The forward end of the fitting was attached to the tailboom tube by 16 rivets, with eight rivets on each side of the fitting centerline.

Fracture of the P/N 269A2324–7 fitting occurred in the web portion between the forward center portion and the left and right ends, incorporating the first three rivets forward on the left side and the second through fifth rivets forward on the right side. A preliminary metallurgical examination of the fitting fracture disclosed evidence of a large preexisting fatigue crack through approximately 90 percent of the left side fracture. High cycle, low stress fatigue crack initiations occurred at the intersection of the rivet holes and top surface of the web which mates with the tailboom tube, at the top surface of the web at the forward faying surface of the tailboom tube, and at the top surface of the flange in the forward center section of the fitting between the trust lugs. The fracture on the right side of the fitting showed evidence of a high stress, low cycle fatigue crack initiating in the web just forward of the rivets. Initiation of the right side fatigue crack was along the faying surface adjacent to the tube with fatigue progression through the fitting web thickness in the downward direction. The right side fracture appeared secondary to the left side fracture. Metallurgical examination of this component is continuing.

The Board notes that the accident aircraft had an upgraded P/N 269A2324–7 tailboom center attach fitting which had been redesigned with increased thickness in the forward lugs to make it less susceptible to cracks and structural damage than the original fitting P/N 269A2324 design. Hughes Service Information Notice (HSIN) No. N–82.3, dated September 19, 1977, prescribed an inspection of the center section fitting and other fittings in the area of the lugs but expressly states that the redesigned P/N 269A2324–7 fitting (factory equipped on all model 269C helicopters) is not subject to that notice. Moreover, HSIN No. N–82.3 does not pertain to any model 269C having a serial number greater than 569 and, therefore, was totally inapplicable to the accident aircraft.

FAA Airworthiness Directive 76–18–01, Amendment 39–2707, required inspection of the P/N 269A2324 fittings but excludes any examination of the redesigned P/N 269A2324–7 fittings. Therefore, no inspection requirements by airworthiness directive or HSIN exist for the P/N 269A2324–7 fitting. Separation of the P/N 269A2324–7 fitting will result in loss of the helicopter flights controllability. Accordingly, on January 23 the Safety Board issued two "Class I, Urgent Action" recommendations asking FAA to:

Require an immediate inspection of all tailboom center section fittings, P/N 269A2324–7, installed in Hughes model 269 helicopters for evidence of cracks. (A–80–9)

Establish a schedule for recurring inspections of that fitting based on an appropriate number of operating hours. (A–80–10)

Responses to Safety Recommendations

Aviation

A–77–30.—The Federal Aviation Administration on January 15 supplemented correspondence of November 3, 1978 (43 FR 55021, November 24, 1978) to advise that action has been completed with respect to this recommendation which concerned drive belt and overrunning clutch problems on Enstrom helicopters. FAA advises that the Enstrom Helicopter Corporation has issued Service Information Letters No. 0074, Drive Belt Inspection and Belt Life

Requirements, and No. 0079, Overrunning Clutch. FAA notes that these instructions have improved the inspections and maintenance procedures for the drive belt and clutch.

Regarding FAA's earlier suggestion to Enstrom to add a note to the rotorcraft flight manual cautioning against rapid throttle movement, FAA reassessed its position and now believes that issuance of the Service Information Letters is a satisfactory resolution of the aforementioned problems. A copy of each Service Information Letter was provided by FAA.

A–79–80 and 81. —Also on January 15 FAA responded to recommendations issued last October 17 in view of the Safety board's concern that expansion of 14 CFR Part 135 operations, and particularly commuter air carrier operations, be accompanied by measures to assure a level of safety comparable with that of the air carriers certified under 14 CFR Part 121. (See 44 FR 61477, October 25, 1979.)

Recommendation A–79–80 asked FAA to require that pilots involved in 14 CFR Part 135 operations be thoroughly trained on the performance capabilities and handling qualities of aircraft when loaded to their maximum certified gross weight or to the limits of their center of gravity envelope, or both. FAA reports that is now amending Part 135 to require operating experience similar to that required in Part 121 for any pilot prior to designation as pilot-in-command on commuter air carrier operations. This operating experience, which would expose the pilot to various gross weight operations for each make and model aircraft to be flown, will be acquired under the supervision of a company check pilot. The estimated completion date for this regulatory action is March 1, 1980. Also, FAA is issuing a directive to be more specific as to testing standards regarding pilots, as in Part 135. Although present training and testing requirements cover aircraft performance, FAA says this additional directive, scheduled for completion February 1, 1980, will cover this area in more detail.

With respect to recommendation A–79–81, which asked FAA to expedite rulemaking which would make flight time and duty time limitations and rest requirements for commuter air carriers the same as those specified for domestic air carrier crewmembers under 14 CFR Part 121, FAA says that considerable work has been done on amending present flight and duty time requirements for both Parts 135 and 121 to provide compatible requirements; the final draft of the proposed rulemaking does provide for identical requirements for these parts. The supplemental notice of proposed rulemaking, Notice No. 78–3B, on this subject should be issued by the end of March 1980.

Highway

H–78–52.—The Federal Highway Administration on January 14 noted that the Safety Board on December 19 to FHWA's December 7 response (44 FR 76606, December 27, 1979) had expressed a desire to participate in a briefing to FHWA on a research study on "Impact Attenuators for Heavy Vehicles—A Feasibility Study," related to recommendation H–78–52. The briefing was to be made by the contractor's principal investigator. Since the Safety Board's staff engineer assigned to this subject area will not be available during the time the briefing was planned, it has been agreed to delay briefing the Board until the next quarterly meeting.

H–79–38.—On January 11 the California Department of Transportation advised the Safety Board that the contract for replacement of bridge rail on road 07–LA–10 at Post Mile 21.2 was awarded on December 21, 1979. This information was provided in connection with a recommendation developed as a result of the Safety Board's investigation of the penetration of a bridge rail by a station wagon near Alhambra, Calif., November 11, 1978. (See 44 FR 61478, October 25, 1979.)

Intermodal/Railroad

I–79–13 and R–78–43 through 47.—The Federal Railroad Administration on January 17 responded to recommendation I–79–13, issued last October 2, predicated on investigation of the Louisville & Nashville Railroad Company freight train derailment and puncture of hazardous materials tank cars, Crestview, Fla., April 8, 1979. The recommendation asked FRA to analyze risks to wreck-clearing personnel during wreck-clearing operations involving hazardous materials releases to determine needed health safeguards, operating precautions, and medical treatment capabilities for hazardous materials exposures, and establish appropriate safety requirements based on its findings. (See 44 FR 58821, October 11, 1979.)

In response, FRA reports that on October 31, 1978, a public hearing was held in Washington, D.C., for the purpose of receiving comments on the Association of American Railroads (AAR) requirement that all freight cars ordered after July 1, 1978, be equipped with provisions for lifting. Sixteen witnesses testified, including AAR representatives, two firms specializing in wreck-clearance operations, and tank car companies. Written submissions were received from several additional parties. An FRA Board of Inquiry addressed to witnesses questions based on the testimony presented and FRA data relating to wreck-clearance operations. As a result of this inquiry, FRA concluded that there is a need to develop techniques and guidelines for the safe conduct of wreck-clearance operations. Thus, FRA, Office of Research and Development, has awarded a contract to Edwards Air Force Base to study wreck-clearance procedures, with emphasis on the handling of hazardous materials cars following derailments. The study is scheduled to be completed in March 1981. FRA will seek active participation of the railroad industry and wreck-clearance specialists in the conduct of the study.

Also included with FRA's January 17 response to recommendation I–79–13 is a copy of FRA's November 2 response to recommendations R–78–43 through 47 which were developed following investigation of the Louisville & Nashville Railroad Company freight train derailment and puncture of anhydrous ammonia tank cars at Pensacola, Fla., November 9, 1977. (See 44 FR 68541, November 29, 1979.) Recommendations R–78–43 through 47 were reiterated in the October 2, 1979, letter to FRA issuing recommendation I–79–13.

Marine

M–79–107 through 110.—On December 4 both the Board of River Port Pilot Commissioners for the Port of New Orleans and the Crescent River Port Pilots Association, joint addressees, provided responses to recommendations issued following investigation of the December 4, 1977, collision of the Spanish Motor Tankship RIBAFORADA with Barge MB–5, Three Wharves, and Cargo Ship M/V TIARET at New Orleans, La. (See 44 FR 64931, November 8, 1979.)

Recommendation M–79–107 asked the addressees to prescribe procedures for pilots under their jurisdiction to specifically ascertain vessel maneuvering characteristics before getting underway, and discuss with the master before getting underway the essential feautures and relevant checkpoints for maneuvers to be undertaken. The Board of Commissioners states in response that it does not have statutory authority to establish requirements on Crescent River Port Pilots. The expertise and discretion brought by the licensed pilot to his profession is relied upon by the

State Commission to assure the safe navigation of the vessel, according to the Commissioners. They further said, "The relationship between the pilot and the master is that of professionals. Unquestionably, sugestions of this sort addressed to the discretion and good judgment of the pilots, may very well be in order. Requirments of this sort are an entirely different matter."

The Association, also with respect to recommendation M–69–107, states that it has never prescribed procedures for members in connection with pilotage of vessels. For the pilots to insist on a conference with the master would, in a large percentage of cases according to the Association, require that the vessel be put to anchor while the master is called to the bridge. The problems inherent in such a procedure would be enormous. The anchorage facilities would be insufficient and the number of additional pilots required would make the cost of pilotage astronomical. The Association notes that a pilot confers with whatever bridge personnel are available when the pilot comes aboard.

In answer to recommendation M–79–108, which called for establishment of guidelines for pilot duty periods which provide for sufficient rest to avoid fatigue, the Commissioners state that such action is outside the legal scope of the Board of Commissioners. Noting that current demands for pilotage outstrip the supply of pilots, the Commission has urged that new pilots be recruited so as to provide for enough pilots to ensure a maximum 182 working day year. The Commissioners agree that sufficient rest be afforded, but there is no way to do such without seriously affecting traffic at the Port of New Orleans.

The Association in response to M–79–108 says it is engaged in an effort through the Louisiana Public Service Commission to have sufficient revenue provided to increase the number of Crescent River pilots. The increased number will allow for a decrease in the workload of pilots who now serve in excess of 260 days per year. The Association notes that establishment of guidelines for duty periods will not make for more hours of rest unless there are more pilots. Further, a separate problem is addressed in the Association's response—that of ship agents wasting the time of pilots by improper planning. The Association says it has had little cooperation from the shipping industry in efforts to reduce the wasting of pilots' time.

With respect to recommendation M–79–109, which called for development of physical standards for pilots to provide reasonable assurance that they are qualified for duty as pilots, the Commissioners state that they have had physical standards for pilots to provide substantial assurance that applicants are physically qualified. The Commissioners' Rule 1(g) reads:

> The applicant must be examined by a physician, clinic or group of physicians of the Board's choosing in respect of the applicant's physical condition. The examination report must reflect that the applicant's physical condition is satisfactory to the Board commensurate with the work and responsibilities attendant to pilotage.

However, these are entrance standards; once the applicant has been commissioned, the Board of Commissioners has no authority to require further physical examinations. The Association's response letter endorses the Commissioners' physical requirements. The Association further has established its own criteria for acceptance of applicants into its apprenticeship program. The Association states that by application of those criteria to applicants for apprenticeship and commissioning, a high standard of physical qualification of pilots has been achieved.

Recommendation M–79–110 called for requiring pilots to pass an initial physical examination as a condition for membership and before returning to duty after a serious illness. The Commissioners' response states that once a pilot has been commissioned, the Board of Commissioners has no authority to require further physical examinations. The Association's response to M–79–110 states that the issue of a requirement for a physical before returning to work after a major illness has not been addressed by the Association. The Association notes that the pilot of the RIBAFORADA was required to have a very rigorous physical by the Association prior to his returning to duty after his illness. The Association says it has sufficient rules to assure that a pilot returning to duty after a serious illness will be physically able to perform his professional duties.

Pipeline

P–79–8.—On January 8 the American Iron and Steel Institute (AIS) responded to a recommendation issued last May 18 as a result of investigation of the liquefied petroleum gas (LPG) pipeline rupture and fire which occurred August 4, 1978, near Donnellson, Iowa. The recommendation asked AISI and the American Petroleum Institute to undertake research for more stringent specifications for line pipe manufactured for LPG pipeline service to minimize or mitigate the effects of dents and gouges, and to consider the research being conducted by the American Gas Association (AGA) on this problem. (See 44 FR 30180, May 24, 1979.)

AISI, after consulting with other parties concerned with pipeline safety, submits these comments:

1. Battelle Columbus Laboratories is actively engaged in research under sponsorship of AGA to determine the effect of dents and gouges in line pipe.
2. Thus far, attempts to develop quantitative relationships between failure pressures and variables of gouge depth, denting, pipe strength level, pipe wall thickness and diameter, and temperature have had limited success and indicate synergistic and nonlinear actions among the variables.
3. A more direct attack on the problem would be to establish and adopt practices which avoid damage or remedy it if it occurs. This approach requires more careful control of procedures during installation and thorough inspection against damage. In service the pipe must be protected as well as possible from incursions.

AISI states that in view of the other work underway at Battelle, AISI should not undertake a research program on dents and gouges at the present time; such a research program would be a duplication of work. AISI states, however, that after this work is completed the results will be examined to determine whether more research is needed.

Note.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of recommendation letters issued by the Board, response letters and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of reports issued by the Safety Board may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

January 28, 1980.

[FR Doc. 80-3095 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

January 23, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping

requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estmate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficult in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipated commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Office of Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

Revisions

Agricultural Marketing Service
Application for Appeal Inspection or Board Appeal Inspection
IN–202 (Formerly GR–202)
On occasion
Firms in the grain industry, 29,000 responses; 7,250 hours
Charles A. Ellett, 395–5080

Food and Nutrition Service
Claim for reimbursement—summer food service program
FNS–143 and 143–1
Monthly
Summer camps, 2,400 responses; 800 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377–3627

Revisions

Bureau of the Census
New complete aircraft and aircraft engines, except military (shipments)
M–37G
Monthly
Complete aircraft and aircraft engine manufacturers, 660 responses; 165 hours
Off. of Federal statistical policy and standard, 673–7974

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697–1195

Revisions

Departmental and other
DD Form 48 and DD Form 48–3, personnel security questionnaire (updating)
On occasion
Employees of cleared DOD contractors 150,000 responses; 300,000 hours
Richard Sheppared, 395–3211

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633–9770

New Forms

Evaluation of Transportation System for Nuclear Fuel Cycle Materials
NE–426
Single time
Firms involved in transport of nuclear materials, 125 responses; 875 hours
Jefferson B. Hill, 395–5867

Revisions

IEA Emergency Supply Report
EIA–142
Monthly
Importers of oil, gas and petroleum products, 660 responses; 1,320 hours
Jefferson B. Hill, 395–5867

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755–5184

New Forms

Policy Development and Research
Study of no-children policies in rental housing markets [1]
Single time
Renters and landlords, 3,550 responses; 886 hours
Arnold Strasser, 395–5080

Policy Development and Research
Survey for evaluation of urban counties in CDBG
Single time
Key individual in 10 CDBG designated urban counties, 85 responses; 170 hours
Arnold Strasser, 395–5080

[1] The OMB plans to act on this request before expiration of the 10-day waiting period to permit the data collection and analysis to be accomplished in time for results to be incorporated into the Department of Housing and Urban Development's policy paper for the White House Conferences on the problems of families scheduled for June and July. The data collection for this study will be completed by March 15, 1980. The Department took steps to obtain public comments before submitting the proposal to OMB.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343–6716

New Forms

Departmental and Other
Title VI Compliance Report—Recreation
On occasion
Local recreation agencies, 2,500 responses; 2,500 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633–3526

Revisions

Immigration and Naturalization Service
Application to extend time of temporary stay
I–539
On occasion
Nonimmigrant alien applying for extension of stay, 249,000 responses; 83,000 hours
Laverne V. Collins, 395–3214

Immigration and Naturalization Service
Application to file petition for naturalization
N–400
On occasion
Aliens filing for naturalization, 180,000 responses; 180,000 hours
Laverne V. Collins, 395–3214

Immigration and Naturalization Service
Application to file petition for naturalization in behalf of child
N–402
On occasion
U.S. citizen parents, 8,000 responses; 4,000 hours
Laverne V. Collins, 395–3214

Immigration and Naturalization Service
Petition to classify status of alien fiance or fiancee for issuance of nonimmigrant visa
I–129F
On occasion
Unmarried citizens of the U.S., 11,000 responses; 5,500 hours
Laverne V. Collins, 395–3214

Immigration and Naturalization Service
Application for Issuance or Extension of Refugee Travel Document
I–570
On occasion
Refugees, 11,000 responses; 11,000 hours
Laverne V. Collins, 395–3214

Extensions

Immigration and Naturalization Service
Alien Death Report
G–348
On occasion
State's bureau of vital statistics, 15,000 responses; 1,250 hours
Laverne V. Collins, 395–3214

Immigration and Naturalization Service
Notice of final naturalization hearing (children)
N–445B
On occasion
United States citizens, 6,000 responses; 500 hours
Laverne V. Collins, 395–3214

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523–6341

New Forms

Employment and Training Administration
Assessing the impact of the new employment service
Regulations structure on employment service operations
MT–302
Single time
Employment services central and local offices in 15 States, 644 responses; 483 hours
Arnold Strasser, 395–5080

Revisions

Employment and Training Administration
National longitudinal surveys of youth
MT–292D
Annually
Approximately 4,000 sec. schools attended by NLS youths, 4,000 responses; 2,000 hours
Off. of Federal Statistical Policy and Standard, 673–7974

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632–7737

Revisions

EWA 338, Individual Nominee Evaluation Form
EWA 338
Annually
High school counselors, 1,400 responses; 350 hours
Laverne V. Collins, 395–3214

C. L. Kincannon,

Acting Assistant Director for Office of Regulatory and Information Policy.

[FR Doc. 80–3153 Filed 1–30–80; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–16538; File No. SR–NYSE–80–2]

New York Stock Exchange, Inc.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on January 7, 1980, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend Article IX, Sec. 1(b) of the Exchange Constitution as follows: (new language *italicized*, deleted language in [brackets].

* * * * *

Sec. 1. The membership of the Exchange shall consist of:

* * * * *

(b) such number of members of the Exchange, as the Board of Directors may from time to time determine, consistent with available physical floor space and facilities *but not more than the number of such physical access members as existed prior to August 31, 1979*, each of whom shall have paid an annual dues, which [shall] *will* entitled such member, during the period for which dues have been paid and while such member remains in good standing, to enter physically upon the trading floor and to have facilities thereon for the execution of orders; and

* * * * *

Stated Purpose of Proposed Rule Change

The purpose of the proposed Constitutional amendment is to limit the number of NYSE annual memberships (physical access) to no more than the number existing on August 31, 1979. On that date there were two such members and currently there are four.[1]

The present provision of the Constitution leaves to the discretion of the NYSE Board of Directors the number of memberships to be issued beyond the 1,366 regular NYSE memberships, limited only by available NYSE floor space and facilities.

Stated Basis Under the Act for Proposed Rule Change

In its original filing to create Annual Membership (physical access)—as well as other forms of membership—(File NO. SR–NYSE–77–21) the Exchange expressed the view that the various forms of Exchange membership, including annual memberships (physical access), are consistent with Section

[1] The two applicants who were approved after August 31, 1979, each signed an agreement acknowledging that he has been informed by the Exchange of the pending Constitutional amendment and that if the amendment were approved by the Securities and Exchange Commission, he may lose all privileges as such a member.

6(b)(2) of the Act in that they enable any qualified person to become an Exchange member.

The Exchange also expressed the view that the various forms of Exchange membership increase the potential for access to the NYSE market and encourage greater participation therein. The Exchange further submitted that, in general, the existence of various forms of Exchange membership tends to remove impediments to the mechanism of a free and open market and, as such, is consistent with Section 6(b)(5) of the Act.[2] The Board opposed the constitutional amendment, and after the memberships vote approving it told the Alliance of Floor Brokers, Inc. ("Alliance"), the main proponents of the proposal, that it would not recommend that the Securities and Exchange Commission approve the proposed constitutional amendment. The Board invited the Alliance to prepare and submit written arguments in support of the proposed amendment, and particularly with respect to its basis under the Act and possible competitive impact.

The Alliance of Floor Brokers, Inc. states that the proposed rule change will accomplish the following: (i) Enable the Exchange to increase its capacity to carry out the purposes of the Act by eliminating sources of friction between regular members and annual physical access members; (ii) assist the Exchange in enforcing compliance with the Act by its members and persons associated with such members by eliminating a discriminatory, unworkable and ineffective constitutional provision; (ii) enable any qualified person to become a member of the Exchange either by purchasing a regular membership, or becoming a lessee of a regular member or by acquiring an electronic access membership; (iv) assure fair representation of the Exchange members in the administration of the affairs of the Exchange since the constitutional amendment was advanced by and approved by a majority of the members of the Exchange; and (iv) promote just and equitable principles of trade and assist in the removal of impediments to and perfection of the mechanism of a free and open market and a national market system by eliminating an experimental program which proved to be unfair, discriminatory and unworkable as compared to regular NYSE membership.

[2] The NYSE contends that the Commission expressly affirmed this position in its March 7, 1978, order approving NYSE annual memberships. *See*, Securities Exchange Act of 1934 Release No. 14535.

Statement of Comments Received From Members, Participants or Others on Proposed Rule Changes

The NYSE did not solicit comments on the membership vote. It has submitted papers, regarding the vote, the comments of the Alliance of Floor Brokers, Inc. as well as pleadings and the opinion filed in an action to enjoin the NYSE from granting physical access membership, commenced by a group of NYSE members in Supreme Court of the State of New York, county of New York, (*Higgins* v. *Hall*). These papers are available in the SEC public reference room. A few key comments are summarized herein.

Among other things, the comments state that members, exchange employees and clerks work on the Floor of the Exchange under conditions which are unsatisfactory and will be even worse if additional individuals are admitted as physical access members. They also maintain that the availability of physical access memberships has an adverse effect on the equity value of regular NYSE membership. Other comments state that physical access membership is a response to a Congressional concern that Exchange memberships be increase wherever appropriate and stress that when the Commission originally approved offering these memberships it found that they would be consistent with the provisions of the Exchange Act and the rules and regulations thereunder. The comments also point out that at its meeting on July 11, 1979, the NYSE Board of Directors determined that the facilities of the Exchange were adequate to accommodate additional people on the Floor and that there was no basis for denying further annual Exchange memberships at that time.

While some comments take the position that the creation and implementation of new forms of membership have enhanced the public credibility of the Exchange, and have contributed significantly to the ability of the Exchange to take a position of initiative and leadership in the significant issues which arise as the National Market System continues to evolve. Other comments urge that physical access memberships be eliminated for the following three reasons: (i) Access to the Exchange already exists in a variety of forms; (ii) physical access has not been mandated either by Congress or the SEC; and (iii) physical access membership is not found in any other major securities exchange.

Statement on Burden on Competition

The Alliance of Floor Brokers, Inc. states that the proposed amendment to restrict physical access membership would not impose a burden on competition since annual physical access has proven to be a failure with little prospects for the future. It states that the 1,366 regular memberships of the Exchange assures a level of competition equal or superior to any other Exchange in the country.

The NYSE Board of Directors has taken the position that physical access membership increases the potential for access to the NYSE market and encourages greater participation therein.

Within 35 days of the date of publication of this notice in the **Federal Register**, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and argument concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. The Commission is especially interested in receiving views on whether the proposal is consistent with the stated goals of the Act and whether it will impose any burden on competition. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW, Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number reference in the caption above and should be submitted on or before February 21, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 28, 1980.

[FR Doc. 80-3165 Filed 1-30-80; 8:45 am]

BILLING CODE 8010-01-M

Horizon Energy Corp.; Order Directing Private Investigation and Designating Officers to Take Testimony

January 24, 1980.

I

In the Matter of Horizon Energy Corporation (formerly Swing Bike), Union Pacific Oil and Gas, a Texas corporation, Horizon Mnaufacturing Corporation, (formerly Anderson Energy Systems, Inc.), Eugene R. Anderson, George R. Jensen, and Norman Standall (D–1664).

The Commission's public official files disclose that no registration statement has been filed or is in effect under the Securities Act of 1933 for the common stock of Horizon Energy Corporation, formerly Swing Bike, a Utah corporation.

II

Members of its staff have reported information to the Commission which tends to show that:

A. Horizon Energy, and others have been and are offering to sell, selling, offering to purchase, and purchasing certain securities, among others, the common stock of Horizon Energy.

B. While engaged in the offer to sell, selling, offering to purchase, and purchasing the common stock of Horizon Energy, Union Pacific Oil and Gas, Horizon Manufacturing Corporation, Eugene R. Anderson, George R. Jensen, Norman Standall, and others, made to sellers, purchasers, and prospective sellers and purchasers untrue statements of material facts and omitted to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, concerning, among other things:

1. The workability and practical application of a process called the CRB process (CRB) which is a claimed process to disassociate the water molecule into component elements by catalytic action.

2. The testing and demonstration of the CRB process.

3. The method of conducting demonstrations of the CRB process and the chemical reactions actually produced, including techniques of generating combustible gases in demonstrations.

4. The method of financing the development and distribution of the CRB process and limitations and agreements existing between SB and controlling persons and affiliates.

5. The relationship between the issuer, SB, and affiliated corporations and individuals, and the stock holding positions of SB shares by controlling persons and affiliates.

6. The expectation that the corporation would develop a practical commercial product utilizing the CRB process.

7. The transactions of officers and affiliated persons of SB in purchasing and selling shares of SB in the market.

8. The scientific basis of the CRB process; and

C. While engaged in the offer, sale, purchase and delivery of such securities, such persons, directly and indirectly, made use of the mails and means and instruments of transportation and communication in interstate commerce, and of the means and instrumentalities of interstate commerce.

III

The Commission, having considered the staff report and deeming such acts and practices, if true, to be in possible violation of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933, as amended, and Section 10(b) of the Securities Exchange Act of 1934, as amended, and Rule 10b–5 thereunder, finds it necessary and appropriate and hereby

Orders, pursuant to the provisions of Section 20(a) of the Securities Act of 1933, as amended, and Section 21(a) of the Securities Exchange Act of 1934, as amended, that a private investigation be made to determine whether the aforesaid persons or any other persons have engaged or are about to engage in any of the reported acts or practices or in any acts or practices of similar purport or object; and

It is further ordered, pursuant to the provisions of Section 19(b) of the Securities Act of 1933, as amended, and Section 21(b) of the Securities Exchange Act of 1934, as amended, that for the purposes of such investigation, Robert H. Davenport, Joseph F. Krys, Cecil S. Mathis, Robert M. Fusfeld, David A. Watson, G. Gail Weggeland, Delano S. Findlay, Harold G. Smith and Floyd G. Hastings, and each of them, is hereby designated an officer of this Commission and empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records deemed relevant and material to the inquiry, and to perform all other duties in connection therewith as prescribed by law.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–3108 Filed 1–30–80; 8:45 am]

BILLING CODE 8010–01–M

John Milton Addison and Florence Kasin; Order Directing Private Investigation and Designating Officers to Take Testimony

January 24, 1980.

In the Matter of John Milton Addison and Florence Kasin; (D–1660)

I

The Commission's public official files disclose that:

A. No registration statement has been filed or is in effect with the Commission under the Securities Act of 1933, as amended, with respect to any securities of Florence Kasin.

II

Members of its staff has reported information to the Commission which tends to show that:

A. John Milton Addison and Florence Kasin and others have been and are offering to sell, selling and delivering after sale to members of the public, certain securities, namely, the secured promissory notes of Florence Kasin.

B. While engaged in the offer, sale and purchase of such securities, such persons made to purchasers, prospective purchasers, sellers and prospective sellers, untrue statements of material facts and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; concerning among other things:

1. The uses to be made of the investors' monies;

2. The status of the option on the land to be used for the Dolly-O-Denver development and the fact that such option expired on November 30, 1978 and would not be exercised or renewed; and

3. That no attempt had been made by the subjects to approach Douglas County planning authorities to consider and approve such a development which approval is required by Colorado law.

C. While engaged in the offer, sale and delivery of such securities, such persons, directly or indirectly, made use of the mails and means and instruments of transportation and communication in interstate commerce and of the means of instrumentalities of interstate commerce.

III

The Commission having considered the staff report and deeming such acts

and practices, if true, to be in possible violation of Section 5(a), 5(c), and 17(a) of the Securities Act of 1933, as amended, and Section 10(b) of the Securities Exchange Act of 1934, as amended, and Rule 10b–5 thereunder, finds it necessary and appropriate and hereby

Orders, pursuant to the provisions of Section 20(a) of the Securities Act of 1933, as amended, and Section 21(a) of the Securities Exchange Act of 1934, as amended, that a private investigation be made to determine whether the aforesaid persons or any other persons have engaged or are about to engage in any of the reported acts or practices or in any acts or practices of similar purport or object; and

It is further ordered, pursuant to the provisions of Section 19(b) of the Securities Act of 1933, as amended, and Section 21(b) of the Securities Exchange Act of 1934, as amended, that for the purpose of such investigation, Robert H. Davenport, Joseph F. Krys, William J. Klein, and Andrew Vander Ploeg and each of them is hereby designated an officer of this Commission and empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records deemed relevant and material to the inquiry, and to perform all other duties in connection therewith as prescribed by law.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3167 Filed 1-30-80; 8:45 am]

BILLING CODE 8010-01-M

Perpetual Energy Products, Inc., Steven S. Glick; Order Directing Private Investigation and Designating Officers to Take Testimony

January 3, 1980.

In the Matter of Perpetual Energy Products, Inc., Steven S. Glick (LA–292)

I

The Commission's public official files disclose that:

A. Perpetual Energy Products, Inc., ("Perpetual") is a Delaware corporation located in Beverly Hills, California. Perpetual's common stock is registered with the Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). The company files periodic reports with the Commission pursuant to Section 13 of the Exchange Act.

B. Perpetual has not filed any annual or quarterly reports or made any other filings with the Commission since its Form 10–K report filed for the period ending March 31, 1978.

C. Steven S. Glick ("Glick"), a certified public accountant, certified Perpetual's financial statements which were filed with the Commission as part of the company's Form 10–K report for the fiscal year ending March 31, 1978.

D. No registration statement has been filed with the Commission or is in effect pursuant to the Securities Act of 1933 with respect to the securities of Perpetual.

II

Members of the staff have reported information to the Commission which tends to show that:

1. Perpetual, and others have been and are offering to sell, selling and delivering after sale to members of the public certain securities, namely, the common stock of Perpetual Energy Products, Inc.

2. While engaged in, and in connection with, the offer, sale and purchase of the common stock of Perpetual, Perpetual, Glick and others, have made in filings made with the Commission and otherwise, untrue statements of material facts and have omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading concerning, among other things:

a. the financial condition and results of operations of Perpetual;

b. the value of Perpetual's stock;

c. the amount of stockholders equity;

d. the value of corporate assets;

e. the risk associated with an investment in Perpetual's stock;

f. the independence of the certified public accountant who audited the financial statements; and

g. the extent to which Perpetual has complied with Commission's filing requirements.

3. Certain persons have been and are employing devices, schemes and artifices to defraud, engaging in acts, practices and courses of business which operate or would operate as a fraud or deceit in connection with the purchase and sale of Perpetual common stock in that they sold said stock to the public while in possession of material, non-public information, including, among other things, information that Perpetual's financial statement in its 1978 10–K was false and misleading.

4. Perpetual has failed to:

1. make and keep books, records, and accounts which accurately and fairly reflect its transactions and dispositions of its assets; and

2. devise and maintain a system of internal controls sufficient to provide reasonable assurances that:

a transactions are executed, and access to assets is permitted, only in accordance with management's general or specific authorization;

b. transactions are recorded as necessary (1) to permit preparation of financial statements in accordance with generally accepted accounting principles or other applicable criteria, and (2) to maintain accountability for assets; and

c. the recorded accountabiity for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

5. While engaged in the above-described activities, such persons directly and indirectly made use of the mails and the means and instruments of transportation and communication in interstate commerce, and of the instrumentalities of interstate commerce.

III

The Commission, having considered the staff report and deeming such acts and practices, if true, to be in possible violation of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 and Sections 10(b), 13(a) and 13(b)(2) of the Securities Exchange Act of 1934 and Rules 10b–5, 13a–1 and 13a–13 thereunder, finds it necessary and appropriate and hereby

Orders, pursuant to the provisions of Section 20(a) of the Securities Act of 1933 and Section 21(a) of the Securities Exchange Act of 1934, that a private investigation be made to determine whether the aforesaid persons or any other persons have engaged or are about to engage in any of the reported acts or practices or in any acts or practices of similar purport or object; and

It is further ordered, pursuant to the provisions of Section 19(b) of the Securities Act of 1933 and Section 21(b) of the Securities Exchange Act of 1934, that for the purposes of such investigation, Leonard H. Rossen, Ralph H. Erickson, James R. Miller, Janet Kerr, James C. Johnson, Hillel T. Cohn, Jane E. Katz, Eugene Horwitz, Joe Dion, and each of them, is hereby designated an officer of the Commission and empowered to administer oaths and affirmations, subpoena withesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith as prescribed by law.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3166 Filed 1-30-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/266]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold meetings on February 22 for two of the Working Groups of the Advisory Committee on International Investment, Technology, and Development. The Working Group on Restrictive Business Practices will meet from 9:30 to 12:00 and the Working Group on Transfer of Technology will meet from 1:30 to 4:00. Both meetings will be held in Conference Room 1406 of the State Department, 2201 C Street NW., Washington, D.C. The meeting will be open to the public.

The purpose of the meeting will be to discuss the current status of the negotiations on restrictive business practices and on the transfer of technology. Members of the U.S. delegations participating in the recently-held diplomatic conferences on these two areas will report on the negotiations and will seek advice on the results of the negotiations and on future approaches.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of the working group, will as time permits, entertain oral comments from members of the public attending the meeting.

Dated: January 22, 1980.

Richard D. Kauzlarich,

Executive Secretary.

[FR Doc. 80-3072 Filed 1-30-80; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 79-047]

Port Access Routes; Study Dates, Areas, and Contacts Points—Modification

The purpose of this notice is to supplement the notice of the Port Access Routes Study announced on Monday, April 16, 1979, in the **Federal Register** (44 FR 22543). This supplemental notice includes minor administrative modifications and adds two new areas to the study. One area is off the mid-Atlantic coast, and the other area is in the vicinity of Puerto Rico and the U.S. Virgin Islands. The administrative changes primarily concern data submission dates and revised contact persons.

The Coast Guard is currently in the process of studying the potential vessel traffic density and the need for safe access routes for vessels operating in the approaches to U.S. ports and in the traditional routes between ports in the continental United States including Alaska. The results of this study could cause restrictions on the manner in which specific areas of the outer continental shelf leased after the date of the original Notice may be explored and developed for natural resources. Similar restrictions could result in the regions added to the study by this Notice, in areas leased after the date of this Notice. Further information regarding the purpose, policies, and potential results of this study may be found in the original notice, published on April 16, 1979. Any action taken as a result of the study would be consistent with subsection 4(c)(1) and 4(c)(2) of the Ports and Waterways Safety Act (PWSA), (Pub. L. 95-474, 92 Stat. 1473).

This study is being conducted under the standards contained in subsection 4(c)(3)(A) of the PWSA. As a result of this study it is anticipated that suitable ships' routing measures, such as shipping safety fairways and/or traffic separation schemes, may be proposed in a future **Federal Register**. Implementing regulations of any routing measures will be in accordance with the PWSA and the Administrative Procedures Act.

The area being added to this study off the mid-Atlantic coast is in the vicinity of the Baltimore Canyon. Interest in potential oil exploitation in this area has been renewed due to studies concerning the Mesozoic reef in that area. Much of the reef structure is located beyond the current area of the study. Since the possibility of fixed obstructions now exists in this area, there is a potential need for ships' routing measures in this new area. Therefore, in accordance with the PWSA this area is being added to the present study areas numbered 5 and 6.

Following a recent tanker collision in the Caribbean the American Institute of Merchant Shipping requested the Coast Guard evaluate the need for ships' routing measures in that region. In response to this request an area surrounding Puerto Rico and the Virgin Islands is being included in the study. Given the considerable tank vessel traffic to Bahia de Guayanilla, PR, and St. Croix, VI, and the proximity of Mona Passage, a prime shipping route between the South Atlantic and the Gulf of Mexico, the Coast Guard believes such action is warranted.

The establishment of any ships' routing measures in other areas of the Caribbean is beyond the jurisdiction of the Coast Guard. The PWSA limits establishment of such systems to the territorial seas of the United States and the high sea approaches to ports or places subject to the jurisdiction of the United States. The Inter-governmental Maritime Consultative Organization (IMCO) is recognized as the only international body responsible for establishing and recommending ships' routing measures on an international level. However, IMCO protocol requires that routing measures be proposed by the state or states immediately adjacent to the proposed routing measure. This is primarily because of jurisdiction and cost concerns. If, for instance, a traffic separation scheme was proposed for adoption which required additional navigation aids, the coastal states would be responsible for establishing and maintaining such aids.

As the work of the study has progressed, the need to modify the dates for completion of data collection and publishing of results has been realized. In certain study areas more time is needed in order to properly conduct the study; for these areas the dates are extended.

Due to the interrelationship of some study areas it has been found logical to gather the data for the adjacent study areas at the same time. This will simplify the administrative load on those parties desiring to submit information on these adjacent areas and will make the process of compiling this data more efficient. Once the data is available for these adjacent areas, development of any necessary routing measure can be most effectively done at one time. Also, in certain areas, the gathering of data is proceeding more expeditiously than had been anticipated. Therefore, in these study areas the time

for the submission of data and publication of results has been reduced.

In consideration of the above, the following areas, dates, and contacts are substituted for or added to those in the original notice of the Port Access Routes Study (44 FR 22543) published on April 16, 1979.

Area Changes

Area 5: Includes New York, NY except Long Island Sound. (expanded area)
Enclosed by the coast and a line bearing 180° T from Montauk Point Light (41°04.3' N, 71°51.4' W) to 40°40.0' N latitude; thence a line bearing 090° T to 69°57.0' W. longitude; thence a line bearing 180° T to 39°44.5' N latitude; thence a line bearing 234° T to 38°31.4' N latitude, 72°07.0' W longitude; thence a line bearing 295° T to Atlantic City Light (39°21.9' N, 74°24.6' W).

Area 6: Includes Delaware Bay. (expanded area)
Enclosed by the coast and a line bearing 115° T from Atlantic City Light (39°21.9' N, 74°24.6' W) to 38°31.4' N latitude, 72°07.0' W longitude; thence a line bearing 230° T to 37°38.6' N latitude, 73°26.1' W longitude; thence a line bearing 302° T to Fenwick Island Light (38°27.1' N, 75°03.3' W).

Area 18a: Includes Puerto Rico and U.S. Virgin Islands. (new area.)
Enclosed by a line drawn from 21°00' N latitude, 67°00' W longitude to 15°30' N latitude, 68°30' W longitude to 17°45' N latitude, 64°05' W longitude, to 17°55' N latitude, 64°05' W longitude; thence northwesterly along the international boundary between the U.S. and the United Kingdom to 18°27' N latitude, 64°53' W longitude; thence along a line drawn to 21°00' N latitude, 65°50' W longitude; thence continuing to the origin (21°00' N, 67°00' W).

Date Changes

Area 3: Includes Boston, Massachusetts. (dates extended)
Dates: Complete data collection by March 1, 1980.
Publish study results—October 1, 1980 (estimated).

Area 5: Includes New York, NY, excludes Long Island Sound. (dates extended)
Dates: Complete data collection by April 1, 1980.
Publish study results—July 1, 1980 (estimated).

Area 6: Includes Delaware Bay. (dates extended)
Dates: Complete data collection by April 1, 1980.
Publish study results—July 1, 1980 (estimated).

Area 13: Include Cape Romain Area. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 14: Includes Charleston, South Carolina, and Savannah, Georgia. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 15: Includes Brunswick, Georgia, and Jacksonville, Florida. (dates extended)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 16: Includes Cape Canaveral Area. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 17: Includes Port Everglades and Miami, Florida. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 18: Includes the Florida Keys and Southwest Florida. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 18a: Includes Puerto Rico and U.S. Virgin Islands. (New area.)
Dates: Complete data collection by June 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 19: Includes entrance to Tampa Bay. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 20: Includes the Cedar Keys Area. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Contact Changes

Areas 1–4: Coasts of Maine, New Hampshire, Massachusetts, and Rhode Island. (Old contact—LCDR F. P. Hopkins)
LT P. J. Howard, c/o Commander (m), First Coast Guard District, 150 Causeway Street, Boston, MA 02114 (617) 223–6915.

Areas 7–12: Coasts of Maryland, Virginia, and North Carolina. (Old contact—LT D. G. Bratton)
LCDR H. A. Tawney, c/o Commander (dpl), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, VA 23705 (804) 398–6276.

Areas 13–20: Coasts of South Carolina, Georgia, Peninsula of Florida, Puerto Rico, and the U.S. Virgin Islands. (Old contact—LCDR M. G. Cavett/LCDR R. M. Acker)
LCDR M. G. Cavett, c/o Commander (mps), Seventh Coast Guard District, 51 S. W. 1st Avenue, Miami, FL 33130 (305) 350–5651.

Area 21: Includes entire Gulf of Mexico coast from St. Marks, Florida to the west. (Old contact—LCDR G. J. E. Thornton)
LT M. J. Hall, c/o Commander (mps), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130 (504) 589–6901.

Areas 23–25: Northern California. (Old contact—CDR R. G. Hall)
LT. G. D. Jenkins, c/o Commander (mps) Twelfth Coast Guard District, 630 Sansome Street, San Francisco, CA 94126 (415) 556–1380

Area 29: Includes the entrance to the Strait of Juan de Fuca. (Old contact—LCDR D. W. Powell)
CDR E. K. Roe, c/o Commander (mps), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, WA 98174 (206) 442–5737.

Areas 30–32: Alaska. (Old contact—LT D. P. Montoro)
CDR F. N. Harrell, c/o Commander (mps), Seventeenth Coast Guard District, P.O. Box 3–5000, Juneau, AK 99802 (907) 586–7195.

Correction

Areas 4 and 5a: The longitude of Watch Hill Light should read 71°51.5' W., not 70°51.5' W., as published in the original notice.

Further information can be obtained from and comments concerning specific areas of the study should be submitted to the individual listed as "CONTACT" for each study area as listed above. Comments addressing the study in general should be sent to: LCDR J. D. Bannan, c/o Commandant (G–WLE–4/11), U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593 (202) 426–4958.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 80–306] Filed 1–30–80; 8:45 am]
BILLING CODE 4910–14–M

Federal Aviation Administration

[Summary Notice No. PE–80–3]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before February 20, 1980.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24), Petition Docket No. ———, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–24), Room 916, FAA Headquarters Building (FOB 10A), 800 Indepdendence Avenue, SW, Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., On Janaury 25, 1980.

Edward P. Faberman,

Acting Assistant Chief Counsel Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19955	Frederick Community College	14 CFR §§ 65.71, 65.75, and 65.77.	To allow petitioner's students to take the general portion of the mechanic written examination prior to completing either the airframe or powerplant portion of the approved curriculum.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
15194	Compania Mexicana de Aviacion, S.A. (CMA)	14 CFR Parts 21, 61, 63, and 91	Petitioner requested an amendment to Exemption No. 2195 to change the classification of certain named Compania Mexicana de Aviation, S.A. (CMA) airmen listed in the appendix and to add the names of newly hired CMA airmen for operation of leased U.S.-registered B–727 aircraft until expiration of the lease agreement on November 24, 1980, for two aircraft and on June 7, 1980, for the remaining two aircraft. *Granted 1/10/80.*
19441	Pratt & Whitney	14 CFR Part 33	To permit deletion of establishing time for first overhaul and to use the Overhaul Test of FAR 33.90 as guidance for the Maintenance Review Board in establishing an engine maintenance program. To allow an initial rotor component cyclic life as determined by a prediction procedure which utilizes statistical analysis of material data, thermal and stress analyses and service experience. To establish definition of various types of mount loads and allow mounts to withstand ultimate loads without failure but they may exhibit permanent deformation. Following test, to permit rotor diametral growths no greater than 1% and no rotor may be cracked. During 30 minute period at idle to permit periodic engine accelerations to 60% N sub one speeds at ten minute intervals. To permit 5 minutes instead of 30 minutes at 75 degrees higher than maximum operating limit. *Granted 1/9/80.*
19498	Air Logistics of Alaska	14 CFR § 135.385 (b) and (c)	To permit the petitioner to operate its CASA 212 airplane without complying, to the extent necessary, with the performance limitations for landings. *Denied 1/15/80.*
19755	C & M Airlines	14 CFR § 135.243	To allow a pilot to serve as a Pilot in Command without having the prerequisite Airline Transport Pilot Certificate (ATPC). The pilot, although qualified in every other respect, is not 23 years of age. *Denied 1/10/80.*
19783	Terrell K. Moose	14 CFR § 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. *Denied 1/10/80.*
19784	Henry E. Pratt, Jr	14 CFR § 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. *Denied 1/10/80.*
19785	H. E. Sargent	14 CFR § 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. *Denied 1/10/80.*
19786	John F. Scott	14 CFR § 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. *Denied 1/10/80.*
19787	Fred McLaughlin	14 CFR § 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. *Denied 1/10/80.*
19795	Scenic Airlines—Capt. Timothy J. Duggan	14 CFR § 135.243	To allow Timothy J. Duggan to serve as Pilot in Command without holding an airline transport pilot certificate. *Granted 1/8/80.*
19833	Aeroservice International, Inc.	14 CFR § 63.37	To allow issuance of a Flight Engineer Certificate when an alternative method is used to meet the five hours of training in flight. *Denied 1/10/80.*

[FR Doc. 80–2976 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administation

Public Meeting on Airports Serving Cab-Certificated and Commuter Air Carriers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The purpose of this meeting is to discuss with the air carrier industry, airport operators, and the public the need to revise Federal Aviation Regulations applicable to the certification and operation of land airports serving air carriers certificated by the Civil Aeronautics Board (CAB). These revisions may be needed in light of recent liberalization of CAB policies and procedures, and the need to extend these regulations to certain airports serving commuter air carriers.

PLACE: Federal Aviation Administration Headquarters, Room 9A, B, C, 800 Independence Ave., SW, Washington, DC 20591.

DATE AND TIME: February 11, 1980, 10:00 a.m.

FOR FURTHER INFORMATION CONTACT: Mr. Harry D. Hink, Safety and Compliance Division (AAS–300), Office of Airport Standards, 800 Independence Ave., SW, Washington, DC 20591 Telephone (202) 426–3087.

SUPPLEMENTARY INFORMATION: The Federal Aviation Regulations concerning airport certification are applicable only to airports serving CAB-certificated air carriers. This limitation has worked well in the past and was consistent with the economic regulations of the CAB when service of the major terminals and routes was preformed by air carriers under certification of public convenience and necessity issued by the CAB. However, the liberalization by the CAB of its policies and regulations concerning the grant of economic authority and the implementation of the Airline Deregulation Act of 1978 has resulted in the issuance of multiple CAB certificates, exemptions and authorizations, with individual air carriers being allowed to conduct a variety of operations. In some cases CAB-certificated carriers are being allowd to drop terminal points and routes and commuter air carriers are being granted these terminal and route authorizations. In other cases CAB-certificated air carriers are being authorized to use the commuter air carrier rules when serving certain terminals and routes. In these cases the traveling public is moving from CAB-certificated air carrier service to commuter air carrier service (often in similar size and type aircraft) and will no doubt assume that the same level of service and safety will continue to be provided.

Recognizing the safety implications from this comingling of operations and the Congressional mandate for the prevention of any deterioration in established safety procedures, and the assignment and maintenance of safety as the highest priority in air commerce, the FAA is contemplating rulemaking action to extend the requirements for airport certification to certain airports serving commuter air carriers.

Interested persons are invited to participate in this meeting. The FAA will consider all comments in determining whether to initiate rulemaking in this matter.

Issued in Washington, D.C. on January 28, 1980.

William V. Vitale,

Acting Director, Office of Airport Standards.

[FR Doc. 3160 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Public Service Archeology Grant Program, Academic Year 1980–81

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: Pursuant to 23 U.S.C. §§ 307 and 321, the FHWA's National Highway Institute (NHI) is responsible for developing and administering training program of instruction for FHWA and State and local highway department employees engaged in or to be engaged in Federal-aid highway work. The NHI is offering grants for study at the graduate level in Public Service Archeology at the University of South Carolina. The student may choose a 14–week, 28–week, or 2–year program.

The FHWA has published a notice (N 4910.16, January 11, 1980) describing the program and furnishing the pertinent information. Copies of this notice are available at the NHI for public inspection and copying, and will be furnished on request.

FOR FURTHER INFORMATION CONTACT: Mr. Larry E. Jones, National Highway Institute, 202–426–3100, or Ms. Virginia I. Cherwek, Office of the Chief Counsel, 202–426–0786; Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

(23 U.S.C. §§ 307, 315, 321; 49 CFR 1.48(b))

Issued on: January 28, 1980.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 80–3074 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statements; Notice of Intent

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the public that environmental impact statements (EIS's) will be prepared for proposed highway projects in the following States: Arkansas, Idaho, Illinois, Indiana, Maryland, Massachusetts, Minnesota, Nebraska, North Dakota, Texas, Vermont, and Virginia.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the National Environmental Policy Act 1969, as amended, the Council on Environmental Quality's implementing regulations (40 CFR Parts 1500–1508), and the Department of Transportation's procedures for considering environmental impacts (DOT Order 5610.1C), the FHWA hereby gives notice that environmental impact statements (EIS's) will be prepared for the following proposed Federal-aid highway projects:

Washington and Crawford Counties, Ark.

The Arkansas State Highway and Transportation Department has begun the scoping process for the preparation of an EIS for the improvement of U.S. 71 between Fayetteville and Interstate 40 (I–40) in Washington and Crawford Counties. Alternatives under consideration are upgrading the existing highway to a four-lane expressway; constructing a four-lane freeway on new location; and the "do nothing" alternative. Four alignments on new location have been identified. Approximate length of the project is 45–50 miles.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. The urban area of Washington County is experiencing rapid growth, and U.S. 71 is the major transportation link to the transportation services of the Arkansas Valley (I–40, Arkansas River, pipelines, and rail facilities).

Letters describing the proposed action and soliciting comments have been sent to appropriate State agencies, Federal agencies, local government agencies, private organizations including conservation groups, groups and individuals who have voiced opposition to the project in the past, and to major Arkansas newspapers. Also, a series of six Public Involvement sessions were held between October 30 and November 8, 1979. Each was conducted in a mobile trailer situated directly in the areas to be affected. A formal scoping meeting is not planned at this time.

Comments or questions concerning this proposed action should be directed to: Mr. Paul W. Pool, District Engineer, Federal Highway Administration, 3128 Federal Office Building, Little Rock, Arkansas 72201, Telephone: (501) 378–5355.

Wallace, Idaho

An EIS will be prepared for a 2-mile gap in Interstate Route 90 (I–90) through the city of Wallace in Shoshone County, Idaho.

Alternatives for a new Interstate facility through Wallace include a tunnel, an elevated highway over the river or railroad, and a hillside alignment. The "do nothing" alternative will also be considered. The proposed Interstate facility would require two interchanges. A total of seven interchange alternatives will be considered.

During the last 15 months, Federal, State, and local agencies and the local community have been involved in environmental studies for this proposed project. These studies will continue. A formal scoping meeting does not appear to be necessary for the preparation of this EIS.

Comments or questions concerning this proposal and EIS should be directed to: Mr. Glen Bedell, Field Operations Engineer, Federal Highway Administration, Idaho Division, 3010 West State Street, Boise, Idaho 83703, Telephone: (208) 384–1845.

Lake County, Ill.

The FHWA in cooperation with the Illinois Department of Transportation will prepare an EIS for a proposed 7 mile long highway improvement to be known as the Lake Front Parkway in Lake County, Illinois. The proposed action would consist of a multi-lane highway on new and partly new location in the corridor served by Buckley Road (Illinois Route 137) and Sheridan Road.

The proposed highway improvement would begin at the interchange of Buckley Road with the Tri-State Tollway (Interstate Highway 94) and would extend easterly and northerly through the city of North Chicago to an ending in the city of Waukegan. The proposed improvement would serve the transportation needs of the cities of North Chicago and Waukegan, including facilities such as the Waukegan Port Area, the Great Lakes Naval Training Station and the Downey Veteran's Administration Hospital.

The major alternatives under consideration are do nothing, upgrade existing arterial highway facilities, construction of an access controlled highway facility on new alignment, and construction of a highway facility which will comprise an access controlled portion on new alignment as well as an upgraded arterial type improvement. Incorporated into and studied with the various alternatives will be design variations of grade, alignment, grade separation, and access to adjacent existing and community planned public transportation facilities.

The proposed Lake Front Parkway was originally conceived in the early 1950's with early studies completed in 1958, and public hearings held in 1959. As a result of the earlier studies, coordination, and public hearing process a 1.5 mile portion of the facility was constructed from the north edge of the city of Waukegan southward. Studies on the remaining 7 miles were begun in the early 1970's and are currently continuing. Coordination has been ongoing with the U.S. Navy, Veterans Administration, private industry, Federal, State, regional, metropolitan, and local public agencies and community organizations. Contacts, comments, and input have been made through correspondence, telephone communications and individual or group public meetings. Additional information will continue to be gathered through the proposed project development. Because of the ongoing coordination process a formal scoping meeting is not anticipated.

The probable impacts of the project include relocation of families and businesses, modification of traffic patterns, and modification of access to some properties.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments or questions should contract: Mr. Lionel H. Wood, Staff Specialist for Environment, or Mr. Robert J. Deatrick, District Engineer, Federal Highway Administration, 320 W. Washington Street, 7th Floor, Springfield, Illinois 62701, Telephone: (217) 525–4600; or Mr. Cesar Nepomuceno, Chief, Bureau of Programming, Illinois Department of Transportation, 1000 Plaza Drive, Schaumberg, Illinois 60196, Telephone: (312) 884–4393.

Village of Northbrook, Cook County, Ill.

The FHWA in cooperation with the Illinois Department of Transportation and the Cook County Highway Department will prepare an EIS on a proposal to widen Sanders Road in the Village of Northbrook in Cook County, Illinois.

The project would extend from Lake-Cook Road to Willow Road, a distance of approximately 2.5 miles. The proposed action would address the safety and adequacy of the existing two-lane road as well as the social, economic and environmental impacts. The build and the no-build alternates will be fully developed. It is expected that the build alternate will examine provisions for four-lane improvement with some variations in location and design.

A draft section 4(f) evaluation will also be prepared as part of this project. It will address possible impacts to the Cook County Forest Preserve District land adjacement to Sanders Road.

No formal scoping meeting is planned on this proposed action. Numerous planning and coordination meetings as well as a formal public informational meeting have been held. If additional issues develop that need further coordination, then scoping meetings integrated with planning meetings will be held, as necessary, to resolve such issues.

To ensure that the full range of issues related to the proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals who wish to inquire or comment on this proposal may contract: Mr. Lionel H. Wood, Staff Specialist for Environment, or Mr. Robert J. Deatrick, District Engineer, Federal Highway Administration, 320 West Washington Street, 7th Floor, Springfield, Illinois 62701, Telephone: (217) 525–4600; or Mr. Raymond M. Harris, Chief, Bureau of Local Roads and Streets, Illinois Department of Transportation, 1000 Plaza Drive, Schaumberg, Illinois 60172, Telephone: (312) 884–5000.

City of Elgin, Kane County, Ill.

The FHWA in cooperation with the Illinois Department of Transportation and the city of Elgin will prepare an EIS for a proposed new north-end bridge project and associated roadway construction in the city of Elgin in Kane County, Illinois.

This proposed improvement would be located between downtown Elgin and Interstate Highway 90. Its western limit is the intersection of Route 31 and Big Timber Road, and the eastern limit is the intersection of Summit Street (Illinois Route 58) at Dundee Avenue. The total length is approximately 1.7 miles.

The proposed action would consist of construction of a four-lane bridge on a new location over the Fox River and a four-lane roadway section partly on new location and partly along existing streets. The proposed action would serve the need for a river crossing at the north side of Elgin, to relieve congestion on existing river crossings and on the streets serving them in downtown Elgin,

and to provide better continuity in the regional highway system. The build and the no-build alternates will be fully developed. The build alternate will examine a number of location and design variations.

A formal scoping meeting is not planned. Numerous planning and coordination meetings have already been conducted for this project, and a formal public information meeting was also held. The A–95 process has also been used to solicit comments from various agencies, and these comments are currently being analyzed and documented. If issues develop that need further coordination, then scoping meetings integrated with planning meetings will be held, as necessary, to resolve such issues.

To ensure that a full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments and suggestions should contact: Mr. Lionel H. Wood, Staff Specialist for Environment, or Mr. Robert J. Deatrick, District Engineer, Federal Highway Administration, 320 W. Washington Street, 7th Floor, Springfield, Illinois 62701, Telephone: (217) 525–4600; or Mr. Raymond M. Harris, Chief, Bureau of Local Roads and Streets, Illinois Department of Transportation, 1000 Plaza Drive, Schaumberg, Illinois 60172, Telephone: (312) 884–4000.

Macon, DeWitt and McLean Counties, Ill.

The FHWA in cooperation with the Illinois Department of Transportation (IDOT) will be preparing an EIS on a proposal to upgrade U.S. Route 51 between Maroa and Bloomington, Illinois, a distance of approximately 30 miles. The existing facility is a two-lane rural highway originally constructed in the mid-1920's. The proposed action is to use Federal-aid matching funds to reconstruct the highway as a multi-lane expressway with partial access control. Existing right-of-way and pavement would be used to the maximum extent possible.

The proposed improvement is being considered to fulfill a need for a highway with adequate capacity and design features to provide for safe and efficient transportation.

The following alternatives are being considered: (1) reconstruction on existing location, (2) reconstruction on existing and partly new location, including bypasses of towns, and (3) doing nothing. Modal alternatives such as mass transit will also be considered. The alternative of a fully access-controlled freeway on a new alignment has been studied in the past, but is not considered feasible.

The early coordination and scoping process has been undertaken as part of earlier studies. The following agencies, because of their interest or expertise in certain areas of environmental impact, will be requested to become cooperating agencies: U.S. Army Corps of Engineers; U.S. Environmental Protection Agency; U.S. Department of Agriculture, Soil Conservation Service; U.S. Department of the Interior; Illinois Department of Conservation.

A scoping meeting has not been planned at this time, but will be scheduled at the request of any cooperating agency, or if it becomes apparent that one is necessary.

To ensure that a full range of issues related to the proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals who wish to submit comments or questions may contract: Mr. Lionel H. Wood, Staff Specialist for Environment, or Mr. Frank M. Johnson, District Engineer, Federal Highway Administration, 320 W. Washington Street, 7th Floor, Springfield, Illinois 62701, Telephone: (217) 525–4600; or Mr. Robert E. Kronst, District Engineer, Illinois Department of Transportation, State Highway Building, Paris, Illinois 61644, Telephone: (217) 465–4181.

DuPage and Will Counties, Ill.

The FHWA in cooperation with the Illinois Department of Transportation, Division of Highways, has instituted studies for the southern extension of an existing freeway facility (Interstate Route 290 and Illinois Route 53) from Army Trail Road to Interstate Route 55, a length of 16 miles. An environmental impact statement will be prepared for the proposed action. The proposed highway improvement is locally known as the Lake-Will Freeway.

Major alternatives under consideration are do nothing, upgrade the existing Illinois Route 53 arterial highway, and construct a freeway on new alignment. Incorporated into and studied with the various alternatives will be design variations of grade, alignment, grade separation, interchange location and stage construction options.

The proposed Lake-Will Freeway was originally conceived in the early 1950's with early studies completed in the late 1960's and construction of the north-south portion of Interstate Route 290, from Dundee Road (Illinois Route 68) on the north to the Lake Street (U.S. Route 20) Army Trail Road terminal on the south, completed in the early 1970's. The completed portion is about 15 miles in length. Studies on the southern extension of 16 miles began in the 1960's with Federal, State and local coordination meetings, public meetings and a series of multiple sets of public hearings. The study remained idle until the mid 1970's and has currently been reactivated. Coordination has been ongoing throughout these years and is currently continuing.

The scoping will be initiated with correspondence to all previously contacted Federal, State, local and municipal agencies as well as all persons who have expressed interest in being notified on the progress of the studies. At the present time individual meetings are currently being held or scheduled with agencies of areawide jurisdiction and regulatory permit authority such as the U.S. Army Corps of Engineers. Additional information will be gathered during the project development process through a series of public meetings to be scheduled over the next year. Because of the ongoing and past coordination process a formal scoping meeting is not anticipated, but a scoping meeting may be scheduled if new information indicates that such a meeting will help in further refining issues attendant to the proposed action.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations and individuals interested in submitting comments or questions should contact: Mr. Lionel H. Wood, Staff Specialist for Environment, or Mr. Robert J. Deatrick, District Engineer, Federal Highway Administration, 320 W. Washington Street, 7th Floor, Springfield, Illinois 62701, Telephone: (217) 525–4600; or Mr. Cesar Nepomuceno, Chief Bureau of Programming, Illinois Department of Transportation, 1000 Plaza Drive, Schaumburg, Illinois 60196, Telephone: (312) 884–4393.

Adams County, Ind.

The FHWA and the Indiana State Highway Commission cooperatively have been preparing, since June 1975, a draft EIS for the improvement of U.S. 27 from State Route 124 five miles south of Decatur north to the newly constructed four-lane section of U.S. 27 and U.S. 33 approximately one mile north of Decatur.

The proposed action would consist of a four-lane highway facility. There are various alternates under consideration

at present which vary in length from 9 to 12.5 miles. Two alternates are west of the Decatur corporate limits while another passes each of Decatur. The last alternate consists of upgrading the existing facility which passes through the west edge of Decatur. Each of the western alternates and the upgrading of the existing facility would include a connector roadway between U.S. 33 and the selected alternate south of the corporate limits of Decatur. This connector roadway would be two to three and one-half miles in length. A "do-nothing" alternate is also under study.

Environmental impacts resulting from this proposed action would include crossing of the St. Mary's River (all build alternates) and the taking of 283 to 439 acres of property for right-of-way (varying as to alternate selected). All build alternates would require the relocation of families and/or businesses (3 families and no businesses to 46 families and 35 businesses) and the acquisition of some prime farmland. One alternate would impact a portion of a wetland (Type 3). All of the build alternates would have a beneficial effect of removing some of the heavy truck traffic from the central business district of Decatur.

Preparation of this draft EIS has been coordinated with the U.S. Department of the Interior, Fish and Wildlife Service; U.S. Department of Agriculture; Federal Aviation Administration and various State and local agencies. The general public has been involved in the development of this project through a public information meeting. No formal scoping meeting will be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments or questions should contact: Mr. John W. Breitwieser, Federal Highway Administration, 575 North Pennsylvania Street, Room 254, Indianapolis, Indiana 46204, Telephone: (317) 269–7481.

Lake County, Ind.—City of Hammond

The FHWA in cooperation with the Indiana State Highway Commission has been preparing, since May 1977, a draft EIS on a project to relocate and consolidate the railroad corridors through Hammond, Indiana. The proposed project may include upgrading existing railroad crossings, construction of grade separation structures, relocation of rail lines and interchanges, and abandoning rail yards.

The proposed project is intended to improve roadway operations and safety, improve railroad operations, conserve energy and stimulate community development. The project may require the use of additional land and may have an adverse effect on noise quality. Depending on the alternative chosen, there would be some relocation as well as possible impacts on historical buildings and wetland areas.

Alternatives under consideration for this project include (1) a rerouting of the N & W rail lines through Hammond; (2) a limited build alternative consisting of improving the surface condition of at-grade crossings and construction of several grade separation structures; and (3) the "do nothing" or "no build" alternative.

All affected Federal, State and local agencies have participated in the early coordination for this draft EIS. These agencies include Indiana's Department of Natural Resources, U.S. fish and Wildlife Service, NIRPC, Indiana Air Pollution Control Division and U.S.C Soil Conservation Service, among other. No formal scoping meetings are planned.

In addition, the Steering Committee, serving as a forum for all interested organizations and other persons, has met seven times during the course of the project's development. The general public has been involved in the development of this project and their input has been solicited through a series of seven public information meetings.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments or questions should contact: Mr. John W. Breitwieser, Federal Highway Administration, 575 N. Pennsylvania Street, Room 254, Indianapolis, Indiana 46204, Telephone: (317) 269–7481.

Anne Arundel and Howard Counties, Md.

An EIS is being prepared for a section of Maryland Route 32 in Anne Arundel and Howard Counties, Maryland. The proposed action is being studied as a freeway-type facility with two preliminary alignments having been identified (Anne Arundel County Master Plan Alternate and the State Highway Administration Alternate). Both alignments proceed in a northwesterly direction from existing Maryland Route 32 at Maryland Route 3 to a previously approved section of Maryland Route 32 east of U.S. 1. The alignments would intersect the Baltimore-Washington Parkway between Maryland Routes 198 and 175. The "do nothing" alternative will also be considered.

The proposed action would address the need to provide lateral access across the Baltimore-Washington transportation corridor. The project would include an Odenton by-pass which would alleviate the heavy through traffic movement on Maryland Route 175 and provide considerable relief to existing Maryland Route 32 in the vicinity of Fort Meade and the project corridor.

The project corridor has potential involvements with the 100-year floodplain, wetlands, and historic resources. The action is consistent with regional, county and local development plans as well as the Fort Meade Master Plan.

No formal scoping meetings will be held on this proposed action. Agencies or individuals who wish to be involved as the study develops should contact: Mr. Hal Kassoff, Director, Office of Planning and Preliminary Engineering, State Highway Administration, 300 West Preston Street, Baltimore, Maryland 21201.

The FHWA contact for this project is Mr. Roy D. Gingrich, District Engineer, The Rotunda, Suite 220, 711 West 40th Street, Baltimore, Maryland 21211, Telephone: (301) 962–4011.

Pittsfield and Lenox, Mass.

An EIS will be prepared for the proposed relocation of U.S. Route 7 in Pittsfield and Lenox, Massachusetts. Five alternatives, including the No-Build Alternative, are being considered.

The No-Build Alternative includes no major improvements to the existing highway system in Pittsfield and Lenox. Only routing and normally scheduled improvements would occur.

The Mass Transit Alternative is similar to the No-Build Alternative in that there would be no major improvements to highway facilities in the study area. Major expansion of service by the Berkshire Regional Transportation Authority (BRTA) would be accomplished by scheduling new routes with increased frequency throughout the area.

The Street Improvements Alternative entails widening or otherwise improving Route 7 and other major streets on their existing locations and designating several street segments as one-way. New roadway construction would extend Park Street and a relocated part of East Street in Pittsfield.

The other two alternatives each call for construction of a four-lane divided controlled-access highway with several two and four-lane undivided connecting roadways. The Eastern Alternative

would extend 9.8 miles on new location from the northern end of the Lenox Bypass near East Dugway Road in Lenox to a connecting road to Route 8 near the Pittsfield-Lanesborough town line. It would skirt the urbanized core on the east and would have connecting links to U.S. Route 20 west of the Pittsfield Central Business District (CBD), to the CBD itself, to Route 8, and to Lanesborough.

The Western Alternative would be 10.8 miles long, also extending from East Dugway Road to Route 8 near the Pittsfield-Lanesborough line. It would be built on new location to the west of existing Route 7 and the Pittsfield urbanized core. It would have two connecting links to downtown Pittsfield (one through Lanesborough) and one connecting link to Route 7 and 20 in southern Pittsfield.

This proposed project is designed to alleviate the congestion both within and approaching the Pittsfield CBD that presently exists during peak hours of travel. Construction of either the Eastern or Western Alternative would provide a through route for north county traffic to the Interstate System as well as direct access to the Pittsfield CBD.

Early coordination and scoping will be accomplished through letters, telephone conversations, and, if necessary, meetings. No formal scoping meeting is planned at this time. However, if the early coordination indicates that the impacts are more complex than anticipated, a formal scoping meeting will be scheduled.

For additional information, please contact: Mr. Patrick C. Donovan, Environmental Specialist, Federal Highway Administration, 100 Summer Street, Suite 1517, Boston, Massachusetts 02110, Telephone: (617) 223–2875.

Le Sueur and Sibley Counties, Minn.

The FHWA and the Minnesota Department of Transportation intend to develop an EIS for a proposed project involving the replacement of the Trunk Highway (T.H.) 93 bridge over the Minnesota River (Bridge No. 3945) and a railroad bridge over T.H. 93 (Bridge No. 4629) at Lesueur.

Bridge No. 3945 is a steel high truss that is 409.3 feet long, has a roadway width of 20.8 feet and was built in 1923. Bridge No. 4629 is a steel beam truss that is 36.5 feet long, has a roadway width of 28.3 feet and was built in 1922. These bridges are structurally deficient and functionally obsolete. The major deficiencies with Bridge No. 3945, over the Minnesota River, are its low deck geometry (roadway width), waterway adequacy, and restricted load capacity. The major deficiency with Bridge No. 4629, under the C&NW Railroad, is its inadequate under clearance. In addition, both bridges are over 50 years old (50 years is normal expected life) and repairs to antiquated and inadequate structures are not normally economical.

Many bridge replacement alternatives were formulated in the early planning stages in an attempt to alleviate or minimize the existing problems of inadequate clearance above high water elevation and the restrictive (inadequate) clearance under the railroad bridge. These two problems are in direct conflict with each other, i.e., if the river bridge is raised to provide sufficient clearance above high water elevation, the roadway clearance under the railroad bridge will decrease from an already inadequate 12.5 feet.

The alternatives to be evaluated in the draft EIS have two aspects, grade and alignment. The two alignment (horizontal) alternatives are the existing bridge street location and the Ferry Street location. There are three grade (vertical) options under consideration. One option involves relocating the river channel and the other two are an at-grade railroad crossing and a bridge spanning the river and railroad with railroad grade depressed 9 feet. Combinations of the grade and alignment options result in 6 alternatives, plus the no-build, which would require eventual removal of the existing bridge.

In addition to the replacement of the two bridges, there are several alternatives that include upgrading or realignment of T.H. 93. Presently T.H. 93 is not an all weather (flood-proof) road. The roadway has an overflow section or saddle that is about 3–4 feet below the flood of record elevation. Historically this roadway has been impassable for 2–3 weeks in 1 out of every 10 years.

The scoping process for this project involved the circulation of a Scoping Document to concerned agencies and individuals on August 1, 1979. Comments were solicited in an effort to aid early coordination. A "scoping meeting" and field review was held with agencies that were requested to become "Cooperating Agencies" (Department of the Army, Corps of Engineers; City of Lesueur; Minnesota Department of Natural Resources; Minnesota Pollution Control Agency; and the U.S. Fish and Wildlife Service) on August 28, 1979, at Lesueur. This meeting covered the project development path and alternatives, public and agency involvement and environmental impacts.

The following persons may be contacted for questions or comments concerning this proposed project or the EIS as it is being developed: Mr. E. Dean Carlson, Federal Highway Administration, Suite 490, Metro Square Building, St. Paul, Minnesota 55101, Telephone: (612) 724–7003; or Mr. Marcus R. Flygare, Project Manager, Preliminary Design Engineer, Minnesota Department of Transportation, 501 South Victory Drive, Mankato, Minnesota 56001, Telephone: (507) 389–6351.

Nobles, Jackson, Cottonwood, and Watonwan Counties, Minn.

The FHWA and the Minnesota Department of Transportation intend to develop an EIS for a proposed project involving the improvement of a 53-mile segment of Trunk Highway (T.H.) 60 from Worthington to St. James.

The need to improve this segment exists because of deficiencies such as narrow land widths, narrow gravel shoulders, numerous "no-passing" zones, frequent steep shoulder slopes and narrow ditches, old and deteriorating pavement, two hazardous railroad crossings, frequent at-grade road and entrance approaches without turn lanes or other safety features, and urban sections that delay thru traffic and create conflicts with pedestrian and local traffic.

This project has undergone extensive study and citizen involvement. The most recent study was conducted by a ten-member, bi-regional Citizens' Advisory Committee whose members were selected by the Regional Development Commissions involved at the direction of the Commissioner of the Minnesota Department of Transportation (MN/DOT). Through a series of open discussions and work tasks, aided by technical studies, the committee developed and evaluated the various two-lane and four-lane expressway alternatives including some by-pass alternatives at Butterfield, Mt. Lake, and Windom.

On August 3, 1979, copies of the "T.H. 60 Improvement Study, Summary Report" (by the T.H. 60 Citizens' Advisory Committee) were distributed to concerned agencies and individuals.

A "scoping meeting" was held on August 23, 1979, at the MN/DOT District 7 Office in Mankato, Minnesota. This meeting covered engineering social and economic impacts, environmental and miscellaneous impacts, and public involvement for the proposed project. The alternatives recommended for detailed study were basically the same as those recommended by the Citizens' Advisory Committee. Comments were requested from agencies that were unable to attend.

The following may be contacted for questions or comments concerning this proposed project or the EIS as it is being developed: Mr. E. Dean Carlson, Federal Highway Administration, Suite 490, Metro Square Building, St. Paul, Minnesota 55101, Telephone: (612) 725–7003; or Mr. Marcus R. Flygare, Project Manager, Preliminary Design Engineer, Minnesota Department of Transportation, 501 South Victory Drive, Mankato, Minnesota 56001, Telephone: (507) 389–6351.

St. Paul, Minn.

The FHWA, Minnesota Department of Transportation and the Metropolitan Council of the Twin Cities area intend to develop an EIS for the St. Paul, Minnesota section of Interstate Route 35E (I–35E). The proposed action is located in the city of St. Paul, Ramsey County, Minnesota. The project would extend from the existing I–35E bridge over the Mississippi River to an area north of the central business district of St. Paul where it would again intersect with existing I–35E. The proposed action would be between 4 and 6 miles in length depending on the alternative that is selected. Most sections would be built on acquired right-of-way. The facility would have several lanes with additional auxiliary lanes in select locations. The construction would meet FHWA standards for an urban Interstate section.

The purpose of Interstate 35E is to provide a north-south, high volume highway for the regional movement of people and goods. In addition to fulfilling Federal and State transportation objectives, the proposed highway section would provide regional accessibility to downtown St. Paul and would serve the subregional and local travel demands of Dakota and Ramsey Counties—particularly needs of those cities on and adjacent to the I–35E segment in the Metropolitan Area.

A comprehensive analysis was conducted to identify corridors which fulfilled the stated needs in Phase 1 of the I–35E Study. Seven corridors were evaluated based on transportation criteria incorporating environmental consideration. Five were determined to be unreasonable since they did not meet the transportation needs. The two corridors that were identified as reasonable were Pleasant Avenue and Shepard Road. Freeway designed facilities will be evaluated in each of these corridors. In addition the no-build alternative remains a viable alternative.

Based on the input from agencies and residents during the Phase 1 corridor selection study a number of potential impacts were identified. These were used to develop six design alternatives within the Pleasant Avenue Corridor in addition to the freeway design mentioned above. The design elements which vary in these alternatives are:

1. Direct or indirect connection with existing I–94 north of the central business district of St. Paul. The direct connection would utilize a typical freeway to freeway interchange. The indirect connection would require that local streets or frontage roads be used to access existing I–94 from the proposed action.

2. Parkway Design. Under some of the alternatives a parkway-type facility is being proposed, within the Pleasant Avenue Corridor. The parkway design would differ from a freeway in three ways: A speed limit lower than 55 mph, restrictions of heavy trucks, and extensive landscaping.

The scoping process was initiated in April 1978 when the Phase 1 corridor evaluation study began. Recorded below are the procedures that have been used to scope the project to date and the steps that will be utilized in the future.

I–35E Study Phase 1 Report—Corridor Evaluation and Alternative Identification

1. A Project Management Committee was appointed with representatives of the Minnesota Department of Transportation, Metropolitan Council of the Twin Cities Region (this is the Metropolitan Planning Agency responsible for A–95 Review) and the FHWA.

2. A series of six workshops and informational meetings were held throughout the affected area. Representatives of local communities, counties, residents and State and Federal agencies attended these meetings. One of the principal outputs from these meetings was a list of significant concerns that needed to be addressed in the draft and final EIS's.

3. A public meeting was held after the workshops. Notices were sent to local and county governments and the State and Federal agencies. Comments include significant concerns to be addressed in the draft EIS.

I–35E Study Phase 2—Draft Environmental Impact Statement

1. The same Project Management Committee has been retained to direct the preparation of the draft EIS.

2. A Coordinating Group was formed with representatives of concerned local communities and counties. The advisory group has input into all elements of the study. One of the first tasks carried out by this group was to identify significant concerns to be addressed in the draft EIS.

3. Scoping letters were sent to all concerned local and county governments and regional, State and Federal agencies.

4. A series of 10 presentations were made to local and county governmental officials and neighborhood groups. One of the principal objectives of these meetings was to identify significant concerns to be addressed in the draft EIS.

5. Individual meetings have been held with the Minnesota Pollution Control Agency concerning the content of air and noise analysis.

6. A number of interviews will be held with community leaders from the neighborhoods surrounding the proposed action. These individuals will be asked to identify potential impacts that may result in their neighborhood should the various alternatives be built. This information will be used to identify significant impacts to be addressed in the draft EIS.

7. A series of technical environmental studies will be prepared as input into the draft EIS. These studies will be circulated to State and Federal agencies for review prior to their use in the draft EIS.

Any comments or questions can be addressed to the following individuals: Mr. E. Dean Carlson, Division Administrator, Federal Highway Administration, Metro Square Building, St. Paul, Minnesota 55105, Telephone: (612) 725–7001; Mr. Charles Weaver, Chairman, Metropolitan Council of the Twin Cities Region, 300 Metro Square Building, St. Paul, Minnesota 55105, Telephone: (612) 291–6453; or Mr. Richard P. Braun, Commissioner, Minnesota Department of Transportation, Room 411, John Ireland Boulevard, St. Paul, Minnesota 55155, Telephone: (612) 296–3000.

Scott and Carver Counties, Minn.

The FHWA and the Minnesota Department of Transportation (MN/DOT) are intending to develop an EIS for the relocation and upgrading of U.S. Highways 212 and 169, between Norwood and Eden Prairie, and across the Minnesota River, between Scott and Carver Counties. A draft EIS prepared in 1974 is no longer considered to be valid because of environmental regulations and recent land development. This project would ease truck and auto traffic by reducing through trips on existing roads.

For most of its 29-mile length, the existing U.S. 212 is a two-lane highway with many local access, intersection, sight-distance, and grade problems. The

road design is inadequate for the heavy truck traffic from western and southwestern Minnesota, and the commuter and local traffic which mixes with it enroute to the Twin Cities. Minnesota Road 5, an east-west alternate route north of U.S. 212, has the same deficiencies. The nearest highway south of U.S. 212 is across the Minnesota River. It does not serve the same communities near the Twin Cities.

Across the Minnesota River, existing U.S. 169 is a four-lane highway which handles large numbers of trucks. Truck traffic is expected to increase in the future, aggravating safety problems in the downtown Shakopee area through which it passes. A new U.S. 169 bridge, west of Shakopee, would serve these trucks which must now pass through Shakopee. The bridge would be a four-lane high-level design. Minnesota Road 41 (a two-lane bridge to the west), Scott 9-Carver 45 (a two-lane bridge further to the west), and Hennepin County 18 (a temporary bridge to the east) all are low-level bridges. The latter two bridges are flooded at least once annually.

Several locations are being considered for U.S. 212. These alternatives are in an area ranging from Minnesota Road 5 to the north to U.S. 212 to the south. Two alternatives for the U.S. 169 crossing, either west or east of Nyssens-Strunks Lake, are also being considered. For the U.S. 212 portion of the project, upgrading is an alternative. For both the U.S. 212 and U.S. 169 portions, the no-build alternative will also be considered. Because of the diversity of destination of the trucks, the low population density, and the length of the project, other modes of transportation will not be alternatives.

The Metropolitan Council has approved the U.S. 212 and U.S. 169 corridors and incorporated their general southwest locations into its seven-county transportation plan. (This organization serves as a regional planning and taxing agency, and as the A–95 and COGS clearinghouse.) While primarily establishing a viable truck route for commodities from southwestern and western Minnesota, the proposed project is important to the cities through which it passes. It has been included for many years on their comprehensive economic and land use plans.

As of November 8, 1979, eleven meetings of a citizens' advisory committee had been held. The committee has representatives from every affected community. The committee has been meeting (often in a workshop atmosphere) to help MN/DOT narrow down alternatives. It has been careful to keep these altnernatives within environmental guidelines. MN/DOT and the committee will continue to meet through December. MN/DOT has held meetings with Federal and State agencies, county officials, city staffs, city councils, a school board, and a city planning commission. Efforts have been made to identify wetlands concerns of the U.S. Fish and Wildlife Service and the Minnesota Department of Natural Resources. MN/DOT established informal ties by asking affected agencies to name official contacts. In addition, agencies with known concerns have been asked to state major concerns at two citizens' committee meetings. The first informal scoping meeting was held October 17, 1979. The second was held November 28, 1979. Many meetings have also been held with neighborhood groups, civic organizations, developers, and private citizens. MN/DOT also held one-day open houses in the project area in December. Additional comments on the scope of the project should be received by MN/DOT at the address below not later than 30 days after publication of this notice in the **Federal Register.**

Comments or questions concerning this proposed action should be directed to: Mr. Frederick A. Behrens, District Engineer, (612) 725–5956, or Mr. James M. Shrouds, Staff Specialist for Environment, (612) 725–7003, Federal Highway Administration, Suite 490, Metro Square Building, St. Paul, Minnesota 55101; or Mr. Robert H. Paine, Project Manager, Layout, Research and Development, Minnesota Department of Transportation, 5801 Duluth Street, Golden Valley, Minnesota 55422, Telephone: (612) 545–3761.

Wabasha, Minn.

The FHWA and the Minnesota Department of Transportation intend to develop an EIS for the proposed replacement of the existing bridge and approaches over the Mississippi River at Wabasha, Minnesota.

This bridge carries Minnesota Trunk Highway 60 (T.H. 60) and Wisconsin State Highway 25 (W.S.H. 25) between Wabasha, Minnesota, and Nelson, Wisconsin. The study length is 3.9 miles and the study termini are the T.H. 60–U.S. 61 junction in Wabasha and the W.S.H. 25–W.S.H. 35 junction in Nelson.

The existing bridge was constructed in 1931, is 19 feet wide and 2229 feet long, and contains several structural and alignment deficiencies. The proposed action would provide continuance of the area Interstate highway transportation system.

Five bridge alternatives at various locations in Wabasha and a no-build alternative are being considered. Other alternatives investigated and dismissed include up and downstream corridors, channel relocation, lift bridge, tunnel and ferry.

On April 13, 1978, a public information meeting was held in Wabasha. A "Scoping Meeting" was held on April 23, 1979, in Wabasha with 9 State and Federal agencies reviewing the natural resource impacts. Extensive coordination has been accomplished over the past 7 years in the development of this project leading to a draft EIS. The draft EIS is essentially complete except for a determination of historic effects which is expected to be completed by early 1980.

Comments or questions concerning this proposed action should by directed to: Mr. Frederick A. Behrens, District Engineer, (612) 725–5956; or Mr. James M. Shrouds, Staff Specialist for Environment, (612) 725–7003, Federal Highway Administration, Suite 490, Metro Square Building, St. Paul, Minnesota 55101; or Mr. Roy Larson, District Engineer, Minnesota Department of Transportation, P.O. Box 6177, Rochester, Minnesota 55901, Telephone: (507) 285–7374.

Lincoln, Nebr.

An EIS will be prepared for the widening of 4.3 miles of 27th Street in Lincoln, Nebraska, between Potter Street and Arbor Road. The project includes construction of a rail overpass and an interchange with Interstate 80.

Needs which would be fulfilled by the proposed action include: (1) elimination of at-grade rail crossings, (2) increased traffic capacity, (3) improved drainage, (4) new fairgrounds access, and (5) improved access to a developing area.

Alternatives being considered include: doing nothing, upgrading the existing facility, and construction on a new alignment.

Early coordination through meetings and correspondence will be attained with the public, Lincoln/Lancaster County Railroad Transportation Safety District, Corps of Engineers, State Fair Board, State Historical Society and other local and State agencies. A formal scoping meeting will not be held.

Comments or questions concerning this proposed action should be directed to: Mr. Walter Running, Federal Highway Administration, Federal Building, 100 Centennial Mall North, Lincoln, Nebraska 68508, Telephone: (402) 471–5527.

Benson and Ramsey Counties, N. Dak.

An EIS will be prepard for a proposed improvement to U.S. highway 2 in Benson and Ramsey Counties, North Dakota.

The proposed project would involve the construction of a two-lane roadway parallel to the existing roadway from the junction of U.S. Highway 281 south and U.S. 2 (just west of Churchs Ferry) to the existing four-lane roadway (just west of Devils Lake). The project would provide a four-lane divided highway approximately 18 miles long, and would require additional right-of-way. The two-lane and the do nothing alternatives will be discussed. Other alternates consist of which side of the existing roadway the proposed roadway should be located on at three locations.

This project would improve the quality of travel for motorists by providing a four-lane facility that would reduce the conflicts between slow moving local vehicles and faster moving through traffic, thereby creating more relaxed driving conditions and safer, more efficient operation of motor vehicles.

A public hearing will be held. A scoping meeting will not be held. Letters soliciting views and comments on the proposed project were sent to various Federal, State, and local agencies. The draft EIS will be available for public and agency review and comment.

Questions about the proposed action and the draft EIS can be answered by Mr. George Seaworth, Division Administrator, Federal Highway Administation, P.O. Box 1755, Bismarck, North Dakota 58501, Telephone: (701) 255–4011.

Grand Forks, N. Dak.

An EIS will be prepared for the proposed construction of a railroad overpass on Columbia Road in the city of Grand Forks, North Dakota.

The proposed overpass would provide improved access between the northern and southern portions of the city which are bisected by the Burlington Northern railway switchyards.

Environmental impacts would result from increasing the traffic volume on the Columbia Road corridor. Columbia Road extends into the eastern edge of the University of North Dakota campus, but it does not continue across the switchyard at the present time. The proposed action would result in Columbia Road becoming a connecting route between the northern and southern portions of the city.

Letters soliciting views and comments on the proposed project were sent to various Federal, State and local agencies. Draft and final negative declarations were prepared and approved. A public hearing was held. However, a legal action was instituted, objecting to the processing of this action with a negative declaration. As a result, it was agreed that an EIS would be prepared. A scoping meeting will not be held but another public hearing will be held. The draft EIS will be circulated for review by agencies and the public prior to the public hearing.

Questions about the proposed action and the draft EIS can be answered by Mr. George Seaworth, Division Administrator, Federal Highway Administration, P.O. Box 1755, Bismarck, North Dakota, 58501, Telephone: (701) 255–4011.

Mott, N. Dak.

An EIS will be prepared for a proposed replacement of the Cannonball River crossing in Mott, North Dakota.

The proposed project would involve the removal and reconstruction of the bridge crossing the Cannonball River in Mott, North Dakota. Two alternate bridge sites and the do nothing alternate will be discussed. The structure has been determined to be eligible for the National Register of Historic Places. Therefore, a section 4(f) evaluation will be prepared that will discuss alternates to avoid and alternates to mitigate adverse effects.

The project would improve the quality of travel for motorists within Mott by replacing an existing inadequate bridge. In addition, the project would alleviate flooding of west Mott caused by the inadequate waterway opening of the existing bridge.

A public hearing will be held to discuss alternatives and impacts of the proposed action. Public notice will be given for the time and place of the public hearing.

A scoping meeting will not be held. The project has been discussed at local meetings in Mott. Coordination has begun and will continue with the State Historic Preservation Officer.

Letters soliciting views and comments on the proposed project were sent to various Federal, State and local agencies. The draft EIS will be available for public and agency review and comment.

Questions about the proposed action and the draft EIS can be answered by Mr. George Seaworth, Division Administrator, Federal Highway Administration, P.O. Box 1755, Bismarck, North Dakota 58501, Telephone: (701) 255–4011.

Travis and Williamson Counties, Tex.

The proposed project would consist of the upgrading of U.S. Highway 183 (U.S. 183) to a multi-lane controlled access facility. U.S. 183 is located in Travis and Williamson Counties primarily within the corporate limits of the city of Austin. The corridor study limits of U.S. 183 to be considered begin at State Highway 71 and end at Ranch to Market (R.M.) Highway 620, a distance of approximately 20 miles.

The existing facility is basically a four-lane roadway with six-lane sections existing from R.M. 620 to Interstate Highway 35 (I–35). The existing facility, especially the section from R.M. 620 to I–35, is within the fastest growing corridor in Austin and is rapidly becoming inadequate for current traffic volumes (57,600 vehicles per day between I–35 and North Lamar).

The improved section of U.S. 183 would provide three basic transportation needs for the city of Austin. As a part of the loop around the city, it would serve the local citizens desiring to travel between sections of Austin. By segregating the short local trips from the local long-distance trips and through trips, the access to local housing and businesses would be improved. As a result of the improved access to major routes serving Austin, business and pleasure trips into and out of the city would be enhanced.

Three alternates will be considered for this proposed project: (1) upgrading the existing facility, (2) a new route to bypass much of the existing congested areas, and (3) no-build.

A public meeting will be held during the early stages of project planning in the spring of 1980 within the project area. Adequate public notice will be given through news media as to the time and place that the meeting will be held. No formal scoping meeting is planned at this time.

The following person should be contacted if there are any questions or comments concerning the proposed action or the EIS: Mr. William L. Hall, P.E., District Engineer, Federal Highway Administration, 826 Federal Office Building, 300 East 8th Street, Austin, Texas 78701, Telephone: (512) 397–5511.

Bennington and Pownal, Vt., and Hoosick, N.Y.

The FHWA in cooperation with the Vermont Agency of Transportation is in the process of preparing an EIS on a proposal to improve U.S. 7 in the towns of Pownal and Bennington, Vermont, for a distance of about 6½ miles. Also included in the proposal is the improvement of VT 9 (NY7) in the towns of Bennington, Vermont, and Hoosick, New York. The proposed project is intended to reduce traffic congestion and improve existing highway deficiencies in and around Bennington Village.

Alternatives under consideration for this project include (1) taking no action; (2) using alternate travel modes; (3)

reconstructing the existing two-lane highways as four-lane non-limited access highways through the village; (4) constructing a new two-lane limited access by-pass west and south of the village; and (5) constructing a new two-lane limited access by-pass east and north of the village.

All affected Federal, State and local agencies and any interested persons are invited to participate in the scoping process for this EIS. Numerous meetings and public hearings were held on this proposed action from the late 1950's through 1969. Pursuant to the State of Vermont Action Plan, various Federal, State and local agencies and groups have been contacted regarding the proposed action and have already provided input to the EIS.

Based on information collected and comments received to date, several issues related to the proposed action have been identified and will be addressed in the EIS. These include impacts to wetlands, water quality, aquatic and wildlife habitat, agricultural land, historic sites and the Town Plan.

To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. No formal scoping meetings will be held on this proposed action.

Written statements and requests for additional information should be directed to: Mr. George A. Jensen, Federal Highway Administration, Federal Building, Montpelier, Vermont 05602, Telephone: (802) 223–5294.

Middlebury, Vt.

The FHWA in cooperation with the Vermont Agency of Transportation is in the process of preparing an EIS on a proposal to improve U.S. 7 in Middlebury, Vermont, for a distance of about 5 miles. The proposed project is intended to reduce traffic congestion in and around Middlebury Village.

Alternatives under consideration for this project include (1) taking no action; (2) using alternate travel modes; (3) reconstructing the existing two-lane highway as a four-lane non-limited access highway through the village; (4) constructing a new two-lane limited access by-pass west of the village; and (5) constructing a new two-lane limited access by-pass east of the village.

All affected Federal, State and local agencies and any interested persons are invited to participate in the scoping process for this EIS. During the mid 1970's, a citizens committee was formed to obtain local input. Pursuant to the State of Vermont Action Plan, various Federal, State and local agencies and groups have been contacted regarding the proposed action and have already provided input to the EIS.

Based on information collected and comments received to date, several issues related to the proposed action have been identified and will be addressed in the EIS. These include impacts to wetlands, the Otter Creek, aquatic and wildlife habitat, agricultural land and historic sites.

To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. No formal scoping meetings will be held on this proposed action.

Written statements and requests for additional information should be directed to: Mr. George A. Jensen, Federal Highway Administration, Federal Building, Montpelier, Vermont 05602, Telephone: (802) 223–5294.

South Burlington, Vt.

The FHWA in cooperation with the Vermont Agency of Transportation is in the process of preparing an EIS on a proposed highway project in the city of South Burlington, Vermont. Beginning at the intersection of U.S. Route 7 and Town Highway 26 in the city of South Burlington, the project extends northerly approximately two miles to connect with Interstate 189 in the city of Burlington.

Alternates to be considered are No Action, Alternate Modes of Transportation, Rebuild on Existing Location, and Build on New Location. The highway would be four-lane, limited access with partial control, if built on new location. If constructed on existing location, this project would have six lanes, with turning lanes where necessary, and uncontrolled access.

Construction of this project would increase safety and convenience, and improve commuter travel between South Burlington and the Burlington Central Business District. No significant environmental impacts have been identified at this time.

Pursuant to the State of Vermont Action Plan all affected Federal, State and local agencies have been contacted regarding the proposed action, and have provided input to the EIS. Nineteen meetings over a period of 21 months were held with a committee of South Burlington citizens. Substantial input to the planning process was supplied by the committee. No formal scoping meeting will be held for this project.

To ensure that all significant issues related to this project are addressed, comments and suggestions are invited from all interested parties. Written statements and requests for additional information should be directed to: Mr. George A. Jensen, Federal Highway Administration, Federal Building, Montpelier, Vermont 05602, Telephone: (802) 223–5294.

Bluefield, Va.

An EIS is being prepared for the proposed Bluefield Bypass in Bland and Tazewell Counties, Virginia. The Virginia Department of Highways and Transportation (VDH&T) is proposing to construct a four-lane divided highway to connect previously four-laned sections of Route 19/460 east and west of Bluefield, Virginia. All proposed alternatives begin at the intersection with Route 720 west of Bluefield and terminate at the completed four-lane section east of Bluefield at the West Virginia State line for a total project length of 3.6 miles.

The proposed limited access highway is needed to reduce congestion on local streets in the town of Bluefield and provide for rapid and safe movement of traffic around Bluefield.

Alternatives studied to meet the needs for this project included the no-build and three build alternatives. One build alternative would upgrade existing Route 720, while the other two alternatives are on new alignment. A combined highway and transit alternative will also be discussed.

In the preparation of the environmental document, VDH&T requested comments from eight local and regional agencies, seven State agencies, and five Federal agencies. In addition, coordination meetings were held on July 12, and August 16, 1978, with the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Virginia Commission of Game and Inland Fisheries, and the Virginia State Water Control Board for the purpose of evaluating project impacts on the aquatic environment. No additional scoping meetings are planned.

For further information concerning this project, please contact Mr. Robert B. Welton, Federal Highway Administration, P.O. Box 10045, Richmond, Virginia 23240, Telephone: (804) 782–2805.

Buchanan and Dickenson Counties, Va.

The FHWA in cooperation with the Virginia Department of Highways and Transportation will be preparing an EIS to upgrade Route 460 to a four-lane divided highway from the community of Deel to the vicinity of the intersection of Routes 80 and 610 in Buchanan and Dickenson Counties for a total project length of approximately 13 miles. The proposed project is intended to achieve

the following goals: (a) reduce traffic congestion in the town of Grundy and (b) provide an improved east-west transportation corridor through Buchanan and Dickenson Counties for safe, efficient movement of passenger, commercial, and emergency vehicles. The proposed project would also be consistent with the goals of the Appalachian Development Highway Program.

The proposed environmental study will include and analysis of the no-build alternative and several alternate highway location routes within the corridor.

The FHWA and the Virginia Department of Highways and Transportation will follow current procedures for contacting other government agencies. There are currently no plans to hold a formal scoping meeting on this proposal.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments or questions should contact: Mr. Robert B. Welton, Federal Highway Administration, P.O. Box 10045, Richmond, Virginia 23240, Telephone: (804) 782–2805.

Issued on: January 25, 1980.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 80–3075 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

[Docket No. RFA 511–80–1]

Guarantee of Obligations; Receipt of Application

Project: Notice is hereby given that Richard B. Ogilvie ("applicant"), Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company having its principal business address at 516 West Jackson Boulevard, Chicago, Illinois 60606, has filed an application with the Federal Railroad Administration ("FRA") under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 831, and section 15 of the Milwaukee Railroad Restructuring Act ("MRRA"), 45 U.S.C. 914, to obtain a guarantee by the United States of obligations of the applicant in the principal amount of $75,000,000.

The obligations will provide immediate funds for employee protection in accordance with the terms of an employee protection agreement which the applicant maintains is in accordance with section 9 of the MRRA. Pursuant to section 15(b) of the MRRA, the guarantee is to be secured by according claims arising thereunder the status of expenses of the applicant's administration.

Comments: Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than February 15, 1980. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

If the commenter wishes to receive an acknowledgment of the Federal Railroad Administration's receipt of the comments, the commenter should include a self-addressed stamped postcard with the comments. The comments will be taken into consideration by the Federal Railroad Administration in evaluating the application. However, no other formal acknowledgment of the comments will be provided.

The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained therein.

Comment closing date: February 15, 1980.

Dated: January 21, 1980.

William E. Loftus,

Associate Administrator for Financial Assistance.

[FR Doc. 80–2771 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–06–M

Minority Business Resource Center Advisory Committee

Pursuant to Section 19(a) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463); 5 U.S.C. App. I, notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held February 21, 1980, at 11:00 a.m. until 2:00 p.m. at the Department of Transportation, 400 7th Street, S.W., Conference Room 3442, Washington, D.C. 20590. The agenda for the meeting is as follows:

Business Development and Financial Assistance Program.

Report on Local Outreach Center Program.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Advisory Committee Staff Assistant, Minority Business Resource Center, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590, telephone: (202) 426–2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on January 25, 1980.

Miles S. Washington, Jr.,

Acting Director.

[FR Doc. 80–2914 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–06–M

[FRA Waiver Petition Docket HS–79–26]

Ontario Central Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR Section 211.41 and Section 211.9, notice is hereby given that the Ontario Central Railroad (ONCT) has petitoned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Public. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the ONCT be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The ONCT seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications

concerning this proceeding should identify the Docket Number, Docket Number HS–79–26, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Department of Transportation (Nassif Building), 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before February 22, 1980, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Department of Transportation (Nassif Building), 400 Seventh Street, SW., Washington, D.C. 20590.

Authority: Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).

Issued in Washington, D.C. on January 11, 1980.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80–3021 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–06–M

[FRA Waiver Petition Docket HS–79–25]

Ontario Midland Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR Section 211.41 and Section 211.9, notice is hereby given that the Ontario Midland Railroad (OMID) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the OMID be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The OMID seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner assets that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–79–25, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Department of Transportation (Nassif Building), 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before February 22, 1980, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Department of Transportation (Nassif Buidling), 400 Seventh Street, S.W., Washington, D.C. 20590.

Authority: Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).

Issued in Washington, D.C. on January 11, 1980.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80–3020 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–06–M

[Docket No. RFA 505–79–5]

Purchase of Redeemable Preference Shares; Receipt of Application

Project: Notice is hereby given that the Columbus and Greenville Railway ("applicant"), 201 19th Street North, Columbus, Mississippi 39701, has filed an application with the Federal Railroad Administration ("FRA") under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 825, seeking financial assistance through the sale to the United States of redeemable preference shares having an aggregate par value of $3,466,000. Applicant proposes to issue preference shares with mandatory dividend and redemption requirements as set forth in section 506 of the Act. Other provisions and terms of the proposed financing are to be negotiated with FRA.

The proceeds of the sale of preference shares are to be used by the applicant to fund two projects associated with the rehabilitation of applicant's facilities over the next 18 months, as set forth below:

Project	Funds required
Bridge rehabilitation—(137 bridges)	$1,434,000
Track rehabilitation (25 main line miles)	1,205,000
Administration	517,000
Subtotal	3,156,000
Contingency	310,000
Total amount of section 505 assistance sought	3,466,000

These two projects proposed are part of a long-term rehabilitation program which applicant believes will reduce deferred maintenance on applicant's system.

Justification for Project: The applicant states that the proposed projects are undertaken to improve service and safety on the railroad and to enhance the prospects for industrial development along the rail line and in the region. The applicant believes it offers unique east-west service in the region and states that it is the rate-base-making line for many products and commodities hauled to the Southeastern United States. The applicant suggests it is also a unique intermodal facility with its connections to the Mississippi River at Greenville and the Yazoo Waterway at Greenwood, and its future connection with the Tennessee-Tombigbee Waterway at Waverly.

Comments: Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than the comment closing date shown below. Such submission shall indicate the docket number shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons thereof.

Consistent with applicable law, the application will be made available for inspection during normal business hours in Room 5415 at the above address of the FRA in accordance with the regulations of the Office of the Secretary of Transportation set forth in Part 7 of Title 49 of the Code of Federal Regulations.

The comments will be taken into consideration by the FRA in evaluating the application. Any commenter who wishes to have FRA acknowledge the receipt of his or her comments should include a self-addressed, stamped post card with the comments. No other acknowledgment of the comments will be provided.

The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained therein.

Comment closing date: March 3, 1980.

Dated: January 21, 1980.

William E. Loftus,

Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc. 80-2770 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-06-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in October 1979. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo-vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewals		
4262-X	DOT-E 4262	Schlumberger Well Services, Houston, Tex	49 CFR 172.101, 173.53(u), 173.80	To ship carged oil well jet perforating guns with initiators attached. (Mode 1.)
4453-P	DOT-E 4453	Wycoff Co., Salt Lake City, Utah; Mountain State Bit Service, Inc., Morgantown, W. Va.	49 CFR 173.182(c)	To become a party to Exemption 4453. (Mode 1.)
5179-X	DOT-E 5179	Union Carbide Corp., Tarrytown, N.Y	49 CFR 173.302, 173.304, 178.45-17	To ship certain flammable and nonflammable compressed gases in non-DOT specification cylinders complying with DOT Specification 3T with certain exceptions. (Modes 1, 3.)
5403-X	DOT-E 5403	Halliburton Services, Duncan, Okla	49 CFR Part 173, 178.343-2(b), 178.343-5 (b)(1)(i), (b)(2)(i).	To ship certain corrosive materials in non-DOT specification cargo tanks meeting the requirement of DOT Specification MC-312 with certain exceptions. (Modes 1, 3.)
5456-X	DOT-E 5456	J. T. Baker Chemical Co., Phillipsburg, N.J	49 CFR Part 173	To ship certain poison B and liquid corrosive materials in non-DOT specification glass carboys, overpacked in an expanded polystyrene drum. (Modes 1, 2, 3.)
5485-X	DOT-E 5485	Union Carbide, Tarrytown, N.Y	49 CFR 172.101, 173.315(a)	To ship liquid helium in non-DOT specification insulated cargo tanks. (Mode 1.)
5600-X	DOT-E 5600	Amoco Oil Co., Whiting, Ind.; Ozark-Mahoning Co., Tulsa, Okla.	49 CFR Part 173, 175.3	To ship certain hazardous materials in a non-DOT specification cylinder complying with DOT Specification 3A with certain exceptions. (Modes 1, 2, 4.)
6113-X	DOT-E 6113	Roadway Express, Inc., Akron, Ohio	49 CFR 172.101, 173.315(a)	To ship certain flammable gases in a non-DOT specification cargo tank. (Mode 1.)
6253-X	DOT-E 6253	Hapag-Lloyd AG, Hamburg, West Germany; Contrans, Hamburg, West Germany; Interpool Ltd., New York, N.Y.; Akzo Zout Chemie Nederland, Amsterdam, Holland; Atlantic Cargo Services AB, Gothenburg, Sweden; Bacardi International Ltd., Hamilton, Bermuda; Containertechnik, Hamburg, West Germany; Eurotainer, Paris, France.	49 CFR Part 173	To ship certain hazardous materials in non-DOT specification intermodal portable tanks. (Modes 1, 2, 3.)
6267-X	DOT-E 6267	Coastal Industries, Inc., Carlstadt, N.J.; Georgia-Pacific Corp., Newport Beach, Calif.	49 CFR 173.217(a)	To ship certain oxidizing materials in non-DOT specification fiberboard boxes. (Modes 1, 2, 3.)
6325-P	DOT-E 6325	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.154(a)	To become a party to Exemption 6325. (Mode 1.)
6468-X	DOT-E 6468	Martin Marietta Chemicals, Charlotte, N.C.	49 CRR 173.365	To ship a certain Class B poison in insulated DOT Specification MC-304 cargo tanks. (Mode 1.)
6518-P	DOT-E 6518	Arapahoe Chemicals, Inc., Boulder, Colo	49 CFR 172.101, 172.302, 173.119, 173.134, 173.154.	To become a party to Exemption 6518. (Modes 1, 3.)
6530-P	DOT-E 6530	Red Ball Oxygen Co., Inc., Shreveport, La	49 CFR 173.302(c)	To become a party to Exemption 6530. (Modes 1, 2.)
6543-X	DOT-E 6543	The Synthatron Corp., Edgewater, N.J	49 CFR 172.101, 173.135(a)(6), 173.136(a)(5), 173.247, 175.3.	To ship a certain corrosive liquid and certain flammable liquids in non-DOT specification stainless steel cylinders. (Modes 1, 3, 4.)
6554-X	DOT-E 6554	Aspen Industries, Inc., Tully, N.Y	49 CFR 173.154, 173.217	To certain dry oxidizing materials in non-DOT specification single-trip, molded, removable-head, polyethylene containers. (Modes 1, 2, 3.)
6652-X	DOT-E 6652	Airesearch Manufacturing Co. of Arizona, Phoenix, Ariz.	49 CFR 173.302(a)(1), 175.3	To manufacture, mark and sell non-DOT specification filament-wound fiberglass cylinders for shipment of certain compressed gases. (Modes 1, 4.)
6702-X	DOT-E 6702	The Dow Chemical Co., Midland, Mich	49 CFR 173.25, 173.242(a), 173.286	To ship certain corrosive liquids in glass bottles packed inside a DOT-12A fiberboard box. (Modes 1, 2, 3, 4.)
6759-X	DOT-E 6759	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.; Atlas Powder Co., Dallas, Tex.; Hercules, Inc., Wilmington, Del.; IMC Chemical Group, Inc., Allentown, Pa.	49 CFR 173.87, 177.835	To ship Class A or B explosives in an IME 22 container or compartment on the same vehicle with nonmass detonating blasting caps. (Mode 1.)
6774-X	DOT-E 6774	Hydraulic Research Textron, Pacoima, Calif	49 CFR 173.302(a)(2), 175.3	To ship a nonflammable gas in non-DOT specification cylinder complying with DOT Specification 3HT with certain exceptions. (Modes 1, 4.)
6826-X	DOT-E 6826	Atlantic Research Corp., Gainesville, Va	49 CFR 173.92(b), 175.3	To ship a Class B explosive in DOT Specification 15A wooden box. (Modes 1, 4.)
6902-P	DOT-E 6902	Synthatron Corp., Parsippany, N.J	49 CFR 173.314(c), 179.300-15	To become a party to Exemption 6902. (Modes 1, 2.)
6922-P	DOT-E 6922	PCR, Inc., Gainesville, Fla	49 CFR 173.314(c), 179.300-15	To become a party to Exemption 6922. (Modes 1, 2, 3.)
7001-X	DOT-E 7001	Cealin Chemicals, Jacksonville, Fla	49 CFR 173.217(a)	To ship certain oxidizers in a non-DOT specification removable head polyethylene container. (Mode 1.)
7023-P	DOT-E 7023	Texas Instruments, Inc., Dallas, Tex	49 CFR 173.245(a), 173.264(a), 173.266, 173.268(f)(5), 173.272 (g), (i)(24).	To become a party to Exemption 7023. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewals—Continued		
7046-X	DOT-E 7046	J. T. Baker Chemical Co., Phillipsburg, N.J	49 CFR 173.269, 178.340-5(c)	To ship certain corrosive liquids and a certain oxidizer in non-DOT glass lined cargo tanks complying with DOT Specification MC-312 with certain exceptions. (Modes 1, 3.)
7455-X	DOT-E 7455	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 176.177 (g), (h), (n), (q), (r), 176.410(e).	Authorizes handling and storage of explosive material in an anchored and unmanned barge. (Mode 3.)
7512-X	DOT-E 7512	Puerto Rico Maritime Shipping Authority, Elizabeth, N.J.	46 CFR 98.35-3, 90.05-35; 49 CFR Part 173.	To ship flammable and combustible liquids in non-DOT specification portable tanks complying with DOT Specification MC-306 with certain exceptions. (Modes 1, 2, 3.)
7526-P	DOT-E 7526	Sherex Chemical Co., Inc., Dublin, Ohio	49 CFR 173.134	To become a party to Exemption 7526. (Modes 1, 3.)
7607-P	DOT-E 7607	Gulf Oil Corp., Pittsburgh, Pa	49 CFR 172.101, 175.3	To become a party to Exemption 7607. (Mode 5.)
7658-X	DOT-E 7658	Spectro Industries, Inc., Jenkintown, Pa	49 CFR 173.1200	To ship consumer commodities classed as ORM-D in non-DOT specification corrugated fiberboard trays. (Mode 1.)
7716-P	DOT-E 7716	Kinepak, Inc., Lewisville, Tex	49 CFR 173.153(b)(1)	To become a party to Exemption 7716. (Modes 1, 2.)
7835-P	DOT-E 7835	AGA Burdox Inc., Detroit, Mich.; Airco Industrial Gases, Murray Hill, N.J.	49 CFR 177.848; Part 107 Appendix B(1).	To become a party to Exemption 7835. (Mode 1.)
7857-X	DOT-E 7857	W. P. Butterfield Ltd., Shipley West, Yorkshire, England.	49 CFR 173.315	To ship certain hazardous materials in certain non-DOT specification portable tanks. (Modes 1, 3.)
7857-P	DOT-E 7857	Makhteshim Darom Ltd., Beer Sheva, Isreal; Industria Chimica Del Ticino, s.p.a., Via Del Porto, Italy.	49 CFR 173.315	To become a party to Exemption 7857. (Modes 1, 3.)
7886-X	DOT-E 7886	W. M. Barr & Co., Memphis, Tenn	49 CFR 173.245, 178.210	To ship a corrosive liquid in non-DOT specification metal can/fiberboard box packaging. (Modes 1, 3.)
7938-P	DOT-E 7938	Sea Containers, Inc., New York, N.Y	49 CFR Part 173	To become a party to Exemption 7938. (Modes 1, 2, 3.)
7969-X	DOT-E 7969	Royalvac, Inc., Fort Lauderdale, Fla	49 CFR 173.119(a)(17), 173.245(a)(30), (31), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark, and sell non-DOT specification single compartment cargo tanks for shipment of waste flammable and corrosive liquids. (Mode 1.)
7998-P	DOT-E 7998	FMC Corp., Philadelphia, Pa	49 CFR 173.154	To become a party to Exemption 7998. (Modes 1, 2.)
8002-P	DOT-E 8002	Lowaco, S.A., Geneva, Switzerland	46 CFR 90.05-35; 49 CFR Part 173	To become a party to exemption 8002. (Modes 1, 2, 3.)
8037-X	DOT-E 8037	Mauser-Werke G.m.b.H., New York, N.Y	49 CFR 173.127, 173.184, 178.224	To manufacture, mark, and sell non-DOT specification fiberboard drums for shipment of certain flammable liquids and flammable solids. (Modes 1, 2, 3.)
8060-P	DOT-E 8060	SLEMI, Paris France	49 CFR 173.315(a)	To become a party to Exemption 8060. (Modes 1, 2, 3.)
8125-X	DOT-E 8125	Fauvet-Girel, Paris France	49 CFR 173.123, 173.315	To ship certain flammable and non-flammable gases and flammable liquids in non-DOT specification portable tanks, (Modes 1, 3.)
8125-P	DOT-E 8125	Transport Int'l Containers, Paris, France	49 CFR 173.123, 173.315	To become a party to Exemption 8125. (Modes 1, 3.)
8126-P	DOT-E 8126	Transport Int'l Containers, Paris, France	49 CFR 173.123, 173.315	To become a party to Exemption 8126. (Modes 1, 3.)
8171-P	DOT-E 8171	Sea Containers, Inc., London, England	46 CFR 90.05-35, 49 CFR Part 173	To become a party to Exemption 8171. (Modes 1, 2, 3.)
8196-P	DOT-E 8196	Eurotainer, Paris, France; Societe Auxiliaine de Transports et d' Paris, France; Compagnie des Containers Reservoirs, Neuilly-sur-Seine Cedex, France; G.C.S. Container Service, Chiasso, Switzerland.	49 CFR 173.315(a)	To become a party to Exemption 8196. (Modes 1, 2, 3.)
8231-N	DOT-E 8196	ANF Industrie, Paris, France	49 CFR 173.315(a)	To become a party to Exemption 8231. (Modes 1, 2, 3.)
		New Exemptions		
8105-N	DOT-E 8105	Active Steel Drum Co., Long Island, N.Y	49 CFR 173.28(m)(3), 175.3, 178.118-10(a).	To recondition, mark, and sell non-DOT Specification 55 open head steel drums for shipment of certain hazardous materials. (Modes 1, 2, 3, 4.)
8108-N	DOT-E 8108	Allied Chemical Corp., Morristown, N.J	49 CFR 173.24(c)(6), 173.245(a)(27)	To ship certain corrosive liquids in DOT Specification 33A expanded polystyrene cases. (Modes 1, 2, 3.)
8162-N	DOT-E 8162	Structural Composites Industries, Inc., Azusa, Calif.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To manufacture, mark, and sell non-DOT specification FRP cylinders (aluminum lined) for shipment of nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8186-N	DOT-E 8186	King-Seeley Thermos Co., Kendallville, Ind	49 CFR 173.202, 174.3, 175.3	To ship sodium potassium liquid alloy sealed in the stainless steel temperature sensing bulb of a thermostat to be shipped in a non-DOT specification corrugated fiberboard box. (Modes 1, 2, 4.)
8194-N	DOT-E 8194	Pennwalt Corp., Buffalo, N.Y	49 CFR 173.119(m)(6), 173.211(a)(3), 178.205, 178.210-10.	To ship liquid organic peroxides in Specification 2E bottles overpacked a fiberboard box complying with DOT Specification 12B with certain exceptions. (Modes 1, 3.)
8206-N	DOT-E 8206	Rexnord, Brookfield, Wis	49 CFR 173.245(a)(17), 178.131	To ship certain corrosive materials in a modified DOT Specification 37A, 26 gallon drum. (Mode 1.)
8207-N	DOT-E 8207	Rexnord, Brookfield, Wis	49 CFR 173.245(a)(17), 178.131	To ship certain corrosive materials in a modified DOT Specification 37A, 27 ga. drum. (Mode 1.)
8215-N	DOT-E 8215	Olin Corp., East Alton, Ill	49 CFR 173.60, 173.74, 173.78, 173.93, 173.101, 173.107.	To transport a certain Class A, B, and C explosives packed in non-DOT specification containers over public roads within plant confine. (Mode 1.)
8219-N	DOT-E 8219	Hercules Inc., Wilmington, Del	49 CFR 173.93	To ship Class B explosives in a non-DOT specification polyethylene-lined polypropylene bag. (Mode 1.)
8235-N	DOT-E 8235	Mobay Chemical, Pittsburgh, Pa	49 CFR 173.346	To ship certain poison B liquids in a non-DOT specification portable tank. (Modes 1, 2, 3.)
8236-N	DOT-E 8236	Ford Motor Co., Dearborn, Mich	49 CFR 173.153, 173.154, 175.3	To ship a passive restraint system classed as a flammable solid, in a DOT Specification 12H65 fiberboard box. (Modes 1, 2, 3, 4.)
8236-P	DOT-E 8236	Talley Industries of Arizona, Inc., Mesa, Ariz	49 CFR 173.153, 173.154, 175.3	To become a party to Exemption 8236. (Modes 1, 2, 3, 4.)
8254-N	DOT-E 8254	Applied Environments Corp., Van Nuys, Calif	49 CFR 173.302(a), 175.3	To manufacture, mark, and sell non-DOT specification welded steel spheres for shipment of nonflammable gases. (Modes 1, 2, 4.)
8279-N	DOT-E 8279	Hamler Industries Inc., Chicago Heights, Ill	49 CFR 178.337-17	To ship anhydrous ammonia in a DOT Specification MC-330 cargo tank having a reproduced identification plate. (Mode 1.)

Denials

8031–N—Request by Fisher Scientific Company, Fair lawn, N.J.—To extend the metric measure equivalency to DOT–12P packagings not exceeding 20 liters capacity, denied October 23, 1979, as being unnecessary.

8033–N—Request by Fisher Scientific Company, Fair lawn, N.J.—To extend the metric measure equivalency to DOT–17C and 37P metal drums not exceeding 20 liters capacity, denied October 23, 1979, as being unnecessary.

8187–N—Request by PPG industries, Inc., Pittsburgh, Pa.—For use of a DOT Specification 17E steel drum of 20/18 gauge, and having triple-seamed top and bottom chimes, for shipment of paint or lacquer thinning compounds with flash points of 20°F. or less, denied October 17, 1979.

8199–N—Request by Dow Corning Corp., Midland, Mich.—To use certain cargo tanks having design service temperature above the liquefaction temperature of the proposed gas, denied October 12, 1979.

Withdrawals

8124–N—Request by Alloy Products Corp., Waukesha, Wis.—To manufacture, mark and sell a non-DOT specification steel drum having a 6 inch closure for the shipment of certain flammable liquids and corrosive materials, withdrawn October 23, 1979.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulations, Materials Transportation Bureau.

[FR Doc. 80–2729 Filed 1–30–80; 8:45]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1979 Rev., Supp. No. 12]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on federal bonds is herby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $98,000 has been established for the company.

Name of Company, Business Address, and State in Which Incorporated

Contractors Bonding and Insurance Company
1213 Valley Street
Seattle, Washington, 98109
Washington

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: January 23, 1980.

D. A. Pagliai,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80–3025 Filed 1–30–80; 8:45 am]

BILLING CODE 4310–35–M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 22
Thursday, January 31, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Communications Commission	1
Federal Deposit Insurance Corporation	2, 3, 4, 5
Federal Election Commission	6
Federal Maritime Commission	7
Federal Mine Safety and Health Review Commission	8, 9
National Transportation Safety Board	10
Nuclear Regulatory Commission	11
Railway Association	12

1

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, January 30, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Commission open meeting.

CHANGES IN THE MEETING: Deletion of the following items:

Agenda, Item Number, and Subject

Common Carrier—2—Title and Summary: Application for Review of Order by Chief, Common Carrier Bureau rejecting Western Union's tariff revisions filed under its Transmittal No. 7369 for failure to comply with the requirements of Section 61.38 of the Commission's Rules. (At the request of the Common Carrier Bureau.)

Private Radio—6—Eligibility of OAS for licensing in the General Mobile Radio Service. (At the request of the Private Radio Bureau.)

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: January 29, 1980.

[S-187-80 Filed 1-29-80; 2:48 pm]

BILLING CODE 6712-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION. Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, January 28, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York (Case No. 44,213-L).

Notice of acquisition of control: First Bank of Hollywood Beach, Hollywood, Florida.

Memorandum regarding the liquidation of assets acquired by the Corporation from Coronado National Bank, Denver, Colorado (Legal Division memorandum dated January 18, 1980).

Two requests pursuant to section 19 of the Federal Deposit Insurance act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: January 28, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-192-80 Filed 1-29-80; 3:57 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION. Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, January 28, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

A memorandum and resolution proposing that banks be provided with Statements of Reasons for Board of Directors' Action on Certain Bank Applications.

A resolution relating to the organizational location of the Office of Consumer Affairs and Civil Rights.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: January 28, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-193-80 Filed 1-29-80; 3:57 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION. Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:30 p.m. on Tuesday, February 5, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance

Timberline Community Bank, a proposed new bank, to be located at 117 N. Main Street, Yreka, California, for Federal deposit insurance.

Denver West Bank and Trust, a proposed new bank, to be located at 14505 West Colfax Avenue, Jefferson County (P.O. Golden), Colorado, for Federal deposit insurance.

Community State Bank, a proposed new bank, to be located at 1610 South First

Street, Lufkin, Texas, for Federal deposit insurance.

Application for consent to establish a branch

American Bank of Commerce, Phoenix, Arizona, for consent to establish a branch at 2302 East Southern Avenue, Tempe, Arizona.

Request for exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks":

Citizens Fidelity Bank, Bristol, Tennessee.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,210–SR—Citizens State Bank, Carrizo Springs, Texas.

Case No. 44,214–NR—United States National Bank, San Diego, California.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Grievance Officer's report and recommendations with respect to the formal grievance of a Corporation employee.

Name of employee authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 29, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–194–80 Filed 1–29–80; 3:56 pm]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION. Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 3:00 p.m. on Tuesday, February 5, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Unsecured Short-Term Commercial Paper Issued by Mutual Savings Banks-Exemption from 12 C.F.R. Part 329.

Memorandum and Resolution re: Technical Corrections to Final Regulations (12 C.F.R., Section 304.4 and new Part 349), Implementing the Reporting Requirements of Titles VIII and IX of the Financial Institutions Regulatory and Interest Rate Control Act of 1978.

Memorandum and Resolution re: Procedures for Administrative Enforcement of the Post-Employment Conflict of Interest Provisions of the Ethics in Government Act of 1978.

Memorandum re: Purchase and Assumption Agreement.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 29, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–196–80 Filed 1–29–80; 3:56 pm]

BILLING CODE 6714–01–M

6

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, January 31, 1980 at 10 a.m.

CHANGE IN MEETING:

Impact of H.R. 5010 (continued): Commission Policy for the Establishment of Filing Dates for Special Elections.

Contributions to and Expenditures by Delegates: Notice of Proposed Rulemaking.

Legislative Recommendations.

Iterim Enforcement Procedures.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons

Secretary to the Commission.

[S–186–80 Filed 1–29–80; 1:18 pm]

BILLING CODE 6715–01–M

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., February 6, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 6200–20: Modification of the U.S. Atlantic & Gulf/Australia-New Zealand Conference to extend its ratemaking authority to inland points in Australia, New Zealand, and South Pacific Islands.

2. Docket No. 79–102: Sea-Land Service, Inc., Proposed 25% General Rate increases in the Puerto Rico Trades—Petition of the Government of the Virgin Islands for reconsideration of the order instituting the proceeding.

3. Docket No. 79–1: Amendments to Part 531 of Title 46 CFR Governing the Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce—Proposed final rules.

4. Informal Docket No. 704(I): Dow Corning Corporation v. United States Navigation, Inc.—Review of Settlement Officer's Decision.

5. Docket No. 79–61: Rene Lopez and David Romano d.b.a. United Dispatch Service—Independent Ocean Freight Forwarder License No. 1381—Consideration of the record.

6. Docket No. 77–13: First International Development Corporation v. Ships Overseas Services, Inc.—Reconsideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–195–80 Filed 1–29–80; 4:00 p.m.]

BILLING CODE 6730–01–M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

January 24, 1980.

TIME AND DATE: 10 a.m., Thursday, January 31, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will also consider and act upon the following: 1. Arch Mineral Corporation, WEST 79–58 (Petition for Interlocutory Review).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–185–80 Filed 1–29–80; 10:13 am]

BILLING CODE 6820–12–M

9

January 28, 1980.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., Thursday, January 31, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will also consider and act upon the following: 2. National Gypsum Company, Docket No. VINC 79–154–PM, (Petition for Discretionary Review).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–189–80 Filed 1–29–80; 2:50 pm]

BILLING CODE 6820–12–M

10

[NM–80–6]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, February 7, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report*—Multiple Vehicle Collision in a Construction Zone, U.S. Interstate 80, near Laramie, Wyoming, August 22, 1979.
2. *Recommendation to* Federal Highway Administration re highway accident near Laramie, Wyoming, August 22, 1979.
3. *Recommendation* to Wyoming State Highway Department re highway accident near Laramie, Wyoming, August 22, 1979.
4. *Briefing* by Hamilton Standard Division, United Technologies Corporation, on data recorder development.

CONTACT PERSON FOR MORE INFORMATION: SHARON FLEMMING, 202–472–6022.

January 29, 1980.

[S–191–80, Filed 1–29–80; 3:50 pm]

BILLING CODE 4910–58–M

11

NUCLEAR REGULATORY COMMISSION.

DATE: January 31, 1980.

PLACE: Commissioner Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Thursday, January 31

10:00 a.m.

1. Briefing on USC 2.206 Petition on Indian Point (approximately 1½ hours, public meeting).
2. Affirmation Session (approx 5 minutes), (public meeting).
   a. Licensing Requirements for Uranium Mills.
   b. Reporting of Significant Events at Operating Reactors.
   c. Final Parts 25 and 95 (tentative).
   d. Export of Minor Quantities of Nuclear Material.

1:30 p.m.

1. Continuation of Discussion of Policy, Planning and Program Guide (approximately 2 hours, public meeting).

CONTACT PERSON FOR MORE INFORMATION: ROGER TWEED (202) 634–1410.

Roger M. Tweed,

Office of the Secretary.

[S–190–80 Filed 1–30–80; 3:47 pm]

BILLING CODE 7590–01–M

12

RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., February 7, 1980.

PLACE: 955 L'Enfant Plaza North SW., Board Room, room 2–500, fifth floor, Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions Closed to the Public

9 a.m.

1. Consideration of internal personnel matters.
2. Review of Conrail proprietary and financial information for monitoring and investment purposes.
3. Litigation report.

Portions Open to the Public

1 p.m.

4. Approval of minutes of the January 10, 1980 Board of Directors meeting.
5. Report on 1979 Delaware & Hudson monitoring.
6. Report on Conrail monitoring.
7. Consideration of Waiver to Financing Agreement.
8. Consideration of Conrail drawdown request for February.
9. Consideration of shortfall in 211(h) loan program.
10. Contract Actions (extensions and approvals).

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow (202) 426–4250.

[S–188–80 Filed 1–29–80; 2:49 pm]

BILLING CODE 8240–01–M

federal register

Thursday
January 31, 1980

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Assistance Payments Program for Substantial Rehabilitation; Special Procedures for Neighborhood Strategy Areas

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 881

[Docket No. R-80-755]

Section 8 Housing Assistance Payments Program for Substantial Rehabilitation—Subpart G, Special Procedures for Neighborhood Strategy Areas

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

ACTION: Interim rule.

SUMMARY: The regulations governing the Section 8 Neighborhood Strategy Areas (NSA) program have been revised to reflect recent policy decisions to permit certain local governments to implement NSA programs using contract authority allocated under Section 891.404 ("fair share funds"). Any local government of an area designated as a separate allocation area or participating in an Areawide Housing Opportunity Plan (AHOP) allocation area may be authorized to use all or a portion of its substantial rehabilitation fair share to either create new NSAs or expand existing NSAs.

EFFECTIVE DATE: February 20, 1980.

COMMENTS DUE: Written comments and suggestions will be received on or before March 31, 1980. The Department will make such modifications as it deems appropriate in the final regulation.

ADDRESS: Comments should be filed with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: George O. Hipps, Office of Multifamily Housing Development, Room 6128, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410; 202–755–5720. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Section 8 program provides rent subsidies on behalf of lower-income families to help them afford decent housing in the private market. HUD makes up the difference between what a lower-income household can afford and the approved fair market rent for an adequate housing unit. No eligible tenant need pay more than 25 percent of adjusted income toward rent. Housing thus subsidized by HUD must meet certain standards of safety and sanitation, and rents for these units must fall within the fair market rent limitations as determined by HUD. This rental assistance may be used in existing housing, in new construction, or in moderately or substantially rehabilitated units. Different procedures apply in each case.

The Neighborhood Strategy Areas program concentrates Section 8 substantial rehabilitation units in certain areas which also receive Community Development Block Grant funds. Local governments nominate areas for NSA designation and prepare specific revitalization plans using various combinations of HUD's assisted and insured housing and community development programs, local government funds, and private investment to accomplish their goals.

Approval of a request from a unit of local government to use these special procedures (1) assures the general availability of HUD mortgage insurance in the NSA, (2) sets aside a specific amount of Section 8 substantial rehabilitation contract authority for use in the NSA, and (3) authorizes the local government to solicit Section 8 substantial rehabilitation proposals for up to the amount of contract authority set aside. The concentration of funds and technical assistance provided to the NSAs is expected to accomplish neighborhood revitalization within a five-year period.

These amendments make it possible for eligible communities to create new NSAs and expand existing NSAs during Fiscal Year 1980. They allow local governments to target to HUD-approved NSAs the substantial rehabilitation contract authority they will receive from the fair share allocations currently being made. The time period required to publish these regulations first for comment and then for effect would mean that Field Offices would receive authorization to fund NSAs too late to do so from this year's allocations. Therefore, the Department has determined that the public interest would be served by making these amendments effective 20 days after publication. The regulations are nevertheless subject to public comment and written comments will be received on or before the date and at the address indicated above. A discussion of the principal changes follows.

Requirements for New Construction. Section 881.701(f)(1) clarifies the processing requirements for new construction proposals using contract authority set aside for NSAs approved during Fiscal Year 1978. Although local governments may solicit, prepare, and submit new construction proposals to Field Offices in the same manner as described in this Subpart for substantial rehabilitation proposals, the regular technical requirements for new construction, including property standards, site and neighborhood standards, and other Federal requirements shall apply.

Contract and Budget Authority Provided. Section 881.702 enables the Assistant Secretary for Housing to make contract and budget authority available for the NSA program from either "headquarters reserve" funds (allocated under Section 891.403(b) or from fair share funds (allocated under Section 891.404)). Any local government of an area designated as a separate allocation area or participating in an AHOP allocation area, and which has an NSA approved or conditionally approved during Fiscal Year 1978, may request to use in its NSA all or a portion of contract and budget authority made available through the fair share formula during Fiscal Year 1980. An eligible local government may also request to use this authority to create new NSAs. Whether or not it had an NSA approved prior to September 30, 1978, a local government of an area designated as a separate allocation area or participating in an AHOP allocation area may request approval of new NSAs or additional units in existing NSAs to be funded from 1981 fair share contract and budget authority.

Solicitation and Development of Proposals for Projects Within NSAs. Sections 881.706 through 881.708 are revised to clarify the different requirements for Section 8 projects that are HUD-insured, not HUD-insured, and State Agency-financed. The types of proposals which may be submitted for projects in NSAs are described and readers are referred to the appropriate Sections for processing requirements. In addition, Section 881.706 has been amended to incorporate the additional information needed to make the determinations on replacement cost, limitation on amenities, and other determinations now required by Part 881, Subparts A through F.

Relocation Policies. Section 881.709 continues the special relocation provisions applicable to all NSAs approved or conditionally approved during Fiscal Year 1978. For these NSAs, local governments assume the cost of relocation benefits. However, any new NSAs or additional units approved in accordance with these regulations will be subject to the revised relocation

requirements for Section 8 substantial rehabilitation found in Section 881.209, which places the obligation for certain relocation costs on private owners.
INAPPLICABILITY OF NEPA: A Finding of Inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, Part 881, Subpart G, is amended in its entirety as follows:

Subpart G—Special Procedures for Neighborhood Strategy Areas

Sec.
881.701 Applicability and scope.
881.702 Contract and budget authority available for use under this Subpart.
881.703 Requests by local government for NSA designation.
881.704 HUD review of requests for NSA designation.
881.705 Approval or other action on requests for NSA designation.
881.706 Solicitation and development of proposals for projects within NSAs.
881.707 Submission, review and approval requirements for NSA proposals which are not HUD-insured, and not State Agency-financed.
881.708 Requirements for NSA proposals which request HUD mortgage insurance.
881.709 Relocation requirements for section 8 NSA proposals.

Subpart G—Special Procedures for Neighborhood Strategy Areas

§ 881.701 Applicability and Scope.

(a) *General.* This Subpart provides the special policies and procedures to be followed by HUD, State Housing Finance and Development Agencies (State Agencies) and local governments in carrying out the Neighborhood Strategy Areas (NSA) Program. The NSA Program permits local governments to designate priority areas for revitalization and, upon approval of the area by HUD, to solicit, help to prepare and submit to HUD for approval Section 8 substantial rehabilitation proposals. This enables local governments to better coordinate housing rehabilitation activities within the neighborhood with community development activities.

(b) *Eligible Applicants.* Units of general local government eligible to participate are those which are applying for or are receiving assistance under the community development block grant (block grant) program, pursuant to 24 CFR 570.102 and 570.103, and have requested that an area be designated as an NSA. NSAs may be approved in localities which receive block grant funds from another unit of general local government such as an urban county. However, both the request for approval of the NSA designation and any Section 8 proposals must be submitted by the block grant recipient.

(c) *Eligible Areas.* To be approvable, a proposed NSA must be a residential area where concentrated housing and block grant-assisted physical development and public service activities are being, or are to be, carried out in a coordinated manner to serve a common objective or purpose pursuant to a locally developed plan or strategy for neighborhood improvement, conservation or preservation. The area shall be of manageable size and condition so that block grant and other resources to be committed to the area can reasonably be expected to meet the identified physical development and housing needs within five-year period.

(d) *Applicability of subparts.* The provisions of Subparts A, B, C, D, E and F are applicable except as modified herein. Sections 881.702 through 881.708(b) shall apply in lieu of §§ 881.302 through 881.308(a) of Subpart C for proposals processed under this subpart.

(e) *Use of other housing assistance programs.* Use in connection with NSAs of other assisted housing programs, such as public housing, the Section 8 new construction and moderate rehabilitation programs, and Section 235 and the appropriate mortgage insurance programs, may be necessary. In addition, preference for displacees may be provided in selecting Certificate holders to participate in the Section 8 existing housing program serving the applicant's locality. Such assistance should be requested in accordance with the regulations for these programs. Upon request and as necessary for a particular proposal, appropriate waivers of the regulations governing other housing assistance programs will be considered to facilitate their use in, or in support of, NSAs. However, only in unusual circumstances can there be waivers of the site and neighborhood standards, and there can be no waivers of the mortgage insurance programs regulations.

(f) *Special Provisions for NSAs Selected in FY 1978.* (1) *Use of new construction.* Certain NSA localities approved or conditionally approved during FY 1978 were authorized to use up to 20 percent of the contract authority made available to the NSA for new construction. In these cases local governments are authorized to solicit, prepare and submit new construction proposals to Field Offices in the same manner as described in this Subpart for substantial rehabilitation. However, the technical requirements for new construction provided in 24 CFR Part 880, Subpart B, including property standards (§ 880.207); site and neighborhood standards (§ 880.206); and other Federal requirements (§ 880.210) shall apply.

(2) *Relocation requirements.* The special relocation requirements provided in § 881.709 apply to any proposal submitted from those NSAs which were approved or conditionally approved during FY 1978, unless the units requested are in addition to the total number of units originally approved for the NSA. Such additional units will come under the relocation provisions of § 881.209.

§ 881.702 Contract and budget authority available for use under this subpart.

(a) *Basic Policy.* Contract and budget authority for the NSA Program may be made available in two ways:

(1) Contract authority and budget authority may be made available by HUD from the Headquarters reserve established in accordance with 24 CFR 891.403(b).

(2) Any local government of an area designated as a separate allocation area or participating in an AHOP allocation area may be authorized to use in NSAs all or a portion of the contract authority allocated for Section 8 substantial rehabilitiation in accordance with 24 CFR 891.404 ("fair share funds").

(b) *Authority Made Available From the Headquarters Reserve.* When HUD determines that contract authority will be made available from the Headquarters reserve for the NSA Program, it will publish a notice in the Federal Register providing:

(1) The amount of contract authority to be made available under this Subpart and the approximate number of units this authority is expected to assist;

(2) Applicable policies and procedures not already covered by this Subpart; and

(3) The date by which requests for approval of NSA designation must be submitted.

(c) *Authority Provided from Fair Share Funds.* (1) Contract and budget authority for NSAs approved or conditionally approved in Fiscal Year 1978 shall be provided to projects in NSAs on a priority basis from the fair share authority allocated to Field Offices having jurisdiction during Fiscal Year 1980 before any suballocations are made in accordance with 24 CFR 891.404.

(2) Local governments referenced under § 881.702(a)(2), for which NSA

applications were approved or conditionally approved prior to September 30, 1978, may request HUD to approve applications for new NSAs, or additional units in previously approved NSAs. Such applications must be submitted to the Field Office by February 29, 1980. The local government may request to use in the NSAs all or a portion of the contract and budget authority for substantial rehabilitation made available to the allocation area through the fair share formula during FY 1980.

(3) Whether or not they had an NSA approved or conditionally approved prior to September 30, 1978, local governments referenced under § 881.702(a)(2) may request prior to September 30, 1980, approval of new NSAs or additional units in previously approved NSAs to be funded by contract and budget authority expected to be made available to the allocation area through the fair share formula in FY 1981.

(d) *Use of contract authority not reserved.* If proposals containing a sufficient number of units to utilize the contract and budget authority made available pursuant to § 881.702 for use in an NSA under this subpart are not submitted in accordance with the schedule provided in § 881.705(c)(4) or any approved extensions thereto, or if an approved proposal fails to result in an Agreement, the Field Office shall follow the provisions of subparagraph (1) or (2) as follows, depending upon the source of the authority.

(1) Unused authority originally made available pursuant to § 881.702(a)(1) shall be returned to the Headquarters reserve.

(2) Unused authority originally made available pursuant to § 881.702(a)(2) shall be utilized according to the procedures set forth in §§ 881.302, 303, 304, or 307(e), whichever is appropriate, *or* the local government shall be authorized to submit other proposals for projects within the approved NSAs to utilize the remaining contract and budget authority.

§ 881.703 Requests by local government for NSA designation.

(a) *Pre-Request Activities.* After the local government has notified the Field Office of its intention to request NSA designation or expansion for one or more neighborhoods, a conference shall be scheduled to discuss the local government's plan for the neighborhood(s) and HUD program and submission requirements, and to schedule a site visit. Both the conference and the site visit shall be attended by appropriate Field Office and local government representatives as well as representatives of the State Agency, if State Agency financing is anticipated. Following the conference and the site visit the Field Office shall make a preliminary finding of whether the proposed NSA is eligible and, if so, invite the local government to submit a formal request. If the proposed NSA is found ineligible, the Field Office shall notify the local government to that effect and furnish the reasons for the rejection.

(b) *Coordination with the Community Development Planning Process.* NSA activities should be an integral part of the block grant planning process. Block grant commitments that are made for the NSA program should be reflected in the block grant application. Whenever possible the request for NSA designation should be submitted with the block grant application, but it will not be considered a part of that application.

(c) *Submission Requirements.* As part of its request for NSA designation, the local government shall provide, in a format acceptable to HUD:

(1) A map or maps of the applicant's jurisdiction which clearly show and identify:

(i) Location of the proposed NSA;

(ii) Existing land uses and major traffic routes in the proposed NSA, and an area at least one block deep outside the perimeter of the NSA;

(iii) Location of shopping, public transportation stops, personal services, social services, and community services, either inside or outside the NSA, which would serve the NSA.

(2) A description of the proposed NSA's demographic and physical characteristics. Demographic characteristics shall include total population, income of households, age, and racial composition.

(3) A brief narrative description of the overall revitalization strategy for the neighborhood which demonstrates how the proposed NSA meets the criteria sets forth in Section 881.701(c).

(4) A neighborhood revitalization plan which:

(i) Describes the current condition of all major neighborhood public facilities and services and includes an assessment of the extent to which the area currently meets the site and neighborhood standards contained in Section 881.206, and the environmental standards contained in Section 881.210.

(ii) Provides a specific plan for correcting the identified neighborhood deficiencies. The plan shall include a description of all activities being undertaken or to be undertaken to correct the deficiencies, the cost and sources of funding for the activities, and a schedule for completion of the activities. A description should also be provided of private initiatives and activities existing or planned in the neighborhood.

(5) A housing revitalization plan which:

(i) Includes a description of the housing stock in the neighborhood including number of units, tenure type (owner-occupied or rental), vacancy status, and condition;

(ii) Provides a rehabilitation or demolition plan for all non-standard units and identifies any new construction that is contemplated;

(iii) Identifies the funding sources and completion schedule for all rehabilitation and demolition that is contemplated and an evaluation of the feasibility of rehabilitation, given the condition of the buildings and the general willingness and financial capacity of the owners to participate in the revitalization efforts.

(iv) Identifies the number of substantial rehabilitation units for which contract authority under this Subpart is being requested. The request should specify sizes (number of bedrooms), structure type, financing method and household type (elderly, family, large family) being requested and should estimate the amount of contract authority required. When the local government proposes to use financing provided by a State Agency or by a Public Housing Agency (PHA), the request shall include a letter from the appropriate State Agency or PHA stating that the agency has examined the NSA and the local government's strategy and that it intends to finance or develop projects in the NSA and will submit applications and proposals to HUD pursuant to the local government's housing revitalization program and in accordance with the applicable program regulations. Any anticipated waivers to be requested should be noted in the letter.

(v) Provides a schedule for submission of Section 8 proposals.

(6) A statement describing the means by which residents and property owners of the proposed NSA are and will continue to be involved in the development and execution of the neighborhood strategy. (This statement shall not substitute for the Citizen Participation Certification required by the block grant program.)

(7) A relocation statement which provides the following information:

(i) An estimate of the number of individuals, families and businesses that would be temporarily and permanently displaced;

(ii) A demonstration that relocation is feasible;

(iii) A statement that relocation assistance will be provided in accordance with Section 881.209 and that all services will be provided which are necessary to provide displaced tenants the opportunity to take advantage of housing choices outside areas of minority and low-income concentration.

(iv) A description of the administrative procedures that will be followed in providing relocation assistance to displaced residential tenants.

(8) An administrative plan which:

(i) Describes the administrative structure the local government proposes to use to implement the NSA Program;

(ii) Describes the number and qualifications of the staff that will be made available;

(iii) Identifies the individual who shall serve as the primary local government contact for the field office.

(9) A statement that the request is consistent with the HUD-approved Housing Assistance Plan and Area-wide Housing Opportunity Plan.

(10) A statement that the NSA request was submitted to the A–95 Clearinghouse prior to or simultaneously with the submission of the request to HUD, and that the Clearinghouse has been requested to send its comments to HUD within 30 days from the date the request was sent to HUD.

§ 881.704 HUD review of requests for NSA designation.

(a) *Field Office Review.* The Field Office shall review each request to determine whether it meets the following requirements. (This review does not substitute for the HUD Field Office independent review requirements of 24 CFR 891.205, which are to be followed for each Section 8 proposal subsequently submitted.)

(1) The request is consistent with the local Housing Assistance Plan and any Area-wide Housing Opportunity Plan that has been approved by HUD.

(2) The proposed NSA is an eligible area pursuant to § 881.701(c) and the local government has presented all submissions required in § 881.703.

(3) The area contains no major obstacles to meeting the site and neighborhood standards of Section 881.206 or the environmental requirements of Section 881.210 that cannot be remedied in an acceptable time frame by the proposed activities. This review does not substitute for the environmental or site and neighborhood standards reviews which are to be completed for each Section 8 proposal subsequently submitted. The neighoborhood revitalization plan includes the public improvements, services and other physical development activities that are necessary to provide a suitable living environment upon completion of the plan.

(4) The housing revitalization plan is acceptable according to the following criteria:

(i) A sufficient number of sites suitable for rehabilitation under this Subpart are located in the area, either on sites which conform to the site and neighborhood standards in § 881.206 or on sites which will conform when the activities described in the NSA request are completed;

(ii) Appropriate funding sources have been identified and schedules established for both Section 8 and non-Section 8 housing rehabilitation;

(iii) The need for demolition has been appropriately identified and documented;

(iv) The proposed rehabilitation appears feasible given the condition of the buildings and the general willingness and financial capacity of owners and interested developers.

(5) The local government's citizen participation program has involved the residents and property owners of the NSA in the development of the strategy and is designed to facilitate their continuing participation in the implementation, monitoring, evaluation and adjustment of the strategy.

(6) The relocation statement presented by the local government is acceptable.

(7) The administrative structure proposed by the local government appears to be appropriate.

(b) *A–95 Comment.* HUD shall review and consider any comments received from the A–95 Clearinghouse early in the processing cycle to allow sufficient time to resolve potential problems.

(c) *Additional Information and Modifications.* If, during review of the request, HUD finds that additional information is necessary or that modifications are necessary, it shall request such additional information of modifications and/or meet with representatives of the local government to resolve outstanding questions concerning the request.

§ 881.705 Approval or other action on requests for NSA designation.

(a) *Field Office Determinations.* When the request is to be funded using contract authority allocated under 24 CFR 891.404, the HUD Field Office has approval authority and may either:

(1) Approve the request and send to the local government the notification letter described in paragraph (f) below;

(2) Grant conditional approval specifying in writing to the local government the conditions which must be met before approval can be given;

(3) Reject the request, specifying in writing to the local government the reasons for the rejection. Local governments may request a review or reconsideration of Field Office determinations from the appropriate Regional Administrator.

(b) *Headquarters Determinations.* When the NSA request is for contract authority to be provided by HUD from the Headquarters reserve pursuant to 24 CFR 891.403(b) and HUD has announced the availability of funds pursuant to 881.702(b), the Field Office shall submit those requests which it determines acceptable to the Assistant Secretary for Housing for approval. If the Field Office determines that a local government's request is not acceptable, it shall notify the local government of the reasons for the rejection. Local governments may request a review or reconsideration of Field Office rejections from the appropriate Regional Administrator. The Assistant Secretary for Housing shall select among the proposals endorsed by Field Offices using the following criteria:

(1) The overall quality and feasibility of the program described in the request;

(2) The degree of local public commitment to the program as evidenced by Community Development Block Grant and other Federal, State, or local programs and funds that have been designated for supporting activities;

(3) The extent of existing or proposed private commitments such as private financing in the area.

(4) The extent of temporary and permanent relocation that is anticipated and the quality and feasibility of the local government's plans to address relocation needs;

(5) The demonstrated capacity of the local government to carry out housing and community development programs;

(6) The demonstrated capacity of the local government to promote fair housing and equal opportunity for low-income families, members of minority groups and female heads-of-household;

(7) The potential of achieving, in the speediest manner possible, the reservation of housing units under this Subpart.

(c) *Notification of local governments.* The Field Office shall notify each local government as to which NSAs are approved or disapproved. If the request is not approved, the notification shall indicate the reasons for the disapproval. If the request is approved, the notification shall include:

(1) An identification of the approved NSA and a statement that Section 8

substantial rehabilitation proposals may be submitted and processed pursuant to these special procedures.

(2) The amount of contract and budget authority which has been made available for use in the NSA and the approximate number of units by household type this authority is expected to support.

(3) A statement that HUD mortgage insurance will be generally available in the NSA and that, for purposes of making underwriting determinations under the National Housing Act, the improvements pledged in the request shall be considered as though they were now complete. However, this provision does not eliminate the requirement for an individual underwriting review of each proposal.

(4) A schedule, mutually agreed upon by the Field Office and local government, for submission of proposals.

(5) A statement which notifies the local government that if the local government fails to complete the activities that were committed in the request and subsequent negotiations with HUD, in accordance with the approved schedule, HUD may withdraw the budget and contract authority which remains unused in accordance with the conditions set forth in 881.702(d).

(d) *Notification of Other Agencies.* If the local government plan includes substantial rehabilitation contract authority for projects to be financed by a State Agency or owned by a PHA, the notification shall indicate the amount of such contract authority. Additionally, the Field Office shall notify the appropriate State Agency or PHA of the approval and indicate that the contract authority is available for use only in the NSA in accordance with the local government's housing revitalization plan.

§ 881.706 Solicitation and development of proposals for projects within NSAs.

(a) *Types of Proposals.* Proposals for projects may take one of four basic forms based upon the method of financing. There also may be other financing methods approved by HUD.

(1) NSA Section 8 proposals for which neither HUD mortgage insurance nor State Agency financing is contemplated. Submission, review and approval requirements for these proposals are provided in § 881.707.

(2) NSA Section 8 proposals for which HUD mortgage insurance is requested but which are not to be financed by a State Agency. Submission, review and approval requirements for these proposals are provided in § 881.708.

(3) NSA Section 8 proposals which are to be financed by a State Agency but will not utilize HUD mortgage insurance. Submission, review and approval requirements are identical to the regular requirements for State Agency non-insured proposals provided in 24 CFR Part 883.403 through 883.405, except that the proposal must contain the local government certifications, the relocation information and the statement concerning conflict of interest described in Section 881.707.

(4) NSA Section 8 proposals for which both State Agency financing and HUD mortgage insurance is contemplated. Submission, review and approval requirements are identical to the regular requirements for substantial rehabilitation proposals requesting mortgage insurance as described in 24 CFR 881.306(d) with the addition of the local government certifications required by § 881.707(b).

(b) *Solicitation of Proposals.* After the notification by HUD that contract and budget authority pursuant to Section 881.702 has been made available, the local government shall publish a notice in a newspaper of general local circulation which sets forth the number of units by household type available and the boundaries of the NSA. This notice shall also describe how the local government (and if applicable, the State Agency and/or PHA) will solicit and process proposals, such as through negotiation or advertisement.

(c) *Basic Information.* The local government shall provide basic information to interested owners and developers concerning the special procedures of this Subpart including: (1) A copy of these regulations; (2) where Minimum Design Standards for Rehabilitation for Residential Properties or HUD Minimum Property Standards and other applicable regulations, standards, and forms, may be obtained; (3) requirements and information necessary to enable the interested parties to submit a proposal; and (4) the assistance the local government will provide to owners. The local government shall also provide information to interested parties about how to obtain financing, other rental assistance, or mortgage insurance which the local government has determined will be necessary to achieve the revitalization of the NSA.

(d) *Assistance in Development and Review of Proposals by Local Government.* The local government shall, to the extent necessary to assure adequate owner and developer interest and viable proposals, assist owners in the preparation of proposals. The local government shall review comprehensively all proposals to make the certifications required by Section 881.707(b). The local government shall transmit to HUD for review Section 8 substantial rehabilitation proposals it believes are approvable.

(e) *Timely Submissions.* The local government shall assure that proposals are prepared and submitted in accordance with the agreed upon schedule provided for in Section 881.705(c)(4). If approvable proposals sufficient to use the contract and budget authority made available for use in NSAs have not been submitted by the established deadline, including any extensions approved by the field office, HUD shall follow the procedures of Section 881.702(d) concerning unused contract authority.

§ 881.707 Submission, review and approval requirements for NSA proposals which are not HUD-insured and not State agency-financed.

(a) *Proposal Submission Requirements.* The local government shall submit the following:

(1) The address(es) of the property(ies) proposed to be rehabilitated.

(2) The identity of the owner(s), rehabilitator(s) (if known), and architect(s) (if applicable and identity is known); the officials, principal mmebers, shareholders, investors, and other parties having substantial interest, and the prior participation of each in HUD programs on the prescribed forms; and a disclosure by each party of any possible conflict of interest which would be in violation of the ACC, Agreement, or Contract.

(3) A description of the property(ies) "as is," including number and type of structures, number of stories, structural system, number of units by size (number of bedrooms), living area and composition of each size of unit, special amenities or features, if any; and sketches for the interior, showing dimensions. If appropriate, typicals may be provided.

(4) A description of the proposed rehabilitation covering each basic element (e.g. roof, exterior walls, porches and steps; interior walls, ceilings and floors; kitchen and bathroom facilities and equipment; plumbing, heating and electrical equipment; landscaping; etc.) indicating the nature of the work to be done on each element. If alteration, renovation, or remodeling is indicated, a description of such work and sketches showing the layout after completion of rehabilitation shall be submitted. If appropriate, typicals may be provided.

(5) The number of units by unit size (number of bedrooms) and type of occupancy (elderly (including handicapped), family, large family) proposed after completion of the rehabilitation.

(6) A listing of proposed amenities.

(7) The anticipated time required for completion of the rehabilitation after the Agreement is signed. If the rehabilitation is to be completed in stages, an identification of the units comprising each stage and the estimated date for commencement and completion of each stage shall be provided.

(8) The proposed Contract Rent per unit, including an indication of which utilities, services and equipment are included in the rent and which are not. For those utilities and services which are not included, an estimate of the average monthly cost for each unit type for the first year of occupancy.

(9) The estimated replacement cost per unit by size and structure type, operating expenses, income and debt service as required by Section 881.308(a)(8).

(10) A description of the existing utility combination, whether or not a change to a different combination is proposed and, if so, a description of the new combination. To the extent feasible, individual meters should be utilized where an exising system is replaced.

(11) A statement as to whether the services of a registered architect will be utilized for preparation of final working drawings and specifications.

(12) Information concerning displacement of site occupants. If any displacement will occur: the number of households affected, by size and race, and the business concerns affected, by race, and whether they own or rent; the number to be temporarily or permanently displaced; the steps, if any, to be taken to minimize displacement; a demonstration that relocation is feasible; and a statement as to how necessary relocation payments will be funded (see Sections 881.709 and 881.209 for relocation requirements).

(13) A signed certification on the prescribed form of the owner's intention to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246 and Section 3 of the Housing and Urban Development Act of 1968, and of the owner's intention to undertake marketing activities as required by Section 881.601(a).

(14) The proposed method (e.g., conventional mortgage, Farmers Home, or tax exempt obligations) and anticipated terms of financing (e.g., interest rates, discounts, amortization plan and term) and evidence of review and interest by a lender, bond underwriter, or counsel, or similar evidence that financing would likely be available should the proposal be selected. Such evidence of financing is not required if the owner proposes to utilize the FmHA Section 515 Rural Rental Housing Program. In such case, evidence that a preapplication has been submitted to the FmHA shall be submitted with the proposal. A statement shall be included in all proposals as to whether the owner intends to pledge or offer the agreement and/or Contract as security for any loan or obligation (see Section 881.208(1)).

(15) The proposed term of each Contract, and justification for such term in accordance with § 881.502.

(16) The identity of the contract administrator entity (PHA or HUD).

(17) *Evidence of management capability.* For projects of more than 20 units a proposed management plan and certification in the prescribed form; if the proposed project is for less than 20 units, evidence of capability of providing necessary management and maintenance services. If the owner proposes to contract with another entity for management and/or maintenance services for the project, a copy of the proposed contract(s) shall be included.

(18) Submission of the form of lease the owner proposes to use. The form of lease shall be in accordance with Section 881.606.

(19) If the proposed project consists of five or more units, submission of an Affirmative Fair Housing Marketing Plan. A statement of the marketing activities the owner intends to take in accordance with the requirements of section 881.601(a)(3). Such efforts might include: participation in regional or sub-regional application pools and clearinghouses; establishment of a referral system with PHAs, other public agencies and Section 8 owners/managers in the surrounding area; contact with and provision of information about the project to employers and their employees, labor unions and interested community groups.

(b) *Additional information to be submitted by local government.* Each proposal shall be accompanied by the following information from the local government:

(1) A certification by the chief executive officer of the local government that (i) the property proposed for substantial rehabilitation is within the designated NSA; and (ii) the proposal is consistent with the requirements and restrictions of the approved local Housing Assistance Plan, the HUD approved Area-wide Housing Opportunity Plan and the approved NSA.

(2) A certification that the owner has title to the property, an option on the property or other legal commitment for the property.

(3) If demolition is proposed for any structures, a certification that the proposed reuse is consistent with local zoning or other land use restrictions and will promote the restoration and revitalization of the neighborhood.

(4) A certification that the proposed rehabilitation is permissible under applicable zoning, building, housing and other local codes, ordinances, or regulations.

(5) Identification of properties included in, or eligible for inclusion in, the National Register of Historic Places within the area affected by the proposal and information on the proposal's effect on such properties. This is a requirement of the National Historic Preservation Act (16 U.S.C. SS470 as amended by P. L. 94–422), the Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800), the Archeological and Historical Preservation Act of 1974 (P. L. 93–291), and Executive Order 11593, "Protection and Enhancement of the Cultural Environment."

(c) *Evaluation of proposals.* Each proposal shall be evaluated by HUD to determine whether:

(1) The proposal and the certifications submitted by the local government contain all the elements required by section 881.707(a) and (b).

(2) The proposed Contract Rents plus any allowances for utilities and other services and the estimated replacement costs do not exceed the limitations of § 881.204(b)(1) and (c).

(3) The proposed Contract Rents are reasonable pursuant to § 881.204(b)(2).

(4) The proposed term of the Contract is acceptable in accordance with § 881.502.

(5) The form of lease meets the requirements of § 881.606.

(6) The previous experience of the owner and other key participants in development and management is acceptable.

(7) The management capability of the owner and/or his managing agent, the proposed management plan, and the proposed management agreement/contract(s) are acceptable.

(8) The Affirmative Fair Housing Marketing Plan is acceptable.

(9) The provisions for relocation are acceptable (see §§ 881.709 and 881.209.).

(10) The proposal as a whole, including the rehabilitation plan and

design, will result in decent, safe, and sanitary housing.

(11) The nature and extent of the rehabilitation are such that the services of a registered architect must be used.

(12) The proposed method and terms of financing are acceptable (see also § 881.208).

(13) The proposed utility combination is acceptable.

(14) There are no apparent conflicts of interest which would be in violation of the Agreement, Contract, or ACC.

(d) *Environmental Review.* HUD will conduct an environmental review of the proposal in accordance with HUD procedures.

(e) *Review for Consistency with HAP and AHOP Plans.* Local government certification as to the proposal's consistency with the HUD-approved local Housing Assistance Plan and Area-wide Housing Opportunity Plan is not intended to substitute for the independent HUD review for HAP and AHOP consistency.

(f) *A–95 Comments.* HUD shall review and consider any comments about the proposal received from the A–95 Clearinghouse.

(g) *Clarification or Modification.* HUD may request clarification of individual items, additional information, or modification of the proposal including substitution of alternate properties.

(h) *HUD Review of Local Government Certifications.* Generally, in review submissions required by this Part, HUD shall accept the certification as correct. However, if HUD has substantial reason to question any certification, HUD shall promptly bring the matter to the attention of the local government and ask the local government to review its findings. After such review HUD will act in accordance with the judgment or evaluation of the local government unless HUD determines that the certification is not supported by available evidence.

(i) *HUD Determination.* HUD shall notify the local government and the owner that the proposal is:

(1) *Approved.* This notification shall include the statements required by Section 881.307(c) except that reference to the submission of a final proposal shall not be included. Following approval, the proposal shall be deemed to be a final proposal within the meaning of Section 881.308 and the following Sections of Subpart C. All further actions with regard to proposals approved pursuant to this paragraph (i) shall be in accordance with Subparts C through F of these regulations starting with Section 881.310.

(2) *Approved with conditions.* The notification letter, in addition to the information identified in (i)(1), above, shall include any conditions which must be resolved before full approval can be given.

(3) *Not approved.* The notification shall indicate the reasons for disapproval, and, where appropriate, that the local government may submit substitute proposals to use remaining contract and budget authority.

(j) *Clearinghouse notification.* In all cases, the appropriate A–95 Clearinghouse shall be notified by HUD of its final action at the time the local government is notified.

§ 881.708 Requirements for NSA proposals which request HUD mortgage insurance.

(a) *Concurrent processing.* Where an owner indicates that he/she intends to request HUD mortgage insurance, the following procedures shall be followed:

(1) *Preapplication meeting.* There will be a preapplication meeting, attended by representatives of the Field Office and the local government, to discuss any proposals requesting simultaneous processing for HUD mortgage insurance. The Field Office will advise the local government of any major obstacles to approval of the mortgage insurance discovered during the meeting. If such a meeting has not been held, Field Offices will not accept proposals requesting simultaneous processing.

(2) *Initial Submission Requirements.* Each submission shall include the following:

(i) The owner's application for a feasibility letter on the prescribed form with appropriate exhibits.

(ii) Documentation required from the owner by Section 881.707(a) that is not already provided in (a)(2)(i) above.

(iii) Certifications required from the local government by Section 881.707(b) (1), (3), (4), and (5).

(3) *Evaluation of Submission.* Each submission shall be evaluated by HUD to determine:

(i) The acceptability and feasibility of the application for HUD mortgage insurance purposes. In making underwriting determinations for all HUD mortgage insurance programs, the improvements pledged in the request shall be considered as though they were now complete.

(ii) The acceptability of the proposal for Section 8 assistance in accordance with Sections 881.707(c) (1), (2), (3), (4), (5), (9), (10), (11), and (14).

(iii) The consistency of the proposal with the HUD-approved local HAP and AHOP plans. (Local government certification does not substitute for the independent HUD review for such consistency.)

(4) *HUD Determination.* HUD shall notify the local government and the owner that the submission is:

(i) *Approved.* A notification of proposal approval for Section 8 assistance in accordance with § 881.307(c) shall be transmitted simultaneously with the feasibility letter.

(ii) *Approvable with conditions.* HUD may issue a letter which conditions approval of the proposal, for mortgage insurance and/or Section 8 assistance, upon compliance with specified conditions.

(iii) *Not approved.* If the proposal is not approved, a letter shall be sent indicating the reasons for such disapproval.

(b) *Delayed mortgage insurance processing.* If an owner does not indicate in the proposal an intent to utilize HUD mortgage insurance and applies for HUD mortgage insurance after approval by HUD of the proposal for Section 8 assistance, he/she risks (1) having the proposal rejected for HUD mortgage insurance, and (2) having lower rents approved under the mortgage insurance program than the rents set forth in the proposal approved under this Subpart.

(c) *Subsequent processing.* Following approval of a proposal involving HUD mortgage insurance, subsequent processing shall be in accordance with Subparts C through F of these regulations starting with Section 881.308(b).

§ 881.709 Relocation requirements for section 8 NSA proposals.

The provisions of this Section apply to all proposals submitted from those NSAs which were approved or conditionally approved during Fiscal Year 1978, unless units requested are in addition to the total number of units originally approved for the NSA. Such additional units will come under the relocation provisions of Section 881.209.

(a) *Applicability of Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 (Uniform Relocation Assistance and Real Property Acquisition) apply to the acquisition of real property by a PHA or other State agency (as defined at 24 CFR 42.85) for a project assisted under this Part and to any displacement that results from such acquisition.

(b) *Tenants Displaced by Private-Owner or by PHA Rehabilitation Without Acquisition.* Although the Uniform Act does not apply to the displacement of tenants as a result of acquisition by a private developer or as

a result of rehabilitation by a PHA without acquisition for a Section 8 project, HUD has determined that any family, individual, business, or nonprofit organization that is a tenant (not an owner-occupant) occupying a property to be rehabilitated pursuant to this Subpart on the date the proposal is submitted to HUD (see Sections 881.707 and 881.708) and who is thereafter required to move, shall be eligible for relocation payments and assistance to be determined on the same basis as provided by 24 CFR Part 42, as modified by paragraphs (c) through (h) of this Section, as if the tenant were a "displaced person" within the meaning of the Uniform Act. For purposes of the regulations at 24 CFR Part 42, the local government's transmittal of the proposal to HUD shall be deemed to be the "initiation of negotiations."

(c) *Preliminary Notice to each Residential Tenant.* No later than 30 days after the transmittal of any proposal to HUD or to the State Agency, in the case of State Agency-financed projects, the local government shall issue to each residential tenant occupying the property a written notice which:

(1) Informs the tenant that a proposal for assistance under this Subpart has been transmitted to HUD and the date thereof;

(2) Insofar as possible, informs the tenant whether permanent relocation will be required if the proposal is approved;

(3) States that if the tenant moves after the date the proposal was submitted to HUD for any reason, except after being issued a notice of displacement as described in paragraph (e) of this Section, the tenant will not be entitled to relocation payments or other assistance provided under/or determined in accordance with 24 CFR Part 42, as modified by this Section;

(4) Indicates that as soon as practical, but not later than 60 days after the HUD notification of the approval of the proposal, the tenant will receive an appropriate notice as specified under paragraph (d) or (e) of this Section. The provisions of the notices that are referred to shall be generally described;

(5) Generally describes the relocation payments and other assistance for which the tenant would be eligible, if required to relocate; and

(6) Informs the tenant of the applicable policies contained in paragraph (f)(1) and (f)(2) of this Section.

(d) *Notice of right to continue in occupancy.* No later than 60 days after the HUD notification of the approval of the proposal, the local government shall furnish each residential tenant who will not be displaced, a written notice of the tenant's right to continue in occupancy. The notice shall contain the following conditions:

(1) The tenant shall have the right to lease and occupy a decent, safe, and sanitary dwelling which is either the current dwelling or a suitable dwelling located within the same building or nearby building located on the same site, for a continuous period of at least four years. The four-year period shall begin on the date of HUD notification of the approval of the proposal, or the date the dwelling is placed in decent, safe, and sanitary condition, or the termination date of any required temporary relocation, whichever is later.

(2) If the tenant is an "eligible" family as defined in § 881.201 and 24 CFR Part 812, the amount of rent payable by the tenant shall be determined in accordance with 24 CFR Part 889 and any necessary subsidy shall be provided pursuant to Section 881. If the tenant does not qualify as an eligible family as defined in Section 881.201 and 24 CFR Part 812, the amount payable by the tenant for rent and utilities and other services shall not exceed 25 percent of monthly income, which income shall be calculated in accordance with 24 CFR Part 889 and any necessary subsidy shall be provided by the local government.

(3) The tenant shall not be required to move from the dwelling unit other than for cause unless the move is necessary to permit rehabilitation of demolition. If a move is required:

(i) Not more than one temporary relocation by the tenant shall be required;

(ii) The temporary relocation, if any, shall not exceed twelve months in duration;

(iii) A decent, safe, and sanitary dwelling shall be available to the tenant for the period of any temporary relocation; and

(iv) The local government shall pay actual reasonable out-of-pocket expenses, including any moving costs or increase in monthly housing cost incurred by the tenant in connection with the move, any temporary relocation, or both.

(4) If the tenant is required to vacate the dwelling during the four-year period for any reason other than for cause, or if any of the commitments to the tenant under this notice are not met, the tenant shall automatically be deemed to have been issued a notice of displacement as described in paragraph (e) of this Section and to be entitled to relocation payments and other relocation assistance available to displaced persons provided in 24 CFR Part 42, as modified by this Section.

(e) *Notice of displacement.* Not later than 60 days after the HUD notification of the approval of the proposal, the local government shall issue a written notice of displacement to each residential tenant to be displaced. The notice shall state that if the tenant moves or moves personal property from the property on or after the date of HUD notification of approval of the proposal, the tenant will be entitled to certain relocation payments and other assistance which shall be described, including the maximum allowable dollar amount or range of each payment for which the tenant will apparently be eligible, the conditions of eligibility, and the procedures for obtaining the payment(s).

(f) *Automatic notice of displacement.* (1) If a tenant is not issued a preliminary notice as described in paragraph (c) of this Section within 30 days after the transmittal of the proposal to HUD, the tenant shall be deemed to have been issued a notice of displacement effective 31 days after the transmittal of the proposal to HUD, if such proposal is later approved by HUD. However, if the local government later issues a preliminary notice to a tenant who has not yet moved and agrees to reimburse the tenant for any expenses incurred to satisfy any binding contractual relocation obligations entered into during the period in which the notice of displacement was in effect, such automatic notice of displacement is cancelled.

(2) If a tenant is not issued a written notice of displacement or a notice of right to continue in occupancy within 60 days after the date of the HUD notification of the approval of the proposal, the tenant shall be deemed to have been issued a notice of displacement effective on the date of the HUD notification of the approval of the proposal.

(g) *Tenants continuing in occupancy.* The local government shall take such steps as may be necessary to insure that no tenants who continue in occupancy under the provisions of this Section are subjected to an unreasonable change in the character of their immediate environment without being given the opportunity to move and qualify for relocation assistance as a displaced person. For example, an elderly tenant shall not be subjected, without alternatives, to a sharp increase in the number of children occupying nearby units.

(h) *Section 8 assistance to tenants displaced by private owner.* If a residential tenant who has been displaced by an owner pursuant to

paragraph (b) of this Section has voluntarily selected a replacement rental dwelling unit, the local government shall provide a rental assistance payment as described in 24 CFR Part 42, unless a PHA provides a Certificate of Family Participation under the Section 8 Housing Assistance Payments Program—Existing Housing, 24 CFR Part 882. The latter can occur only when the displaced family or individual is eligible to participate in that program, the replacement rental dwelling unit meets the requirements of that program, and the landlord of the replacement rental dwelling unit is willing to participate in that program. If the tenant elects to rent a replacement dwelling that cannot be assisted under the Section 8 Existing Housing Program, he/she must be offered the rental assistance payment described at Section 42.453. (If an eligible tenant voluntarily selects a dwelling unit that meets the Section 8 requirements and the owner is willing to participate in the Existing Housing Program but the tenant refuses the Section 8 assistance, the tenant is not entitled to a rental assistance payment. Regardless of the source of any rental assistance payments provided, the local government shall provide moving expenses.

(i) *Nonresidential tenants.* The modifications in paragraphs (c) through (h) of this Section do not apply to the displacement of any business, farm, or nonprofit organization which has been displaced as a result of an action described in paragraph (a) of this Section. Such businesses, farms, or nonprofit organizations shall be provided relocation payments and other assistance in accordance with the regulations of 24 CFR Part 42 and the policies and procedures contained in HUD Handbook 1376.1, Relocation and Real Property Acquisition, September 1979.

(j) *Manner of notices.* Any notice required under this Section shall be personally served, receipt documented, or sent by certified or registered first-class mail, return receipt requested.

(k) *Responsibility for Relocation Payments and Assistance.* The local government is responsible for providing the relocation payments and assistance described in this Section from funds other than those provided under these special procedures.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C. December 17, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

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Part III

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Assistance Payments Program for Substantial Rehabilitation

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 881

[Docket Number R-80-761]

Section 8 Housing Assistance Payments Program for Substantial Rehabilitation

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

ACTION: Interim rule.

SUMMARY: The regulation governing the Section 8 substantial rehabilitation program has been revised to accomplish three major objectives. First, the language of the regulation has been simplified and the format altered to make the regulation easier to read and use. Second, rent, cost and amenities limitations, and requirements for cost justification of rents in certain cases, have been added in order to control and reduce the costs of the program. Third, processing changes have been made to assure coordination of Section 8 and HUD mortgage insurance programs with fewer developer submissions and to reduce and level out field office workload in order to improve the efficiency and quality of processing.

In addition, relocation requirements have been revised to provide more equitable treatment to tenants temporarily and permanently displaced as a result of rehabilitation activities.

This regulation does not apply to projects developed under other Section 8 regulations, including Parts 880, 882, 883 and 885, except as provided in those Parts.

EFFECTIVE DATE: February 20, 1980.

COMMENTS DUE: Written comments and suggestions will be received on or before March 31, 1980. The Department will make such modifications as it deems appropriate in the final regulation.

ADDRESS: Comments should be filed with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: George O. Hipps, Office of Multifamily Housing Development, Room 6128, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410; 202-755-5720. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Section 8 substantial rehabilitation program is a rental assistance program. Under this program, the government provides the difference between the approved rent for an appropriate housing unit and the amount paid by an eligible lower-income family, including the elderly and handicapped. Proposals from private owners or public housing agencies are generally submitted in response to a public advertisement. They are competitively evaluated and the best one(s) selected for further processing, development and eventual occupancy. Although the program does not provide construction or mortgage financing, an owner may use any method of financing available to him, including HUD mortgage insurance.

Amendments to the Section 8 New Construction program regulations were published for comment on June 12, 1979, in the **Federal Register** at 44 FR 33804. After considering the comments received, the Department is publishing the New Construction amendments for effect at this time. The processing procedures for the Section 8 Substantial Rehabilitation program closely parallel those for the Section 8 New Construction program and the changes made to the Substantial Rehabilitation regulations by these amendments are basically the same as those made to the New Construction regulations. In addition, this rule is to apply to the Fiscal Year 1980 Section 8 Substantial Rehabilitation program and all applications submitted early in the fiscal year are to be reviewed and approved in conformance with the regulation. Therefore, the Department has determined that the public interest would be served by making the amendments effective as soon as possible. The regulation is nevertheless subject to public comment and written comments will be received on or before the date and at the address indicated above. A discussion of the principal changes follows:

Language and Format. A primary purpose of this revision of Part 881 is to simplify the language of the regulation and generally to improve readability and ease of use. A brief summary has been added as Subpart A so that the general concepts of the program can be understood without reading the entire regulation. To improve usability, the remainder of the regulation has been divided into various segments which generally flow chronologically from proposal submission through project occupancy and management.

In order to aid in understanding the program, the revised regulation makes several changes in the basic terms used to describe the rent and assistance concepts of the program.

1. The term "total housing expense" has replaced the term "gross rent" which was confusing because the utility allowance (formerly "allowance for utilities and other services") making up part of the gross rent was not rent at all but rather an estimate of tenant-paid utilities and other services not included in the contract rent. Total housing expense is the sum of the contract rent and utility allowance, if any, for a unit.

2. The term "total family contribution" has replaced the term "gross family contribution." It consists of the "tenant rent," a new term which has been added to describe the portion of the total family contribution payable directly by the family to the owner, and any utility allowance for the unit the family is leasing.

3. The term "housing assistance payments" includes two payments—the "housing assistance payment to the owner" and in some cases an additional "housing assistance payment to the family." The housing assistance payment to the owner for a leased unit is the difference between the contract rent and the tenant rent described in number 2 above. An owner may also receive a housing assistance payment for a vacant unit. An additional housing assistance payment to the family is made only if the utility allowance described in number 1 above is greater than the total family contribution, in which case the family is paid the difference between the two in order that the allowed total family contribution is not exceeded.

With these new terms, the basic rent and assistance concepts of the program can now be expressed in several simple formulas:

(1) Total housing expense equals contract rent plus utility allowance.

(2) Total family contribution equals tenant rent plus utility allowance. (Where the utility allowance is greater than the total family contribution, the tenant rent is 0 and housing assistance payment to family equals utility allowance—total family contribution.)

(3) Housing assistance payment to owner equals contract rent—tenant rent.

(4) Housing assistance payments (to owner and to family, where applicable) equals total housing expense—total family contribution.

Several other terms have been introduced or revised for purposes of clarification or simplification. For example, the regulation now uses "contract administrator" to describe either HUD or the PHA as the party contracting with the owner for housing assistance payments.

Cost Containment

In the interest of providing housing at the lowest possible costs and rents, and thereby serving more families with available funding, the regulation

includes the addition of several major cost containment features.

1. *Revised Limitation on Rents Including Cost Justification.* Although rent reasonableness has been a major determination of Section 8 project acceptability since the inception of the program, it has been implemented mainly through HUD handbooks, and an adequate explanation has never been included in the regulation. In addition to explaining rent reasonableness, the regulation includes more stringent standards in determining the reasonableness of rents.

The current rent reasonableness test allows rents in Section 8 projects to exceed rents for comparable unassisted units by up to 15 percent without cost justification of any kind (to compensate for increased security and management costs for family housing, and the additional costs for management and special amenities and design features for elderly housing, and for higher financing costs for all assisted housing), and by an additional 5 percent with cost justification. The new reasonableness test would permit Section 8 rents to exceed comparable rents by a maximum of 20 percent, but only when justified by cost estimates during processing and by cost certification at the time the project is completed. Small and partially-assisted projects for non-elderly families would be exempt from this cost justification to the extent the proposed Contract Rents do not exceed 110 percent of the comparable rent.

This change, as well as the continuation of current Fair Market Rent limitations, is contained in Section 881.204(b). The revision represents a major policy change which is expected to help avoid excessive expenditures under this program.

2. *Limitations on Replacement Costs.* To aid in controlling costs and assuring that Section 8 projects will be of "modest design," limits on project replacement costs have been included in § 881.204(d). The numerical limits are included in the regulation, and will be updated periodically by Notice published in the **Federal Register.**

The numerical limits as proposed are high enough to allow the use of all HUD mortgage insurance programs. Also, the regulation contains provisions similar to HUD mortgage insurance programs which provide for increases in the limits in high cost areas and additional increases in Alaska, Guam and Hawaii.

This limitation will require the submission of a replacement cost estimate by the developer at the preliminary proposal stage.

3. *Limitation on Amenities.* The current regulation does not expressly exclude amenities or design features considered luxurious, and some fear has been expressed that luxury level projects could result under the program. The revised regulation prohibits the inclusion of amenities or design features which would exceed the standards of modest quality housing in the area in which the project is proposed. Partially-assisted projects for non-elderly families are exempt from this limitation because of their predominantly unassisted nature. See § 881.204(e).

Limitations on Distributions. Section 881.205 of the revised regulation limits the distributions that can be made to profit-motivated owners out of surplus project funds, with different rates of return for family and elderly housing. Distribution for elderly projects is limited to 6 percent on equity and for non-elderly projects to 10 percent on equity. The higher rates of return for family projects are intended to provide additional incentive for developers to provide this "hard to get" type of housing.

The Assistant Secretary for Housing may provide for an increase in later years' distributions.

Any such adjustments will be made by Notice published in the **Federal Register.**

Return is to be calculated annually, and shortfalls in one year may be paid from excess funds accumulated in future years.

The appropriate FHA program regulations will be amended by the addition of a provision stating that distribution of project funds to mortgagors and the use of funds remaining after distribution will be governed by the Part 881 regulation in those cases where an insured project receives Section 8 assistance.

Relocation and Land Acquisition Requirements. The revised regulation makes substantial changes in relocation requirements in order to provide more equitable treatment to tenants temporarily or permanently displaced as a result of activities under this Part.

Section 881.209, Relocation and Land Acquisition Requirements, establishes the following:

1. The Uniform Relocation and Real Property Acquisition Policies Act of 1970 continues to apply to displacement resulting from the acquisition of real property by a public housing agency or other State agency.

2. For tenants temporarily or permanently relocated as a result of the project but are not subject to the Uniform Act, the owner must provide adequate notice and assistance in relocating to a suitable unit, reasonable moving and related expenses (or in some circumstances, a fixed payment for moving), temporary relocation expenses, and other related provisions.

3. If replacement housing within the tenant's ability to pay cannot otherwise be identified and government assistance that would satisfy this requirement cannot be secured, the owner may satisfy the requirements of Section 881.209 by providing the tenant with a lump sum payment equal to 48 times the amount, if any, necessary to reduce the monthly cost of a suitable replacement dwelling to 25 percent of the combined monthly gross income of all adult members of the tenant's household. This provision is applicable to tenants not subject to the Uniform Act.

4. Lower-income single persons who are displaced as a result of the project, may return to occupy assisted units in accordance with 24 CFR Part 812.

Pipeline Processing. The regulation, in Section 881.302, requires that previously submitted high quality approvable proposals "in the pipeline" which have not been funded be reviewed first when any new contract authority becomes available. This will both reduce and level out field office workload by requiring the offices to consider previously submitted, high quality proposals before soliciting the submission of new proposals which would require full reviews.

Preapproved Sites. Currently, requests for preapproved sites may be submitted at any time. Such requests may be received when no contract authority is available, or when the field office has little time to review such requests. Also, scattered submissions preclude comparison of requests. The revised regulation (Section 881.303) states that to the extent feasible such requests should be submitted early in the fiscal year. The purpose is to enable field offices to compare and approve requests prior to publication of the Notification of Fund Availability.

The revised regulation also permits local government selection of developers on a competitive basis for preapproved sites acquired with Community Development Block Grant (CDBG) funds.

Finally, in order to reduce field office processing, projects on preapproved sites not subject to competitive selection may skip the preliminary proposal stage. The first submission is comparable to a final proposal.

NOFA. Under current procedures, a field office issues various Notifications of Fund Availability (NOFAs) throughout the year requesting the submission of proposals for the various allocation areas within its jurisdiction. The process is repetitive and time-

consuming for the field office, and occasionally causes NOFAs to be deferred until so late in the fiscal year that proper processing and selection become difficult. Also, developers are frequently unaware of when NOFAs will be issued for areas in which they are interested and, therefore, are unable to plan accordingly.

Section 881.304 of the regulation requires a single publication which will provide notice that the field office will accept proposals for the various allocation areas within its jurisdiction. Specific information for each allocation area will be contained in a detailed NOFA which will be provided by the field office on request.

Proposals for projects for non-elderly families will be accepted as long as contract authority remains available and will be reviewed on a monthly cycle. Proposals for projects for the elderly will be accepted only up to a set deadline date. The reason for the differentiation between proposals for family and elderly projects is the relatively small number of proposals for family projects.

Small and Partially-Assisted Projects for Non-Elderly Families. In order to aid in deconcentration of assisted family housing, and thereby increase economic integration while at the same time lessening the impact of such housing on a neighborhood, the regulation contains exemptions from program requirements and special preferences to encourage development of small projects for non-elderly families (50 units or fewer) and partially-assisted projects for non-elderly families, i.e., projects of more than 50 units of which 20 percent or less are assisted under Section 8.

1. Small Projects. Exempt from cost justification requirement of Section 881.204(b)(2), if Contract Rents are no more than 10 percent above reasonable rents, and the limitation on distributions of Section 881.205. Option for use of a portion of contract authority made available in the NOFA for small projects only (Section 881.304(c)). Special preferences in selection for technical processing (Section 881.306(b)) and ranking (Section 881.307).

2. Partially-Assisted Projects. Exempt from cost justification requirement of Section 881.204(b)(2), if Contract Rents are no more than 10 percent above reasonable rents, limitation on replacement costs of Section 881.204(c), limitation on amenities of Section 881.204(e) and limitation on distributions of Section 881.205. Special preferences in selection for technical processing (Section 881.306(b)) and ranking (Section 881.307).

Rehabilitation Work Write-Up. Section 881.307(f) requires the performance of a rehabilitation work write-up by representatives of the owner and HUD. The purpose of this revision is to ensure essential agreement between the owner and HUD about the nature and extent of the proposed rehabilitation prior to submission of the final proposal.

Changes in Selection Procedures. The current regulation permits field offices to (1) place all acceptable proposals in technical processing and then rank all those found approvable in order to make selections or (2) identify clearly superior proposals, place only those clearly superior proposals in processing, and select those projects without further comparison to any others submitted. In some cases, field offices have processed far more proposals than could be funded, which creates costly delays to both the field office and the prospective developers. In other cases, where the clearly superior standard was used to reduce the processing burden on the field office, it was not applied in a consistent manner because it was not defined but was left to subjective judgment.

The revised regulation continues the requirement for a preliminary evaluation of all proposals. If the number found acceptable for further processing substantially exceeds the number which can be processed expeditiously, the field office is authorized to reduce the number of proposals to be placed in technical processing by use of specified comparison factors (see Section 881.306(b)) instead of the clearly superior standard. This approach assures that competition is maintained, and a pipeline of approvable proposals is identified, without causing undue delay and processing burden.

Improved Coordination of Section 8 and Mortgage Insurance Programs. The revised regulation has eliminated any request at preliminary proposal for special submissions for projects requesting mortgage insurance. At later stages of processing, all duplication of documents and reviews between the two programs has been eliminated. Section 8 documents and processing will constitute only a minor addition to the HUD mortgage insurance program requirements. (See Sections 881.306(d) and 881.308(b)).

Review of Architectural Drawings. The revised regulation requires field office review of all final architectural drawings and specifications to assure that excessive amenities are not included. (See Section 881.310.) HUD also reserves the right to review on a case-by-case basis for compliance with HUD Minimum Design Standards; this review is now and will continue to be done for all HUD mortgage-insured projects as part of mortgage insurance processing.

Site and Neighborhood Standards Unchanged. The revised regulation does not alter the current site and neighborhood standards. Revisions to these standards have been published for comment. Comments have been received and are currently under study. When new standards are published, they will replace the standards contained in this regulation. It is noted that 24 CFR, Part 200 Subpart N, Project Selection Criteria, does not apply to projects approved under Part 881.

Contract Provisions. Three major changes in the Housing Assistance Payments Contract are included in the revised regulation. First, the provision for an initial term of five years renewable at the sole option of the owner for up to the maximum total term of the Contract has been deleted. Under Section 881.502 of the revised regulation, the Contract will be executed for a single term without optional renewals. Second, where the estimated cost of the rehabilitation is less than 25 percent (25%) of the estimated value of the project after completion, the Contract will be executed for a single term, of 15 years rather than for five years renewable for an additional five years at the sole option of the owner as authorized by the previous regulation. The reason for these two changes is to assure that units developed under the Section 8 program remain available as assisted housing for the total term of the Contract. The third change, in Section 881.504, has the same purpose. It places a 10 percent limitation on the leasing of assisted units to ineligible families without the prior approval of HUD and provides for appropriate remedies, including a reduction of the number of units covered by the Contract.

A new provision is included in Section 881.501(a), similar to a provision in 24 CFR, Part 811. It permits execution of the Contract upon acceptable physical completion of the project, even though evidence of completion in other respects is not yet acceptable. In such cases, however, and until acceptable completion of all such other requirements, housing assistance payments will be limited to the amount of debt service, and rent-up and occupancy will be subject to field office conditions.

Changes have been made in Section 881.502(a) to limit the availability of a 40-year maximum Contract term to projects which:

(1) Are not financed with the aid of a loan insured, co-insured, made guaranteed or intended for purchase by the Federal Government,

(2) Are owned or financed by a loan or loan guarantee from a state or local agency,

(3) Are intended for occupancy by non-elderly families, and

(4) Are located in an area designated by HUD as requiring special financing assistance.

Special Marketing Requirements. With respect to marketing of Section 8 non-elderly family units, the revised regulation requires the owner to undertake marketing activities in advance of marketing to other prospective tenants in order to provide opportunities to non-elderly families who are least likely to apply as specified in the Affirmative Fair Housing Marketing Plan, and to non-elderly families expected to reside in the community by reason of current or planned employment, as indicated in the Housing Assistance Plan, if any.

Residency Requirements and Preferences. Section 881.603(b)(1) of the revised regulation prohibits residency requirements but allows residency preferences to the extent that they are not inconsistent with affirmative fair housing marketing objectives and the owner's HUD-approved Affirmative Fair Housing Marketing Plan.

Replacement Reserves. A replacement reserve has been added in Section 881.602. Experience with both HUD mortgage insurance programs and the state agency program indicates that reserves are an important form of insurance against default on the basis of operating shortfalls during the early years of a project and extraordinary maintenance, repair and capital costs in later years.

The replacement reserve is to be built up by annual deposits equal to .006 of the replacement cost with annual adjustment by the amount of the automatic annual adjustment factor. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. Should the reserve achieve that level, the rate of deposits may be reduced with the approval of HUD. On the other hand, should withdrawals from the reserve and projected requirements make this necessary, higher rates of deposit may be required by HUD from time to time.

Termination of Tenancy and Modification of Leases. The provisions regarding termination of tenancy have been rewritten to bring the language and format in line with the recently published regulations for the Section 8 moderate rehabilitation program. Section 881.607 now specifies that a tenancy may be terminated by the owner only for good cause and provides detailed notice requirements. This section also contains provisions concerning modification of leases as of the end of any lease term.

Other Management changes. 1. Section 881.601(d) adds a requirement for the submission annually of audited financial and operating statements so that HUD can assure that a project is being properly managed.

2. Section 881.603(c) provides that owners will use their best efforts to achieve occupancy by families with incomes averaging at least 40 percent of the median income in the area for the purpose of promoting economically-mixed housing as stated in Section 8(a) of the U.S. Housing Act of 1937, as amended.

3. A new provision is added permitting a family to report at any time a change in income or other circumstances that would result in a decrease of its required family contribution. An owner may require a family to report increases in income between scheduled reexaminations.

4. Section 881.608 contains a requirement for a security deposit from the tenant, rather than the permissive provision included in the current regulation.

Related Section 8 Changes. 1. *Other Section 8 Regulations.* The program regulations for new construction (Part 880) and housing finance and development agencies (Part 883) are currently in the process of being revised also. Each of these regulations will reflect the major programmatic changes such as the addition of new cost containment factors. In addition, all three regulations will contain provisions which pertain to the unique aspects of the individual programs.

Neighborhood Strategy Areas and Demonstration Rehabilitation Program. Subpart C in the old regulation detailed procedures for Neighborhood Strategy Areas (NSAs). This rule redesignates Subpart C to cover "Proposed Submission to Start of Construction" and designates a new Subpart G to cover NSA procedures. Subpart G, however, is being reserved in this document and a revised regulation for the NSA program is published as a separate document in this edition of the **Federal Register.**

The former Subpart D containing procedures for the Demonstration Rehabilitation Program is deleted from this regulation. For all projects selected under the former Subpart D, a preliminary proposal has been submitted; therefore, the provisions of the subpart are no longer needed.

Applicability of the Regulation. 1. The revised Part 881 applies to all proposals for which a notification of selection was not issued before the effective date of the revision. Where a notification was issued for a proposal before the effective date, the revised Part applies if the owner notifies HUD within 60 calendar days that it wishes the revision to apply and promptly brings the proposal into conformance.

2. Subparts E and F apply to all projects for which an Agreement was not executed before the effective date of the revision. Where an Agreement was executed:

(a) The owner and HUD may agree to make the revised Subpart E applicable and to execute appropriate amendments to the Agreement and/or Contract.

(b) The owner and HUD may agree to make the revised Subpart F applicable (with or without the limitation on distribution) and to execute appropriate amendments to the Agreement and/or Contract.

(3) However, Section 881.607, Termination of Tenancy and Modification of Leases, applies to new families who begin occupancy or execute a lease on or after 30 days after the effective date of this revision. With respect to existing families under lease, this section applies when the lease is renewed on or after the 60th day following the effective date of this revision.

Inapplicability of NEPA: A Finding of Inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, Part 881 is amended in its entirety as follows:

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PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

Subpart A—Summary and Applicability

Sec.

881.101 General.
881.102 Processing.
881.103 Construction and management.
881.104 Applicability of revised regulation.
881.105 Applicability to proposals and projects under 24 CFR, Part 811.

Subpart B—Definitions, Project Eligibility and Other Requirements

Sec.
881.201 Definitions.
881.202 Project Eligibility.
881.203 Fair market rents.
881.204 Limitations on contract rents, replacement costs and amenities.
881.205 Limitation on distributions.
881.206 Site and neighborhood standards.
881.207 Property standards.
881.208 Financing.
881.209 Relocation and Land Acquisition Requirements.
881.210 Other Federal Requirements.

Subpart C—Proposal Submission to Start of Construction

881.301 Allocation of contract authority to field offices.
881.302 Procedures for resumption of processing of proposals and preapproved site requests.
881.303 Special procedures for certain categories of proposals.
881.304 Publication of NOFA and receipt of proposals.
881.305 Contents of preliminary proposal.
881.306 Preliminary evaluation and technical processing.
881.307 Section of proposals and use of remaining or additional contract authority.
881.308 Contents of final proposal.
881.309 Review of final proposal.
881.310 Owner's acceptance, submission and review of working drawings, architect's certification and requested changes.
881.311 Execution of agreement (and ACC if applicable).

Subpart D—Rehabilitation Period and Cost Certification

881.401 Timely performance of work.
881.402 Inspections during the rehabilitation period.
881.403 Increases in contract rents or utility allowances before contract execution.
881.404 Project completion.
881.405 Cost certification and adjustment of contract rents.

Subpart E—Housing Assistance Payments Contract

881.501 The contract.
881.502 Term of contract.
881.503 Maximum annual commitment and project account.
881.504 Reduction of number of units covered by contract.
881.505 Contract administration and conversions.
881.506 Default by owner (private-owner/HUD and PHA-owner/HUD projects).
881.507 Default by PHA and/or Owner (Private-Owner/PHA projects).

Subpart F—Management

881.601 Responsibilities of owner.
881.602 Replacement reserve.
881.603 Selection and admission of tenants.
881.604 Tenant rent.
881.605 Overcrowded and underoccupied units.
881.606 Lease requirements.
881.607 Termination of tenancy and modification of leases.
Sec.
881.608 Security deposits.
881.609 Adjustment of contract rents.
881.610 Adjustment of utility allowances.
881.611 Conditions for receipt of vacancy payments.
881.612 Reviews during management period.

Subpart G—Special Procedures for Neighborhood Strategy Areas

881.701–881.709 [Reserved]

Subpart A—Summary and applicability

§ 881.101 General.

(a) *Purpose.* (1) The purpose of the Section 8 program is to provide lower-income families with decent, safe and sanitary rental housing through the use of a system of housing assistance payments. This Part contains the policies and procedures applicable to the Section 8 substantial rehabilitation program. The assistance may be provided to public housing agency owners or to private owners either directly from HUD or through public housing agencies.

(2) In addition to this regulation, Section 8 substantial rehabilitation assistance may also be made available through state housing finance and development agencies (24 CFR, Part 883), or in connection with direct HUD loans for housing for the elderly or handicapped (24 CFR, Part 885). Section 8 may also provide assistance in newly constructed housing (24 CFR, Part 880) or in existing housing in acceptable condition or needing only moderate rehabilitation (24 CFR, Part 882).

(3) This Part does not apply to projects developed under other Section 8 program regulations, including Parts 880, 882, 883 and 885, except to the extent specifically stated in those Parts.

(b) *Housing Assistance.* Under the Section 8 substantial rehabilitation program, monthly payments are made directly by the contract administrator (HUD or a public housing agency) to the project owner to assist an eligible family leasing an assisted unit or for vacancies in certain cases. These payments, known as "housing assistance payments," are made pursuant to a Housing Assistance Payments Contract, which is executed upon satisfactory completion and HUD acceptance of a project and which has a maximum term of from 15 to 40 years depending on how the project is financed. This Contract is discussed in Subpart E.

(c) *Tenant rents and eligible families.* In addition to the housing assistance payment, the project owner receives a tenant rent directly from the eligible family occupying an assisted unit. The total amount received by the owner for rent is called the contract rent and is set forth in the Contract. "Eligible families," including elderly and handicapped individuals, must have incomes within the HUD specified limits (based on 80% of median income for the area), and pay between 15% and 25% of their income for rent (including utilities), adjusted in accordance with HUD regulations in 24 CFR, Part 889.

(c) *Rent, cost and amenities limitations.* In the Section 8 substantial rehabilitation program, rents, replacement costs and amenities must comply with limitations contained in Subpart B. These limitations serve to establish the modest nature of housing assisted under the program and to assure that the rents in Section 8 housing are reasonable in relation to comparable unassisted housing in the area. After occupancy, rents will be adjusted to reflect changes in the costs of owning and operating rental housing.

(e) *Financing.* The Section 8 program provides only rental assistance. It does not provide construction or permanent financing. Section 8 may be used with any type of construction or permanent financing, such as FHA mortgage insurance programs, tax-exempt financing (see 24 CFR, Parts 811 and 883) and loans from conventional lending institutions. The owner can pledge the commitment to make housing assistance payments contained in the contract to support financing.

(f) *Eligible owners.* All types of private developers and sponsors, including profit-motivated and non-profit, and public housing agency developers and sponsors, are eligible to develop and own housing assisted under this program. In all cases, the owner is responsible for the determination of eligibility and selection of tenants and for all management and maintenance functions. The provisions governing project management are contained in Subpart F.

(g) *Allocation of contract authority.* HUD commits funding for substantial rehabilitation projects under the Section 8 program and increases the funding commitment for previously approved projects pursuant to contract authority provided by Congress. The contract authority for new projects is allocated to HUD field offices on the basis of a "fair share" formula reflecting population, poverty, overcrowding, housing condition and similar indices of housing need. Each field office, in turn, suballocates its contract authority among the various allocation areas within its jurisdiction on essentially the same "fair share" basis. Not every area receives an allocation of contract authority for substantial rehabilitation. A further description of this process is

contained in 24 CFR, Part 891, Subpart D.

§ 881.102 Processing.

Proposals for housing to be assisted under this Part are submitted to HUD field offices and processed differently depending on several criteria.

(a) Previously submitted "pipeline" proposals which are of high quality and were found approvable but not funded in the prior fiscal year are reviewed first when any new contract authority becomes available. If additional authority remains, HUD may consider preapproved sites, and, in certain areas, permit selection of developers by local governments. Where there are set-asides for projects to be owned by local public housing agencies or to be located in HUD-approved New Communities or for other purposes, proposals may be received, processed and approved without the need to await specified acceptance periods or to undergo formal competition. Sections 881.302 and 881.303 of Subpart C set forth these procedures.

(b) HUD receives other proposals under this Part from owners (developers) in response to public invitations, called notifications of fund availability (NOFAs), which request the submission of preliminary proposals containing a maximum number and type of units in a particular area. Interested owners obtain copies of the detailed developers' packet from the HUD field office which published the NOFA.

(c) HUD reviews all proposals received in response to a NOFA for deficiencies in documentation and content in order to determine eligibility for further processing. If there are more acceptable proposals than can be approved under available Section 8 contract authority, HUD evaluates the proposals, ranks them and selects the highest ranking proposals. Those not selected which are of high quality are placed in the pipeline for possible later funding. Proposals for projects for non-elderly families are accepted as long as contract authority remains available and are reviewed on a monthly cycle. Proposals for projects for elderly families must be submitted by the specified deadline date and are reviewed at the end of the submission period. Details of this process are contained in Subpart C, §§ 881.304 through 881.307.

(d) After HUD selects a preliminary proposal, the owner of the selected proposal submits a final proposal for the project. This proposal contains a more detailed description of the project, including cost and expense estimates where required, and more detailed plans for design, construction, financing and management. If the nature and extent of the rehabilitation are determined by HUD to require the sevices of a registered architect and the preparation of working drawings and specifications, such working drawings and specifications will be reviewed by HUD for compliance with program amenities limitations and may be reviewed by HUD, at its option, for compliance with "Minimum Design Standards for Rehabilitation for Residential Properties" contained in HUD Handbook 4940.4. After approval of the final proposal, an Agreement is executed by the owner and the contract administrator (either HUD or a public housing agency) and rehabilitation work begins. Details of this process are contained in Subpart C, §§ 881.308 through 881.311. The Agreement provides that a Contract will be executed upon proper construction, completion and acceptance by HUD of the project.

881.103 Development and management.

(a) *Development.* Development of the project is carried out in conformance with the Agreement. Increases in contract rents or utility allowances are permitted with HUD approval during the rehabilitation period only if they are necessary to cover cost increases as specified in § 881.403. The project will be accepted by HUD and a Contract executed upon completion in accordance with the Agreement. These provisions are contained in Subpart D, Sections 881.401 through 881.404.

(b) *Cost Certification.* As soon as possible after completion of a project, the owner, except in the case of exempted projects, will provide HUD with cost certifications. HUD will review the contract rents based on the owner's certified cost and reduce them where not justified by actual cost. Section 881.405 details this process.

(c) *Contract.* The owner and the contract administrator will execute the Contract on satisfactory completion of the project. The Contract provides that the owner will receive housing assistance payments for units being leased by eligible families and, under certain circumstances, payments for vacant units. The owner may not reduce the number of units in a project available for lower-income families by more than 10 percent without the prior approval of HUD. The term of the Contract varies depending on the extent of rehabilitation involved and the type of financing used by the owner. Administration of the Contract is done either by HUD or by a public housing agency under an Annual Contributions Contract with HUD to assure that the owner meets his/her obligations under the Contract. Subpart E contains provisions concerning the Contract.

(d) *Management.* The owner is responsible for all management functions, including marketing, selection of tenants, reexamination of family incomes, evictions and other terminations of tenancy and collection of rents. The owner must also provide for a replacement reserve. Contract rents will be adjusted annually in accordance with 24 CFR, Part 888. Subpart F contains management provisions.

§ 881.104 Applicability of revised regulation.

(a) The revised Part 881 applies to all proposals for which a notification of selection was not issued before the effective date of this revision. Where a notification of selection was issued for a proposal before the effective date, the revised Part will apply if the owner notifies HUD within 60 calendar days that he/she wishes the revision to apply and promptly brings the proposal into conformance.

(b) Subparts E (Housing Assistance Payments Contract) and F (Management) apply to all projects for which an Agreement was not executed before the effective date of the revision. Where an Agreement was so executed:

(1) The owner and HUD may agree to make the revised Subpart E applicable and to execute appropriate amendments to the Agreement and/or Contract.

(2) The owner and HUD may agree to make the revised Subpart F applicable (with or without the limitation on distributions) and to execute appropriate amendments to the Agreement and/or Contract.

(c) Section 881.607, Termination of Tenancy and Modification of Leases, applies to new families who begin occupancy or execute a lease on or after 30 days after the effective date of this revision. This section also applies to families not covered by the preceding sentence, including existing families under lease, with respect to all leases in which a renewal becomes effective on or after the 60th day following the effective date of this revision. A lease is considered to be renewed where both the landlord and the family fail to terminate a tenancy under a lease permitting either party to terminate.

§ 881.105 Applicability to proposals and projects under 24 CFR, Part 811.

Where proposals and projects are financed with tax-exempt obligations under 24 CFR Part 811, the provisions of Part 811 will be complied with in

addition to all requirements of this Part. In the event of any conflict between this Part and Part 811, Part 811 will control.

Subpart B—Definitions, Project Eligibility and Other Requirements

§ 881.201 Definitions.

ACC. (Annual Contributions Contract) For a private-owner/PHA project, for which the Contract is administered by a PHA, the ACC is the contract between the PHA (as contract administrator) and HUD. Under the ACC, HUD commits to provide the PHA with the funds needed to make housing assistance payments to the owner and to pay the PHA for HUD-approved administrative fees, and the PHA agrees to perform the duties of a contract administrator.

Agreement. (Agreement to Enter into Housing Assistance Payments Contract) The Agreement between the owner and the contract administrator which provides that, upon satisfactory completion of the project in accordance with the HUD-approved final proposal, the administrator will enter into the Contract with the owner.

Allocation Area. A municipality, county, one or more Indian areas, or group of contiguous municipalities or counties identified by HUD or in an approved Areawide Housing Opportunity Plan for the purpose of allocating housing assistance to support economically feasible housing projects.

Assisted Unit. A dwelling unit eligible for assistance under a Contract.

Contract. (Housing Assistance Payments Contract) The Contract entered into by the owner and the contract administrator upon satisfactory completion of the project, which sets forth the rights and duties of the parties with respect to the project and the payments under the Contract.

Contract Administrator. The entity which enters into the Contract with the owner and is responsible for monitoring performance by the owner. The contract administrator is a PHA in the case of private-owner/PHA projects, and HUD is private-owner/HUD and PHA-owner/HUD projects.

Contract Rent. The total amount of rent specified in the Contract as payable by HUD and the tenant to the owner for an assisted unit.

Decent, Safe and Sanitary. Housing is decent, safe and sanitary at project completion if the dwelling units and related facilities are accepted by HUD as meeting the requirements of the Agreement. Housing continues to be decent, safe and sanitary if it is maintained in a condition substantially the same as at the time of acceptance.

Elderly Family. An elderly family as defined in 24 CFR, Part 812, including an elderly, disabled or handicapped individual.

Fair Market Rent. HUD's determinations of the rents, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other essential housing services, which would be required to obtain in a particular market area privately developed and owned, newly constructed or substantially rehabilitated rental housing of modest design with suitable amenities.

Family. (Eligible Family) A family which qualifies as a lower-income family, as defined in this section. For purposes of this definition, "family" will have the meaning of "family" contained in 24 CFR, Part 812 (including single elderly, handicapped, disabled and displaced persons and the remaining member of a tenant family).

Final Proposal. The detailed description of a proposed project to be assisted under this Part, which an owner submits after selection of the preliminary proposal, except where a preliminary proposal is not required under Section 881.303(c). The final proposal becomes an exhibit to the Agreement and is the standard by which HUD judges acceptable construction of the project.

Household Type. The three household types are (1) elderly and handicapped, (2) family, and (3) large family.

Housing Assistance Payment. The payment made by the contract administrator to the owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible family, the payment is the difference between the total housing expense and the total family contribution. A housing assistance payment, known as a "vacancy payment," is made to the owner when an assisted unit is vacant. A payment is made to the family if the utility allowance is greater than the total family contribution.

Housing Assistance Plan. A housing plan which is submitted by a unit of general local government and approved by HUD as being acceptable under the standards of 24 CFR, Part 570.

Housing Type. The three housing types are new construction, rehabilitation, and existing housing.

HUD. The Department of Housing and Urban Development.

Independent Public Accountant. A Certified Public Accountant or a licensed or registered public accountant, having no business relationship with the owner except for the performance of audit, systems work and tax preparation. If not certified, the Independent Public Accountant must have been licensed or registered by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970. In States that do not regulate the use of the title "public accountant," only Certified Public Accountants may be used.

Lower-Income Family. A family whose income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for the size of the family. HUD may establish income limits higher or lower if necessary in certain cases. For purposes of this definition, "income" shall have the meaning of "income for eligibility" contained in 24 CFR, Part 889.

New Communities. New community developments approved under Title IV of the Housing and Urban Development Act of 1968 and Title VII of the Housing and Urban Development Act of 1970.

NOFA. (Notification of Fund Availability) The notice published by HUD announcing the availability of contract authority for housing assistance and inviting the submission of proposals.

Owner. Any private person or entity (including a cooperative) or a public entity which qualifies as a PHA, having the legal right to lease or sublease substantially rehabilitated dwelling units assisted under this Part. The term owner also includes the person or entity submitting a proposal under this Part.

Partially-Assisted Project. A project for non-elderly families under this Part which includes more than 50 units of which 20 percent or fewer are assisted.

PHA. (Public Housing Agency) Any State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for lower-income families.

PHA-Owner/HUD Project. A project under this Part which is owned by a PHA. For this type of project, the Agreement and the Contract are entered into by the PHA, as owner, and HUD, as contract administrator.

Preliminary Proposal. The application describing a proposed project under this Part which an owner submits in response to a NOFA in order to be selected for housing assistance.

Private-Owner/HUD Project. A project under this Part which is owned by a private owner. For this type of project, the Agreement and Contract are entered into by the private owner, as owner, and HUD, as contract administrator.

Private-Owner/PHA Project. A project under this Part which is owned by a private owner. For this type of project, the Agreement and Contract are entered into by the private owner, as owner, and the PHA, as contract administrator, pursuant to an ACC between the PHA and HUD. The term also covers the situation where the ACC is with one PHA and the owner is another PHA.

Project Account. A specifically identified and segregated account for each project which is established in accordance with Section 881.503(b) out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the Contract or ACC, as applicable, each year.

Rent. In the case of an assisted unit in a cooperative project, rent means the carrying charges payable to the cooperative with respect to occupancy of the unit.

Replacement Cost. The sum of the "as is" value before rehabilitation of the property as determined by HUD and the estimated cost of rehabilitation, including carrying and finance charges.

Secretary. The Secretary of Housing and Urban Development (or designee).

Small Project. A project for non-elderly families under this Part which includes a total of 50 or fewer (assisted and unassisted) units.

Substantial Rehabilitation. (a) The improvement of a property to decent, safe and sanitary condition in accordance with the standards of this Part from a condition below those standards. Substantial rehabilitation may vary in degree from gutting and extensive reconstruction to the cure of substantial accumulation of deferred maintenance. Cosmetic improvements alone do not qualify as substantial rehabilitation under this definition.

(b) Substantial rehabilitation may also include renovation, alteration or remodeling for the conversion or adaptation of structurally sound property to the design and condition required for use under this Part or the repair or replacement of major building systems or components in danger of failure.

Tenant Rent. The portion of the contract rent payable directly to the owner by an eligible family occupying an assisted unit. Tenant rent equals the total family contribution less any utility allowance.

Total Family Contribution. The portion of an eligible family's income payable toward the family's total housing expense, as determined in accordance with 24 CFR, Part 889.

Total Housing Expense. The total monthly cost of housing an eligible family, which is the sum of the contract rent and any utility allowance for the assisted unit occupied by the family.

Utility Allowance. An estimate, made or approved by HUD, of the cost of utilities (except telephone) and other essential housing services for an assisted unit which are not included in the contract rent paid directly to the owner but which are the responsibility of the eligible family leasing the unit.

Vacancy Payment. The housing assistance payment made to the owner by the contract administrator for a vacant assisted unit if certain conditions are fulfilled as provided in the Contract. The amount of the vacancy payment varies with the length of the vacancy period and is less after the first 60 days of any vacancy.

Very Low-Income Family. An eligible family whose income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for the size of the family.

§ 881.202 Project eligibility.

(a) For purposes of this Part, "substantial rehabilitation" refers to (1) housing for which rehabilitation work starts after execution of the Agreement, or (2) housing which is already undergoing rehabilitation when the Agreement is executed provided that:

(i) At the date of application to HUD, a substantial amount of rehabilitation work (generally at least 25 percent) remains to be completed;

(ii) At the date of application to HUD, the project cannot be completed and occupied by eligible families without assistance under this Part; and

(iii) At the time rehabilitation was initiated, all parties reasonably expected that the project would be completed and occupied without assistance under this Part.

(b) The Section 8 substantial rehabilitation program is for rental housing only; no assistance will be provided for any unit occupied by an owner. Cooperatives are considered rental housing rather than owner-occupied housing for purposes of this Part.

(c) Various types of rental housing can be assisted under this Part including: (1) single-family houses and multifamily structures; (2) housing designed for the elderly, disabled or handicapped, and (3) single-room occupant housing planned specifically as a relocation resource for eligible single persons.

(d) High-rise elevator projects for families with children are prohibited unless HUD determines that there is no practical alternative.

(e) Projects for non-elderly families are required, where practicable, to have at least 5 percent of the housing units designed and accessible to the physically handicapped.

(f) Housing assisted under other provisions of the U.S. Housing Act of 1937, such as public housing assisted with annual contributions under Sections 5 and 9 of the Act, is not eligible for assistance under this Part. Tax exemption under Section 11(b) of the Act is not considered assistance for this purpose.

(g) Conversions of substantially rehabilitated projects under the Section 23 Leased Housing Program to the Section 8 program will be permitted, where appropriate, provided that the Section 23 project qualifies as substantial rehabilitation under paragraph (a) of this section and that all parties, including HUD, agree.

(h) No proposal for housing under this Part may be approved unless the requirements of 24 CFR, Part 891, implementing Sections 213(a), (b) and (c) of the Housing and Community Development Act of 1974, as amended, concerning review and comment by units of general local government, have been satisfied. (See Section 881.306 (c)(1).)

§ 881.203 Fair market rents.

(a) Fair Market Rents are HUD's determinations of the rents, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other essential housing services which would be required to obtain in a particular market area privately developed and owned, newly constructed and substantially rehabilitated rental housing of modest design with suitable amenities.

(b) Separate Fair Market Rents are established by unit size (number of bedrooms), basic structure type (detached, semi-detached/row, walk-up and elevator apartments) and occupant group (non-elderly family and elderly family, including handicapped) for individual market areas.

(c) The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-bedrooms for the elderly, multiplied by 1.05, rounded to the nearest whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units, and (3) single room occupancy dwelling units are those for 0-bedroom units of the same type.

(d) Fair Market Rents are published in the **Federal Register** at least annually in accordance with 24 CFR, Part 888. Interim revisions for one or more market areas may be initiated by HUD at any

time and may be published as market conditions dictate.

§ 881.204 Limitations on contract rents, replacement costs and amenities.

(a) *Purpose and applicability of limitations.* The purpose of the Section 8 program is to assist lower-income families in renting decent, safe and sanitary housing of modest design with suitable amenities. This section sets limitations on the contract rents, replacement costs and amenities of projects developed under this Part. These limitations are intended to permit production of suitable housing without excessive costs, design features or amenities.

(b) *Limitation on contract rents.* The contract rents for a project from proposal submission through cost certification, must be within both of the following limitations:

(1) *Fair market rent.* The contract rent plus any utility allowance for the unit must not exceed the Fair Market Rent in effect at the time of processing except that for projects where the estimated cost of rehabilitation is less than 25 percent of the estimated value of the property after rehabilitation, the contract rent plus any utility allowance may not exceed 75 percent of the Fair Market Rents. The published Fair Market Rents will reflect a trended rent in order to allow for the period of rehabilition work as stated in the publication. If the secheduled rehabilitation period for a project is less, an appropriate reduction will be made in determining the approvable contract rent. The contract rent plus utility allowance may exceed the applicable Fair Market Rent or 75 percent thereof, under special circumstances or if needed to implement a local Housing Assistance Plan or Areawide Housing Opportunity Plan:

(i) By up to 10 percent with the approval of the HUD field office manager, or

(ii) By up to 20 percent with the approval of the HUD Assistant Secretary for Housing; and

(2) *Rent reasonableness.* The contract rent must be reasonable. Contract rents will be considered reasonable only under the following conditions:

(i) When HUD determines that the rents compare reasonably to or are below the rents of unassisted units of similar age, design and location which provide comparable amenities and services; or

(ii) Rents may exceed those determined by market comparison by no more than 20 percent only in cases where warranted by cost and expense estimates provided by the owner at final proposal and cost certification at completion, as specified in Sections 881.308 and 881.405; or

(iii) For small projects and partially-assisted projects, the rents may exceed the comparable rents by up to 10 percent without the cost justification set forth in paragraph (ii).

(c) *Limitation on replacement costs:*

(1) No proposal for a project to be assisted under this Part will be selected or approved by HUD, and no Agreement may be executed for a project, with an estimated replacement cost greater than the following limits plus any additional cost not attributable to dwelling use to the extent approved by HUD. The limits applicable to the part of the project attributable to dwelling use, as determined by HUD, are as follows:

(i) The basic limits are: (A) $23,720 per dwelling unit without a bedroom; (B) $27,129 per dwelling unit with one bedroom; (C) $32,983 per dwelling unit with two bedrooms; (D) $42,217 per dwelling unit with three bedrooms; and (E) $47,032 per dwelling unit with four or more bedrooms.

(ii) Where necessary to compensate for the higher costs incident to use of elevator type structures of sound standards of construction and design, HUD may increase the limits provided in paragraph (c)(1)(i) of this section, not to exceed: (A) $24,962 per dwelling unit without a bedroom; (B) $28,614 per dwelling unit with one bedroom; (C) $34,795 per dwelling unit with two bedrooms; (D) $45,011 per dwelling unit with three bedrooms; and (E) $49,409 per dwelling unit with four or more bedrooms.

(iii) For any market area where cost levels so require, the Assistant Secretary for Housing may increase, at the request of the field office, the dollar amount limits set forth in paragraphs (c)(1)(i) and (ii) by an amount not to exceed 75 percent.

(iv) If the Assistant Secretary finds that, because of high costs, it is not feasible to develop dwellings under this part in Alaska, Guam, or Hawaii without the sacrifice of sound standards of construction, design, and livability within the limits in paragraphs (c)(1)(i) and (ii), the principal amount of the replacement cost limits may be increased by amounts as are necessary to compensate for additional costs, but not to exceed the maximum, including high cost area increases under paragraph (c)(1)(iii), if any, otherwise applicable by more than 50 percent.

(2) Except for the exemption contained in paragraph (3), the limitation on replacement costs applies to all projects in their entirety.

(3) Partially-assisted projects are exempt from the replacement cost limitation of this paragraph.

(4) The mortgage amount of a HUD-insured proposal will be determined in accordance with the limitations and requirements of the applicable mortgage insurance program.

(5) Subsequent changes to the limitations on replacement costs under paragraphs (c)(1) will be made by Notice published in the **Federal Register** and will be available on request.

(d) *Excess costs.* The limitation of paragraph (c) will not prohibit the total actual cost of a project from exceeding the limit referred to in that paragraph. However, in determining or adjusting contract rents, HUD will not take into account or give credit for any cost which exceeds the applicable replacement cost limit.

(e) *Limitation on amenities.* (1) Amenities in projects assisted under this Part will be limited to those amenities which are generally provided in unassisted housing of modest design in the market area, as determined by HUD. Generally, the amenities included in the determination of Fair Market Rents for the area may be included in a project. The use of more durable, high quality materials to control or reduce maintenance and repair and replacement costs will not be considered an excess amenity.

(2) The field office will prepare a list(s) of acceptable amenities for use within its jurisdication. Other amenities will not be permitted unless the owner provides justification for each additional amenity to HUD, and its inclusion is approved by HUD.

(3) Except for the exemption contained in paragraph (4), the limitation on amenities applies to all projects in their entirety.

(4) Partially-assisted projects are exempt from the limitation of this paragraph.

§ 881.205 Limitation on distributions

(a) Non-profit owners are not entitled to distributions of project funds.

(b) For the life of the Contract, project funds may only be distributed to profit-motivated owners at the end of each fiscal year of project operation following the effective date of the Contract after all project expenses have been paid, or funds have been set aside for payment, and all reserve requirements have been met. The first year's distribution may not be made until cost certification, where applicable, is completed. Distributions may not exceed the following maximum returns:

(1) For projects for elderly families, the first year's distribution will be

limited to 6 percent on equity. The Assistant Secretary for Housing may provide for increases in subsequent years' distributions on an annual or other basis so that the permitted return reflects a 6 percent return on the value in subsequent years, as determined by HUD, of the approved initial equity. Any such adjustment will be made by Notice in the **Federal Register.**

(2) For projects for non-elderly families, the first year's distribution will be limited to 10 percent on equity. The Assistant Secretary for Housing may provide for increases in subsequent years' distributions on an annual or other basis so that the permitted return reflects a 10 percent return on the value in subsequent years, as determined by HUD, of the approved initial equity. Any such adjustment will be made by Notice in the **Federal Register.**

(c) For the purpose of determining the allowable distribution, an owner's equity investment in a project is deemed to be 10 percent of the replacement cost of the part of the project attributable to dwelling use accepted by HUD at cost certification (see § 881.405), unless the owner justifies a higher equity contribution by cost certification documentation in accordance with HUD mortgage insurance procedures.

(d) Any short-fall in return may be made up from surplus project funds in future years.

(e) If HUD determines at any time that project funds are more than the amount needed for project operations, reserve requirements and permitted distribution, HUD may require the excess to be placed in an account to be used to reduce housing assistance payments or for other project purposes. Upon termination of the Contract, any excess funds must be remitted to HUD.

(f) Owners of small projects or partially-assisted projects are exempt from the limitation on distributions contained in paragraphs (b) through (d).

(g) In the case of HUD-insured projects, the provisions of this section will apply instead of the otherwise applicable mortgage insurance program provisions.

§ 881.206 Site and neighborhood standards.

Proposed sites for substantial rehabilitation projects must be approved by HUD as meeting the following standards:

(a) Adequate utilities (water, sewer, gas and electricity) and streets must be available to service the site.

(b) The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto.

(c) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(d) The site must be free from serious adverse environmental conditions, or there must be evidence that any such conditions will be corrected by the time the rehabilitation is completed. Compliance with Environmental Criteria and Standards in accordance with 24 CFR, Part 51 is required.

(e) The site must comply with any applicable conditions in the local Housing Assistance Plan approved by HUD.

(f) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(g) Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive. (While it is important that elderly housing not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.)

(h) The project may not be located on a site that has occupants unless the relocation requirements referred to in Section 881.209 are met.

(i) The project may not be located in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the project is covered by flood insurance as required by the Flood Disaster Protection Act of 1973, and it meets any relevant HUD standards and local requirements. Compliance with HUD regulations issued pursuant to Executive Order 11988 on Flood Plain Management and to Executive Order 11990, on Protection of Wetlands is required.

§ 881.207 Property standards.

Projects must comply with:

(a) HUD Minimum Design Standards for Rehabilitation for Residential Properties (HUD Handbook 4940.4);

(b) in the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards;

(c) HUD requirements pursuant to Section 209 of the Housing and Community Development Act of 1974 for projects for the elderly or handicapped;

(d) HUD requirements pertaining to noise abatement and control;

(e) HUD regulations issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 USC 4801; and

(f) applicable State and local laws, codes, ordinances and regulations.

§ 881.208 Financing.

(a) *Types of financing.* Any type of construction financing and long-term financing may be used, including: (1) conventional loans from commercial banks, savings banks, savings and loan associations, pension funds, insurance companies or other financial institutions; (2) mortgage insurance programs under the National Housing Act; and (3) financing by tax-exmpt bonds or other obligations.

(b) *HUD approval.* HUD must approve the terms and conditions of the financing to determine consistency with these regulations and to assure they do not purport to pledge or give greater rights or funds to any party than are provided under the Agreement, Contract, and/or ACC. Where the project is financed with tax-exempt obligations, the terms and conditions will be approved in accordance with the following:

(1) Issuers of tax-exempt obligations pursuant to Section 11(b) of the U.S. Housing Act of 1937 will be subject to 24 CFR, Part 811.

(2) Issuers of tax-exempt obligations exempt from Federal taxation under any provisions of law or governmental regulation other than Part 811 (except for State Agencies qualified under Part 883) must submit all documents required by 24 CFR, Sections 811.107, 811.108, 811.109, and 811.110 to the field office for review and approval. The terms and use of these obligations and the operation of the project will comply with the requirements of Part 811. (See also 24 CFR, Section 811.117.)

(3) Issuers of tax-exempt obligations which are State Agencies qualified under Part 883 and which are not subject to Part 811 will comply with the requirements of Part 883 with regard to approval of tax-exempt financing.

(c) *Pledge of contracts.* An owner may pledge, or offer as security for any loan or obligation, an Agreement, Contract or ACC entered into pursuant to this Part: Provided, however, that such financing is in connection with a project constructed pursuant to this Part and approved by HUD. Any pledge of the Agreement, Contract, or ACC, or payments thereunder, will be limited to

the amounts payable under the Contract or ACC in accordance with its terms. If the pledge or other document provides that all payments will be paid directly to the mortgagee or the trustee for bondholders, the mortgagee or trustee will make all payments or deposits required under the mortgage, trust indenture of HUD regulations and remit any excess to the owner.

(d) *Foreclosure and other transfers.* In the event of foreclosure, assignment or sale approved by HUD in lieu of foreclosure, or other assignment or sale approved by HUD:

(1) The Agreement, the Contract and the ACC, if applicable, will continue in effect, and

(2) Housing assistance payments will continue in accordance with the terms of the Contract.

§ 881.209 Relocation and Land Acquisition Requirements.

(a) *Application of the Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 (Uniform Relocation Assistance and Real Property Acquisition) apply to the acquisition of real property by a PHA or other State agency (as defined at 24 CFR 42.85) for a project assisted under this Part and to any displacement that results from such acquisition.

(b) *Displacement not subject to the Uniform Act.* With respect to any residential tenants (not owner-occupants) who will be permanently or temporarily relocated as a direct result of a project that is assisted under this Part, but who are not assisted under the Uniform Act, the following policies will apply:

(1) Such tenants are eligible for the relocation assistance and benefits described below if they are relocated following the submission to HUD of the preliminary proposal for the project (or first proposal if the proposal is submitted in accordance with Section 881.303, Special Categories) except where (i) their tenancy is terminated on the grounds set forth in Section 881.607(b)(1), or (ii) they take occupancy after HUD's preliminary approval of the proposal with notice from the owner of the pending proposal and potential displacement.

(2) Within a reasonable period of time prior to displacement, each tenant to be permanently relocated will be provided a reasonable choice of opportunities to move to a suitable replacement dwelling unit from among available units so located as to promote choice outside areas of low income and minority concentration.

(3) For purposes of this section, a suitable replacement dwelling is:

(i) Decent, safe and sanitary as defined in 24 CFR 42.47.

(ii) Available within the tenant's ability to pay (i.e., the monthly rent and average estimated cost of utilities does not exceed 25 percent of the combined monthly gross income of all adult members of the tenant's household);

(iii) In an area not subject to unreasonable adverse environmental conditions, either natural or man-made;

(iv) In a location that is not generally less desirable than the location of the displaced tenant's dwelling with respect to public utilities, commercial and public facilities, and the tenant's place of employment (or to sources of employment, if the tenant is unemployed but seeking work).

(4) Each tenant will be reimbursed by the owner for reasonable moving and related expenses at the levels described at 24 CFR 42.303 or may receive, at the discretion of the owner, a fixed payment for moving expenses in accordance with 24 CFR 42.353.

(5) A tenant may be required to relocate for a temporary period only if this is necessary to carry out the project and he/she is permitted to occupy a dwelling in the completed project. If required, the temporary relocation will not exceed 12 months in duration; a decent, safe, and sanitary dwelling in an area not subject to unreasonably adverse environmental conditions will be available to the tenant for the period of the temporary relocation; and the tenant will be reimbursed actual, reasonable out-of-pocket expenses, including moving costs to and from the temporarily occupied dwelling and any increase in monthly housing cost (rent and reasonable utility costs) incurred in connection with the temporary relocation. If the new dwelling unit is not ready for occupany within the 12-month period, the tenant will be notified of the earliest date by which it will be ready, and the tenant in that case will have the right to agree to wait until the extended date or to request that he/she be treated as permanently displaced.

(6) All tenants occupying property on which substantial rehabilitation units will be developed will be provided with advance information in writing and by personal explanation that is sufficient to enable them to understand fully the reason for their displacement and the relocation opportunities and assistance which is available to them.

(7) All tenants will be provided appropriate advisory services necessary to minimize hardships in adjusting to required permanent or temporary relocation.

(8) No lawful occupant will be required to move from his/her dwelling or to move his/her business without at least 90 days advance written notice of the earliest date by which he/she may be required to move.

(i) If the tenant is provided but refuses a reasonable choice of opportunities to move to a suitable replacement dwelling, the owner will not be obligated to make further efforts to provide replacement housing.

(ii) If replacement housing within the tenant's ability to pay cannot otherwise be identified and government assistance that would satisfy this requirement cannot be secured, the owner's obligation under this section may be satisfied by providing the tenant with a lump sum payment equal to 48 times the amount, if any, necessary to reduce the monthly housing cost (rent and utilities) of a suitable replacement dwelling to 25 percent of the combined monthly gross income of all adult members of the tenant's household.

(iii) A tenant who believes he/she has not received the proper relocation payments or opportunities to relocate to a decent, safe and sanitary dwelling to which the tenant is entitled under this Section may appeal to the HUD field office.

(iv) Owners are responsible for assuring that payments and services required by this section are provided. Costs incurred by the owner in providing these services and payments may be included in project replacement cost (see Sections 881.403(a)(6) and 881.405(a)) except that payments to tenants permanently relocated in accordance with paragraph (ii) may not be so included.

(c) *Eligibility of lower-income single persons.* Lower-income single persons, who are not elderly or handicapped but who are displaced as a result of the project, may return to occupy assisted units in accordance with 24 CFR, Part 812.

§ 881.210 Other Federal requirements.

(a) *Equal opportunity requirements.* Participation in this program requires compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, and Section 3 of the Housing and Urban Development Act of 1968, and all related rules, regulations and requirements.

(b) *National Environmental Policy Act.* Participation in this program requires compliance with the National Environmental Policy Act and all related rules, regulations and requirements.

(c) *Clean Air Act and Federal Water Pollution Control Act.* Participation in

this program requires compliance with the Clean Air Act and the Federal Water Pollution Control Act and all related rules, regulations and requirements.

(d) *Davis-Bacon and related acts.* Participation in this program requires that payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011), be paid to all laborers and mechanics employed in the development of any project with nine or more assisted units and compliance with all other related rules, regulations and requirements.

(e) *Rehabilitation Act.* Participation in this program requires compliance with the Rehabilitation Act of 1973 and Executive Order 11914 and all related rules, regulations and requirements.

(f) *Other Federal statutes and regulations.* Participation in this program requires compliance with the National Historic Preservation Act (Public Law 89–665), the Archeological and Historic Preservation Act of 1974 (Public Law 93–291), and Executive Order 11593 on Protection and Enhancement of the Cultural Environment, including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR, Part 800.

Subpart C—Proposal Submission To Start of Construction

§ 881.301 Allocation of contract authority to field offices.

(a) Funding authorization for the Section 8 program is assigned to HUD field offices annually in the form of contract authority, which is the maximum amount authorized for annual commitments under Contracts. Assignments are made pursuant to 24 CFR, Part 891, Subpart D. Each field office suballocates this authority to the areas within its jurisdiction, also in accordance with Part 891, Subpart D.

(b) In the allocation process, the field office determines the amount of contract authority and the approximate number of units of Section 8 substantial rehabilitation specifically designed for elderly families, non-elderly families and for large non-elderly families (5 or more persons) which will be made available in each allocation area.

(c) For the contract authority made available in each allocation area, the HUD field office will process proposals as provided for in Sections 881.302, 881.303, and 881.304.

§ 881.302 Procedures for resumption of processing of proposals and preapproved site requests.

(a) *Review of pipeline.* Prior to the publishing of a NOFA or the consideration of requests for preapproved sites, the pipeline of approvable proposals which are of high quality relative to the standards and requirements of this Part submitted in the same or the prior fiscal year and preapproved site requests will be reviewed to determine whether to resume processing for any or all of them. In making the decision as to whether to resume processing, the following will be considered:

(1) Whether the proposal or preapproved site request is consistent with the final or tentative allocation plan for the area in which the project is proposed to be located;

(2) Whether the proposal or preapproved site request conforms to the housing type and household type requirements of any applicable Housing Assistance Plan;

(3) Whether the proposal or preapproved site request is consistent with priorities for targeting of contract authority to localities which have previously been underfunded relative to their needs and the funding of the needs of other localities in that allocation area.

(b) *Notice to owners or local governments.* Owners of proposals or local governments with preapproved site requests which are eligible in accordance with paragraph (a) to resume processing will be sent a letter requesting them to advise HUD within a specified time, generally 5 days, as to whether or not they wish processing to be resumed on their proposals or requests and, if their decision is in the affirmative, to submit to HUD the following within a specified time, generally 10 days (for a total of 15 days):

(1) For proposals, updated proposed rents;

(2) For proposals, the replacement cost estimate required by § 881.305;

(3) Up-to-date evidence of site control; and

(4) Any information on other factors which might affect the current approvability of their proposals or requests.

Owners or local governments may submit any other information they wish, but the field office is not required to consider this additional information.

(c) *Section 213 and A–95 clearance.* Upon receipt of notification from an owner that he/she wishes processing of a proposal to be resumed, the unit of general local government and A–95 clearinghouse, where applicable, will be notified under Part 891 of the resumption of processing and asked for comments (1) if the proposal is more than 6 months old or (2) if there has been a substantive change in the local Housing Assistance Plan.

(d) *Resumption of processing.* Upon receipt of the updated information, the field office will resume processing of the proposal or request in accordance with Section 881.306(c) or 881.303(a).

(e) *Notice where processing not resumed.* Owners of proposals and local governments with preapproved site requests for which processing is not resumed because of failure to meet the requirements of paragraphs (a) and (b), or for which owners or local governments do not request resumption of processing, will be notified in writing that their proposals or requests will not be processed further. One file copy of each such notice will be retained by the field office.

§ 881.303 Special procedures for certain categories of proposals.

(a) *Preapproved sites.* (1) Units of general local government may submit written requests to the field office for preapproval of sites. To the extent feasible, such requests should be submitted early in the fiscal year. Requests for preapproval must indicate the anticipated number of units, structure type, household type, bedroom distribution and the price at which the site will be made available. Further, the local government must indicate if it wishes to select the proposal as allowed under paragraph (a)(5) of this section.

(2) If the field office determines that use of a site for which preapproval has been requested may be appropriate, it will review the request to determine compliance with site and neighborhood standards (Section 881.206) and environmental standards, and to determine the acceptability, as to both reasonableness and feasibility, of the proposed price at which the site will be made available. The request will also be reviewed for consistency with the allocation plan for the area, any applicable Housing Assistance Plan and targeting priorities described in Section 881.302(a)(3).

(3) If the site meets all of these requirements, the field office will advise the unit of general local government:

(i) That the site is approvable for Section 8 use;

(ii) Of the approximate number of units, by structure type, household type and bedroom distribution that may be assisted;

(iii) Of the contract authority required;

(iv) Whether HUD has reserved such contract authority, will do so as soon as sufficient contract authority becomes

available or will retain the request in the pipeline for consideration in accordance with § 881.302; and

(v) How processing will proceed, including how selection of the proposal will be accomplished.

(4) Reservations of contract authority for preapproved sites may be made only after the amount of authority necessary for pipeline proposals has been determined.

(5) For approvable sites in Federally-assisted urban renewal areas selection of the proposal may be under applicable urban renewal procedures, subject to the field office approval. For sites acquired or to be acquired with Community Development Block Grant funds or located in non-Federally-assisted urban renewal areas, the local government may select the proposal in accordance with a competitive method approved by the field office and consistent with State law.

(6) For approvable sites outside those areas set forth in paragraph (a)(5) of this section, selection of the proposal will be accomplished by the field office by publishing a NOFA requesting proposals for that site pursuant to Section 881.304.

(b) *Other categories.* Where set-asides are made for projects to be owned by PHAs, for projects to be located in New Communities or for other purposes, proposals may be obtained by invitation or other appropriate means, as determined by the field office, or the New Communities Development Corporation where appropriate. Selection procedures may be modified, as approved by the Assistant Secretary for Housing, to meet the objectives of the set-asides. Prior to submission of proposals, prospective owners will be advised of the modified procedures.

(c) *Proposal submissions for special categories of projects.* Preliminary proposals are not required for projects submitted pursuant to paragraphs (a) or (b), except in the case of proposals under paragraph (a)(6) of this section. The first proposal submitted for such projects may be a final proposal in accordance with Section 881.308.

(d) *Special local government option.* Local governments may be authorized by the Assistant Secretary for Housing to select proposals on sites located in their jurisdictions. Procedures for local government selection of proposals under this paragraph will be published by Notice in the **Federal Register.**

§ 881.304 Publication of NOFA and receipt of proposals.

(a) After determination of the amount of contract authority necessary for pipeline proposals as provided in Section 881.302, and any commitments of contract authority for preapproved sites or other categories as provided in Section 881.303, the field office will publicize the availability of the remaining contract authority, if any, in accordance with paragraph (b) of this section.

(b) A summary notification of fund availability (NOFA) for all allocation areas within the jurisdiction of the field office will be published at least once a week for two consecutive weeks in a newspaper(s) of general circulation in the allocation areas. The summary NOFA will identify the estimated contract authority and approximate number of units by housing and household type for each allocation area. Specific information for each allocation area will be contained in a detailed NOFA which will be provided upon request. The detailed NOFA will identify the geographic area of each allocation area for which contract authority is available and include the following information for each area:

(1) The contract authority available for substantial rehabilitation and the approximate number of units for elderly, non-elderly and large non-elderly families that the contract authority is expected to support;

(2) The first and last dates for acceptance of preliminary proposals for projects for elderly families and the first date for acceptance of proposals for projects for non-elderly families;

(3) The fact that proposals for projects for non-elderly families will be accepted at any time after the initial acceptance date so long as contract authority remains available, and that all such proposals received during one 30-day period will be processed and, if necessary, ranked against each other;

(4) The fact that the NOFA will be cancelled for an allocation area when all available contract authority has been or is expected to be used or when a decision by HUD pursuant to Section 891.405 to reallocate any unused contract authority has been made;

(5) The fact that developer's packets for each allocation area and type of proposal will be available prior to the opening date for submission of proposals and that information and assistance are available from the field office.

(c) Where practical, the NOFA may indicate that in order to encourage submission of proposals for small projects, a specific portion of the contract authority available under the NOFA may be utilized only for small projects.

(d) Copies of the detailed NOFA will be provided to minority and fair housing organizations, media and the chief executive officer of each jurisdiction with a Housing Assistance Plan.

(e) Field offices may issue Conditional NOFAs subject to the sufficiency of a future allocation of contract authority. Proposals received in response to a Conditional NOFA will be processed in accordance with the provisions of Section 881.306, but notifications of selection will not be sent until contract authority becomes available and is reserved.

(f) Proposals will be accepted by the field office beginning on the published opening date for submission and may be opened for review immediately. The contents will remain confidential until sent by the field office to the A–95 clearinghouses or local government for review or, in the case of projects for elderly families, until the deadline date has passed, whichever is earlier.

§ 881.305 Contents of preliminary proposal.

Each preliminary proposal must contain:

(a) Identification of the property(ies) proposed to be rehabilitated and a map showing the location of the site(s) and the racial composition of the neighborhood(s).

(b) Evidence that the owner has site control or a description of the action likely to result in such control.

(c) A description of the property "as is" in accordance with instructions in the developer's packet.

(d) A description of the proposed rehabilitation in accordance with instructions in the developer's packet.

(e) The number of units by unit size (number of bedrooms) and the type of occupacy (elderly (including handicapped), family, large family) proposed after completion of the rehabilitation.

(f) Listing of amenities.

(g) Estimated date of completion and whether or not it will be completed in stages.

(h) Evidence that the proposed rehabilitation is permitted by current building, housing and other codes, zoning ordinances or regulations or evidence to indicate that needed action required to make the rehabilitation permissible is likely and will not delay the project.

(i) The proposed contract rent per unit, including an indication of which utilities, services and equipment are included in the rent and which are not. For those utilities and services which are not included, an estimate of the average monthly cost for each unit type for the first year of occupancy.

(j) The estimated replacement cost per unit and the estimated total replacement

cost, including any cost not attributable to dwelling use.

(k) A statement describing how the proposal is consistent with any applicable Housing Assistance Plan, and/or Areawide Housing Opportunity Plan;

(l) If demolition is proposed for any structure, a description of the proposed reuse of the land including sketch plans for architectural and landscape treatment.

(m) A description of the existing utility combination, whether or not a change to a different combination is proposed and, if so, a description of the new combination. To the extent feasible, individual meters should be utilized where an existing system is replaced.

(n) A statement as to whether or not the services of a registered architect will be utilized for preparation of final working drawings and specifications.

(o) Information concerning displacement of site occupants. If any displacement will occur: the number of households affected, by size and race, and the business concerns affected, by race, and whether they own or rent; the number to be temporarily or permanently displaced; the steps, if any, to be taken to minimize displacement; a demonstration that relocation is feasible; and a statement as to how necessary relocation payments will be funded (see Section 881.209 for relocation requirements);

(p) A signed certification on the prescribed form of the owner's intention to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246, and Section 3 of the Housing and Urban Development Act of 1968, and of the owner's intention to will undertake marketing activities as required by Section 881.601(a).

(q) The identity of the owner, developer, builder, architect (if applicable and identity is known), management agent (and other participants) and the names of officers and principal members, shareholders, investors, and other parties having a substantial interest; the previous participation of each in HUD programs on the prescribed HUD form; and a disclosure of any possible conflict of interest by any of these parties which would be a violation of the Agreement, the Contract, or the ACC, if any; and information on the qualifications and experience of the principal participants;

(r) The proposed financing method and proposed terms of financing. For proposals not requesting mortgage insurance, written evidence of review and interest by a lender which may include a state housing finance agency or financing agency under Part 811, or bond underwriter, indicating that the financing is likely to be available for the proposed project;

(s) The proposed term of the contract, and justification for the term, in accordance with § 881.502;

(t) The identity of the contract administrator entity (PHA or HUD).

(u) Whether the owner wishes to designate alternative properties for consideration by HUD, in its discretion, if the principally designated properties are not acceptable; if so, the owner should include for each alternative property, the information required in paragraphs (a), (c), (e), (i), and (o).

§ 881.306 Preliminary evaluation and technical processing.

(a) *Preliminary evaluation.* (1) After receipt of a preliminary proposal for a project for elderly families received prior to the deadline date in the NOFA, the field office will make a preliminary evaluation of the proposal in accordance with paragraph (a)(3) of this section. Proposals received after the deadline date will be returned unopened.

(2) After receipt of a preliminary proposal for a project for nonelderly families, the field office will, so long as contract authority remains available, make a preliminary evaluation of each such proposal in accordance with paragraph (a)(3) of this section.

(3) In performing the preliminary evaluation, the field office will determine whether it appears, without field review, that:

(i) the proposal contains all of the required documentation in the proper form; and

(ii) the proposal is responsive to and in compliance with the requirements of the NOFA, developer's packet, and program policies and regulations, including Fair Market Rent, replacement cost, and amenities limitations.

(4) If a proposal is found deficient in accordance with paragraph (a)(3), it may be rejected. If a deficiency is minor, or if there are not sufficient proposals to use the available contract authority, the field office may request correction of the deficiency (including designation of alternative properties designated in the proposal, if any) within a specified time period.

(5) If the proposal is not deficient, or if necessary corrections are made within the time limit established by the field office, the proposal will be considered in accordance with paragraph (b) or (c) as appropriate.

(b) *Selection for technical processing.* (1) In the event the number of proposals found eligible for technical processing exceeds the number that the field office can process expeditiously, the field office may limit the proposals placed into technical processing to those which comprise a total number of units approximately equal to two to four times the number of units which can be approved. In order to determine which proposals to place into technical processing, the field office will, in order to eliminate the excess, rank the proposals by household type (elderly and non-elderly) considering the following factors and such other factors as may have been recommended by the field office and approved by the Assistant Secretary (if the NOFA indicated that a specific portion of contract authority may be utilized for small projects, any proposals for such projects shall be ranked separately and not in competition with other nonelderly proposals):

(i) The previous experience and qualifications of the owner, developer, builder, architect, management agent and other participants in development, marketing and management (particularly of non-elderly housing);

(ii) Responsiveness to the preferences and priorities contained in any applicable Housing Assistance Plan;

(iii) The current suitability of the site for development and the availability of utilities and services;

(iv) The permissiveness of current zoning, building, housing and other codes, ordinances and regulations;

(v) The likelihood of financing and the relative speed with which a firm financing commitment can be obtained;

(vi) The relative need for and prior housing assistance to the jurisdiction in which the housing would be located; and

(vii) Where consistent with local priorities, the extent to which the project provides assisted housing opportunities in neighborhoods that are or will be experiencing displacement caused by revitalization and an influx of higher income households.

(2) Preference points in selection of proposals for technical processing will be given to small projects (where no specific amount of contract authority is made available in the NOFA) and partially-assisted projects.

(3) The owners of proposals not selected for technical processing will be notified that their proposals will not be processed further and will not be considered for selection under the provisions of § 881.302.

(4) One copy of each proposal will be retained by the field office.

(c) *Technical processing.* (1) In accordance with the procedures in 24 CFR, Part 891, a description of each

proposal placed in technical processing will be sent to the unit of general local government for review and comment. In accordance with OMB Circular A–95 and 24 CFR Part 891, a copy of each proposal will also be sent to the A–95 state and areawide clearinghouses.

(2) Technical processing in the field office will include a review of the rents (see paragraph (3)), site, physical condition of the property, its suitability for rehabilitation and whether or not the work proposed is adequate and can be feasibly accomplished; overall design; experience of the owner and other participants, local government and A–95 clearinghouse comments, extent of displacement and feasibility of relocation, feasibility of the project as a whole (including financing and marketability) and compliance with all applicable standards and requirements, including a HUD review for consistency with the Housing Assistance Plan, or for determination of need in areas without a Housing Assistance Plan, pursuant to 24 CFR, Part 891. Any deficiencies found will be treated in the same manner as deficiencies found during preliminary evaluation (see paragraph (a)(4) of this section).

(3) The field office will evaluate proposed rents in accordance with § 881.204(b)(2).

(i) If the proposed rents are no more than the rents determined to be comparable, or are within 110 percent of comparable rents for small and partially-assisted proposals, the rents will be accepted.

(ii) If the proposed rents exceed the comparable rents by not more than 20 percent, they can be tentatively accepted subject to cost estimation at final proposal (see Sections 881.308(a) and 881.309(a)(2)) and cost certification after completion (see Section 881.405).

(iii) If the proposed rents exceed the comparable rents by more than 20 percent, the field office may either reject the proposal or tentatively accept rents up to 120 percent of the comparable rents subject to cost estimation at final proposal and cost certification after completion.

(4) Amenities and design features will be reviewed to assure that they do not exceed those normally provided in housing of modest design in the general area of the proposed project.

(5) HUD will conduct an environmental review of the Proposal in accordance with HUD procedures.

(d) *Proposals Requiring Mortgage Insurance.* Proposals requiring mortgage insurance need not contain more information than is required for a preliminary proposal not requiring mortgage insurance. Technical processing of such proposals will include a preliminary determination of eligibility under the applicable mortgage insurance program. If such proposals are selected, subsequent processing will be in accordance with Section 881.308(b), and applicable mortgage insurance requirements. If the proposal is ineligible for mortgage insurance, it may be rejected, or the field office may request the owner to submit documentation showing availability of an alternative method of financing.

§ 881.307 Selection of proposals and use of remaining or additional contract authority.

(a) All of the proposals found approvable in technical processing may be selected if sufficient contract authority is available. In no case will proposals be selected prior to completion of and without compliance with the allocation plan.

(b) If the available contract authority is insufficient to select all proposals found approvable in technical processing, all approvable proposals will be ranked by household type (elderly and non-elderly). If the NOFA indicated that a specific portion of the contract authority may be utilized only for small projects, any proposals for such projects shall be ranked separately and not in competition with other nonelderly proposals. The ranking factors are: rents; site (including minority concentration considerations); design; suitability and potential of property for rehabilitation and adequacy of rehabilitation proposed; previous experience of the owner and other participants in development, marketing and management (particularly of non-elderly family housing); comments from the A–95 clearinghouse and local government and responsiveness to preferences and priorities of any applicable Housing Assistance Plan and/or Areawide Housing Opportunities Plan; extent of displacement and feasibility of relocation; and feasibility of the project as a whole (including likelihood of financing and marketability). Within the ranking for non-elderly family proposals, preference points will be given to small projects (where no specific amount of contract authority is made available in the NOFA) and partially-assisted projects. Any deviation in the ranking procedures as set forth in this paragraph and the program handbook must be approved by the Assistant Secretary for Housing and included in the developer's packet.

(c) Owners who submit proposals will be notified in writing as to whether their proposals have been found not approvable, found approvable but not selected, or selected. Selection notifications will include any special conditions or requirements applicable to the proposal. Owners who are notified of the selection of their proposals must notify the field office of their acceptance of the notification within the time period specified in the notification and must submit a final proposal by the deadline stated in the notification unless an extension of the deadline is approved by the field office. Owners of proposals found not approvable will be notified of the reason for the finding. One file copy of each proposal will be retained by the field office. Proposals found approvable and determined to be of high quality but not selected will be retained by the field office for reconsideration when additional contract authority becomes available in the same or subsequent fiscal year (see § 881.302).

(d) Units of general local government and A–95 clearinghouses notified under § 881.306(c) will be notified of the field office's decision regarding the proposals within their jurisdiction.

(e) When contract authority remains available after selection of proposals for housing for elderly families, or after a decision is made to reallocate unused contract authority for housing for non-elderly families, or additional contract authority becomes available due to cancellation or recapture of contract authority for a selected proposal, or due to the assignment of additional contract authority within the same fiscal year, the field office will determine the allocation areas and types of housing for which the contract authority will be used in accordance with 24 CFR, Part 891 and proceed in accordance with §§ 881.302, 881.303, and 881.304.

(f) Prior to preparation and submission of the final proposal, a project inspection, work write-up and cost estimates must be completed by representatives of the owner and HUD. In preparing the work write-up, care must be taken to assure that the rehabilitation work will not exceed applicable codes and ordinances or the Minimum Design Standards, whichever is more strict.

§ 881.308 Contents of final proposal.

(a) *Proposals for Uninsured Projects.* Final proposals for all projects except those requesting mortgage insurance will contain:

(1) A description of the proposed rehabilitation covering each element set forth in the work write-up and as requested in the developer's packet. If alterations, renovation, or remodeling is indicated, preliminary architectural drawings and outline specifications on

the prescribed form and a listing of amenities.

(2) A statement that the documentation submitted with the preliminary proposal as required by § 881.305(a) through (c), (e), (h) through (o), and (q) through (t) has not changed or a statement of the changes. In the case of special categories of projects submitted in accordance with § 881.303(c), the original documentation required by § 881.305(a) through (u) must be submitted.

(3) Description of the terms and conditions of construction and permanent financing, including copies of the financing documents and the commitments for such financing from a lender or bond underwriter, or satisfactory evidence that commitments will be forthcoming before execution of the Agreement.

(4) For proposals for projects of five units or more, an Affirmative Fair Housing Marketing Plan.

(5) A statement of the marketing activities the owner intends to take in accordance with the requirements of § 881.601(a)(3). Such efforts might include: participation in regional or sub-regional application pools and clearinghouses; establishment of a referral system with PHAs, other public agencies and Section 8 owners/managers in the surrounding area; contact with and provision of information about the project to employers and their employees, labor unions and interested community groups.

(6) Evidence of management capability, and the proposed form of lease (see § 881.606). For projects of more than 20 units, a proposed management plan and certification in the prescribed form and a copy of any proposed contracts for management services.

(7) An indication of the estimated time for completion of the project after the Agreement is signed and, if the project is to be completed in stages, identification of the units and the scheduled completion of each stage.

(8) Cost estimates in the HUD prescribed form of the replacement cost, operating expenses, income, and debt service sufficient to enable the field office to determine the cost justified rent, where required under § 881.204(b)(2). The replacement cost may include the cost to the owner of relocation (except for payments to tenants permanently relocated pursuant to § 881.209(b)(8)(ii)). The cost estimate must indicate and reflect any anticipated benefits from land write-down, tax abatement, favorable financing terms and similar savings.

(b) *Proposals for insured projects.* (1) For projects requiring mortgage insurance, except special categories of proposals which are discussed in paragraph (b)(3), the complete final proposal will consist of the application for firm commitment, plus submissions in accordance with paragraphs (a)(2), (a)(5), (a)(6) and (a)(8).

(2) Although it is preferable for projects requiring mortgage insurance to proceed directly from preliminary proposal to the application for firm commitment/final proposal stage, an owner may elect to submit an application for feasibility or conditional commitment first. In these cases, no additional documentation other than that normally submitted for the mortgage insurance processing stage is required. Feasibility letters or conditional commitments issued for mortgage-insured projects which are infeasible without Section 8 assistance will be conditioned upon the subsequent review and approval of the application for firm commitment/final proposal.

(3) In the case of special categories of proposals submitted in accordance with § 881.303 which are requesting mortgage insurance, the first proposal may be an application for conditional or firm commitment plus the proposed form of lease, applicable information on staging, if any, and the documentation required by Section 881.305(k), (o), (p), (q) (with respect to possible conflicts of interest), (s) and (t).

§ 881.309 Review of final proposal.

(a) All final proposals will be reviewed for compliance with program policies and standards. Material deviations from the preliminary proposal will be reviewed and may cause rejection of the proposal.

(1) Preliminary architectural drawings (if required) will be reviewed for compliance with amenity standards and to assure that all items in the work write-up are included. Where such drawings are not required, HUD will review the work write-up to assure that all agreed upon items are included. In addition, HUD reserves the right to review for conformance with the HUD Minimum Design Standards, adequacy of design for tenant security and efficiency in construction and design; however, HUD has no obligation to do so and any such review or non-review will not constitute approval as to these standards.

(2) The field office will review the projected replacement cost to assure compliance with the limitations of § 881.204(c) in effect at the time. The field office will also review the proposed rents to assure that the rents are within the Fair Market Rent limitations of § 881.204(b)(1) and are cost justified, where required under § 881.204(b)(2) concerning reasonable rents. Cost justification at this stage will consist of a review by the field office of the cost and expense estimates to determine whether the estimates justify the need for rents above comparable rents based on a debt service calculation.

(3) Where the final proposal requests rents higher than were approved with the preliminary proposal, such rents may be approved only after the review required in paragraph (a)(2). In addition, the field office may approve the request for an increase only if it determines, based on documentation by the owner, that the need for increased rents is due to:

(i) Factors beyond the owner's control which could not reasonably have been foreseen;

(ii) Design changes approved by the field office which are necessary because of additional requirements imposed by governmental agencies or HUD; or

(iii) HUD-approved changes in the method or terms and conditions of financing.

(b) Each owner will be notified as to whether the final proposal has been approved, rejected, or could be approved with the submission of additional information or after correction of specified deficiencies. Notifications of approval will indicate a deadline for acceptance of the notification and, for projects not requiring mortgage insurance, a deadline for submission of working drawings and architect's certifications (if required).

§ 881.310 Owner's acceptance, submission and review of working drawings, architect's certification and requested changes.

(a) The owner should return to HUD by the date specified, a signed copy of the Notification of Selection indicating his acceptance thereof. Failure to do so may result in HUD's rescinding the selection.

(b) For projects which do not involve mortgage insurance but for which the services of a registered architect are required by HUD, the owner must submit working drawings and specifications to the field office for review after approval of the final proposal. The owner must also submit an architect's certification in the prescribed form that the drawings and specifications and proposed construction comply with the HUD Minimum Design Standards, local codes and ordinances, and zoning requirements. The working drawings

and specifications will be reviewed for compliance with amenity standards. Any project may, at HUD's option, be reviewed for conformance with the HUD Minimum Design Standards, adequacy of design for tenant security and efficiency in construction and design; however, HUD has no obligation to do so and any such review or non-review will not constitute approval as to these standards.

(c) Any requests for rent increases or any material deviations from preliminary or final proposal which are submitted with the working drawings (or with the owner's acceptance if no working drawings are required) will be reviewed in the same manner as required in § 881.309(a).

(d) For projects involving mortgage insurance, working drawings are reviewed as part of the review of the application for firm commitment/final proposal.

§ 881.311 Execution of agreement (and ACC, if applicable).

(a) After receipt by HUD of a copy of the accepted Notification (for projects not requiring working drawings and specifications) or after review of the working drawings for compliance with amenity standards and acceptance of the architect's certification for projects not involving mortgage insurance, or at the time of initial endorsement in the case of projects involving mortgage insurance:

(1) In the case of private-owner/HUD and PHA-owner/HUD projects, HUD and the owner will execute the Agreement in the form prescribed by HUD; or

(2) In the case of private-owner/PHA projects, HUD and the PHA will execute the ACC in the form prescribed by HUD, and thereafter the PHA and the owner will execute the Agreement in the form prescribed by HUD, and HUD will approve it.

(b) No agreement will be executed unless HUD has approved the financing for the project, including a commitment from a lender for construction and permanent financing at rates, terms and conditions acceptable to HUD, and the final proposal is in all other respects unconditionally approved.

(c) In the case of a non-elderly family project located in a Standard Metropolitan Statistical Area (SMSA), the field office will promptly notify PHAs and Community Development Agencies in the SMSA as well as any metropolitan-wide clearinghouse, or fair housing organizations where there is no metropolitan-wide clearinghouse, of the execution of the Agreement; the size and bedroom distribution of the project; and the expected time of initial marketing and occupancy. The notification will indicate that agencies should inform the owner if they wish to be contacted by the owner for referrals.

Subpart D—Rehabilitation Period and Cost Certification

§ 881.401 Timely performance of work

(a) After execution of the Agreement, the owner must proceed promptly with the rehabilitation work as provided in the Agreement and complete the project within the time stated in the Agreement. If the owner fails to start promptly, or diligently continue or complete the work, the contract administrator will have the right to rescind the Agreement or take other appropriate action.

(b) Extensions of the time may be granted for the reasons stated in the Agreement. However, contract rents will be increased only for the reasons stated in § 881.403.

§ 881.402 Inspections during the rehabilitation period.

(a) All project records will be inspected by HUD periodically to determine compliance with Davis-Bacon Act requirements.

(b) Projects which involve HUD mortgage insurance, or another type of financing which requires HUD construction inspection, will be subject to the applicable inspection requirements.

(c) A review to determine contractor compliance with equal opportunity requirements may be conducted at any time during the rehabilitation period.

§ 881.403 Increases in contract rents or utility allowances before contract execution.

(a) Increases in contract rents or utility allowances after execution of the Agreement and prior to execution of the Contract are permitted with HUD approval only:

(1) To correct substantial errors by HUD in the original processing which would otherwise result in serious inequities;

(2) To reflect substantial and necessary changes in the approved final proposal (where working drawings and specifications are not required) or in the plans and specifications which have been approved by HUD (no optional betterments may result in rent increases);

(3) To reflect additional costs for interest, taxes, hazard insurance, mortgage insurance premiums, and commitment fees, due to construction delays excusable under the Agreement;

(4) To reflect additional costs which result from new requirements imposed by local governments, HUD or other Federal agencies, which are beyond the control of the owner, which have been approved by HUD and which could not have been anticipated at the time the Agreement was executed; or

(5) To reflect increased costs which result from a change in contractors which is necessary because the original contractor became bankrupt, was terminated by the owner due to inadequate performance or abandoned the job.

(6) To reflect additional costs incurred by the owner in providing the relocation assistance and payments required by Section 881.209 (except for payments made to tenants permanently relocated pursuant to Section 881.209(b)(8)(ii)), or as a result of altering construction work schedules in order to minimize displacement, or as a result of other activities which minimize displacement or related hardships.

(b) Such increases will be:

(1) limited to the amount necessary to cover the specific cost increase associated with the applicable item cited in paragraph (a); and

(2) reviewed and approved only in accordance with the Fair Market Rent and rent reasonableness limitations of Section 881.204(b) and the replacement cost limitations of Section 881.204(c) which are in effect at the time of the review of the request.

(c) All requests for increases must be submitted promptly to the field office for review as soon as the need for the increases becomes apparent.

§ 881.404 Project completion.

(a) *Notification and evidence of completion.* (1) For projects for which working drawings and specifications are not required, the owner must notify HUD and the PHA, where the PHA is the contract administrator, when the work is completed and provide HUD with:

(i) A certificate of occupancy and/ or other official approvals necessary for occupancy, and

(ii) A certification in the prescribed form that the project has been completed and is ready for occupancy in accordance with the requirements of the Agreement.

(2) For projects for which working drawings and specifications are required the owner must notify HUD and the PHA, where the PHA is the contract administrator, when work is completed and provide HUD with:

(i) A set of as-built drawings;

(ii) A certificate of occupancy and any other official approvals necessary for occupancy;

(iii) A certification in the prescribed form that the project has been completed and is ready for occupancy in accordance with the requirements of the Agreement; and

(iv) For projects where a HUD construction inspection is not required during rehabilitation, a certification from the inspecting architect in the prescribed form which states that the work has been completed in accordance with the certified working drawings and specifications, HUD Minimum Design Standards, local codes and ordinances, and zoning requirements.

(b) *Review and inspection.* Within 10 working days of the receipt of the notification and evidence of completion, HUD will review the evidence of completion for adequacy and will inspect the project to determine whether it appears that the project has been completed in accordance with the Agreement.

(c) *Acceptance of the project.* (1) If HUD determines from review and inspection that the project (or a stage of the project) has been completed in accordance with the Agreement, the project (or stage) will be accepted.

(2) If there are any items of delayed completion which are minor items or which are incomplete because of weather conditions, and in any case which do not preclude or affect occupancy, and all other requirements of the Agreement have been met, the project (or stage) will be accepted. An escrow fund determined by HUD to be sufficient to assure completion for items of delayed completion will be required, as well as a written agreement between the contract administrator and the owner, to be included as an exhibit to the Contract, specifying the schedule for completion. If the items are not completed within the agreed time period, the contract administrator may terminate the Contract or exercise other rights under the Contract.

(3) If other deficiencies exist, HUD will determine whether and to what extent the deficiencies are correctable, and whether the contract rents should be reduced. The owner will be notified of HUD's decision. If the parties agree, HUD, the owner and the PHA, where applicable, will enter into an agreement for the correction of the deficiencies. If the deficiencies are corrected within the period of time allowed, HUD will accept the project.

(4) Otherwise, the project will not be accepted, and the owner and the PHA, where applicable, will be notified with a statement of the reasons for nonacceptance. (However, see Sections 88.501(a) for action where evidence of completion is acceptable only with respect to physical completion of the project).

(d) *Pending Davis-Bacon Act claims.* If there are pending claims under the provisions in the Agreement relating to the payment of prevailing wage rates, the owner will be required to place a sufficient amount, as required by HUD, in escrow as approved by HUD to assure such payments. The amount withheld may be disbursed with HUD approval for and on account of the owner or any subcontractor to the employees to whom it is due.

§ 881.405 Cost certification and adjustment of contract rents.

(a) *Submission by owner.* As soon as possible after acceptance of the project by HUD, the owner will certify the actual costs estimated under Section 881.308(a)(8), and submit a cost certification including the certificate of an Independent Public Accountant to HUD in the manner and form prescribed by HUD, based on the following guidelines:

(1) Projects which involve HUD mortgage insurance will be subject to the cost certification requirements of the applicable insurance program;

(2) For projects not insured by HUD, a simplified form of cost certification will be completed and submitted;

(3) There will be no cost certification submission required for projects with rents that are equal to or less than comparable rents or for partially-assisted projects or for small projects except as required by § 881.204(b)(2); and

(4) The provisions of paragraphs (a)(2) and (3) do not preclude the imposition of different cost certification requirements appropriate as part of project financing requirements (such as tax-exempt financing under 24 CFR, Part 811).

(b) *HUD review.* Cost certifications required by this regulation will be subject to review by HUD. As part of this review, the owner and/or contractor may be required to submit additional documentation.

(c) *Reduction of contract rents.* If the owner's certified costs provided in accordance with paragraph (a) of this section, as approved by HUD, are less than the cost estimate provided for in Section 881.308(a)(8), the contract rents will be reduced accordingly.

(d) *Reduction of maximum annual commitment.* If the contract rents are reduced pursuant to paragraph (c) of this section, the maximum annual Contract commitment (and the maximum ACC commitment, in the case of private-owner/PHA projects) will be reduced. If contract rents are reduced based on certification after Contract execution, any overpayment since the effective date of the Contract will be recovered from the owner by HUD.

Subpart E—Housing Assistance Payments Contract

§ 881.501 The contract.

(a) *Contract.* The Housing Assistance Payments Contract sets forth rights and duties of the owner and the contract administrator with respect to the project and the housing assistance payments. The owner and contract administrator execute the Contract in the form prescribed by HUD upon satisfactory completion of the project. If the field office finds that the evidence of completion is acceptable with respect to the physical completion of the project, including the certificate of occupancy and/or other official approvals required for occupancy, but the evidence of completion as required in Section 881.404 in other respects is not acceptable, the field office will, upon request by the owner, execute or approve the execution of the Contract. In such case, however, until the remaining evidence of completion is submitted to and found acceptable by the field office:

(1) The contract rent for the purpose of computing housing assistance payments with respect to any unit will be the monthly amount of the debt service on the permanent obligations attributable to the unit; and

(2) Rent-up and occupancy will be subject to such conditions as the field office may require.

(b) *Effective date of contract.* The effective date of the Contract may be earlier than the date of execution, but no earlier than the date HUD inspects and accepts the project, except as provided in paragraph (a).

(c) *Housing assistance payments to owners under the contract.* The housing assistance payments made under the Contract are:

(1) Payments to the owner to assist eligible families leasing assisted units, and

(2) Payments to the owner for vacant assisted units ("vacancy payments") if the conditions specified in Section 881.611 are satisfied.

The housing assistance payments are made monthly by the contract administrator upon proper requisition by the owner, except payments for vacancies of more than 60 days, which are made semi-annually by the contract administrator upon requisition by the owner.

(d) *Amount of housing assistance payments to owner.* (1) The amount of the housing assistance payment made to

the owner of a unit being leased by an eligible family is the difference between the contract rent for the unit and the tenant rent payable by the family.

(2) A housing assistance payment will be made to the owner for a vacant assisted unit in an amount equal to 80 percent of the contract rent for the first 60 days of vacancy, subject to the conditions in Section 881.611. If the owner collects any tenant rent or other amount for this period which, when added to this vacancy payment, exceeds the contract rent, the excess must be repaid as HUD directs.

(3) For a vacancy that exceeds 60 days, a housing assitance payment for the vacant unit will be made, subject to the conditions in Section 881.611, in an amount equal to the principal and interest payments required to amortize that portion of the debt attributable to the vacant unit for up to 12 additional months.

(e) *Additional housing assistance payments to families.* In those cases where the total family contribution of a family leasing an assisted unit is less than the utility allowance for the unit, the difference will be paid to the family as an additional housing assistance payment. The Contract will provide that the owner will make this payment on behalf of the contract administrator. Funds for this purpose will be paid to the owner in trust solely for the purpose of making the additional payment.

§ 881.502 Term of contract.

(a) *Term.* The term of the Contract will be as follows:

(1) Where the estimated cost of the rehabilitation is less than 25 percent of the estimated value of the project after completion of the rehabilitation, the contract may be for a term of 15 years for any dwelling unit.

(2) Where the estimated cost of rehabilitation is 25 percent or more of the estimated value of the project after completion of rehabilitation, the contract may be for a term which

(i) Will cover the longest term, but not less than 15 years, of a single credit instrument covering:

(A) The cost of rehabilitation or

(B) The existing indebtedness, or

(C) The cost of rehabilitation and the refinancing of the existing indebtedness, or

(D) The cost of rehabilitation and the aquisition of the property; and

(ii) For assisted units in a project financed with the aid of a loan insured or co-insured by the Federal government or a loan made, guaranteed or intended for purchase by the Federal government, will not exceed 20 years for any dwelling unit; or

(iii) For units in a project financed other than as described in paragraph (2)(ii) will not exceed 30 years for any dwelling unit except that this limit will be 40 years if (A) the project is owned or financed by a loan or loan guarantee from a state or local agency, (B) the project is intended for occupancy by non-elderly families and (C) the project is located in an area designated by HUD as one requiring special financing assistance.

(b) *Staged projects.* If the project is completed in stages, the term of the Contract must relate separately to the units in each stage. The total Contract term for the units in all stages, beginning with the effective date of the Contract for the first stage, may not exceed the overall maximum term allowable for any one unit under this section, plus two years.

§ 881.503 Maximum annual commitment and project account.

(a) *Maximum annual commitment.* Where HUD is the contract administrator, the maximum annual amount that may be committed under the Contract is the total of the contract rents and utility allowances for all assisted units in the project. Where the PHA is the contract administrator, the maximum annual contribution that may be contracted for in the ACC is the total of the contract rents and utility allowances for all assisted units plus an administrative fee for the PHA as approved by HUD.

(b) *Project account.* (1) A project account will be established and maintained by HUD as a specifically identified and segregated account for each project. The account will be established out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the Contract or ACC each year. Payments will be made from this account for housing assistance payments (and fees for PHA adminstration, if appropriate) when needed to cover increases in contract rents or decreases in tenant rents and for other cost specifically approved by the Secretary.

(2) Whenever a HUD-approved estimate of required annual payments under the Contract or ACC for a fiscal year exceeds the maximum annual commitment and would cause the amount in the project account to be less than 40 percent of the maximum, HUD will, within a reasonable period of time, take such additional steps authorized by Section 8(c)(6) of the U.S. Housing Act of 1937, as may be necessary, to assure that payments under the Contract or ACC will be adequate to cover increases in contract rents and decreases in tenant rents.

§ 881.504 Reduction of number of units covered by contract.

(a) *Limitation on leasing to ineligible families.* Owners may not lease more than 10 percent of the assisted units in a project to ineligible families without the prior approval of HUD. Failure on the part of the owner to comply with this prohibition is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs and reduction of the number of units under the Contract, as set forth in paragraph (b) of this section.

(b) *Reduction for failure to lease to eligible families.* If, at any time beginning six months after the effective date of the Contract, the owner fails for a continuous period of six months to have at least 90 percent of the assisted units leased or available for leasing by eligible families, HUD (or the PHA at the direction of HUD, as appropriate) may, on at least 30 days' notice, reduce the number of units covered by the Contract. HUD may reduce the number of units to the number of units actually leased or available for leasing plus 10 percent (rounded up). This reduction, however, will not be made if the failure to lease units to eligible families is permitted in writing by HUD under paragraph (a) of this section.

(c) *Restoration.* HUD will agree to an amendment of the ACC or the Contract, as appropriate, to provide for subsequent restoration of any reduction made pursuant to paragraph (b) if:

(1) HUD determines that the restoration is justified by demand,

(2) the owner otherwise has a record of compliance with his obligations under the Contract, and

(3) contract authority is available.

§ 881.505 Contract administration and conversions.

(a) *Contract administration.* For private-owner/PHA projects, the PHA is primarily responsible for administration of the Contract, subject to review and audit by HUD. For private-owner/HUD and PHA-owner/HUD projects, HUD is responsible for administration of the Contract. The PHA or HUD may contract with another entity for the performance of some or all of its contract administration functions.

(b) *PHA fee for contract administration.* A PHA will be entitled to a reasonable fee, determined by HUD, for administering a Contract except under certain circumstances (see 24 CFR Part 883) where a state housing

finance agency is the PHA and finances the project.

(c) *Conversion of projects from one ownership/contractual arrangement to another.* Any project may be converted from one ownership/contractual arrangement to another (for example, from a private-owner/HUD to a private-owner/PHA project) if:

(1) the owner, the PHA and HUD agree,

(2) HUD determines that conversion would be in the best interest of the project, and

(3) in the case of conversion from a private-owner/HUD to a private-owner/PHA project, contract authority is available to cover the PHA fee for administering the Contract.

§ 881.506 Default by owner—private-owner/HUD and PHA owner/HUD projects.

The Contract will provide:

(a) that if HUD determines that the owner is in default under the Contract, HUD will notify the owner and the lender of the actions required to be taken to cure the default and of the remedies to be applied by HUD including specific performance under the Contract, reduction or suspension of housing assistance payments and recovery of overpayments, where appropriate; and

(b) that if the owner fails to cure the default, HUD has the right to terminate the Contract or to take other corrective action.

§ 881.507 Default by PHA and/or owner—private owner/PHA projects.

(a) *Rights of owner if PHA defaults under agreement or contract.* The ACC, the Agreement and the Contract will provide that, in the event of failure of the PHA to comply with the Agreement or Contract with the owner, the owner will have the right, if he is not in default, to demand that HUD investigate. HUD will first give the PHA a reasonable opportunity to take corrective action. If HUD determines that a substantial default exists, HUD will assume the PHA's rights and obligations under the Agreement or Contract and meet the obligations of the PHA under the Agreement or Contract including the obligations to enter into the Contract.

(b) *Rights of HUD if PHA Defaults under ACC.* The ACC will provide that, if the PHA fails to comply with any of its obligations, HUD may determine that there is substantial default and require the PHA to assign to HUD all of its rights and interests under the Contract; however, HUD will continue to pay annual contributions in accordance with the terms of the ACC and the Contract. Before determining that a PHA is in substantial default, HUD will give the PHA a reasonable opportunity to take corrective action.

(c) *Rights of PHA and HUD if Owner Defaults under Contract.* (1) The Contract will provide that it the PHA determines that the owner is in default under the Contract, the PHA will notify the owner and lender, with a copy to HUD, (i) of the actions required to be taken to cure the default, (ii) of the remedies to be applied by the PHA including specific performance under the Contract, abatement of housing assistance payments and recovery of overpayments, where appropriate, and (iii) that if he fails to cure the default, the PHA has the right to terminate the Contract or to take other corrective action, in its discretion or as directed by HUD.

(2) If the PHA is the lender, the Contract will also provide that HUD has an independent right to determine whether the owner is in default and to take corrective action and apply appropriate remedies, except that HUD will not have the right to terminate the Contract without proceeding in accordance with paragraph (b) of this section.

Subpart F—Management

§ 881.601 Responsibilities of owner.

(a) *Marketing.*(1) The owner must commence diligent marketing activities in accordance with the Agreement not later than 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

(2) Marketing must be done in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan and all Fair Housing and Equal Opportunity requirements. The purpose of the Plan and requirements is to assure that eligible families of similar income in the same housing market area have an equal opportunity to apply and be selected for a unit in projects assisted under this Part Regardless of their race, color, creed, religion, sex or national origin.

(3) With respect to non-elderly family units, the owner must undertake marketing activities in advance of marketing to other prospective tenants in order to provide opportunities to reside in the project to non-elderly families who are least likely to apply, as determined in the Affirmative Fair Housing Marketing Plan, and to non-elderly families expected to reside in the community by reason of current or planned employment, as indicated in the Housing Assistance Plan, if any.

(4) At the time of Contract execution, the owner must submit a list of leased and unleased units, with justification for the unleased units, in order to qualify for vacancy payments for the unleased units. (See §§ 881.501(c) and (d) and § 881.611.)

(b) *Management and maintenance.* The owner is responsible for all management functions (including selection of tenants, reexamination of family incomes, evictions and other terminations of tenancy, and collection of rents) and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in compliance with applicable Equal Opportunity requirements.

(c) *Contracting for services.* With HUD approval, the owner may contract with a private or public entity (except the contract administrator) for performance of the services or duties required in paragraphs (a) and (b). However, such an arrangement does not relieve the owner of responsibility for these services and duties.

(d) *Submission of financial and operating statements.* After execution of the contract, the owner must submit to the contract administrator:

(1) Within 60 days after the end of each fiscal year of the project, financial statements for the project audited by an Independent Public Accountant in the form required by HUD, and

(2) Other statements as to project operation, financial conditions and occupancy as HUD may require pertinent to administration of the Contract and monitoring of project operations.

(e) *Use of Project Funds.*

(1) Project funds must be used for the benefit of the project, to make required deposits to the replacement reserve in accordance with Section 881.602 and to provide distributions to the owner as provided in Section 881.205. Any remaining project funds must be deposited with the mortgagee or other HUD-approved depository in an interest-bearing residual receipts account. Withdrawals from this account will be made only for project purposes and with the approval of HUD.

(2) Partially-assisted projects are exempt from the provisions of this section.

(3) In the case of HUD-insured projects, the provisions of this paragraph will apply instead of the otherwise applicable mortgage insurance provisions.

§ 881.602 Replacement reserve.

(a) A replacement reserve must be established and maintained in an interest-bearing account to aid in

funding extraordinary maintenance and repair and replacement of capital items.

(1) An amount equivalent to .006 of the cost of total structures, including main buildings, accessory buildings, garages and other buildings, or any higher rate as required by HUD from time to time, will be deposited in the replacement reserve annually. This amount will be adjusted each year by the amount of the automatic annual adjustment factor.

(2) The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. Should the reserve achieve that level, the rate of deposit to the reserve may be reduced with the approval of HUD.

(3) All earnings including interest on the reserve must be added to the reserve.

(4) Funds will be held by the mortgagee or trustee for bondholders, and may be drawn from the reserve and used only in accordance with HUD guidelines and with the approval of, or as directed by, HUD.

(b) Partially-assisted projects are exempt from the provisions of this section.

(c) In the case of HUD-insured projects, the provisions of this section will apply instead of the otherwise applicable mortgage insurance provisions, except in the case of partially-assisted insured projects which are subject to the applicable mortgage insurance provisions.

§ 881.603 Selection and admission of assisted tenants.

(a) *Application.* The owner must accept applications for admission to the project in the form prescribed by HUD. Both the owner (or designee) and the applicant must complete and sign the application. On request, the owner must furnish copies of all applications to HUD and the PHA, if applicable.

(b) *Determination of Eligibility and Selection of Tenants.* The owner is responsible for determining whether the applicant is eligible, in accordance with 24 CFR, Parts 812 and 889, and for the selection of families:

(1) Local residency requirements are prohibited. Local residency preferences may be applied in selecting tenants only to the extent that they are not inconsistent with affirmative fair housing marketing objectives and the owner's HUD-approved Affirmative Fair Housing Marketing Plan. With respect to any residency preference, persons expected to reside in the commmunity as a result of current or planned employment will be treated as residents. This does not prohibit an owner from giving preference to tenants occupying the property when the first proposal for the project was submitted to HUD.

(2) If the owner determines that the family is eligible and is otherwise acceptable and units are available, the owner will assign the family a unit of the appropriate size in accordance with HUD standards. If no suitable unit is available, the owner will place the family on a waiting list for the project and notify the family of when a suitable unit may become available. If the waiting list is so long that the applicant would not be likely to be admitted for the next 12 months, the owner may advise the applicant that no additional applications are being accepted for that reason.

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination, the reasons for the determination, and that the applicant has the right to meet the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he has the right to request a review by HUD of the PHA's determination. The applicant may also exercise other rights if he believes he is being discriminated against on the basis of race, color, creed, religion, sex, or national origin.

(4) Records on applicants and approved eligible families, which provide racial, ethnic, gender and place of previous residency data required by HUD, must be maintained and retained for three years.

(c) *Income mix.* In the initial renting of assisted units, the owner must lease at least 30 percent of the assisted units to very low-income families except that if this requirement cannot be met because of families already residing in the property to be rehabilitated, HUD may permit the leasing of less than 30 percent of the units to very low-income persons provided this deficiency is compensated for by the leasing of more than 30 percent in other projects in the allocation area. After initial renting, the owner must use his best efforts to maintain at least 30 percent occupany by very low-income families. In addition, at all times, the owner will use his best efforts to achieve leasing to families with a range of incomes so that the average of incomes of all families in occupancy is at or above 40 percent of the median income in the area.

(d) *Reexamination of family income and composition.* (1) The owner is responsible for reexamining the income and composition of all families at least once each year (except that reviews may be made at intervals no longer than two years in the case of elderly families) and, upon verification of the information provided by the family, making appropriate adjustments in the total family contribution in accordance with the provisions of 24 CFR, Part 889. The owner will adjust tenant rent and the housing assistance payment in accordance with any change in total family contribution. The owner may schedule reexaminations at intervals of less than one year when it is not possible to make a reasonable estimate of the family's income for a full year.

(2) If the family reports a change in income or other circumstances that would result in a decrease of total family contribution between regularly scheduled reexaminations, the owner, upon receipt of verification of the decrease in income, must promptly make appropriate adjustments in the total family contribution. The owner may require families to report increases in income between scheduled reexaminations.

(3) A family's eligibility for housing assistance payments continues until its total family contribution equals the total housing expense for the unit it occupies. The termination of eligibility at this point will not affect the family's other rights under the lease nor will such termination preclude resumption of payments as a result of subsequent changes in income or other circumstances during the term of the contract.

§ 881.604 Tenant rent.

The tenant rent is paid directly to the owner by the eligible family to whom an assisted unit is leased in partial payment of the contract rent. It is equal to the family's total family contribution minus any utility allowance for the unit. If the family's total family contribution is less than the utility allowance for the unit which it occupies, the tenant rent payable by the family to the owner is zero.

§ 881.605 Overcrowded and underoccupied units.

If the contract administrator determines that because of change in family size an assisted unit is smaller than appropriate for the eligibile family to which it is leased, or that the unit is larger than appropriate, housing assistance payments with respect to the unit will not be reduced or terminated until the eligible family has been

relocated to an appropriate alternative unit. If possible, the owner will, as promptly as possible, offer the family an appropriate unit. The owner may receive vacancy payments for the vacated unit if he complies with the requirements of Section 881.611.

§ 881.606 Lease requirements.

(a) *Term of lease.* The term of the lease will be for not less than one year. The lease may, or in the case of a lease for a term of more than one year must, contain a provision permitting termination on 30 days advance written notice by the family.

(b) *Form.* The form of lease must contain all required provisions, and none of the prohibited provisions specified in the developer's packet, and must conform to the form of lease included in the approved final proposal.

§ 881.607 Termination of tenancy and modification of lease.

(a) *Applicability.* The provisions of this section apply to all decisions by an owner to terminate the tenancy of a family residing in a unit under Contract during or at the end of the family's lease term.

(b) *Entitlement of families to occupancy.*—(1) *Grounds.* The owner may not terminate any tenancy except upon the following grounds: (i) Material noncompliance with the lease; (ii) Material failure to carry qut obligations under any State landlord and tenant act; or (iii) Other good cause, which may include the refusal of a family to accept an approved modified lease form (see paragraph (d) of this section). No termination by an owner will be valid to the extent it is based upon a lease or a provisions of State law permitting termination of a tenancy solely because of expiration of an initial or subsequent renewal term. All terminations must also be in accordance with the provisions of any State and local landlord tenant law and paragraph (c) of this section.

(2) *Notice of good cause.* The conduct of a tenant cannot be deemed "other good cause" under paragraph (b)(1)(iii) of this section unless the owner has given the family prior notice that the grounds constitute a basis for termination of tenancy. The notice must be served on the family in the same manner as that provided for termination notices under paragraph (c) and State and local law.

(3) *Material noncompliance.* The term material noncompliance with the lease includes (i) one or more substantial violations of the lease or (ii) repeated minor violations of the lease which disrupt the livability of the building, adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities, interfere with the management of the building or have an adverse financial effect on the building. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a material noncompliance with the lease. The payment of rent or any other financial obligation due under the lease after the due date but with the grace period permitted under State law will constitute a minor violation.

(c) *Termination notice.* (1) The owner must give the family a written notice of any proposed termination of tenancy, stating the grounds and that the tenancy is terminated on a specified date and advising the family that it has an opportunity to respond to the owner.

(2) When a termination notice is issued for other good cause (paragraph (b)(1)(iii) of this section), the notice will be effective, and it will so state, at the end of a term and in accordance with the termination provisions of the lease, but in no case earlier than 30 days after receipt by the family of the notice. Where the termination notice is based on material noncompliance with the lease or material failure to carry out obligations under a State landlord and tenant act pursuant to paragraph (b)(1)(i) or (ii) of this section, the time of service must be in accord with the lease and State law.

(3) In any judicial action instituted to evict the family, the owner may not rely on any grounds which are different from the reasons set forth in the notice.

(d) *Modification of lease form.* The owner may, with the prior approval of HUD, modify the terms and conditions of the lease form effective at the end of the initial term or a successive term, by serving an appropriate notice on the family, together with the offer of a revised lease or an addendum revising the existing lease. This notice and offer must be received by the family at least 30 days prior to the last date on which the family has the right to terminate the tenancy without being bound by the modified terms and conditions by executing the offered revised lease or addendum, or may reject the modified terms and conditions by giving the owner written notice in accordance with the lease that the family intends to terminate the tenancy. Any increase in rent must in all cases be governed by Section 881.609 and other applicable HUD regulations.

§ 881.608 Security deposits.

(a) At the time of the initial execution of the lease, the owner will require each family to pay a security deposit in an amount equal to one month's total family contribution or $50, whichever is greater. The family is expected to pay the security deposit from its own resources and/or other public sources. The owner may collect the security deposit on an installment basis.

(b) The owner must place the security deposits in a segregated, interest-bearing account. The balance of this account must at all times be equal to the total amount collected from the families then in occupancy, plus any accrued interest. The owner must comply with any applicable State and local laws concerning interest payments on security deposits.

(c) In order to be considered for the return of the security deposit, a family which vacates its unit will provide the owner with its forwarding address or arrange to pick up the refund.

(d) The owner, subject to State and local law and the requirements of this paragraph, may use the security deposit, plus any accrued interest, as reimbursement for any unpaid family confribution or other amount which the family owes under the lease. Within 30 days (or shorter time if required by State or local law) after receiving notification of the family's forwarding address, the owner must:

(1) Refund to a family owing no rent or other amount under the lease the full amount of the security deposit, plus accrued interest;

(2) Provide to a family owing rent or other amount under the lease a list itemizing any unpaid rent, damages to the unit, and estimated costs for repair, along with a statement of the family's rights under State and local law. If the amount which the owner claims is owed by the family is less than the amount of the security deposit plus accrued interest, the owner must refund the unused balance to the family. If the owner fails to provide the list, the family will be entitled to the refund of the full amount of the security deposit plus accrued interest.

(e) In the event a disagreement arises concerning reimbursement of the security deposit, the family will have the right to present objections to the owner in an informal meeting. The owner must keep a record of any disagreements and meetings in a tenant file for inspection by the contract administrator. The procedures of this paragraph do not preclude the family from exercising its rights under State and local law.

(f) If the security deposit, including any accrued interest, is insufficient to

reimburse the owner for any unpaid tenant rent or other amount which the family owes under the lease, and the owner has provided the family with the list required by paragraph (d)(2), the owner may claim reimbursement from HUD or the PHA, as appropriate, for an amount not to exceed the lesser of:

(1) The amount owed the owner, or

(2) One month's contract rent, minus the amount of the security deposit plus accrued interest.

Any reimbursement under this section will be applied first toward any unpaid tenant rent due under the lease. No reimbursement may be claimed for unpaid rent for the period after termination of the tenancy.

§ 881.609 Adjustment of contract rents.

(a) *Automatic annual adjustment of contract rents.* Upon request from the owner to the contract administrator, contract rents will be adjusted on the anniversary date of the Contract in accordance with 24 CFR, Part 888.

(b) *Special additional adjustments.* For all projects, special additional adjustments will be granted, to the extent determined necessary by HUD, to reflect increases in the actual and necessary expenses of owning and maintaining the assisted units which have resulted from substantial general increases in real property taxes, assessments, utility rates, and utilities not covered by regulated rates, and which are not adequately compensated for by annual adjustments under paragraph (a). The owner must submit to the contract administrator required supporting data, financial statements and certifications.

(c) *Overall limitation.* Any adjustments of contract rents for a unit after Contract execution or cost certification, where applicable, must not result in material differences between the rents charged for assisted units and comparable unassisted units except to the extent that the differences existed with respect to the contract rents set at Contract execution or cost certification, where applicable.

§ 881.610 Adjustment of utility allowances.

The owner must recommend to the contract administrator, in connection with annual and special adjustments of contract rents, and at other times if appropriate, whether and to what extent the utility allowance for any assisted unit should be adjusted. Whenever a utility allowance for a unit is adjusted, the owner will promptly notify the families occupying assisted units and make a corresponding adjustment of the tenant rent and the amount of the housing assistance payment for the unit.

§ 881.611 Conditions for receipt of vacancy payments.

(a) *General.* Vacancy payments under the Contract will not be made unless the conditions for receipt of these housing assistance payments set forth in this section are fulfilled.

(b) *Vacancies During Rent-up.* For each assisted unit that is not leased as of the effective date of the Contract, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 60 days of vacancy if the owner:

(1) Conducted marketing in accordance with § 881.601(a) and otherwise complied with § 881.601;

(2) Has taken and continues to take all feasible actions to fill the vacancy; and

(3) Has not rejected any eligible applicant except for good cause acceptable to the contract administrator.

(c) *Vacancies after rent-up.* If an eligible family vacates a unit, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 60 days of vacancy if the owner:

(1) Certifies that he did not cause the vacancy by violating the lease, the Contract or any applicable law;

(2) Notified the contract administrator of the vacancy or prospective vacancy and the reasons for the vacancy immediately upon learning of the vacancy or prospective vacancy;

(3) Has fulfilled and continues to fulfill the requirements specified in Section 881.601(a) (2) and (3) and Section 881.611(b) (2) and (3); and

(4) For any vacancy resulting from the owner's eviction of an eligible family, certifies that he has complied with Section 881.607.

(d) *Vacancies for longer than 60 days.* If an assisted unit continues to be vacant after the 60-day period specified in paragraph (b) or (c), the owner may apply to receive additional vacancy payments in an amount equal to the principal and interest payments required to amortize that portion of the debt service attributable to the vacant unit for up to 12 additional months for the unit if:

(1) The unit was in decent, safe and sanitary condition during the vacancy period for which payments are claimed;

(2) The owner has fulfilled and continues to fulfill the requirements specified in paragraphs (b) or (c), as appropriate; and

(3) The owner has demonstrated to the satisfaction of HUD that:

(i) For the period of vacancy, the project is not providing the owner with revenues at least equal to project expenses (exclusive of depreciation), and the amount of payments requested is not more than the portion of the deficiency attributable to the vacant unit, and

(ii) The project can achieve financial soundness within a reasonable time.

(e) *Prohibition of double compensation for vacancies.* The owner is not entitled to vacancy payments for vacant units to the extent he can collect for the vacancy from other sources (such as security deposits, payments under Section 881.608(f), and governmental payments under other programs).

§ 881.612 Reviews during management period.

(a) After the effective date of the Contract, the contract administrator will inspect the project and review its operation at least annually to determine whether the owner is in compliance with the Contract and the assisted units are in decent, safe and sanitary condition.

(b) In addition, for private-owner/PHA projects, HUD:

(1) Will review the PHA's administration of the Contract at least annually to determine whether the PHA is in compliance with the ACC, and

(2) May independently inspect project operations and units at any time.

(c) Equal Opportunity reviews may be conducted by HUD at any time.

Subpart G—Special Procedures for Neighborhood Strategy Areas

§§ 881.701–881.709 [Reserved]

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., October 5, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-2868 Filed 1-30-80; 8:45 am]

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federal register

Thursday
January 31, 1980

Part IV

Department of the Interior

Office of the Secretary

Improving Government Regulations; Semiannual Agenda of Rules Scheduled for Review or Development

DEPARTMENT OF THE INTERIOR

Office of the Secretary

18 CFR Ch. IV
25 CFR Ch. 1
30 CFR Chs. II, VI, and VII
36 CFR Chs. 1 and XII
41 CFR Chs. 14H and 14R
43 CFR Subtitle A, Chs. I–II
50 CFR Chs. 1 and IV.

Improving Government Regulations; Semiannual Agenda of Rules Scheduled for Review or Development

AGENCY: Department of the Interior.

ACTION: Semiannual Agenda of Rules Scheduled for Review or Development.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between January and June 1980, and the status of rules previously scheduled. A semiannual agenda is required by Executive Order 12044 and 43 CFR 14.8. We have listed rules which are significant and not significant. The determinations of significance and decisions on preparation of regulatory analyses may, in some cases, be subject to change as the rules are developed.

ADDRESSES: Unless otherwise indicated, all Knowledgeable Officials are located at the Department of the Interior, 1800 C Street NW, Washington, D.C. 20240, Area Code 202.

FOR FURTHER INFORMATION CONTACT: All comments and inquiries with regard to these rules should be directed to the appropriate Knowledgeable Official.

Dated: January 25, 1980.

Cecil D. Andrus,

Secretary.

Agenda of Rules Scheduled for Review of Development: January–June 1980; Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203 (Area Code 703)

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203 (Area Code 703)						
43 CFR Part 4, Subpart A	General; Office of Hearings and Appeals.	Revision of regulations to update, reduce and simplify language.	No	No		Sara Russell, 557–9200.
43 CFR Part 4, Subpart D	Special rules Applicable to Proceedings in Indian Probate, Including Hearings and Appeals; Tribal Purchase of Interests Under Special Statutes, Including Hearings and Appeals; and	New regulation to revise § 4.354 to conform notice of appeal time limitations in appeals to Interior Board of Indian Appeals to the same time limits set by Bureau of Indian Affairs regulation in 25 CFR 2.19.	No	No		Franklin Arness, 557–1400.
	Administrative Appeals in Indian Affairs Generally.	New regulation to provide rules governing intervention in appeals proceedings pending before Interior Board of Indian Appeals.	No	No		
43 CFR Part 4, Subpart H	Special Procedural Rules Applicable to Proceedings Conducted Pursuant to Enforcement of Executive Order 11246, as Amended by Executive Order 11375, and Rules, Regulations and Orders Issued Thereunder.	Deletion of these rules to comply with Executive Order 12086, which transfers all functions under Executive Order 11246, as amended by Executive Order 11375, to the Department of Labor.	No	No		Sara Russell, 557–9200.
43 CFR Part 4, Subpart K	Special Procedural Rules Applicable to Contest Proceedings To Disenroll Alaska Natives.	These rules will be removed from the CFR since the deadline of October 1, 1978, for disenrollment contest reviews has already passed. (Reference Bureau of Indian Affairs regulations in 25 CFR 43h.15(h)).	No	No		Sara Russell, 557–9200.
Office of Small and Disadvantaged Business Utilization						
43 CFR Part 35	Involvement of Minority and Female-Owned Business Enterprises in Outer Continental Shelf Leasing and Permit Activities.	To establish a program for the active participation of business enterprises owned and controlled by minorities and women in all activities related to the leasing of the Outer Continental Shelf. (Section 604 of the OCS Lands Act Amendments, 43 U.S.C. 1863).	No	No	Proposed Rule February 1980.	Kenneth T. Kelly, 343–8493.
U.S. Fish and Wildlife Service						
50 CFR Part 13	General Permit Procedures	To revise permit fee schedule and appeal procedures.	No	No	Proposed Rule March 1980.	Richard Parsons, 703–235–1937.
50 CFR Part 14	Importation, Exploration and Transportation of Wildlife.	To revise rules which provide controls for movement of wildlife. This was originally published as a proposed rule on March 27, 1978.	No	No	Final Rule February 1980.	Clark Bavin, 343–9242.
50 CFR Part 17	Endangered and Threatened Wildlife and Plants.	To revise import/export procedures, permit requirements and enforcement of some special rules.	No	No	Proposed Rule February 1980.	Richard Parsons, 703–235–1937.
		To revise self-defense rules to conform to the Endangered Special Act Amendments of 1978.	No	No		Clark Bavin, 343–9242.
50 CFR Part 18	Marine Mammals	To revise permit application information requirements, issuance criteria, and reporting requirements.	No	No	Proposed Rule February 1980.	Richard Parsons, 703–235–1937.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
		U.S. Fish and Wildlife Service				
50 CFR Part 20, Subpart M	Migratory Bird Hunting	To revoke those rules pertaining to the establishment of certain wildlife development areas. A proposed rule was published on July 11, 1979.	No	No	Final Rule February 1980.	Clark Bavin, 343-9242.
50 CFR Part 20, Subpart C	Migratory Bird Hunting	To revise rules to allow paraplegics to take game from stationary motor vehicles (§ 20.21). A proposed rule was published on February 15, 1979.	No	No	Final Rule February 1980.	Clark Bavin, 343-9242.
50 CFR Part 21	Migratory Bird Permits	To except certain species from permit requirements and issuance criteria.	No	No		Clark Bavin, 343-9242.
		To revise permit application requirements and issuance criteria.	No	No	Proposed Rule March 1980.	Richard Parsons, 703-235-1937.
50 CFR Part 23	Endangered Species Convention	To incorporate recommendations of the parties to the Convention.	No	No	Proposed Rule February 1980.	Richard Parsons, 703-235-1937.
50 CFR Part 107	Mining and Mining Claims in Alaska National Wildlife Monuments.	To establish management regulations governing mining in Yukon Flats and Becharof National Wildlife Monuments. This was published as a proposed rule on January 11, 1980.	No	No		Byron Swift, 343-2172. Keith Schreiner, 1011 E. Tudor Rd., Anchorage, AK 99507, 907-276-3800.
		Heritage Conservation and Recreation Service, 440 G Street NW., Washington, D.C. 20243 (Area Code 202)				
36 CFR Part 1212	National Natural Landmarks Program.	To publish as a final rule to formalize the Secretary's procedures and criteria for designating National Natural Landmarks. An Interim rule was published on November 20, 1979.	No	No		Wayne Strum, 343-4243. Jim Orr, 343-4243.
36 CFR Part 1227	Federal Recreation Fees	To publish proposed amendment which would allow the Department of Interior land-managing agencies to establish recreation fees, primarily emphasizing that such fees be comparable with other Federal and non-Federal public agencies providing similar services and facilities.	No	No	Proposed Rule Jan. 21, 1980. Final Rule June 1980.	Jim Cook, 343-7665.
43 CFR Part 3	Preservation of American Antiquities, Definition of "Object".	To publish final rule for the definition of antiquity as used in the Antiquities Act of 1906 (Pub. L. 59-209). A proposed rule was published in the FEDERAL REGISTER on April 10, 1978.	No	No	February 1980	Roy W. Reaves, III, 343-7105.
36 CFR Part 1215	Archeological Resources Protection Act of 1979.	To publish rules to implement the new Archeological Resources Protection Act (Pub. L. 96-95). The determination of significance and the decision on preparation of a regulatory analysis have not been made at this time.			March 1980	Roy W. Reaves, III, 343-7105.
		National Park Service				
36 CFR Part 6	Foreign Currency	The Service is developing a comprehensive policy concerning the acceptance of foreign currency which will be implemented in the form of regulations.	No	No		Harry Delashmutt, 343-4874.
36 CFR Part 7	Special Regulations of the National Park Service.	Proposed rules which address particular problems in individual parks will be published. The number and frequency of these regulations cannot be determined at this time.	No	No		Michael Finley, 343-5607.
36 CFR Part 7	Protection of Whales	The Service is developing regulations necessary to protect the whales within Glacier Bay National Monument, Alaska (§ 7.23).	No	No		Michael Finley, 343-5607.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
National Park Service—Continued						
36 CFR Part 14	Rights-of-way and Easement Regulations.	Current regulations governing rights-of-way and easements found in 43 CFR Part 2800 are being revoked by the Bureau of Land Management. The Service has determined that it is necessary to develop a set of regulations specifically tailored to the needs of the Service.	No	No		Al Veiti, 343-4874.
Office of Surface Mining Reclamation and Enforcement						
30 CFR Part 211	State—Federal Cooperative Agreements.	Implement State-Federal Cooperative Agreement Initial Regulatory Program on Federal Lands in Colorado and New Mexico.	No	No	Proposed Rule January 1980.	Don Maurer, 343-5335.
30 CFR Part 700	General	Clarify the definition of "Surface Coal Mining Operations".	No	No	Proposed Rule January 1980.	Carl Pavetto, 343-5365.
30 CFR Part 701	Permanant Regulatory Program	To remove the discretion of the Regulatory Authority to grant an exemption for pre-existing, non-conforming structures.	No	No		David Maneval, 343-4264.
30 CFR Part 715	General Performance	To clarify the requirements pertaining to "Multiple Seam Mining".	No	No		David Maneval, 343-4264.
30 CFR Part 715	General Performance	To provide consistency in the guidelines on Finger Ridges pertaining to §§ 715.11, 716.2, 826.16 and 816.102-105.	No	No		David Maneval, 343-4264.
30 CFR Part 715	General Performance	To clarify the requirements pertaining to "Spoil on Lower Bench".	No	No		David Maneval, 343-4264.
30 CFR Part 715	General Performance	Suspend portions of existing sedimentation pond regulations. Propose revised effluent standards, rainfall exemptions and design requirements. Coordinate with corresponding Environmental Protection Agency (EPA) rulemaking. The determination of significance and Regulatory Analysis has not yet been determined.			Notice of Intent to Propose Rulemaking was published: Dec. 31, 1979. Proposed Rule March 1980.	David Maneval, 343-4264.
30 CFR Part 716	Special Performance Standards	Provide for interim program variances to return land mined in steep slope areas to the approximate original contour. Standards found in 30 CFR 716.2.	No	No	Proposed Rule Oct. 24, 1979. Final Rule February 1980.	Richard Robinson, 343-8061.
30 CFR Part 716	Special Performance Standards	To amend Anthracite coal interim regulations to include underground mining. Relates to section 30 CFR 716.5.	No	No	Proposed Rule April 1980.	David Maneval, 343-4264.
30 CFR Part 741	Permits	Establish permit fee schedule for Federal Lands.	No	No		Mel Schilling, 343-5335.
30 CFR Part 741	Permits	Establish schedule for Director's action on Federal Lands permit application.	No	No		Mel Schilling, 343-5335.
30 CFR Part 742	Bonds and Liability Insurance of Federal Lands.	Establish form of performance bond on Federal Lands.	No	No		Mel Schilling, 343-5335.
30 CFR Part 745	State—Federal Cooperative Agreements.	Implement State-Federal Cooperative Agreements for Permanant Regulatory Program of Federal lands.	No	No		Don Maurer, 343-5335.
30 CFR Part 761	Definition of Public Road	To Achieve consistency with the Secretary of The Interior's definition.	No	No	Proposed Rule February 1980.	Carl Close, 343-4225.
30 CFR Part 761	Valid Existing Rights	To allow state case law to be used for interpretation of documents relied upon to establish valid existing rights as found in CFR 761.5(c).	No	No	Proposed Rule February 1980.	Carl Close, 343-4225.
30 CFR Part 761	Areas Where Mining is Prohibited or Limited.	Elimination of "eligible" properties and private properties from those to be inlcuded as related to 30 CFR 761.11(c) and 30 CFR 761.12 (f).	No	No	Proposed Rule March 1980.	Bernadine Thompson, 343-5361.
30 CFR Part 761	Waivers	Clarify interpretation of waiver requirements as related to 30 CFR 716.12(e).	No	No	Proposed Rule February 1980.	Carl Close, 343-4225.
30 CFR Part 770	Coordination of NPDES Permit Requirements with SMCRA Regulations.	To coordinate Surface Mining permits with requirements of NPDES permitting procedures.	No	No	Proposed Rule April 1980.	David Maneval, 343-4264.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Office of Surface Mining Reclamation and Enforcement—Continued						
30 CFR Parts 779, 783	Prime Farmland Investigation	To clarify the criteria as related to 30 CFR 779.27 and 30 CFR 783.27.	No	No	Proposed Rule April 1980.	Leroy DeMoulin, 343-2184.
30 CFR Part 783	Geology Description	Narrow application of requirement pertaining to 30 CFR 783.14.	No	No	Proposed Rule April 1980.	Chuan Y. Chen, 343-5244.
30 CFR Parts 783, 784, 817	Land Use Information	To allow operator to apply through the permit revision or renewal procedures of 30 CFR 78.12-15 for approval of alternative post-mining land use if original permit demonstrates land will be returned to pre-mining land use capability (As required by 30 CFR 817.133(a)).	No	No	Proposed Rule April 1980.	Charles Meyers, 343-2184.
30 CFR Part 785	Prime Farmlands	To change grandfather exemption from otherwise applicable prime farmland requirements (30 CFR 785.17(a)) and to reconsider and repropose regulations so guideline is established for compaction of replaced soil horizons on prime farmlands (30 CFR 785.17(b)(3)).	No	No	Proposed Rule April 1980.	Edward Johnson, 343-5261.
30 CFR Part 786	Definition of Irreparable Damage	To redefine original definition as related to 30 CFR 786.5.	No	No	Proposed Rule February 1980.	Carl Pavetto, 343-5365.
30 CFR Parts 816, 817	Water Quality Guidelines	Provide guidance to inspectors on water sampling procedures pertaining to 30 CFR 816.42 and 30 CFR 817.42.	No	No	March 1980	David Short, OSM Region II, 530 Gay Street, Suite 500, Knoxville, TN 37902, 615-637-8060.
30 CFR Parts 816, 817	Subdrainage System for Coal Processing Waste Banks.	To provide exemption from underdrain requirement if the operator can demonstrate alternative will ensure structural integrity of the waste bank and protect water quality.	No	No	Proposed Rule April 1980.	Ray Aufmuth, 343-4022.
30 CFR Parts 816, 817	Treatment of Toxic Materials	To achieve consistency through rules (30 CFR 816.103 and 30 CFR 817.103) to provide for treatment as an alternative to covering toxic wastes.	No	No	Proposed Rule February 1980.	David Maneval, 343-4264.
30 CFR Part 817	Monitoring Ground Water	To eliminate the requirement of monitoring recharge capacity for underground mining.	No	No	Proposed Rule April 1980.	Don Willen, 343-9105.
30 CFR Part 817	Revegetation Standards for Success.	To provide that certain performance standards may be used as alternatives to measure revegetation success for permit areas of 40 acres or less in locations with annual precipitation of more than 26 inches.	No	No	Proposed Rule April 1980.	Arlo Dalrymple, 343-8032.
30 CFR Part 700	Two Acre Exemption	Clarify The Two Acre Definition	No	No	Proposed Rule February 1980. Final Rule April 1980.	Carl Pavetto, 343-5365.
30 CFR Parts 900-999	State Program	Implement Section 504(a) of SMCRA (For States that do not submit or obtain approval)* Issue paper under consideration for codification of Federal Programs.	No	No	March 1980-July 1980.	Bernadine Thompson, 343-5361.
30 CFR Part 816	Sedimentation Ponds	To clarify and further define the requirements of 30 CFR 816.46 and 30 CFR 817.46.	No	No	Final Rule March 1980.	Bill Thomas, OSM Region II, 530 Gay Street, Suite 500, Knoxville, TN 37902, 615-637-8060.
Office of Water and Power Resources Service						
30 CFR Part 429	Sale of Replacement Farms	This Part has been scheduled for review. The determination of significance and decision on preparation of a regulatory analysis will be made if it is determined that revision is necessary.				T. G. Cooper, 343-5204.
Bureau of Land Management						
43 CFR Parts 4 and 1840	Procedure for handling review of wilderness inventory decisions.	Revise appeal procedure to include new procedures for specialized wilderness decisions.	No	No		Robert Lund, 343-6064. George Hollis, 343-8735.
43 CFR Part 2400	Land Classification	Review existing regulations to determine if they are current. The determination of significance and the decision on preparation of a regulatory analysis will be made if it is determined that revision is necessary.				Keith Corrigal, 343-8731. Robert C. Bruce, 343-8735.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Bureau of Land Management—Continued						
43 CFR Part 2650	Alaska Native Selections—Miscellaneous Amendments.	Develop regulations to speed up the granting of miscellaneous selection process.	No	No	Proposed Rule March 1980.	Beaumont McClure, 343-6511. Robert C. Bruce, 343-8735.
43 CFR Part 3040	Environment and Safety—Oil and Gas Geophysical Exploration.	Develop regulations to manage oil and gas geophysical operations on the public lands.	No	No	Proposed Rule June 1980.	Doris Koivula, 343-7753. George Hollis, 343-8735.
43 CFR Part 3100	Oil and Gas Leasing—Simultaneous Leasing Procedures Amendments.	Develop amendments to the simultaneous drawing procedures to remove abuses from system. This was published as a proposed rule on September 28, 1979.	No	No	Final Rule June 1980.	Charles Weller, 343-7753. Robert C. Bruce, 343-8735.
43 CFR Part 3100	Oil and Gas Leasing—Simultaneous Leasing redrawing Procedures.	Develop amendments to the simultaneous drawing procedures to covering redrawings. This was published as a proposed rule on October 10, 1979.	No	No	Final Rule March 1980.	Dale Zimmerman, 343-2718. Robert C. Bruce, 343-8735.
43 CFR Subpart 3211	Bureau Motion—Land Previously Leased for Geothermal Resources.	Develop amendment to non-competitive Geothermal leasing procedure to expedite leasing of lands.	No	No	Proposed Rule June 1980.	Doris Koivula, 343-7753. Cecil Feeney, 343-8735.
43 CFR Subpart 3503	Fees, Rentals and Royalties	Develop minimum royalty regulations for potassium, sodium, sulphur and phosphate. This was published as a proposed rule on March 3, 1979.	No	No	Final Rule June 1980.	Dave Carty, 343-7763. Cecil Feeney, 343-8735.
43 CFR Part 3600	Mineral Material Disposals	Review regulations to develop new procedures for the disposal of mineral material.	No	No	Proposed Rule June 1980.	Robert Anderson, 343-7733. George Hollis, 343-8735.
43 CFR Part 8340	Off-Road Vehicles	Amend regulations to clarify area questioned by users.	No	No	Proposed Rule January 1980.	Larry Young, 343-9353. Cecil Feeney, 343-8735.
43 CFR Part 8350	Management Areas	Develop regulations covering enforcement of management decisions in Wild River areas.	No	No	Proposed Rule February 1980.	Larry Young, 343-9353. Robert C. Bruce, 343-8735.
43 CFR Part 8370	Use Authorizations	Develop regulations covering fees for use of recreation areas under Bureau of Land Management jurisdiction.	No	No	Final Rule June 1980.	Larry Young, 343-9353. Cecil Feeney, 343-8735.
43 CFR Part 9230	Trespass	Review existing regulations as they apply to trespass on coal for needed improvement. A Notice of Intent to propose rulemaking was published on October 22, 1979.	No	No		Walter Rewinski, 343-6821. Robert C. Bruce, 343-8735.
43 CFR Part 3500	Leasing of Minerals other than Oil and Gas; General.	Amend regulations to clarify definitions.	No	No	Proposed Rule May 1980.	Dave Carty, 343-7753. George Hollis, 343-8735.
Bureau of Indian Affairs						
25 CFR Part 60	Use of distribution of Indian Judgment Funds.	Will be rewritten to reflect anticipated amendments to Indian Judgment Funds Act of October 19, 1973, 87 Stat. 466, Pub. L. 93-134. Prinicpal amendment would affect time period for submittal of Secretarial plans to the Congress.	No	No		Stephen E. Feraca; 343-4623.
25 CFR Part 43	Enrollment Regulations	Enrollment regulations are in compliance with the judgment funds plans and the Act of October 19, 1973 (87 Stat. 446) Public Law 93-134. Judgment fund plans to be published for:.				
		Caddo, Docket 226 and Ft. Sill Apache, Dockets 182 & 182A.	No	No	April 1980	Mitchell L. Bush, 703-235-8275.
		Goshute, Docket 326 B & J and Kickapoo, Docket 315 & 338.	No	No	May 1980	Mitchell L. Bush, 703-235-8275.
		Yankton Sioux, Docket 332-C-1.	No	No	June 1980	Mitchell L. Bush, 703-235-8275.
25 CFR Part 31c	Procedures and Practices	To codify procedures required by Public Law 95-561.	No	No	Proposed Rule June 1980.	Elizabeth Holmgren, 343-3151.
25 CFR Part 31f	Educational Standards	To codify standards mandated in Public Law 95-561.	No	No	Proposed Rule May 1980.	Elizabeth Holmgren, 343-3151.
25 CFR Part 31e	Dormitory Standards	To codify standards mandated in Public Law 95-561.	No	No	Proposed Rule May 1980.	Elizabeth Holmgren, 343-3151.
25 CFR	Aid to Federally Impacted Areas	To implement amendments to Public Law 81-874 contained in Public Law 95-561 which require establishment of procedures for Indian tribes to follow when conflicts arise between a tribe and a public school district as to the expenditure of impact aid funds for Indian Students in that district. As of this date a part number has not been assigned..	No	No	Proposed Rule March 1980.	Elizabeth Holmgren, 343-3151.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Bureau of Indian Affairs—Continued						
25 CFR	Post-Secondary Schools	To provide for the complimentary administration of secondary schools in accordance with the provisions of Public Law 95–561. As of this date a part number has not been assigned.	No	No	Proposed Rule January 1980.	Leroy Falling, 343–7387.
25 CFR 32	Higher Education Applications for Educational Loans, Grants and Working Scholarships.	To develop new grant regulations in cooperation with the grant programs administered by the Department of Education..	No	No	Proposed Rule January 1980.	Leroy Falling, 343–7387.

Status of Rules Previously Scheduled for Review or Development

Review Period	CFR citation	Subject	Status	Knowledgeable official
Office of Inspector General				
1/79–6/79	43 CFR Part 20	Employee Responsibilities and Conduct.	Expected date as a proposed rule is in January 1980. Delays were made to incorporate recent GAO and Office of Government Ethics recommendations.	Gabriele J. Paone, 343–3932.
1/79–6/79	43 CFR Part 7	Employees: Interest in Lands and Resources.	Revision is deferred pending legal determination for need to change this part.	Gabriele J. Paone, 343–3932.
Office of the Solicitor				
1/79–6/79	41 CFR Part 14R–9	Inventions and patents: Data	This was published as a proposed rule on July 5, 1979. A final rule should be published in April 1980.	Gersten Sadowsky, 343–4471.
5/78–12/78	43 CFR Part 1	Practices Before the Department of the Interior.	Revision of this Part is deferred pending revision of 43 CFR Part 20 by the Office of Inspector General.	John D. Trezise, 343–5216.
Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203 (Area Code 703)				
1/79–6/79	43 CFR Part 4, Subpart B	General Rules Relating to Procedures and Practice.	General rules are under development for inclusion in each of the several Subparts of 43 CFR Part 4; and when this has been accomplished, Subpart B will be removed from the CFR.	Sara Russell, 557–9200.
1/79–6/79	43 CFR Part 4, Subpart C	Special Rules Applicable to Contract Appeals.	Final rule should be published in Spring 1980, to amend and update procedural rules to conform to provisions of the Contract Disputes Act of 1978, and generally to conform with the procedural rules recommended by the Office of Federal Procurement Policy for Boards of Contract Appeals in the Federal Government.	David Doane, 557–1450.
1/79–6/79	43 CFR Part 4, Subpart D	Special Rules Applicable to Proceedings in Indian Probate, Including Hearings and Appeals; Tribal Purchase of Interests Under Special Statutes, Including Hearings and Appeals; and Administrative Appeals in Indian Affairs Generally.	Proposed rule was published on October 9, 1979 (44 FR 57948). Comment period was extended to January 24, 1980 (44 FR 68870, November 30, 1979). Final rule should be published by June 1980.	Sara Russell, 557–9200.
1/79–6/79	43 CFR Part 4, Subpart E	Special Rules Applicable to Public Land Hearings and Appeals.	Review is continuing on proposed rules. Proposed rules should be published in June 1980.	James Burski, 557–9040.
7/79–12/79	43 CFR Part 4, Subpart G	Special Rules Applicable to Other Appeals and Hearings.	Review is continuing on proposed clarification, simplification, and updating of existing rules and providing additional rules for appeals not within the appellate review jurisdiction of established appeals boards of the Office.	Kathryn Russell, 557–9037.
1/79–6/79	43 CFR Part 4, Subpart J	Special Rules Applicable to the Alaska Native Claims Settlement Act Hearings and Appeals.	Proposed rule was published on February 8, 1979 (44 FR 7983). Final rule should be published by July 1980.	Judith M. Brady, Chairman, Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99051, 907–265–5356.
5/78–12/78	43 CFR Part 4, Subpart L	Special Rules Applicable to Surface Coal Mining Hearings and Appeals.	Proposed rules are under development and should be published in June 1980 to add sections to govern hearings and appeals procedures provided for in the permanent regulatory program regulations (44 FR 15311, March 13, 1979).	Bruce Harris, 557–9037
7/79–12/79	43 CFR Part 4, Subpart M	Special Rules Applicable to Fish and Wildlife Civil Penalty Proceedings.	Review is continuing on proposed rules. Proposed rules should be published in June 1980.	James Burski, 557–9040.
Office of Youth Programs				
7/79–12/79	43 CFR Part 32	Young Adult Conservation Corps (YACC) State Grant Program.	Revision of this Part has been deferred pending final publication of Department of Labor regulations in 20 CFR 675–685.	Doyle Hughes, 343–4148.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Office for Equal Opportunity						
1/79-6/79	43 CFR Part 17, Subpart C	Nondiscrimination on the Basis of Age.	This was published as a proposed rule on January 3, 1980.			James Poole, 343-4331.
1/79-6/79	43 CFR Part 17, Subpart B	Nondiscrimination on the Basis of Handicap.	The advance notice of proposed rulemaking was published on April 13, 1979. The proposed rule will be published in January 1980.			James Poole, 343-4331.
1/79-6/79	43 CFR Part 34	Nondiscrimination in Activities Conducted Under and Authorized by Pub. L. 94-566, Alaska Gas Pipeline.	The proposed rule was published on October 12, 1979. The final rule should be published in February 1980.			Edward Shelton, 343-5693.
U.S. Fish and Wildlife Service						
5/78-12/78	50 CFR Part 18, Subpart C	Marine Mammal—General Exceptions.	The Service has determined that revisions are not needed at this time.			Clark Bavin 343-9242
5/78-12/78	50 CFR Part 17	Endangered and Threatened Wildlife and Plants.	Final rule published on September 21, 1979, to lessen paperwork burden for members of the public engaged in captive wildlife propagation.			Richard Parsons, 703-235-1937.
5/78-12/78	50 CFR Part 21	Migratory Bird Permits	Regulations for raptor propagation permits are currently being developed and a proposed rule should be published in early 1980.			Clark Bavin, 343-9242.
5/78-12/78	50 CFR Part 22	Eagle Permits	A proposed rule was published on January 3, 1980 ..			Clark Bavin, 343-9242.
5/78-12/78	50 CFR Part 25	National Wildlife Refuge System—Administrative Provisions.	Final rule to be published in February 1980			Ronald Fowler, 343-4305.
1/79-6/79	50 CFR Part 17	Marine Mammals—Manatee Protection Areas.	A final rule was published on October 22, 1979			Clark Bavin, 343-9242.
1/79-6/79	50 CFR Part 26	National Wildlife Refuge System—Public Entry and Use.	A final rule reflecting administrative changes was published on July 23, 1979.			Marcus Nelson, 343-4791.
1/79-6/79	50 CFR Part 32	Hunting on National Wildlife Refuge Areas.	A final rule reflecting administrative changes was published on July 23, 1979.			Marcus Nelson, 343-4791.
1/79-6/79	50 CFR Part 33	Sport Fishing on National Wildlife Refuge Areas.	A final rule reflecting administrative changes was published on July 23, 1979.			Marcus Nelson, 343-4791.
1/79-6/79	50 CFR Part 80	Federal Aid to States in Fish and Wildlife Restoration.	A proposed rule should be published in February 1980.			Charles Phenicie, 703-235-1526.
1/79-6/79	50 CFR Part 20, Subpart K	Annual Season, Limit and Shooting Hour Schedules.	Final rule frameworks for 1979-80 early seasons on certain migratory game birds published on July 24, 1979.			John P. Rogers, 254-3207.
			Supplemental proposed rules for frameworks for 1979-80 late seasons on certain migratory game birds published on August 10, 1979.			John P. Rogers, 254-3207.
			Final rule setting season dates, limits and shooting hours for early season migratory birding hunting published on published on August 20, 1979.			John P. Rogers, 254-3207.
			Final rule frameworks for 1979-80 late seasons on certain migratory game birds published on August 28, 1979.			John P. Rogers, 254-3207.
			Final rule setting season dates, limits and shooting hours for late season migratory game bird hunting published on September 28, 1979.			John P. Rogers, 254-3207.
1/79-6/79	50 CFR Part 410	Fish and Wildlife Coordination Act.	A Notice of Intent to prepare an Environmental Impact Statement was published on August 30, 1979. Further publication of rules is deferred pending preparation of this statement.			R. K. Robinson, 343-7242. T.J. Bond, 343-7242.
7/79-12/79	50 CFR Part 20, Subpart K	Annual Season, Limit and Shooting Hour Schedules.	Final rule establishing non-toxic shot areas for waterfowl hunting for 1979 was published on July 17, 1979.			Robert I. Smith, 254-3207.
			Notice of Intent to develop rules establishing non-toxic shot areas and to propose specific areas for the 1980-81 season should be published in February 1980.			Robert I. Smith, 254-3207.
			Notice of Intent and initial proposal to develop rules estabishing 1980-81 annual seasons, limits and shooting hours schedules for migratory birds should be published in February 1980. The Service has determined that this rule is significant but that it does not require a regulatory analysis.			John P. Rogers, 254-3207.
7/79-12/79	50 CFR Part 17	Endangered and Threatened Wildlife and Plants.	Proposed rule revising listing procedures to ensure compliance with the Endangered Species Act Amendments of 1978 were published on August 15, 1979. A final rule should be published in May 1980.			John Spinks, 703-235-2771.
7/79-12/79	50 CFR Parts 96-106	National Wildlife Monuments	Proposed rule was published on June 28, 1979. A final rule should be published in April 1980.			Clay Hardy, 1101 E. Tudor Road, Anchorage, AK 99507, 907-276-3800.
7/79-12/79	50 CFR Part 402	Endangered Species—Interagency Cooperation.	Proposed rule to revice consultation procedures under § 7 should be published in February 1980. The Service has determined that this is not a significant rule and does not require a regulatory analysis.			John Spinks, 703-235-2771.
Heritage Conservation and Recreation Service, 440 G Street NW., Washington, D.C. 20243 (Area Code 202)						
5/78-12/78	36 CFR Part 61	Criteria for Comprehensive Statewide Historic Surveys and Plans.	To ensure issuance of a comprehensive rule publication has been delayed. Part will be transferred to 36 CFR Part 1201.			Larry E. Aten, 343-6221.
5/78-12/78	43 CFR Part 31	Grants and Allocations for Recreation and Comservation Use of Abandoned Railroad Right-of-Way.	This Part was transferred to 36 CFR Part 1226 on January 3, 1980.			Rowland T. Bowers, 343-7801.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Heritage Conservation and Recreation Service, 440 G Street NW., Washington, D.C. 20243 (Area Code 202)—Continued						
1/79–6/79	36 CFR Part 1205	National Historic Landmarks	An interim rule with request for comments was published on December 18, 1979.			Bill Lebovich, 343–6401.
1/79–6/79	36 CFR Part 1210	Recovery of Scientific, Prehistoric, Historic and Archeological Data: Procedures for Notification, Reporting and Data Recovery.	Exigencies precluded review and publication of this regulation. Publication and transfer from 36 CFR Part 66 scheduled for March 1980.			Roy W. Reaves, III, 343–7105.
1/79–6/79	36 CFR Part 1228 Appendicies A&B.	Urban Park and Recreation Recovery Program Criteria for Eligibility and List of Eligible Jurisdictions.	Final rule published in FEDERAL REGISTER on Oct. 9, 1979.			Sam L. Hall, 343–5971.
1/79–6/79	36 CFR Part 1228 Subpart B	Urban Park and Recreation Recovery Program Local Recovery Action Program.	Interim rule published in FEDERAL REGISTER on July 5, 1979. A final rule should be published in May 1980.			Sam L. Hall, 343–5971.
1/79–6/79	36 CFR Part 1228, Subparts A, C & D.	Urban Park and Recreation Recovery Program Grants Procedures.	Interim rule published in FEDERAL REGISTER on August 9, 1979. Final rule expected to be published in March 1980.			Sam L. Hall, 343–5971.
1/79–6/79	36 CFR Part 1230	Land and Water Conservation Fund State Assistance Program.	Draft of proposed rule in review process. Expected date of publication moved to February 1980.			Rowland T. Bowers, 343–7801.
7/79–12/79	36 CFR Part 1202	National Register of Historic Places.	Published Interim amendment of rule and transferred rule from 36 CFR Part 60, Chapter 1 on November 7, 1979. Publication of final amendments to rule expected by June 1980.			Carol Shull, 343–6401.
7/79–12/79	36 CFR Part 1204	Determinations of Eligibility for Inclusion in the National Register of Historic Places.	Publication of interim rule as final rule with editorial corrections and transfer from 36 CFR Part 63 moved to June 1980 to permit adequate agency review.			Ray Luce, 343–6401.
7/79–12/79	36 CFR Part 1206	Historic Preservation Fund Grants Administration Procedures.	To provide for adequate agency review publication of Notice of Intent to provide a general presentation on the Historic Preservation Fund Grants Administration Procedures is moved to March 1980.			Stephen Newman, 343–4941.
7/79–12/79	36 CFR Part 1208	Historic Preservation Certifications Pursuant to the Tax Reform Act of 1976.	Publication to change existing regulations because of technical corrections in the Revenue Act of 1978 and to transfer from 36 CFR Part 67 moved to June 1980 to permit adequate review.			Sally Oldham, 343–6401. H. Ward Jandl, 343–6384.
7/79–12/79	36 CFR Part 1213	Procedures for the Identification and Protection of Archeological, Historic and Scientific Properties.	Proposed rule published in FEDERAL REGISTER on August 2, 1979. Publication of final rule expected in February 1980.			Roy W. Reaves III, 343–7105.
National Park Service						
5/78–12/78	36 CFR Parts 1–4	Miscellaneous provisions, public use and recreation, boating, vehicle and traffic safety.	Proposed revisions were reviewed and scheduled for publication as proposed rules during the Spring of 1980.			Michael Finley, 343–5607.
5/78–12/78	36 CFR Part 3	Boating	This Part has been rescheduled for revision by Fall of 1980.			Harry Delashmutt, 343–5607.
5/78–12/78	36 CFR Part 5	Commercial and Private Operations.	Revisions to this Part have been deferred for approximately six months.			Don Roush, 523–1714.
6/79–12/79	36 CFR Part 7	Special Regulations of the National Park Service.	New rules for Fishery Management at Everglades National Park published on September 14, 1979.			Michael Finley, 343–5607.
6/79–12/79	36 CFR Part 13	Alaska National Monuments	Proposed rules were published on June 28, 1979, for public use and recreation, subsistence and special Alaska provisions. Final rules will be published in Spring 1980.			Michael Finley, 343–5607.
6/79–12/79	36 CFR Part 50	National Capital Parks	An interim rule with request for comments on the sale and distribution of printed matter were published on October 3, 1979. (§ 50.24).			Rick Robbins, 343–4338.
			A revision of rules for demonstration activities should be published in the Spring 1980.			Rick Robbins, 343–4338.
6/79–12/79	36 CFR Part 51	Concession Contracts and Permits.	This was published as a final rule on November 11, 1979. (This was previously scheduled as 36 CFR 14).			Don Roush, 523–1741.
6/79–12/79	36 CFR Parts 1–4	Miscellaneous provisions, public use and recreation, boating and vehicles and traffic safety.	Special amendments to existing rules are proposed to comply with revised Service policy and to reduce the number of special regulations contained in 36 CFR Part 7. Proposed rules should be published in the Spring 1980.			Michael Finley, 343–5607.
Bureau of Mines, 2401 E Street NW., Washington, D.C. 20241 (Area Code 202)						
1/79–6/79	30 CFR Part 601	Sales of Helium by and Rental of Containers from Bureau of Mines.	Revised Fee Schedule and Amendment published as a Final rule on December 5, 1979 (44 FR 69927).			Ray D. Munnerlyn, 634–4734.
Geological Survey, National Center, Reston, VA 22092 (Area Code 703)						
5/78–12/78	30 CFR Part 221	Oil and Gas Operating Regulations.	A revision of 30 CFR 221.53–56 should be published as a proposed rule in June 1980.			Eddie Wyatt, 860–7636.
5/78–12/78	30 CFR Part 211	Coal Mining Regulations	A proposed rule should be published in February 1980.			Tom Leshendok, 860–7506.
5/78–12/78	30 CFR Part 250	Oil and Gas and Sulfur Operations on the Outer Continental Shelf.	30 CFR 250.34 was published as a final rule on September 14, 1979.			Gerald Rhodes, 860–7531.
			30 CFR 250.1–33 and 35–56 and 58–96 were published as final rules on October 26, 1979.			Gerald Rhodes, 860–7531.
			30 CFR 250.57 will be published as a final rule in February 1980.			John Goll, 860–7136.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
National Park Service—Continued						
1/79-6/79	30 CFR Part 241	Leasing and Acquisition of Water Wells.	A proposed rule will be published in June 1980			Charles Soura, 860-7521.
1/79-6/79	30 CFR Part 251	G & G Exploration of the Outer Continental Shelf.	A final rule will be published in February 1980			Gordon Burton, 860-7564.
1/79-6/79	30 CFR Part 252	Oil and Gas Information	A final rule was published on August 7, 1979			Gerald Rhodes, 860-7531.
Office of Surface Mining Reclamation and Enforcement						
7/79-1/79	30 CFR Part 705	Definition of Employee	Proposed rule published on September 6, 1979. Public Hearings held on September 25, 1979. Final rule Scheduled for publication in January 1980.			Art Abbs, 343-5351.
1/79-6/79	30 CFR Part 875	Abandoned Mine Land Performance Standards.	The Secretary decided on July 27, 1979 not to publish these standards as rules, but as guidelines. The proposed guidelines were published on November 6, 1979. Final guidelines are scheduled for publication in February 1980.			Richard Nalbandian, 343-4057.
7/79-12/79	30 CFR Part 723	Civil Penalties	Conform interim regulations to permanent regulations and adjust penalties in certain cases. Proposed rules will be published in January 1980. Final rules are anticipated to be published in March 1980..			Richard Robinson, 343-8061.
7/79-12/79	30 CFR Part 722	Enforcement Procedures	Minor adjustments in enforcement procedures (minesite review and service of notices and orders). Proposed rule published August 20, 1979. Final rule scheduled for January 11, 1980..			Richard Robinson, 343-8061.
7/79-12/79	30 CFR Part 850	Blasting Programs	To repropose blasting programs for blasters and members of blasting crews and certification programs for blasters. Proposed rules were published on June 29, 1979. Final rules to be published in January 1980..			David Maneval, 343-4264.
7/79-12/79	30 CFR Part 716	Prime Farmlands	To repropose prime farmlands regulations to replace those portions of the initial prime farmlands regulations which the court enjoined and remanded. Proposed rules were published on June 11, 1979. Final rules to be published in January 1980.			David Maneval, 343-4264.
7/79-12/79	30 CFR Part 770	Permit Requirements	A memorandum of understanding (MOU) between the Office of Surface Mining and the Environmental Protection Agency is being written to incorporate the NPDES (National Pollution Discharge Elimination System) permit requirements. The MOU itself will not be a rule, but the results of the final MOU will initiate rulemaking procedures to implement the agreed upon permit requirements. On September 6, 1979 the Department determined that this action was not a significant rule and did not require a regulatory analysis. Proposed MOU published on September 25, 1979. Final MOU to be published in April 1980.			David Maneval, 343-4264.
7/79-12/79	30 CFR Subchapter J	Bonding	The Department has determined that this amendment to this part of the regulation is not significant and does not require a regulatory analysis. Proposed rule scheduled for January 1980. Final rule to be published in April 1980.			David Maneval, 343-4264.
Water and Power Resources Service						
1/79-6/79	43 CFR Part 21	Cabin Sites	The Service has determined that this Part needs to be updated. The determination of significance and decision on preparation of a regulatory analysis have not been made at this time.			L. D. Williamson, 343-5204.
1/79-6/79	43 CFR Part 401	Entry on Reclamation Lands	The Service determined that this Part was no longer applicable and therefore it was removed from the CFR on January 9, 1980.			T. G. Cooper, 343-5204.
1/79-6/79	43 CFR Part 403	Unproductive Land	Minor corrections were made to this Part which were published on January 9, 1980.			T. G. Cooper, 343-5204.
1/79-6/79	43 CFR Part 406	Exchange/Amendment of Farm Units.	Minor corrections were made to this Part which were published on January 9, 1980.			T. G. Cooper, 343-5204.
Office of Water Research and Technology						
5/78-12/78	18 CFR Chapter IV	Office of Water Resources Research, Department of Interior.	The Department has determined that these regulations are no longer applicable. They will be removed from the CFR by March 1980.			F. W. Koop, 343-4607. George Cassaday, 343-4607.
Bureau of Land Management						
5/78-12/78	43 CFR Group 2900	Land use, occupancy and development.	Proposed rulemaking should be published in Spring 1980, Final rulemaking in summer 1980.			Ralph Conrad, 343-8731. Robert C. Bruce, 343-8735.
5/78-12/78	43 CFR Group 2700	Land disposals (sales)	Proposed rulemaking published on October 26, 1979, Final rulemaking should be published in summer 1980.			Stephen Spector, 343-8731. Robert C. Bruce, 343-8735.
1/79-6/79	43 CFR Group 1600	Planning, programming and budgeting.	Final rulemaking published on August 7, 1979			Robert Jones, 343-5682. Robert C. Bruce, 343-8735.
1/79-6/79	43 CFR Part 1700	Advisory Boards	Proposed rulemaking published on October 1, 1979. Final rulemaking should be published early in 1980.			Lee Latala, 343-5629. Cecil Feeney, 343-8735.
1/79-6/79	43 CFR Part 2200	Exchanges of public lands	Notice of Intent to propose rulemaking published on August 2, 1979, Proposed rulemaking should be published early in 1980, with final rulemaking published in summer of 1980.			David Hemstreet, 343-8731. Robert C. Bruce, 343-8735.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Bureau of Land Management—Continued						
1/79–6/79	43 CFR Part 2300	Withdrawal of public lands	Proposed rulemaking published on December 4, 1979. Final rulemaking should be published in summer of 1980.			Keith Corrigal, 343–8731. Robert C. Bruce, 343–8735.
1/79–6/79	43 CFR Parts 2540, 2740 and 9160.	Color-of-title and Omitted lands	Final rulemaking published on July 18, 1979			Stephen Spector, 343–8731. Robert C. Bruce, 343–8735.
1/79–6/79	43 CFR Part 2610	Carey Act grants	Final rulemaking awaiting action by Supreme Court on suit on issue.			Keith Corrigal, 343–8731. Robert C. Bruce, 343–8735.
1/79–6/79	43 CFR Part 2740	Recreation and Public Purposes Act.	Final rulemaking published July 25, 1979			Stephen Spector, 343–8731. Robert C. Bruce, 343–8735.
1/79–6/79	43 CFR Part 2800	Rights-of-way; principles and Procedure.	Proposed rulemaking published on October 9, 1979. Final rulemaking should be published in Summer 1980.			Robert Mollohan, 343–5537. Robert C. Bruce, 343–8735.
1/79–6/79	43 CFR Part 3802	Surface protection—wilderness	Final rulemaking should be published in January 1980.			Robert Anderson, 343–7733. Robert C. Bruce, 343–8735.
1/79–6/79	43 CFR Part 3809	Surface management of unpatented mining claims located on public lands.	Second proposed rulemaking should be published early in 1980.			Robert Anderson, 343–7733. Robert C. Bruce, 343–8735.
1/79–6/79	43 CFR Part 4100	Amendments to the Grazing Administration and Trespass regulations.	Proposed rulemaking published on July 30, 1979			David Little, 343–6011. Cecil Feeney, 343–8735.
1/79–6/79	43 CFR Part 3400	Coal Management	Final rulemaking published on July 19, 1979			Don Mitchell, 343–4537. Robert C. Bruce, 343–8735.
7/79–12/79	43 CFR Subpart 1881	Payments in Lieu of Taxes	Proposed rulemaking being drafted, should be published early in 1980, with final rulemaking in summer 1980.			Edward P. Greenberg, 343–3607. George Hollis, 343–8735.
7/79–12/79	43 CFR Part 2650	Alaska Native Selections Federal Installations.	Proposed rulemaking published on September 18, 1979, final rulemaking should be published early in 1980.			Beaumont McClure, 343–6511. Robert C. Bruce, 343–8735.
7/79–12/79	43 CFR Part 3300	Outer Continental Shelf Minerals and rights-of-way management.	Final rulemaking published June 29, 1979			William Quinn, 343–8457. Robert C. Bruce, 343–8735.
7/79–12/79	43 CFR Part 3500	Leasing of Minerals other than Oil and Gas.	Revision study continuing, with proposed rulemaking to be published in June 1980.			David M. Carty, 343–7763. Cecil Feeney, 343–8735.
7/79–12/79	43 CFR Part 4700	Wild Free Roaming Horses and Burro Protection, Management and Control.	Proposed rulemaking published on April 6, 1979			Robert J. Springer, 343–6011. Cecil Feeney, 343–8735.
7/79–12/79	43 CFR Part 7100	Protection of Endangered Plants	Study of this rulemaking and the extent of its application under review.			Richard J. Verniman, 343–6188. Robert C. Bruce, 343–8735.
Bureau of Indian Affairs						
5/78–12/78	25 CFR Part 161	Rights-of-way over Indian lands	Proposed rule published on July 7, 1978. Final rule will be published in January 1980.			Richard S. McDermott, Palm Springs Area Ofc., 587 S. Palm Canyon Dr., Palm Springs, CA 92262, 714–325–2163.
5/78–12/78	25 CFR Part 104	Individual Indian Money Accounts	The Bureau has determined that this part is current and no revision is necessary.			William Bucholz, 343–2963.
5/78–12/78	25 CFR Part 141	General Forest Contracts	The Bureau has determined that this part is current and no revision is necessary.			George Smith, 343–2336.
5/78–12/78	25 CFR Part 174	Leasing of Restricted Lands of Members of Five Civilized Tribes, Oklahoma for Mining.	The Bureau has determined that this part is current and no revision is necessary.			Tom Riggs, 343–3722.
5/78–12/78	25 CFR Part 274	School Construction Contracts or Services for Tribally Operated previously Private Schools.	Proposed rule published August 23, 1978. Final rule will be published January 1980.			John Carmody, Albuquerque Area Ofc., P.O. Box 1788, Albuquerque, NM, 87103, 505–474–2805.
5/78–12/78	25 CFR Part 277	School Construction Contracts for Public Schools.	Proposed rule published August 23, 1978. Final rule will be published January 1980.			John Carmody, Albuquerque Area Ofc., P.O. Box 1788, Albuquerque, NM, 87103, 505–474–2805.
5/78–12/78	25 CFR Part 105	Deposit of Indian Funds in Banks.	This rule is no longer applicable and will be removed from the CFR by June 1980.			William Bucholz, 343–2963.
5/78–12/78	25 CFR Part 273	Education Contracts under Johnson-O'Malley Act.	Proposed rule should be published by February 1980.			Elizabeth Holmgren, 343–3151.
5/78–12/78	25 CFR Part 34	Vocational Training for Adult Indians.	Proposed rule was published on October 14, 1977. Final rule should be published by April 1980.			Bob Delaware, 703-235-8355.
5/78–12/78	25 CFR Part 171	Leasing of Tribal Lands for mining.	Proposed rule published on April 5, 1978. Final rule will be published in April 1980.			Tom Riggs, 343–3722.
5/78–12/78	25 CFR Part 177, Subpart A	Plans for Prospecting Mining on Indian Mineral lands: Reclamatiorl of Non-mineral resources.	Originally published as proposed rule on April 5, 1978. Final rule now being processed and will be published in April 1980.			Tom Riggs, 343–3722.
1/79–6/79	25 CFR Part 31a	Indian Education Policies	Final rule published October 9, 1979			Elizabeth Holmgren, 343–3151.
1/79–6/79	25 CFR Part 31b	Transfer of Indian Education Functions.	Final rule published October 9, 1979			Elizabeth Holmgren, 343–3151.
1/79–6/79	25 CFR Part 31g	Education Personnel	Final rule published November 8, 1979			Elizabeth Holmgren, 343–3151.
1/79–6/79	25 CFR Part 42	Enrollment Appeals	Proposed rule was published May 30, 1978. New judicial rulings have necessitated publication of a new proposed rule. This will be done by June 1980.			Janet Parks, 703–235–8275.
1/79–6/79	25 CFR Part 20	Financial Assistance and Social Services Program.	The Bureau has determined that this part is current and no revision is necessary.			Ray Butler, 703–235–2756.
1/79–6/79	25 CFR Part 120a	Land Acquisitions	This was published as proposed new regulations on July 26, 1978. Final rulemaking document should be published in February 1980.			Raymond W. Jackson, Phoenix Area Ofc., P.O. Box 7007, Phoenix, AZ 85011, 602–261–4195.
1/79–6/79	25 CFR Part 121	Issuance of Patents in Fee, Certificates of Competency, Removal of Restrictions, and Sale of Certain Indian Lands.	Proposed revision was published on October 5, 1978. Final publication should be made by April 1980.			Wilford Bowker, Portland Area Ofc. P.O. Box 3785, Portland, OR 97208, 509–429–6714.
1/79–6/79	25 CFR Part 182	Oil and Gas Contracts	Proposed rule published April 5, 1977. Final rule being processed and will be published in April 1980.			Tom Riggs, 343–3722.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Bureau of Land Management—Continued						
1/79-6/79	41 CFR Part 14H	Buy Indian Act Contracting	Proposed rule under review. Will be published by June 1980.			Donald F. Asbra, 703-235-8061.
Bureau of Indian Affairs—Continued						
1/79-6/79	25 CFR Part 252	Business Practices on Navajo, Hopi and Zuni Reservations.	Proposed rule was published on October 16, 1979. Publication as Final rule delayed pending receipt of input from tribes.			Rugene Suarez, 343-5786.
1/79-6/79	25 CFR Part 31h	Indian School Equalization Program.	Final rule published October 26, 1979			Elizabeth Holmgren, 343-3151.
1/79-6/79	25 CFR Part 31i	Student Rights and Responsibilities and Due Process Procedures.	Proposed rule published May 22, 1979. Final rule should be published by February 1980.			Elizabeth Holmgren, 343-3151.
1/79-6/79	25 CFR Part 32b	Grants for Tribally Controlled Community Colleges and Navajo Community College.	Final rule published November 21, 1979. This was incorrectly listed in the previous agenda as 25 CFR Part 33.			Elizabeth Holmgren, 343-3151.
1/79-6/79	25 CFR Part 31h	Education of the Exceptional Child in Bureau Schools.	This regulation was listed separately in the previous agenda without a part number. This material has now been incorporated into 25 CFR Part 31h, which was published as a final rule on October 26, 1979.			Dr. Charles G. Cordova, 343-5517.
7/79-12/79	25 CFR Part 131	Leasing and Permitting	Proposed revision was published on October 2, 1976. Final publication should be made by March 1980.			Robert Schoewe, Minneapolis Area Ofc., 831 Second Avenue, Minneapolis, MN 55402, 612-725-2914.
7/79-12/79	25 CFR Part 271	Contracts and Grants Under Indian Self-Determination and Education Assistance Act.	Proposed rule published August 23, 1978. Final rule will be published January 1980. This was listed in the previous agenda as "Contracting for Education Services under 638 or Regular Services".			Jay T. Suagee, 343-2706.
7/79-12/79	25 CFR Part 52	Conduct of elections to adopt or amend tribal constitutions and corporate charters.	Published as a proposed rule on July 10, 1979. The final rule should be published in January 1980.			Robert Farring, 343-4045.
7/79-12/79	25 CFR Part 53	Procedures for petitioning to request the Secretary or the Commissioner to take certain actions.	Published as a proposed rule on July 10, 1979. The final rule should be published in January 1980.			Robert Farring, 343-4045.
7/79-12/79	25 CFR Part 177, Subpart B	Surface Exploration, Mining and Reclamation of Lands.	Revision of this part has been deferred pending approval of state reclamation programs.			Tom Riggs, 343-3722.

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federal register

Thursday
January 31, 1980

Part V

Department of Justice

Office of Justice Assistance Research and Statistics

Improving Government Regulations; Semiannual Agenda of Significant Regulations Under Development or Review

DEPARTMENT OF JUSTICE

Office of Justice Assistance Research and Statistics

28 CFR Ch. 1

Improving Government Regulations; Semiannual Agenda of Significant Regulations Under Development or Review

AGENCY: Office of Justice Assistance, Research and Statistics.

ACTION: Publication of the semiannual agenda of regulations.

SUMMARY: This Semiannual Agenda of Significant Regulations is issued pursuant to Section 2(a) of Executive Order No. 12044 (43 FR 12661), which requires the publication at least semiannually of an "agenda of significant regulations under development or review."

The purpose of this Semiannual Agenda is to provide the public with information about regulatory activity within the Office of Justice Assistance, Research and Statistics (OJARS), the Law Enforcement Assistance Administration (LEAA), the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS).

On December 27, 1979, the Justice System Improvement Act of 1979 was enacted. The Act established the OJARS, the LEAA, the NIJ, and the BJS. OJARS directly provides staff support to, and coordinates the activities of the NIJ, the BJS, and the LEAA. OJARS, as part of its coordination function, publishes the Semiannual Agenda of Significant Regulations. The last Agenda was published by the former Law Enforcement Assistance Administration on April 20, 1979.

FOR FURTHER INFORMATION CONTACT: For inquiries or comments related to specific regulations in the agenda, the public is encouraged to contact the appropriate knowledgeable official. Questions or comments concerning the overall agenda should be sent to Leonard Oberlander, Office of Planning and Management, Office of Justice Assistance, Research and Statistics, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, DC 20531 (202) 724–7636.

SUPPLEMENTARY INFORMATION: The Semiannual Agenda covers new significant regulations under development at the time this agenda is prepared, or which are anticipated to be under development within the next twelve months. It also includes existing significant regulations under review with an eye toward possible revision, or ones anticipated to begin such review before the publication of the next Semiannual Agenda. For all regulations that were included in the last semiannual agenda published in the **Federal Register** on April 20, 1979, a status update is included. Following are agenda entries for each significant regulation under development or review, or anticipated to be so prior to the publication of the next semiannual agenda, and a status update for all entries that were included in the last semiannual agenda published on April 20, 1979 in the **Federal Register.**

A. Plans for Modifying Regulations

1. Title. Nondiscrimination in Federally Assisted Crime Control and Juvenile Delinquency Programs, 28 CFR 42.201 et seq.

The present nondiscrimination regulations are published as 28 CFR 42.201 *et seq.* The Justice System Improvement Act of 1979 provides in subsection 817(d) that within 120 days of the enactment of the subsection the Office of Justice Assistance, Research, and Statistics shall review existing civil rights regulations and conform them to the new legislation. The Act was enacted on December 27, 1979. Additionally, the regulations will be amended to define what discrimination in services is prohibited and to be consistent with LEAA's Equal Employment Opportunity Program Guidelines (28 CFR 42.301 *et seq.*) and the Equal Service Program Guidelines which are under development.

Legal Basis. Subsection 817d of the Justice System Improvement Act requires that existing civil rights regulations be reviewed and conformed to the new legislation.

Regulatory Analysis. No regulatory analysis is necessary.

Knowledgeable Official. Wilbur R. Brantley, Director, Office of Civil Rights Compliance, OJARS, 633 Indiana Avenue NW., Washington, DC 20531 (202) 633–2215.

B. New Regulations Under Development

1. Title. Urban Crime Prevention Program Guideline

Description of the Regulation. These guidelines will provide guidance to applicants who have the ability to draw together low and moderate income neighborhood community groups, local government, criminal justice agencies and the private/public sectors in community anti-crime efforts. The guidelines describe the structure that is required at the local level to ensure the forging of a partnership among all community elements. Further, project models that will receive major funding are outlined.

Legal Basis. Section 301 and 501 of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3701 *et seq.*)

Regulatory Analysis. A regulatory analysis is not required.

Knowledgeable Official. Ernest Milner, Director, Urban Crime Prevention Program, Office of Community Anti-Crime program, LEAA, 633 Indiana Ave. NW., Washington, DC 20531 (202) 724–5935.

2. Title. Community Anti-Crime Program Guidelines

Description of the Regulation. The Community Anti-Crime Program Guidelines will detail the specific requirements for applicants wishing to apply to the program. It will include program goals and objectives and describe for prospective applicants the kinds of project activities which will be considered for funding. It will also define the information which *must* be included in a proposal, the dollar range of grants, eligibility criteria, submission deadlines and criteria for selection.

This issuance is needed to ensure that applicants fully understand program requirements before submitting proposals.

Legal Basis. Sections 301 and 501 of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3701 *et seq.*)

Regulatory Analysis. A regulatory analysis will not be necessary.

Knowledgeable Official. Cornelius M. Cooper, Assistant Administrator, Office of Community Anti-Crime Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, DC 20531 (202) 724–6556.

C. Status of Regulations Previously Listed in the Semiannual Agenda of Significant Regulations Published on April 20, 1979 (44 FR 23770)

1. Title. Guide for Graduate Research Fellowship Program, G5400.2B

The target dates for this regulation have been updated, the new target dates are:

Begin Draft—November 30, 1979.

Publish for Comment—February 29, 1980.

Issue Final Regulation—June 30, 1980.

For further information contact: Jean Moore, Chief, Program Development Division, Office of Criminal Justice Education and Training, LEAA, 633 Indiana Avenue, NW., Washington, DC 20531 (301) 492–9144.

2. Title. Administrative Review Procedure, 28 CFR Part 18

OJARS will publish for comment proposed regulations in the **Federal Register** in late January or early February 1980. Final regulations should be published within 60 days after the end of the comment period on the proposed regulations. More information about this regulation can be obtained from Mr. Thomas J. Madden, General Counsel, OJARS, at (202) 724–7792.

3. Title. Financial Management for Planning and Action Grants, M7100.1A

Revised target dates for this regulation are late January 1980 for publication of the draft proposed regulation in the **Federal Register** for comment, and April 1980 for publication of the final regulation in the **Federal Register**. For further information contact Mr. Arthur E. Curry, Office of the Comptroller, OJARS, at (202) 724–5863.

4. Title. Guide for Discretionary Grant Programs, M4500.1H

This guideline is now referred to as *National Priority Program and Discretionary Program Announcements* and *Application Kits for National Priority Programs and Discretionary Programs*. This simplified and streamlined format replaces the more cumbersome former M4500.1G. Revised target dates for publication of the Program Announcements in the **Federal Register** are now: (1) Request for public comment was published in the **Federal Register** on December 12, 1979, and (2) Program announcements will be published in final form within 60 days after the end of the public comment period. Revised target dates for publication of the Application Kits in the **Federal Register** are now (1) request for public comment on or about February 25, 1980, and (2) final publication of the Application Kits within 60 days after the end of the public comment period. Four Program Announcements and Application Kits for programs sponsored by the Office of Juvenile Justice and Delinquency Prevention will be published separately, as specified in the Semiannual Agenda Overview table below. For further information contact Mr. Michael Cronin, OJARS, at (202) 724–7631.

5. Title. Change to Guide for Discretionary Grant Programs, M4500.1G FY 79

a. Issuance of the final regulation (LEAA Program Announcement) for *Replicaton of Project New Pride: A Serious Offender Youth Treatment Program* was published in the **Federal Register** on July 3, 1979.

b. Issuance of the final LEAA Program Announcement, *Youth Advocacy Initiative* was published in the **Federal Register** on October 12, 1979.

c. Target dates for the *Alternative Education* Announcement were changed. LEAA published a draft announcement for comment on October 15, 1979. The final Program Announcement is expected to be published on or about January 31, 1980. For further information contact Ms. Marilyn Landon, Program Assistant, Office of Juvenile Justice and Delinquency Prevention, LEAA, at (202) 724–7751.

6. Title. Change to Guideline Manual for State Planning Agencies, M4100.1F

a. *Chapter 3, Paragraph 52(n)(2); Definition of a Juvenile Detention or Correctional Facility*. The final Guideline Revision for the Definition of a Juvenile Detention or Correctional Facility was published in the **Federal Register** on September 27, 1979.

b. *Changes to Chapter 3, Paragraph 51* have been cancelled.

This review is now part of the development of *Regulations Implementing Part D (formula grants) of the Justice System Improvement Act of 1979.*

7. Title. Equal Employment Opportunity Program Guidelines, 28 CFR 42.301 et seq. and

8. Equal Service Program Guidelines

Notice of Change in target dates for these proposed regulations (7) and (8) was published in the **Federal Register** on September 13, 1979.

OJARS expects to publish both sets of Guidelines, for comment, in January 1980 and to publish final Guidelines in April 1980.

For further information contact Thomas J. Madden, General Counsel, OJARS, (202) 724–7792.

9. Title. Regulations Implementing Part D of the Justice System Improvement Act of 1979

These guidelines set forth requirements for applications for formula grants to state and local governments authorized by Part D of the Justice and Delinquency Prevention Act.

Development of the guidelines was initiated in April 1979 with the formation of a Task Force comprised of LEAA and public interest group representatives to discuss and resolve issues in implementing the new formula grant program of the Justice System Improvement Act. Six Task Force meetings have been held to date. Major issues have been State and local roles in the program, allowable uses of formula grant monies, and the required content of grant applications.

OJARS published draft guidelines for comment in the **Federal Register** on January 14, 1980. After a period for public review and comment, final guidelines will be published in the **Federal Register**. For further information contact Allen Payne, Director, Policy and Management Planning Staff, LEAA, at (202) 724–7659.

D. Status of Regulations Initiated After the Publication of the Last Semiannual Agenda and Which Were Included in an Updated Agenda on File in the LEAA

1. Title. Additions to the Guide for Discretionary Grant Programs, FY 79 Guideline, Which Were Initiated After the Publication of the Last Semiannual Agenda

These additions were included in an updated Agenda on file in the Law Enforcement Assistance Administration, where it is available for public inspection.

a. *Guide for Discretionary Grant Programs, M4500.1G for FY 1979; National Victim/Witness Strategy*. The final Guideline for the National Victim/Witness Strategy Program was published in the **Federal Register** on July 10, 1979.

b. *Guide for Discretionary Grant Programs, M4500.1G, for FY 1979; Arson Control Assistance Program*. The final Guideline for the Arson Control Assistance Program was published in the **Federal Register** on July 24, 1979.

Semiannual Agenda Overview

Title of regulations	Target dates		
	Begin draft	Publish for comment	Issuance of final regulation
A. Regulations under Review and Revision:			
Nondiscrimination in Federally-Assisted Crime Control and Juvenile Delinquency Programs 28 CFR 42.201 *et seq.*	On passage of new legislation.	April 1980	( )
B. New Regulations under Development:			
1 Urban Crime Prevention Program Guideline		Oct. 16, 1979	Feb. 1. 1980.
2. Community Anti-Crime Program Guideline		November 1979.	January 1980.

Semiannual Agenda Overview—Continued

Title of regulations	Target dates		
	Begin draft	Publish for comment	Issuance of final regulation
C. Status of Regulations Previously Listed in the Semiannual Agenda of Significant Regulations Published on April 20, 1979 (44 FR 23770):			
1. Graduate Research Fellowship Program, G5400.2B	Nov. 30, 1979.	Feb. 29, 1980	June 30, 1980.
2. Administrative Review Procedure, 28 CFR Part 18		January or February 1980.	(1)
3. Financial management for Planning and Action Grants, M7100.1A		Janaury 1980	April 1980.
4. Formerly Guide for Discretionary Grant Programs M4500.1H; now designated as Program Announcements and Applications Kits for National Priority and Discretionary Programs:.			
(A) Program Announcements		Dec. 12, 1979	(1)
(B) Application Kits		Feb. 25, 1980	(1)
Parts of the above to be published for comment and issued as final on separate dates in the FEDERAL REGISTER. These are programs of the Office of Juvenile Justice and Deliquency Prevention.			
(A) Serious Juvenile Offender		Mar. 7, 1980	May 31, 1980.
(B) Removal of Youths from Adult Jails and Lockups in Rural Communities.		Mar. 15, 1980	May 31, 1980.
(C) Capacity Building		Feb. 25, 1980	April 30, 1980.
(D) Prevention Research and Demonstration		Mar. 1, 1980	May 20, 1990.
5. Change to Guide for Discretionary Grant Programs, M4500.1G FY 79:			
(A) New Pride			July 3, 1979.
(B) Youth Advocacy			Oct. 12, 1979.
(C) Alternative Education		Oct. 15, 1979	Jan. 31, 1980.
6. Change to Guideline Manual for State Planning Agencies, M4100.1F:			
(A) Chap. 3, par 52			Sept. 27, 1979.
(B) Chap. 3, par 51	Cancelled	Cancelled	Cancelled.
7. Equal Employment Opportunity Program Guidelines, 28 CFR part 42		Janaury 1980	April 1980.
8. Equal Service Program Guidelines		Janaury 1980	April 1980.
9. Regulations Implementing Part D (formula grants) of the Justice System Improvement Act of 1979.		Jan. 14, 1980	(1)
D. Status of Regulations initiated after the publication of the last Semiannual Agenda and were incldued in an updated Agenda on file in the LEAA.			
Change to Guide for Discretionary Grant Programs, M4500.1G for FY 79:			
(A) National Victim Witness Strategy			July 10, 1979.
(B) Arson Control Assistance Program			July 24, 1979.

[1] Within 60 days after end of comment period.

Henry S. Dogin,

Acting Director, Office of Justice Assistance, Research and Statistics.

[FR Doc. 80-2901 Filed 1-30-80; 8:45 am]

BILLING CODE 4410-18-M

federal register

Thursday
January 31, 1980

Part VI

Environmental Protection Agency

1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles; Decision on Applications for Waiver of Effective Date and Adoption of Revised Standard

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1397-7]

Applications for Waiver of Effective Date of the 1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles—Third Consolidated Decision of the Administrator

I. Introduction

This is the third consolidated decision I have issued under Section 202(b)(5) of the Clean Air Act, as amended (Act), 42 U.S.C. 7521(b)(5), regarding applications from automobile manufacturers for waiver of the 3.4 grams per vehicle mile (gpm) carbon monoxide (CO) emission standard scheduled to apply to 1981 and 1982 model year light-duty motor vehicles and engines.[1]

As both introductions to the previous consolidated decisions explain, section 202(b)(1)(A) of the amended Act establishes a schedule for implementing standards applicable to CO emissions for 1977 and later year light-duty motor vehicles and engines.[2] The 1977 amendments to the Act, However, included a new provision allowing the Administrator of the Environmental Protection Agency (EPA), under certain limited conditions, to delay for up to two model years implementation of the statutory 3.4 gpm CO standard scheduled to take effect for the 1981 model year.[3] These amendments require the Administrator to promulgate standards which do not permit CO emissions over 7.0 gpm for vehicles granted waiver applications.

Prior to the enactment of the 1977 amendments to the Act, EPA's Administrator had considered and granted requests from manufacturers for delays in implementing the statutory CO standards as provided by the earlier versions of the Act.[4] In those instances, the statute provided for consideration of waivers on a manufacturer-by-manufacturer basis, and the Administrator granted waivers covering the whole industry. The Act's current section 202(b)(5) requires the Administrator to reach a separate waiver decision for each vehicle model for which a manufacturer requests a waiver. This change indicates Congress' intent that any waivers granted under the new 1977 amendments be narrow in scope and not apply to the entire industry.

On October 13, 1978, EPA published "Guidelines for Applications for Waiver of the 1981 Carbon Monoxide Emission Standard".[5] These guidelines outlined the information which EPA sought from waiver applicants and directed applicants to submit a separate application for each vehicle model for which a waiver was requested. For purposes of the proceedings under section 202(b)(5), the guidelines defined "model" as synonymous with the term "engine family" as defined in 40 CFR 86.077–2 and 86.078–24(a)(2) through (a)(4) (1977).[6]

In response to waiver applications, EPA already has held two sets of public hearings and issued two consolidated decisions pursuant to section 202(b)(5)(A).[7] In those decisions, I denied waivers for certain engine families either because I determined that effective control technology[8] was available contrary to the requirement of section 202(b)(5)(c)(iii) of the Act or because the applicant failed to provide sufficient information to establish that effective control technology was not available. Furthermore, the applicants failed to establish that considerations of costs, driveability, or fuel economy gave me a basis for reaching a different conclusion. I granted the waiver applications covering the remaining engine families after determining that the requisite technology was not available and that the application met each of the statutory criteria for receiving a waiver.

From September 28 through November 2, 1979, the Agency received waiver applications from Toyota, Lotus, Chrysler, AMC, and GM.[9] Specifically, Lotus submitted a new application for three engine families, while GM and Toyota each submitted applications with new emission data for an engine family denied a waiver in the first consolidated decision because of insufficient information. AMC and Chrysler made applications for engine families denied waivers in the first decision and provided some new information. EPA held hearings on these applications on November 5, 1979.[10]

This decision will address the above waiver requests on the basis of previously offered and recently provided information from these manufacturers and from other sources.[11] However, this decision will not address Chrysler's waiver request, which, in addition to providing additional information for some engine families denied waivers in my first consolidated decision, also disputed the first decision in the areas of availability of effective control technology, decision methodology, public health effects, and public interest effects. I will address these issues in a separate opinion specifically responding to the Chrysler submission.

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[1] The first consolidated decision was published at 44 FR 53376 (September 13, 1979). The second consolidated decision can be found at 44 FR 69417 (December 3, 1979).

[2] Regulations were promulgated on August 15, 1979, setting a CO standard of 3.4 gpm for 1981 and later model year vehicles. 40 CFR 86.081–8(a)(1)(ii), 43 FR 37972. This standard requires a 90 percent reduction in CO emissions from the CO standard applicable to 1970 model year vehicles.

[3] Section 202(b)(5)(c) of the Act provides, in part: The Administrator may grant such waiver if he finds that protection of the public health does not require attainment of such 90 percent reduction for carbon monoxide for the model years to which such waiver applies in the case of such vehicles and engines and if he determines that—

(i) Such waiver is essential to the public interest or the public health and welfare of the United States,

(ii) All good faith efforts have been made to meet the standards established by this subsection;

(iii) The applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy; and

(iv) Studies and investigations of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii)) to meet such standards.

[4] See the discussion of this point in the introductions to the Administrator's first two consolidated CO waiver decisions. 44 FR 53376 (Sept. 13, 1979) and 44 FR 69422 (December 3, 1979).

[5] 43 FR 47272 (1978).

[6] As in the previous decision, I am distinguishing among engine families primarily on the basis of engine displacement. See footnote 17, second consolidated decision, 44 FR 69418 (Dec. 3, 1979).

[7] Testimony received at these two hearings, as well as all other information considered in deciding these two groups of waiver applications, are included in EPA Public Docket EN–79–4 and EN–79–17, respectively.

[8] As was the case in the earlier consolidated decisions, I am using the term "technology" in this decision to encompass the statutory language "technology, processes, operating methods, or other alternatives" included as part of section 202(b)(5)(c)(iii) of the Act.

[9] Respectively, Toyota Motor Co., Ltd.; Lotus Cars, Ltd.; Chrysler Corporation; American Motors Corporation; and General Motors Corporation.

[10] The transcript from this hearing is located in EPA Public Docket EN–79–19. This decision uses the following abbreviated citations:

AMC App.—American Motors Corporation Petition for Reconsideration dated October 26, 1979.

GM App.—General Motors Corporation Application for Waiver dated November 2, 1979, submitting new information on one engine family.

T. App.—Toyota Motor Co. Ltd. Application for Waiver dated September 24, 1979, submitting new information for one engine family.

L. App.—Lotus Cars Ltd. Application for Waiver dated Oct. 18, 1979.

Other previous submissions are referred to by the abbreviations stated in note 12, first consolidated decision 44 FR 53376, 53377 (Sept. 13, 1979).

[11] See discussion on consideration of other sources of information in previous decisions, e.g. section III B(1)C, 44 FR 69416, 69422 (Dec. 3, 1979).

II. Summary of Decision

A. Waiver Applications Granted

The waiver applications which I decided to grant cover 1981 model year vehicles of the following engine families:

Waiver Applications Granted

Manufacturer	Engine family
Lotus Cars, Ltd.	2.0L.
General Motors Corp.	3.8L/(231 CID) 4V Turbo.
American Motors Corp.	151 CID.

As discussed more fully below, I have concluded that applications covering these engine families meet each of the statutory criteria for receiving a waiver for the 1981 model year. I am prescribing an interim CO emission standard of 7.0 gpm for the 1981 model year for these engine families.[12] However, the statutory 3.4 gpm CO standard will remain effective for the 1982 model year vehicles of these engine families because these applicants have failed to establish that these engine families receiving waivers cannot incorporate effective control technology by 1982.

B. Waiver Applications Denied

I am denying waiver requests covering the following engine families for the model years specified:

Waiver Applications Denied

Manufacturer	Model year denied	Engine family
GM	1982	3.8L/231 CID-4V Turbo.
AMC	1982	151 CID.
Toyota	1981, 1982	108 CID.
Lotus	1981, 1982	2.2L, 2.2L Turbo.
	1982	2.0L.

Toyota has not established that effective control technology, considering costs, driveability, and fuel economy, is not available to enable its 108 CID engine family to meet the statutory CO standard by the 1981 model year. The information in the record indicates that such technology is available for this family.

For the remaining engine families covered by waiver applications which I have denied, the applicants have failed to establish that effective CO control technology will not be available to them because the applicants have not provided sufficient information to permit assessment of the emission control capabilities of these engine families for the model years in question.[13]

Considerations of costs, driveability, or fuel economy, whether viewed separately or cumulatively, do not give me a basis for altering my determinations regarding the availability of technology for these engine families which have been denied waivers. The extra costs associated with implementing technology capable of meeting the 3.4 gpm standard for those engine families, while not necessarily insignificant, are not substantial enough compared to the costs of meeting a standard no higher than 7.0 gpm to justify a conclusion that use of that technology is not feasible.[14] I have determined, therefore, that these costs do not prevent the requisite control technology from being reasonably available to enable these engine families to achieve the 90% reduction in CO emissions which the Act establishes as an ultimate target for light-duty motor vehicles.

Furthermore, no waiver applicant has presented information which indicates that implementing technology capable of achieving the 3.4 gpm standard would have a sufficient adverse effect on driveability, relative to the driveability levels which an applicant reasonably could attain in conjunction with a standard not exceeding 7.0 gpm, to make the vehicles in question unacceptable to consumers.[15] Nor has any waiver applicant demonstrated that implementation of that technology either will prevent the manufacturer from meeting Federal fuel economy requirements or will cause an unreasonable fuel economy penalty relative to fuel economy levels achievable in conjunction with a standard not exceeding 7.0 gpm.[16]

While these engine families denied waivers may meet some, or all, of the remaining statutory criteria for receiving waivers, my determinations regarding available technology, considering costs, driveability, and fuel economy, preclude me from granting waivers covering these engine families.

III. Discussion

A. Availability of Technology

1. Methodology for assessing available technology.—The decisions I have made on whether to grant or deny requested waivers her turn primarily on whether technology is available to enable an engine family covered by one of these waiver applications to meet the 3.4 gpm CO standard in the 1981 model year, as was the case with the first two consolidated decisions. Section 202(b)(5)(C)(iii) of the Act expressly assigns an applicant the task of establishing that effective CO control technology is not available, taking into consideration costs, driveability, and fuel economy. Even if the Administrator determines that an applicant has met this burden, section 202(b)(5)(C)(iv) requires the Administrator to consider whether NAS studies or other information indicate that technology is available considering costs, driveability, and fuel economy, before granting a waiver request.

As was the case in the previous consolidated CO waiver decisions,[17] this consolidated decision relies on information contained in the waiver applications and other information found in the public record. Appendix A assesses the emissions performance of engine families first as described in the waiver application an then after factoring in one or more hypothetical system improvements through the use of "adjustment factors."[18] Appendix A contains this evaluation for each engine family for which sufficient emission test data were available by using a "Monte Carlo" statistical simulation technique used in previous suspension and waiver decisions.[19]

The results from this analysis indicate with high statitical confidence whether the engine families which were covered by waiver applications can certify to the 3.4 gpm CO standard for the 1981 and 1982 model years. Appendix A provides an assessment for each engine family for which adequate emission test data were available and describes the adjustment factors employed in projecting each family's ability to certify.

As part of my assessment of technology, section 202(b)(5)(C)(iv) of the Act requires that I consider the results of NAS studies and

[12] In making determinations for these engine families, I have not considered whether these engine families would be capable of meeting the 3.4 gpm CO standard by replacing their catalysts during their useful life. This is consistent with the policy I applied in the two previous consolidated CO waiver decisions. See 44 FR 53377 (Sept. 13, 1979), 44 FR 69416, 69419 (Dec. 3, 1979).

[13] Applicants providing insufficient emission data may reapply upon submission of new information regarding technology availability for 1982. See 44 FR 53376, 53385 (Sept. 13, 1979) 44 FR 69416, 69418 (Dec. 3, 1979).

[14] See App. A, Sections VI–VIII for discussion of costs, driveability, and fuel economy.

[15] Id., Section VII.

[16] Supra, note 14.

[17] 44 FR 53376, 53389–53402 (September 13, 1979), 44 FR 69416, 69418 and 69419 (Dec. 3, 1979).

[18] The adjustment factors which the methodology employs to account for the effects of the respective improvements to emission control systems often is purposely low compared to measured effects of those factors on emissions. For further discussion, see analysis of adjustment factors in the two previous decisions. 44 FR 53376, 53380 (Sept. 12, 1979), 44 FR 69416, 69421, (Dec. 3, 1979).

[19] See 38 FR 10317, 10323 (April 26, 1973), and discussion of Monte Carlo technique in previous decisions. 44 FR at 53380, 53384, 53390 (Sept. 12, 1979), 44 FR at 69421, 69431 (Dec. 3, 1979).

investigations [20] conducted under section 202(c) of the Act regarding available technology, processes, or other alternatives. For the reasons discussed in my earlier consolidated waiver decisions, the findings of the available NAS studies do not contradict my assessment regarding the unavailability of technology for the engine families for which I have decided to grant waivers for the 1981 model year.[21]

In addition, my review of available technolgy has encompassed other information incorporated into the record from non-applicant manufacturers and from parts suppliers and developers.[22] I also have reviewed dats from emission tests performed on vehicles for the purpose of receiving certification for the 1980 model year, including data regarding certification in California. This additional information, as well as other information available to me, does not indicate that the requisite technology, considering costs, driveability, and fuel economy, is available for the engine families for which waivers are being granted.

2. Individual applicants. Each automobile manufacturer has reached a state in its development of CO emission controls at which it has narrowed the range of strategies it contemplates employing to meet the 3.4 gpm standard. To support contentions that effective control technology is not available, the waiver applicants have provided both descriptions of the systems they have been considering in trying to attain the 3.4 gpm CO emission standard and emission test results they have measured from vehicles incorporating those systems. Each application proposed that I grant the requested waivers to cover engine families produced in both the 1981 and 1982 model years and that a 7.0 gpm CO standard apply to those families. Of the applications under consideration here, only that or Lotus represents a completely new request for a waiver. Toyota and GM are reapplying upon submission of additional emission test data, while AMC is requesting a reconsideration based upon new developments relating to the lead time needed to implement available technology supplied by GM.

a. American Motors Corporation. American Motors (AMC) requested reconsideration of the September 13, 1979, decision denying its application for a CO waiver for the GM-produced 151 CID engine family for model years 1981 and 1982. The previous waiver request was denied because Monte Carlo analysis and information supplied by GM indicated that this family could meet the 3.4 CO standard even considering costs, driveability, and fuel economy.[23] Specifically, the AMC petition is based upon additional information regarding AMC's progress in adapting and calibrating the 151 CID GM-supplied engine and emission control system to AMC vehicles prior to the 1981 model year. AMC contends that delay in obtaining this system from GM and unforeseen problems in engine-vehicle development have hampered its ability to adapt and calibrate this engine package to meet the 3.4 CO standard in time for the 1981 and 1982 model years.

The 151 CID engine for which AMC has requested a waiver is produced by GM and has been employed in vehicles certified by GM. However, GM's 1981 model year version of this engine (i.e., the second generation C–4 system) employs a microprocessor which must be recalibrated for use in AMC vehicles. In the first consolidated waiver decision, I rejected AMC's lead-time contentions based upon projections of AMC's probable ability to adapt, develop, and calibrate this engine family. However, new information indicates that AMC has been unable to achieve significant progress in developing this engine family [24] since the first consolidated waiver decision was announced, and that it has insufficient lead time to develop the requisite calibrations and test them in its own vehicles in time for the 1981 model year. AMC contends that the available 1980 system is incapable of meeting the 3.4 gpm CO standard.

I have therefore determined that effective technology will not be available to AMC with sufficient lead time to meet the 3.4 gpm CO standard in time for the 1981 model year because of its dependence upon GM for engines and emission control technology and because of the amount of time AMC has demonstrated will be involved in implementing that technology in its own vehicles. I have determined, however, that AMC has not established that such technology, considering costs, driveability, and fuel economy, will not be available in 1982 [25] because AMC has sufficient lead time to complete calibration of this system for the 1982 model year.

b. General Motors. General Motors (GM) reapplied for a waiver for its 3.8 liter 4V turbocharged engine family for 1981 and 1982. I denied a waiver for this engine family in my first consolidated CO waiver decision on the grounds that GM provided insufficient emission test data for evaulating the engine family's emission control capabilities.[26]

This reapplication provides additional emissions data and requests that I grant a waiver on the basis of these data and on the basis of GM's assertions that 1) technology for this engine is not available and 2) it is in the public interest to allow the marketing of the turbocharged engine technology.[27]

Appendix A projects this engine family to be unable to meet the 3.4 gpm CO standard in the 1981 model year. The Monte Carlo analysis of GM's extended mileage emission data predicted that this family had very little probability of passing either the HC or CO statutory standards for 1981.[28] Therefore, I have determined that effective emissions control technology is not available for this engine family for 1981.

Information supplied in GM's application also indicates, however, that this engine family may be capable of meeting the 3.4 CO standard in 1982 by employing additional emission control components or techniques not available for use in the 1981 model year which, because of the additional lead time involved, could be available by the 1982 model year.[29] GM has submitted no data through which I can assess the emissions control capability of this engine family using these potentially available improvements.[30] As a result, I have determined that GM has not established that effective control technology, considering cost, driveability, and fuel economy, will not

[20] Report by the Committee on Motor Vehicle Emissions of the National Academy of Sciences, dated November 1974. See also discussions of the applicability of NAS studies in previous CO waiver decisions. 44 FR at 53376, 53386 (Sept. 13, 1979) and 44 FR at 69416, 69423, 69428 (Dec. 3, 1979).

[21] 44 FR 53376, 53386 (Sept. 13, 1979). 44 FR 69416, 69428 (Dec. 3, 1979).

[22] Much of this information was gathered for and included in the record for the previous consolidated CO waiver decisions. See EPA Public Dockets EN–79–4 and EN–79–17. Those records have been incorporated by reference into the record for this third consolidated decision. EPA Public Docket EN–79–19. See discussion in earlier waiver decisions concerning consideration of alternative sources of information. 44 FR 53376, 53378 (Sept. 13, 1979). 44 FR 69416, 69419 (Dec. 3, 1979).

[23] First consolidated decision 44 FR 53376, 53383 (Sept. 13, 1979). See also App. A, Section IX. AMC has already received a waiver for the 1981–82 NOx standard under section 202(b)(1)(B) of the Act as a small-volume, vendor-dependent manufacturer. See 44 FR 47880 (Aug. 15, 1979).

[24] AMC Pet. pp. 4–8. See also AMC supplemental submission dated Dec. 6, 1979, and App. A, section IX.

[25] App. A, Section IX.

[26] 44 FR 53376, 53385 (Sept. 13, 1979).

[27] App. A, Section IX, GM App. p. 8.

[28] Id., No adjustment factors were applied here because development data demonstrating the effect of any available emission improvements was unavailable.

[29] See App. A, Sections V, IX.

[30] Id., section V.

be available for this engine family for the 1982 model year.

c. Toyota. Toyota reapplied for a waiver for the 108 CID engine family, which was denied a waiver in my first consolidated decision on the basis of lack of sufficient information. Toyota supplied additional emission data and requested a waiver on the grounds that this engine family fails to meet Toyota's emission design targets and thereby fails to give Toyota the assurance it desires that the engine family will meet Federal emission requirements.[31]

Toyota has supplied information for two emissions control systems for its 108 CID engine family, labeled "system A" and "system B".[32] Toyota claims that system B is incapable of meeting the 3.4 CO standard and that system A (for which Toyota claims cost, fuel economy, and driveability penalties relative to system B) requires more development and testing and a possible catalyst change to ensure certification at the 3.4 CO standard.

Monte Carlo analysis of data supplied by Toyota on system A and system B projected that these systems were incapable of meeting the 3.4 gpm CO standard by the 1981 model year. However, the record for this decision also includes emission data from Toyota's 1980 108 CID California certification vehicle 80-CD-1.[33] The Monte Carlo analysis of the emission data from this vehicle indicated with a high degree of confidence that this engine family could pass certification testing at the 3.4 gpm CO standard with a start catalyst adjustment factor.[34]

The projections on available technology based on the Monte Carlo analysis are intentionally conservative in an effort to factor in considerations pertaining to any possible risks that engine families will not meet standards when mass produced. Thus, despite Toyota's concerns that its 108 CID engine family will not meet the design target it sets for itself, I am unable to determine that effective control technology will not be available to enable the 108 CID engine family to meet the 3.4 gpm CO standard.[35]

For reasons articulated in the first consolidated CO waiver decision, Toyota's claims pertaining to cost, driveability, and fuel economy penalties associated with technology available to meet the 3.4 gpm CO standard in 1981 are not accepted here.[36] As a result of the foregoing conclusions, I have determined that technology is available, considering costs, driveability, and fuel economy, to enable Toyota's 108 CID engine family to meet a 3.4 CO standard in the 1981 model year.

Although I was able to make a comprehensive evaluation of Toyota's waiver application, questions arose concerning the sufficiency of information provided in the application as evidenced by Toyota's failure to provide certain data for this engine family.[37] Although these data were otherwise available to EPA, I conisder this type of information to be an important component of any waiver application,[38] specifically where the data pertain to an engine-emission control system configuration that demonstrates the potential ability to meet statutory emission standards.[39]

d. Lotus. Lotus has applied for a waiver of the 3.4 CO standard for all of its engine families, the 2.0L, 2.2L, and 2.2L turbo. In support of its application, Lotus has submitted some emission test data and claimed lack of available effective control technology, development and lead time problems inimical to a low-volume manufacturer, and fuel economy, performance, and cost penalties.

Lotus failed to submit extended mileage emission data (hereinafter "durability data") as specified in the waiver application guidelines.[40] In my decisions on other waiver requests, I have denied waivers for engine families for which an applicant has failed to submit the specified durability data because without those data, I am unable to evaluate the deterioration of emission performance of an engine family over extended mileage.[41]

Section 86.080-24(e) of Title 40 of the Code of Federal Regulations provides that a manufacturer with less than 2000 vehicle sales per year may request a reduction in the number of "durability vehicles" which it would have had to run for purposes of certification testing.[42] Two Advisory Circulars have been issued articulating the Agency's policy to assign deterioration factors (DF) for small volume manufacturers when the cirteria set forth in these circulars for determining eligibility for an EPA assigned DF's in the certification procedure are met.[43] Lotus is a small volume manufacturer eligible for an assigned DF under this policy.

Although this policy was developed for use in the certification procedure, the rationale supporting this policy is equally applicable with respect to these waiver proceedings. The assigned DF was created solely for use by small volume manufacturers to ease the excessive financial burden of testing one or more certification vehicles for a period of 50,000 miles. For a small-volume manufacturer, this financial burden would be distributed over a relatively small number of production vehicles, thereby resulting in an inordinately high cost per vehicle increase. To ease these costs for eligible small-volume manufacturers, EPA developed DF's to predict probable emission control deterioration over the vehicle's 50,000-mile statutorily-defined "useful life."[44] Permitting a small-volume manufacturer the use of an assigned DF in a waiver proceeding would be consistent with allowing the use of an assigned DF in the certification process.

Thus, I am not requiring Lotus, as a small-volume manufacturer which has met all of the criteria specified in Advisory Circular 51A, to provide emission durability data to establish that effective control technology is not available for the engine families for which it has requested waivers. Instead, Appendix A employs a Monte Carlo analysis which applies the DF's EPA

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[31] Id.

[32] App. pp. 1-5.

[33] App. A, Section V.

[34] Id.

[35] Toyota has not provided production vehicle test data supporting the need for or reasonableness of its design targets generally or of the various factors (e.g. prototype-to-production slippage) used to develop those targets. See the discussion in the first consolidated decision at 44 FR 53376, 53384 (Sept. 13, 1979). In addition, the 1980 California durability vehicle of Toyota's 108 CID engine family, which did not employ any improvements, already has produced emission test results during 1980 California certification testing which meet 1981 Federal emission standards. These data tend to confirm the prediction of the Monte Carlo analysis regarding this engine family's ability to meet the 3.4 gpm CO standard.

[36] See also App. A., section VI and section VIII.

[37] App. A. Section V. Toyota's submissions did not refer to the existence of 1980 California certification data on this engine family until after EPA questioned Toyota on that matter at the public hearing. (Nov. 5 Tr., pp. 59-73). Nor did any Toyota submission refer to the existence of confirmatory test data on vehicles from its 1980 California engine family.

[38] See "Guidelines for Applications for Waiver of the 1981 Carbon Monoxide Emission Standard," 43 FR 47272, 47276 (Oct. 13, 1978).

[39] Supra, note 37. See also 43 FR 47272 (1978) and App. A., section V.

[40] 43 FR 47272, 47276 (Oct. 13, 1978).

[41] See 44 FR 53376, 53385 (Sept. 13, 1979), 44 FR 69416, 69427 (Dec. 3, 1979).

[42] Certification testing requires that a "durability vehicle" be tested at 5,000 mile intervals up to 50,000 miles to demonstrate emissions performance over extended mileage. See 40 CFR 86.079-26(a)(4).

[43] Advisory Circular No. 51, October 2, 1975, and A/C No. 51A, February 8, 1979. These circulars provide that, for a manufacturer to be eligible, the manufacturer must show: (a) production of less than 2000 vehicles per year; (b) emission data for one 4,000 mile test vehicle; (c) that the catalyst used is identical to a catalyst employed on a durability vehicle which has successfully completed certification testing; (d) a reasonable relationship between engine displacement and catalyst volume.

[44] 42 USC 7521(d)(1).

assigned to Lotus for its engine families in certification.[45]

Appendix A indicates that application of available technological adjustments to the Lotus 2.0L engine family according to the Monte Carlo simulation does not predict successful certification at the 3.4 CO standard in 1981.[46] However, information supplied by Lotus also indicates that the addition of electronic fuel injection, which is not available for 1981, may enable this family to meet the 3.4 standard in 1982.[47] Lotus has submitted no data through which I can assess the emission control capability of this engine family in 1982. As a result, I have determined that Lotus has not established that effective control technology, considering costs, driveability, and fuel economy, will not be available for this engine family in 1982.

Lotus also did not supply any emission test data which would enable me to assess whether the 2.2L and 2.2l turbo engine families, by using available technology, are capable of meeting the 3.4 gpm standard for the 1981 or 1982 model year.[48] Therefore, I have determined that Lotus has failed to establish that effective control technology, considering costs, driveability, and fuel economy, will not be available for these engine families.

I have not considered Lotus' cost, driveability, or fuel economy concerns for those engine families for which Lotus failed to submit sufficient emission test data because I am unable to determine precisely what emission control equipment Lotus could use to enable these families to meet a 3.4 gpm CO standard of these vehicles.

B. Protection of Public Health

Section 202(b)(5)(C) of the Act requires that before I grant a waiver covering a given engine family, I must find that protection of the public health does not require attainment of a 3.4 gpm CO standard by the vehicles of the engine family receiving the waiver. Thus, I have examined this issue with respect to the three engine families for which I have determined that effective control technology, considering costs, driveability, and fuel economy, is not available in model year 1981. I have found as a result of this examination that any adverse health effects resulting from waiving the 3.4 standard for these 1981 model year engine families would be insignificant. The same statement is true regarding the combined health effects resulting from waiving the 3.4 standard for the 1981 model year for these engine families and for all the 1981 and 1982 model year engine families receiving waivers under the previous consolidated CO waiver decisions. As a result, protection of the public health does not require attainment of the 3.4 gpm CO standard for the engine families for which I have determined that effective control technology is not available for the 1981 model year.[49]

According to the express terms of the statute, there is no need for me to determine whether waiver applications covering engine families for which applicants failed to establish the unavailability of effective control technology (considering costs, driveability, and fuel economy) meet any of the remaining statutory criteria in order for me to deny these applications. The Act requires me to deny waiver applications where an applicant has failed to meet any one of the criteria, regardless of whether such applicant could meet the remaining criteria. Nevertheless, I will address these issues briefly in the course of discussing the remaining criteria as I did in the two previous waiver decisions.[50]

While waiving the 1981 and 1982 statutory CO standards for any one of the engine families covered by a waiver application arguably would not significantly affect the public health, noticeable increases in ambient CO levels could result from granting waivers industry-wide. In light of the fact that industry-wide waivers would not be protective of the public health, it is reasonable to grant waivers covering only that portion of the industry [51] consisting of engine families for which I have determined that effective control technology, considering costs, driveability, and fuel economy, is not available (presuming these families also meet the remaining statutory criteria).[52]

C. Essential to the Public Interest or to the Public Health and Welfare

Before I may grant a waiver request, section 202(b)(5)(C)(i) of the Act requires that I determine that granting the waiver is essential to the public interest or the public health and welfare.[53] I have determined, however, that granting waivers to the three engine families for which I have determined that effective control technology is not available in the 1981 model year is essential to the public interest. By granting these waivers, I will permit these manufacturers to market engine families which they otherwise most likely would not have been allowed to market.[54] Granting waivers for this reason is essential to the public's interest in maintaining a diversified and competitive automotive industry for the United States market.

GM asserted that granting a waiver to this engine family would serve the public interest by allowing the marketing and development of innovative turbocharger technology and its claimed associated fuel economy and performance benefits.[55] In addition, Lotus claimed that it is further essential to the public interest that I grant its requested waivers to allow it to continue producing high performance vehicles which demonstrate innovative safety or engineering features.[56]

These waivers may further serve the public interest to the extent that they permit certain innovative emissions control, safety, driveability, or fuel economy features available in conjunction with engine families which applicants could not have marketed without waivers.[57] However, my determination that these waivers are essential to the public interest does not rely upon consideration of these innovative features.

With respect to these three engine families in the 1982 model year, and with respect to the remaining engine families at issue here, I have determined that it is not essential to the public interest to grant waivers to these families, which are capable of meeting a

[45] App. A., section V.
[46] App. A., section IX.
[47] Id.
[48] App. A., section V. See also Lotus App., p. 5.

[49] See 44 FR 53376, 53382 and 53402 (Sept. 13, 1979), and 44 FR 69416, 69429 and 69456 (Dec. 3, 1979).

[50] Criteria found at section 202(b)(5)(C) (i–iv) of the Act. See 44 FR 53376, 53378 (Sept. 13, 1979) and 44 FR 69416, 69420 (Dec. 3, 1979).

[51] Several applicants disagreed with this interpretation. See, e.g., GM App., p. 6, T. App., p. 1–8. For further discussion concerning these contentions see first decision 44 FR 53376, 53381 and App. B at 44 FR 53402–53407 (Sept. 13, 1979).

[52] See discussion of ambient air quality effect of granting CO waivers as found in Appendix B in both decisions, 44 FR 53376, 53402–53407 (Sept. 13, 1979) and 44 FR 69416, 69456–69462 (Dec. 3, 1979). The engine families receiving waivers under both the first and second consolidated CO waiver decisions only constitute approximately 12% of total projected 1981 model year light-duty vehicle sales in the United States. Adding the engine families here increases this figure to 13.2%.

[53] See sections in previous decisions discussing public health and welfare effects of engine families denied waivers, 44 FR 53387, 44 FR 69429 (Sept. 13, 1979 and December 3, 1979).

[54] Supra, note 14. I rejected the alternative of allowing these models to be marketed with the requirement of an expensive catalyst change.

[55] GM App. p. 8. As explained in Appendix A, the use of a turbocharger does not in itself improve economy, but rather allows the use of smaller displacement engines which could be more fuel efficient.

[56] Cf. App. A. Section IX, L. App., p. 1.

[57] See also 44 FR 53387 (Sept. 13, 1979), citing 123 Cong. Rec. S. 13707 (Aug. 4, 1977) (remarks of Sen. Muskie).

3.4 gpm CO standard but which incur costs (or driveability or fuel economy penalties) in meeting the 3.4 gpm CO standard. No applicant has established here that the costs (or penalties) involved are so substantial as to present a significant risk to the waiver applicant's ability to produce and competitively market vehicles of that engine family, or vehicles generally.[58]

Finally, certain applicants[59] asserted that denial of waiver applications for certain engine families could preclude introduction of these fuel efficient vehicles, thereby compromising the manufacturer's ability to comply with Corporate Average Fuel Economy (CAFE) standards.[60] However, no manufacturer has established that any such family cannot meet the 3.4 CO standard; thus, no manufacturer has established that it will be unable to market such a family and use the fuel economy performance of that family to comply with CAFE requirements.

D. Good Faith

In order for me to grant a waiver to any applicant, section 202(b)(5)(c)(ii) of the Act requires that I determine that the applicant in question has made all good faith efforts to meet the emission standards established by this subsection. As a result, I have examined information regarding each applicant's previous and projected efforts toward meeting a 3.4 gpm CO emission standard for the engine families in question.

Each of the waiver applicants contended that it has acted in good faith in trying to meet the 3.4 gpm CO standard. In general, information in the record provides support for determining that each of the applicants has met the Act's good faith criterion[61] in developing emission control technology to meet the 3.4 gpm CO standard, although some applicants made only marginal showings.[62] In the absence of any other evidence supporting a contrary conclusion, however, I have determined that each of the applicants has met the good faith criterion with respect to each of the three engine families for which I have determined effective control technology to be unavailable in the 1981 model year.[63]

My conclusion regarding this criterion with respect to engine families for which waiver applicants failed to establish the unavailability of effective control technology, considering costs, driveability, and fuel economy, is the same as my conclusion regarding the good faith criterion with respect to engine families which do not have effective control technology available in the 1981 model year. Specifically, since I have no evidence which would enable me to determine other than that all applicants have met the good faith criterion of the Act, I find that all applicants have met this criterion.[64]

E. Risks in Determining Available Technology

In *International Harvester Co.* v. *Ruckelshaus,*[65] the Federal appellate court reviewed the Administrator's decision to deny manufacturers' requests for a one-year suspension (from 1975 to 1976) of the effective date of the statutory hydrocarbon (HC) and CO standards mandated by the 1970 version of the Act. The court stated, among other things, that the Administrator should have balanced the risk associated with erroneously denying the suspension requests versus the risk associated with erroneously granting them. The court indicated that the balancing process should consider the economc costs (in terms of jobs and misallocated resources) possibly associated with an erroneous denial versus the possible environmental benefits lost through an erroneous grant.

Even though the health risks associated with erroneous grants in the proceedings at hand may not be great, the risks associated with erroneous denials (which do not involve health considerations) also are limited significantly. My findings that technology is available for an engine family to meet certification testing requirements are based on conservative projections.[66] The move from today's state of technology to the technology required to achieve the 3.4 CO standard does not require any substantial shift to untried emission control methods. Furthermore, an incorrect determination here would have the potential to adversely affect the production of only one engine family, as opposed to the ability of the industry as a whole to produce cars for the public generally. In light of these counterbalancing risks, and in light of Congress' expressed intent to afford a statutory waiver only in exceptional circumstances rather than on an across-the-board basis,[67] I have concluded that it is appropriate to deny waiver applications insofar as they cover engine families for which the manufacturer had failed to establish that effective control technology, considering costs, driveability, and fuel economy, is available.

F. Conclusion

The three engine families for which I have determined that effective CO control technology is not avaiable for the 1981 model year are covered by waiver applications which meet each of the remaining criteria under section 202(b)(5)(C) of the Act. As a result, I am granting a waiver of the effective date of the 1981 statutory CO emission standard for the Lotus 2.0L, AMC 151 CID and Gm 3.8L/4V turbo engine families for the 1981 model year.

For the remaining engine families, the applicants have failed to establish that effective control technology is not avaiable for those families, considering costs, driveability and fuel economy. I have determined for Toyota's 108 CID engine family that effective control technology indeed is available to meet a 3.4 gpm CO standard by the 1981 model year, even after considering costs, driveability and fuel economy. I also have determined that AMC has failed to establish that lead-time constraints prevent effective control technology, considering costs, driveability, and fuel economy, from being available to enable its 151 CID engine family to meet a 3.4 gpm CO standard in the 1982 model year. Finally, I have determined that 1) GM has failed to provide sufficient emission data to establish that such technology, considering costs, driveability, and fuel economy, is not available for its 3.8L/4V turbo engine family in the 19832 model year, and 2) Lotus has failed to provide sufficient emission data to establish the unavailability of such technology, considering costs, driveability, and fuel economy, for its 2.0L engine family in

[58] See also public interest analysis in previous two decisions regarding engine families denied waivers, 44 FR 53376, 53385 (Sept. 13, 1979) and 44 FR 69416, 69430 (Dec. 3, 1979).

[59] See App. A, section VIII.

[60] See section VIII of Appendix A of the second decision and discussion in section III(C)(1)(b)(iii) of that decision. 44 FR at 69428 (Dec. 3, 1979). The so-called CAFE rquirements are the manufacturers' sales-weighted fuel economy standards set under § 502 of the Energy Policy Conservation Act, Pub. L. No. 94-163, 89 Stat. 871 (1975).

[61] 42 U.S.C. 7521(b)(5)(C)(iii).

[62] See App. A, Section V. GM, for example, failed to supply development information regarding alternative emissions control technology for its 3.8 L/4V turbo engine family.

[63] See discussion of good faith criterion for engine families granted waivers in my two previous decisions 44 FR 53376, 53383, (Sept. 13 1979), 44 FR 69416, 69424. (Dec. 3, 1979).

[64] See previous decisions. 44 FR 53376, 53383 (Sept. 13, 1979), and 44 FR 69416, 69424 (Dec. 3, 1979).

[65] 478 F. 2d 615 (D.C. Cir. 1973). For further discussion of this case, see 2nd decision, 44 FR 53376, 53388 (Sept. 13, 1979). Also see the discussion of the 1970 version of the Act in section I of this decision.

[66] App. A, Section V.

[67] Supra, note 23. See also discussion of this case in the two previous decisions 44 FR 53376, 53387 (Sept. 13, 1979), 44 FR 69416, 69429 and 69430. (Dec. 3, 1979). Lotus in particular raised the question of risk as applied to small-volume manufacturers (L. App., p. 1).

the 1982 model year, and for its 2.2L and 2.2L Turbo engine families for the 1981 and 1982 model years.[68] Thus, even though these waiver applicants may meet one or more of the remaining statutory criteria for receiving waivers, I nevertheless must deny the waiver applications covering these remaining engine families.

IV. Interim CO Exhaust Emission Standards

As required by section 202(b)(5)(A) of the Act, I am simultaneously promulgating regulations prescribing an interim CO emission standard for 1981 model year vehicles of 7.0 gpm for the three engine families receiving waivers. For these three engine families, this action continues in effect for one additional model year the CO emission standard applicable to all 1980 model year light-duty vehicles.

Dated: January 22, 1980.

Douglas M. Costle,

Administrator.

Appendix A

Contents

I. Introduction
II. Summary of Technological Capability
III. Statistical Treatment of the Data
IV. Factors
V. Discussion of Individual Manfacturer's Technical Capability
VI. Cost Analysis
VII. Driveability
VIII. Fuel Economy
IX. Lead Time Considerations
X. References

I. Introduction

The exhaust emission standards for 1981 and later model year light-duty vehicles are currently 0.41 gram per mile HC, 3.4 grams per mile CO, and 1.0 gram per mile NO_x. Section 202(b)(5)(A) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(5)(A) provides the opportunity for manufacturers to request a waiver of the 3.4 grams per mile CO standard to 7.0 grams per mile during model years 1981 and 1982.

The applicants being considered in this document are American Motors (AM), General Motors (GM), Lotus, and Toyota. This is the third group of CO waiver applications that have been considered by EPA. This is the second time that waiver requests have been considered by EPA from AM, GM, and Toyota. Chrysler has again requested a waiver for some of their engines. The Chrysler request will be discussed in a later document.

This appendix deals with the technological capability of those manufacturers to meet the 1981 and 1982 CO standard of 3.4 grams per mile. This appendix relies on three previous technical appendixes, particularly for discussion of the Monte Carlo simulation utilized in this analysis. These appendixes are:

1. Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.
2. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.
3. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

As indicated in Section 202(b)(5)(c)(iii), the technological feasibility determination is based on the consideration of technological capability, cost, driveability, and fuel economy. This appendix contains discussion of each of the above topics.

II. Summary of Technological Capability

Tables II–1 to II–4 summarize the capability of the four applicant manufacturers to meet the 1981 and 1982 emission standards. The standards considered in these tables are 0.41 HC, 3.4 CO, 1.0 NO_x.

A guide to the summary tables is as follows: The first column lists engine displacement. The second column, which lists per cent of model year 1981 sales, is deleted because the values were derived in most cases from manufacturers' confidential sales estimates. The "as received" column refers to the emission data submitted by the manufacturer. "Improvements" refer to the projected technological improvements (factors) applied to the data submitted by the manufacturer.

The "no data" category is an abbreviated notation for the lack of acceptable data to perform EPA's technological analysis. The applicants have known for about six years what sort of data is necessary for EPA to make a determination whether or not a given vehicle would be projected to pass or fail a set of standards. Unfortunately, in many cases there was a lack of acceptable data for vehicles using specific engines. This effectively precluded EPA from making a pass/fail determination for those vehicles. In these cases the vehicles using these engines are called "no data" and no pass/fail determination was made.

Table II–1.—*Applicant: American Motors*

Engine	Percent estimated 1981 sales	Pass as received?	Pass with improvement?
151 CID		No, because lead time problems may not permit successful certification in 1981.	NA.[1]
		Yes in 1982	NA.

[1] NA means not applicable or that no hardware improvement factors were applied to these vehicles.

Table II–2.—*Applicant: General Motors*

Engine	Percent estimated 1981 sales	Pass as received?	Pass with improvement?
231 CID/3.7L–TC–4V		No for 1981	NA.[1]
		No data for 1982	No data for 1982.

[1] NA means not applicable or that no hardware improvement factors were applied to these vehicles.

Table II–3.—*Applicant: Lotus*

Engine	Percent estimated 1981 sales	Pass as received?	Pass with improvement?
2.0L		No for 1981	NA.[1]
		No data for 1982	No data.
2.2L		No data	No data.
2.2L Turbo		No data	No data.

[1] NA means not applicable or that no hardware improvement factors were applied to these vehicles.

Table II–4.—*Applicant: Toyota*

Engine	Percent estimated 1981 sales	Pass as received?	Pass with improvement?
108 CID		Yes	Yes.

III. Statistical Treatment of the Data

No changes have been made in the basic Monte Carlo methodology since its last use in a technical appendix. This methodology has been discussed in three previous technical appendixes:

1. Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.
2. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1976 Motor

[68] App. A, Section V.

Vehicle Exhaust Emission Standards, July 30, 1973.

3. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

IV. Factors

With respect to the vehicle emission data submitted by the manufacturers for EPA analysis, vehicles are often run and tested over durability mileage accumulation schedules without using the best technology that is available to the manufacturer for certification in the 1981 model year. There are many reasons why this occurs. First, such technology may have simply not been available in quantity when fleets of vehicles began mileage accumulation. Second, all vehicles submitted for EPA staff analysis may not have been specifically designed for the 1981 and 1982 Federal emission standards. Also the manufacturer may wish to maintain some technologies (with known durability) in reserve if their low mileage testing indicates that such technology may not be needed for compliance with the target emission standards. In addition, technology may not appear on durability vehicles because the manufacturer has made a decision that the technology would be too costly for production vehicles.

To account for the fact that the applicants did not in all cases conduct durability testing with the most effective emission control hardware, factors have been applied to some of the emission data submitted by the manufacturers to simulate the addition of more effective systems. Due to substantial lead time problems for implementation of new or additional technology by the 1981 model year, these factors have been applied only for currently known hardware that can be implemented in 1981 or 1982 certification and production. These improvements have been basically limited to additional catalyst (i.e., the addition of oxidation catalyst in some cases), the addition of air injection, and additional catalyst noble metal loadings. Other improvements in hardware were considered if the manufacturer indicated that they were available for 1981 or 1982.

The factors that have been applied to the data are dimensionless numbers that represent the improvement in emission performance that is predicted for the more effective simulated emission control technology. The factors are derived from data that reflect the emission performance of a vehicle with and without the more effective technology. For example a factor for CO of 0.90 indicates that a 10% reduction in CO is projected for the use of the more effective technology. In addition, when there are several different sources for the same improvement, EPA uses a conservative estimate of that projected factor, i.e., a factor greater in absolute value than that indicated by most of the data.

Other factors which were developed, but generally not used in the following analysis include factors for:

Warm up catalysts for 3W catalyst or 3W + OC systems
Deletion of power enrichment
Use of insulated or dual-walled exhaust pipes
Use of exhaust port liners
Use of throttle body fuel injection
Use of multiple point fuel injection
High energy ignition

Although the deletion of power enrichment and the use of insulated or dual-walled exhaust pipes were considered feasible for 1981, they were generally not used. Therefore, through these additional techniques, the manufacturers may have some additional cushion for certification over and above the factors used in EPA's analysis. Use of the other items was not considered possible for most manufacturers for most engine families before the 1982 model year.

Oxidation Start Catalyst Factor

The available CO control technology includes light-off or start catalysts. Start catalysts are small in size, have low thermal inertia and are mounted close to the engine. This combination of factors leads to rapid light-off for the start catalyst, which tends to lower HC and CO emissions.

The data used to develop the oxidation start catalyst factor came from Automobile Emission Control—The Current Status and Development Trends as of March, 1976 (S.R. 1976) page 4–14, and from subpoenaed information from Engelhard Industries [18 at Section II].* These data are shown in Table IV–3.

Table IV–1.—*Start Catalyst Effect*

	HC	CO	NO_x
	0.48	0.36	1.01
	0.62	0.45	1.00
	0.70	0.66	1.00
	0.60	1.01	0.98
	0.57	0.46	0.90
	0.68	0.72	1.20
	0.25	0.62	0.78
Average Factor as Calculated	0.56	0.61	0.98
Factor as used in Monte Carlo	.7	.7	1.0

V. Discussion of Individual Manufacturer's Technical Capability

This section will discuss all vehicles which (1) were submitted by each of the four applicants and (2) also are acceptable for input into the Monte Carlo simulation. Acceptable for input means (1) that the vehicle is a durability vehicle which has accumulated a minimum of 20,000 miles with the same major emission control components and (2) that a minimum of four valid 1975 FTP tests have been conducted on the vehicle.

Details of the pass/fail determinations in section II are also presented here. To pass the 1981 and 1982 emission standard (of 0.41 HC, 3.4 CO, 1.0 NO_x), the probabilities of passing each individual pollutant must be greater than or equal to 80%. If the probability of passing only HC, for example, is less than or equal to 79%, the vehicle fails—even if the probabilities for CO and NO_x greatly exceed 80% cutpoint.

Due to time for analysis, pass/fail analysis is provided only for emission standards of 0.41 HC, 3.4 CO and 1.0 NO_x. Analysis of the capability of the vehicles to meet the standard of 0.41 HC, 7.0 CO, 1.0 NO_x was not conducted. Consequently, vehicles designed for standard are included in the following discussions of vehicles which were acceptable for entry into the computer analysis, but are not discussed with respect to compliance at 7.0 CO.

In order that the Monte Carlo analysis not be cluttered with hundreds of failing vehicles utilizing inappropriate technology, prior certification vehicles are not considered in this analysis except in special cases where a manufacturer's ability to comply with the 1981 and 1982 emission standards is directly affected. It is not surprising that the durability vehicles from past certification would fail to achieve the 3.4 CO standard for two reasons. First, the 3.4 CO standard represents a substantial reduction in CO from prior model year standards. And second, major changes in technology are being planned for introduction in 1981 by most vehicle manufacturers to achieve the more stringent standards.

If a manufacturer's prime (prime means the system most capable of achieving the 1981 standards) 1981 emission control system has been tested in prior certification (generally 1980), these data are included in the analysis.

American Motors (AM)

The American Motors waiver request for vehicles using the 151 CID engine is very unique. General Motors is the supplier of both the engine and emission control system to AM. AM and GM have previously been denied a waiver for models using this engine because the technology is available to allow these vehicle to certify at 0.41 HC, 3.4 CO, 1.0 NO_x. This determination was made on the basis of GM vehicle Z–721 (not vehicles Z–721 and Z–625 as stated in the first consolidated decision). Since vehicles Z–625 and Z–721 used different emission control systems, the initial decision regarding the 151 CID engine would not have changed.

The status of the 1981 GM certification vehicles further supports the contention that the technology is available. The Monte Carlo results of the three 1981 Federal GM vehicles (which have accumulated 20,000 or more miles) are shown in Table V–1. The actual emissions data from those three vehicles are show in Table V–2. Barring any unforeseeable problems, two of the three GM vehicles appear to be approaching successful certification. Thus, all indications are that the two families will pass and that technology is available. Also, there is not doubt that GM has offered to provide the same technology to AM [12 at 4 to 8 and 12 at Appendix A].

* The notation [W at Y] means the reference is reference number W from section X of this document at page number Y.

Table V-1.—*The Monte Carlo Results of 1981 Federal Certification Vehicles From GM Using 151 CID Engines (as Received)*

VIN	Emission control system	Catalysts	Probabilities of pass		
			HC	CO	NO_x
1200	FBC/EGR/AIR/ESA/3W/OC	3428/2961	83	98	100
1201	FBC/EGR/AIR/ESA/3W/OC	3480/4044	59	5	100
1202	FBC/EGR/AIR/ESA/3W/OC	3480/4048	100	99	100

Table V-2.—*1981 Federal Certification Results of GM Vehicles With 151 CID Engines*

VIN	IW	Trans	Miles	HC	CO	NO_x	MPG_o	Comments
1200	3000	A3	4,857	.15	1.07	.47		Reference 14, p. 85.
			10,058	.23	1.49	.49		
			14,894	.20	1.21	.48		
			20,138	.24	1.75	.46		
			25,077	.20	1.44	.57		
			30,05	.21	1.58	.47		Before maintenance.
			30,049	.23	2.05	.48		After maintenance.
			34,775	.20	1.77	.49		
			39,763	.40	1.79	.48		
			Calc 4K [1]	.16	1.19	.48		
			Calc 50K [1]	.33	2.10	.50		
			Df [1]	2.05	1.77	1.03		
1201	3000	A3	4,796	.25	2.49	.46		Reference 14, p. 87.
			9,778	.14	0.84	.47		
			15,026	.35	3.26	.45		
			19,803	.35	3.53	.47		
			24,839	.32	3.38	.46		
			30,011	.29	3.28	.40		Before maintenance.
			30,042	.31	3.06	.49		After maintenance.
			Calc 4K [1]	.23	1.98	.47		
			Calc 50 K [1]	.40	4.57	.44		
			Df [1]	1.74	2.31	.94		
1202	3000	A-	4,880	.09	0.50	.65		Reference 14, p. 89.
			10,092	.13	0.57	.61		
			15,075	.11	0.68	.63		
			19,940	.10	0.96	.60		
			24,776	.10	0.67	.65		
			29,912	.13	0.97	.65		Before maintenance.
			Calc 4K [1]	.10	0.50	.62		
			Calc 50K [1]	.13	1.27	.65		
			Df [1]	1.27	2.56	1.04		

[1] Based on less than the complete 50,000 miles of durability required for certification.

The unique part of the AM waiver request is that they apparently do not want to purchase the 1981 GM hardware, at least for Federal use in model year 1981. The reason for not wishing to purchase the hardware is inadequate lead time, according to AM [5 at 126 to 135]. This issue is discussed at length in the lead time section of this appendix. On the basis of lead time, the technical staff determined that AM would be unable to certify to a 3.4 CO standard in the 1981 model year. In 1982 AM is projected to be able to certify vehicles using the 151 CID engine to a 3.4 CO standard.

General Motors

This is the second waiver application which has been submitted by General Motors. The first application requested a waiver for virtually all of the 1981 and 1982 model GM vehicles. The current application requests a waiver for only those 1981 and 1982 models using the 3.8L/231 CID turbocharged engine with a four barrel feedback carburetor. Other basic emission components used on vehicles with these engines include back-pressure EGR, switched AIR injection, and a 3-way plus oxidizing catalyst.

No prototype durability vehicles were run by General Motors. Emission data were presented by GM for a total of eight 1980 and 1981 certification vehicles as shown in Table V-3. Only one of the vehicles (car number 59147) which were acceptable for Monte Carlo analysis was actually targeted for the 1981 Federal emission standards. The remaining four vehicles in the Monte Carlo analysis were designed for compliance with the 1980 California standards of 0.39 NMHC, 9.0 CO, 1.0 NO_x.

In the as received condition, none of the five vehicles passed as shown in Table V-4. All failed the 3.4 CO emission level, and only one passed the 0.41 HC level. Since no developmental emission data were reported by GM for vehicles using this engine, no hardware improvement factors could be applied.

The EPA technical staff believe that the use of known emission control techniques such as improved air/fuel metering systems, start catalysts, increased volume monolithic catalysts, and exhaust port liners will improve the emissions of this engine. Due to lead time constraints these components could not be applied in time for the 1981 model year, but they could be available for 1982.

Table V-3.—*Vehicles in GM Waiver Application*

Engine and VIN	Emission control system	Entered in Monte Carlo?	If not entered in Monte Carlo—why?	Comment	Reference
231-TC-4V, 5969	FBC/BPEGR/AIR/ESA/3W/OC	Yes		1980 California certification vehicle	17 at A-2 to A-3.
231-TC-4V, 5970	FBC/BPEGR/AIR/ESA/3W/OC	Yes		1980 California certification vehicle	17 at A-6 to A-7.
231-TC-4V, 5971	FBC/BPEGR/AIR/ESA/3W/OC	Yes		1980 California certification vehicle. Terminated due to carburetor solenoid failure.	17 at A-10 to A-11.
231-TC-4V, 48392	FBC/BPEGR/AIR/ESA/3W/OC	Yes		1980 California certification vehicle. Terminated due to turbocharger failure.	17 at A-14 to A-15.
231-TC-4V, 48393	FBC/BPEGR/AIR/ESA/3W/OC	No	Insufficient mileage accumulation.	1980 California certification vehicle. Terminated due to failure of throttle position switch.	17 at A-18 to A-19.
231-TC-4V, 59145	FBC/BPEGR/AIR/ESA/3W/OC	No	Insufficient mileage accumulation.	1981 certification vehicle. Terminated for high emissions	17 at A-22 to A-23.
231-TC-4V, 59147	FBC/BPEGR/AIR/ESA/3W/OC	Yes		1981 certification vehicle	17 at A-26 to A-27.
231-TC-4V, 59148	FBC/BPEGR/AIR/ESA/3W/OC	No	Insufficient mileage accumulation.	1981 certification vehicle. Terminated for high emissions	17 at A-30 to A-31.

Table V-4.—*Monte Carlo Results of GM Vehicles Using 231-4V Turbocharged Engines*

VIN	IW	Trans	3W [1] catalyst code	OC [1] catalyst code	Electronics [2]	Probability of pass		
						HC	CO	NO_x
5969	3500	A	3256(P)	2789(P)	Proto III	35	0	100
5970	3500	A	3339(M)	2886(M)	Proto III	85	17	100
5971	3500	A	3293(P)	2576(P)	Proto III	23	0	99
48392	3500	A	3426(M)	2961(M)	Proto III	58	0	100
59147	3500	L	3339(M)	2886(M)	Proto IV	48	0	100

[1] The catalyst code is a GM code number. It is always prefixed with the letters HN. The suffixes (P) or (M) mean pelleted or monolithic catalysts.

[2] Digital Prototype III systems have electronic control of air/fuel ratio, spark advance, and air switching. Digital Prototype IV systems have electronic control of air/fuel ratio, spark advance, air switching, evaporative canister purge, EGR and EFE vacuum, and the transmission converter clutch.

Since GM has not reported test results using any of these components, this family is considered to be a "no data" family for model year 1982. It is projected to fail in the 1981 model year.

Lotus

Lotus has requested a CO waiver for the three engines it plans to market for the 1981–1982 model years. These engines include the 2.0L, 2.2L, and 2.2L turbocharged engines.

Lotus stated that their first choice emission control system for meeting the 1981–1982 standards consisted of a three way catalyst with open loop carburetion and an aspirator system [5 at 28]. This system is also being used for 1980 California vehicles.

Lotus is also in the process of developing a closed loop fuel injection system which will be available (see discussion in the Lead Time Section) for the 1982 model year. Lotus did not submit emissions data for their emission control system with fuel injection. Lotus did not submit durability data. Lotus is a small volume manufacturer and is not required to run durability vehicles in their certification process as they receive assigned deterioration factors from EPA.

The EPA technical staff assumed that Lotus would receive the currently assigned d.f.'s of 1.3, 1.2, and 1.1 for HC, CO and NO_x respectively for their 1981–1982 model year vehicles. Lotus only submitted data on three vehicles, one emissions development vehicle (132S) and two fuel economy vehicles (499B and 387E). These vehicles were assigned suffix numbers by EPA for each test to help distinguish between tests (e.g. 132S was assigned 132S–1 etc.), and are listed in Table V–5 and in the Monte Carlo results with the EPA assigned vehicle identification numbers. Table V–5 lists the data submitted by Lotus and only includes tests performed according to the 1975 Federal Test Procedure.

Table V-5.—*Vehicles in Lotus Waiver Application*

	VIN	Emission control system	Test No.	Entered in Monte Carlo	If not entered in Monte Carlo, why?	References
Engine disposal (L):						
2.0	132S-1	3W/EGR	187901	Yes		6 at 1.9.
2.0	132S-2	3W/EGR	187904	Yes		6 at 1.11.
2.0	132S-3	AIR/OC	207902	Yes		6 at 1.13.
2.0	499B-1	PAIR/OC	307917	Yes		6 at Test No. 307917.
2.0	499B-2	PAIR/OC	357916	Yes		6 at Test No. 357916.
2.0	132S-4	AIR/3W/EGR	237911	Yes		6 at 1.15.
2.0	132S-5	AIR/3W/EGR	277902	Yes		6 at 1.17.
2.0	132S-6	AIR/3W/OC	287909	Yes		6 at 2.2.3.
2.0	132S	None	117901	No	No emission control system.	6 at 2.3.1.
2.0	132S	None	117903	No	No emission control system.	6 at 2.3.3.
2.0	132S-7	3W	197902	Yes		6 at 2.3.5.
2.0	132S-8	3W	197903	Yes		6 at 2.3.7.
2.0	132S-9	3W	207901	Yes		6 at 2.3.9.
2.0	132S-10	PAIR/3W	297910	Yes		6 at 2.3.13.
2.0	132S-11	PAIR/3W	307901	Yes		6 at 2.3.17.
2.0	132B-12	PAIR/3W	307906	Yes		6 at 2.3.19.
2.0	132S-13	PAIR/3W	307907	Yes		6 at 2.3.21.
2.0	132S-14	PAIR/3W	307908	Yes		6 at 2.3.23.
2.0	387E-1	PAIR/3W	297912	Yes		6 at Test No. 297912.
2.0	387E-2	PAIR/3W	317906	Yes		6 at Test No. 317906.

To facilitate application of the Monte Carlo, each test was treated as a 4000 mile test regardless of the actual mileage on the catalysts or the vehicles. For vehicle 132S, catalyst miles ranged from 300 to 2100 miles, and vehicle miles ranged from 3000 to 6000 miles. The test points for vehicles 499B and 387E fell between 4500 and 4700 miles. Of the 18 tests included in the Monte Carlo analysis, only four tests were performed with more than 4000 miles on the catalyst. For tests where the catalyst had less than 4000 miles on it, this procedure results in a conservative approximation of what would be the actual 4000 mile test point. This was the case for the 14 tests on vehicle 132S. Treating the four tests on vehicles 499B and 387E, as 4000 mile tests was more stringent than would actually be the case in certification, but the effect was insignificant.

In order for the Monte Carlo simulation to function properly, at least four test points are required. A feature of the computer program requires at least one of these points not to fall on the straight line between the 4000 mile point and the 50,000 mile point. The 50,000 mile test point was calculated by multiplying the estimated 4000 mile test point by the aforementioned d.f.'s. In order to generate two more test points, the 50,000 mile point was divided by 2 and the result used as the 26000 mile and 28000 mile test points. Part II of the Monte Carlo results (Deterioration Calculations) indicate a slight error in the d.f. calculations which was caused by rounding to only two decimal places for the three generated test points. The EPA technical staff judged that the errors created by these procedures did not affect the pass/fail situation of the Lotus vehicles.

Pass/Fail Analysis for the Lotus 2.0 L Engine

The 2.0 L engine is projected to fail in 1981 and is considered a "no data" case for 1982. As shown in Table V–6, none of the vehicles passed the Monte Carlo simulation, and based on these results, the 2.0 L engine is projected to fail in 1981. In 1982 a new emission control system will be available to Lotus, which will include a closed-loop fuel injection system. Because Lotus did not submit any data on this system, the 2.0 L engine is considered to be a no data case for 1982.

Table V–6.—*Monte Carlo Results of Lotus Vehicles Using the 2.0L Engine*

VIN	Emission control system	Probability of pass		
		HC	CO	NO_x
132S–1	3W/EGR	0	0	92
132S–2	3W/EGR	19	0	81
132S–3	AIR/OC	0	0	0
132S–4	AIR/3W/EGR	0	0	100
132S–5	AIR/3W/EGR	0	100	70
132S–6	AIR/3W/EGR	0	33	69
132S–7	3W	0	0	94
132S–8	3W	0	0	85
132S–9	3W	0	0	69
132S–10	Pair/3W	7	0	69
132S–11	Pair/3W	49	0	70
132S–12	Pair/3W	30	0	67
132S–13	Pair/3W	30	0	100
132S–14	Pair/3W	94	0	70
499B–1	Pair/OC	94	0	0
499B–2	Pair/OC	92	0	0
387E–1	Pair/3W	96	0	71
387E–2	Pair/3W	94	32	83

Pass/Fail Analysis for the Lotus 2.2 L Engine

Lotus did not submit any emissions data for the 2.2 L engine and is therefore considered to be a no data case for both 1981 and 1982.

Pass/Fail Analysis for the Lotus 2.2 L Turbocharged Engine

The 2.2 L turbocharged engine is also considered to be a no data case for both 1981 and 1982 because Lotus failed to submit emissions data for this engine.

Toyota

Toyota has submitted their second CO waiver application for the 108 CID engine. Toyota's previous waiver request for this engine was denied in the CO Waiver Decision of September 5, 1979 due to insufficient data.

Toyota has two emission control systems designed to meet the 1981–1982 standards, which they categorize as systems "A" and "B". A third system was used for 1980 California certification. These systems are as follows:

System A (1981–1982)	CL–AIR/OSC/3W/EGR.
System B (1981–1982)	CL–AIR/3W/EGR.
1980 System	CL–AIR/OC/EGR.

Toyota characterized system A as their design "to meet the 3.4 CO standard without particular regard to cost, available space . . . or other possible negative factors . . ." [2 at 1–5]. System B represents a preliminary, cost effective approach to meeting the 1981–1982 standards. Toyota stated that "despite our strong expectations for these system B emission controls, prototype testing proved them inadequate in each case . . ." [2 at 1–5]. Toyota stated that if a CO waiver is granted they would use system B [2 at 5–2].

Pass/Fail Analysis for the Toyota 108 CID Engine Family

Toyota provided durability data on six vehicles that were acceptable for the Monte Carlo analysis (see Table V–7). The EPA technical staff also included vehicle 80–CD–1, which is a 1980 California certification durability vehicle.

Vehicle 80–CD–1 was equipped with AIR/OC/EGR and its certification results were as follows:

Miles	HC	CO	NO_x	MPGu
4793	0.146	2.02	0.82	13.11
9803	0.181	3.39	0.79	23.97
15019	0.175	2.28	0.85	23.89
15038	0.196	3.99	0.78	23.85
20192	0.224	2.06	0.90	23.97
25193	0.196	2.72	0.81	24.24
30016	0.194	2.38	0.93	23.63
30036	0.227	2.55	0.80	23.05
35192	0.235	2.79	0.81	24.22
40192	0.222	2.80	0.85	24.63
45159	0.195	2.37	0.89	24.08
45178	0.244	3.07	0.81	23.18
49856	0.191	3.27	0.69	23.29
4,000 (extrapolated)	0.175	2.64	0.84	23.75
50,000 (extrapolated)	0.226	2.84	0.81	23.80

This vehicle has already certified at emission levels below the 1981–1982 standards.

Vehicles in Toyota Waiver Application

Engine and VIN	Emission control system	Entered in Monte Carlo	If not entered in Monte Carlo, why?	References
108, TE31–42	EM/AIR/EGR/OC/RM	No	Not current control system	1 at A–5–1.
108, 177B–16	EM/AIR/EGR/OC/RM	No	Not current control system	1 at A–5–2.
108, 353B–4	EM/AIR/EGR/OC/RM	No	Insufficient data	1 at A–5–3.
108, 215B–8	EM/AIR/EGR/OC/RM	No	Insufficient data	1 at A–5–4.
108, 130B–24	EM/AIR/EGR/OC/RM	No	Not current control system	1 at A–5–5.
108, 353B–46–1	EM/AIR/EGR/OC	No	Insufficient data	1 at A–5–6.
108, TE66–15–1	EM/AIR/EGR/OC	No	Insufficient data	1 at A–5–7.
108, 353B–40–1	EM/CL–AIR/EGR/3W	Yes		1 at A–5–8.
108, TE51–60	CL–AIR/EGR/3W	Yes		1 at A–5–9.
108, 231B–21–1	CL–AIR/EGR/3W	No	Insufficient data	1 at A–5–10.
108, 353B–40–2	CL–AIR/EGR/OSC/3W	Yes		1 at A–5–11.
108, 353B–46–2	CL–AIR/EGR/OSC/3W	Yes		1 at A–5–12.
108, TE51–50	CL–AIR/EGR/OSC/3W	Yes		1 at A–5–13.
108, TE66–15–2	CL–AIR/EGR/OSC/3W	No	Insufficient data	1 at A–5–14.
108, 235B–5	CL–AIR/EGR/3W	Yes		1 at A–5–15.
108, 80–CD–1 [1]	AIR/OC/EGR	Yes		1980 certification data.

EM—abbreviation for engine modification.
RM—abbreviation for reactive manifold.
OSC—abbreviation for oxidation start catalyst.
CL–AIR—abbreviation for a closed loop AIR system.
[1] Not included in waiver application.

Toyota presented the following assertions to show that vehicle 80–CD–1, which was equipped with a manual five speed transmission, did not demonstrate Toyota's technical ability to meet the 1981–1982 standards:

"The certification data of the 1980 model California emission data vehicles are shown in Table 4.

Table 4

Vehicle	Transmission	HC (g/mile)	CO (g/mile)	NO_x (g/mile)	F/E (mile/gallon)
CE–1	5M/T	0.180	2.66	0.66	23.1
CE–2	3A/T	0.207	4.40	0.61	23.0
CE–3	3A/T	0.240	5.95	10.77	22.5
CE–4	4M/T	0.169	2.44	0.68	24.2

We have not tried to test the 80–CD–1 type system in combination with a start catalyst or sweep-up catalyst and therefore, cannot give a precise answer. Although, it can be stated that a manual transmission vehicle with a start catalyst may be able to meet the 3.4 g/mile CO emission standard, it would not meet our development target. On the other hand, since the CO emission level of the automatic transmission vehicle is the same as the 1981 system B, then even if we adopt a start catalyst, it will be far from our development target of 2.3 g/mile of CO. A/T is necessary to satisfy our basic market demands" [7 at 9].

The EPA technical staff rejects Toyota's assertions concerning the 1980 California durability vehicle (80–CD–1) and the emission data vehicles CE–1, CE–2, CE–3, and CE–4 for the following reasons:

(1) The Monte Carlo simulation, rather than Toyota's emissions targets, is the critierion by which technical feasibility is determined. Table V–8 lists the Monte Carlo results of the vehicles entered. As shown, vehicle 80–CD–1 passes the analysis with a hardware improvement factor for a start catalyst. Also, without the start catalyst factor, 80–CD–1 passes HC and NO_x, and fails CO with a probability of 79%. This indicates that Toyota is very close to passing even without a start catalyst.

Table V–8.—*Monte Carlo Results of Toyota Vehicles Using the 108 CID Engine*

VIN	Control system	Probability of pass			Comments
		HC	CO	NO_x	
TE51–50	A	74	0	83	
TE51–60	B	80	0	100	
235B–5	B	53	0	100	
353–40–1	B	100	18	87	
353–40–2	A	97	5	100	
353–46–2	A	75	9	71	
80–CD–1	AIR/OC/EGR	100	79	88	
80–CD–1	AIR/OC/EGR	100	97	88	(1)

(1) Factors for a start oxidation catalyst.

(2) Toyota's assertion that "since the CO level of the automatic transmission vehicle is the same as the 1981 system B, then even if we adopt a start catalyst, it will be far from our development target of 2.3 g/mile of CO" [7 at 9] was not substantiated given that in a prior statement Toyota said that "We have not tried to test the 80–CD–1 type system in combination with a start catalyst * * *" [7 at 9].

(3) The "certification data" Toyota included in Table 4 failed to include the confirmatory test data on which 1980 California certification of the 3T–C family was based. For example, Vehicle CE–3, equipped with an automatic transmission, achieved a CO level of 3.27 g/mi on the EPA confirmatory test, yet Toyota only reported the result from an earlier test with a CO result of 5.95 g/mi. In another example, Toyota submitted a test result of 2.44 g/mi CO on vehicle CE–4 but failed to include the confirmatory test result of 1.82 g/mi CO, which was the test for CE–4 on which certification was based.

These disparities are tabulated in Table V–9 and are misleading in that the automatic transmission vehicle, CE–3, is presented as having CO emissions over 80% higher than was actually the case with confirmatory testing. Toyota alluded that the results of vehicle 80–CD–1 should not be used to determine technical feasibility "since the CO emission level of the automatic transmission vehicle is the same as the 1981 system B, then even if we adopt a start catalyst, it will be far from our development target of 2.3 g/mile of CO. A/T is necessary to satisfy our basic market demands" [7 at 9]. Yet the "certification data" Toyota submitted to support this contention had been superceded by the confirmatory tests which Toyota failed to submit. As discussed at the hearings, Toyota also failed to include the data from vehicle 80–CD–1, which completed mileage accumulation with emissions below the 1981–1982 standards. The official test results listed in Table V–3 were performed on or before July 18, 1979. The Toyota waiver application is dated September 24, 1979.

Table V–9.—*Data Submitted by Toyota Versus Official Data on Which Certificate of Conformity Was Issued*

Vehicle and transmission	Official	Toyota
	HC	
CE–1, 5–MT	0.224	0.180
CE–2*, 3–AT	0.207	0.207
CE–3, 4–AT	0.159	0.240
CE–4, 4–MT	0.139	0.169
	CO	
CE–1, 5–MT	3.02	2.66
CE–2,* 3–AT	4.40	4.40
CE–3, 3–AT	3.27	5.95
CE–4, 4–MT	1.82	2.44
	NO_x	
CE–1, 5–MT	0.60	0.66
CE–2,* 3–AT	0.61	0.61
CE–3, 3–AT	0.62	0.77
CE–4, 4–MT	0.58	0.68

*No confirmatory tests performed at EPA.

"The Guidelines for Applications for Waiver of the 1981 Carbon Monoxide Emission Standard" state that, in Section 5; "the manufacturer should provide all the information regarding the availability of effective control technology. All the information and data requested in this section should *include and emphasize data regarding that configuration of the model, for which a waiver is requested, having the greatest likelihood of meeting the 3.4 gram-per-mile CO standard.* The information requested in this section, if provided with sufficient support material and in sufficient detail, will be considered by the Administrator to be the *minimum required of the applicant to establish his inability to comply with the standards."* [emphasis added] [9 at 47276]

Not only did Toyota fail to emphasize data on a configuration with the greatest likelihood of meeting the 3.4 CO standard, they failed to supply *any* data on vehicles using the 1980 oxidation catalyst system, which has already certified to the 1981–1982 standards.

(4) The vehicles in Table V–9 certified to a 1980 California CO standard of 9.0 g/mi and can be expected to show improved emissions when calibrated to meet a 3.4 g/mi CO standard.

The Monte Carlo results listed in Table V–8 show that the vehicles with systems A and B are not predicted to pass. Vehicle 80–CD–1 is predicted to pass with a hardware improvement factor for an oxidation start catalyst.

Because Vehicle 80–CD–1 has already completed its mileage accumulation for certification below the 1981–1982 standards, a Monte Carlo simulation is unnecessary. Based on the results of vehicle 80–cd–1, the 108 CID engine passes without hardware improvement factors. With a start catalyst factor the Monte Carlo results confirm Toyota's ability to certify the 108 CID engine Federally in 1981.

VI. Cost Analysis

EPA Cost Estimates

The costing methodology used here is essentially the same as that used in the two previous CO waiver decisions [4], [11 at 53400], [21 at 69450]. Additional responses to the EPA subpoena of August 8, 1979 enabled EPA to further revise cost estimates of certain emission control devices, notably monolithic three-way and oxidation catalysts. The subpoena requested prices that suppliers charge the automobile manufacturers for emission control devices or systems.

Table VI–1 presents EPA estimates of cost to the consumer of compliance with 3.4 vs 7.0 CO (due to lead time problems for certain emission control devices, separate estimates are necessary for 1981 and 1982). The changes in cost were calculated by individual engine size. These changes were based on the differences in emission control hardware between a) systems targeted to meet 7.0 CO, as described by each manufacturer in their applications and b) systems judged capable by EPA of meeting 3.4 CO, based on Monte Carlo results or successful 1980 certification of similar vehicles. Cars which passed Monte Carlo often needed improved emission control hardware to do so, and these technological improvements were all costed in.

As shown in Table VI–1, EPA did not find an increase in cost for every engine size which passed the .41 HC, 3.4 CO, 1.0 NO_x emission standard in the Monte Carlo analysis. (For example, certain Monte Carlo factors implied no change or a decrease in cost.) Engine sizes which are labeled "no data" or "fail" in the Monte Carlo analysis are automatically assumed to have no change in cost.

The range in cost for AM is basically attributable to the difference between the 1980 and 1981 C–4 electronics. AM could conceivably certify to 3.4 CO with either system in 1982.

Table VI–1.—*EPA Estimate—Cost of Compliance With 3.4 CO*

Manufacturer	CID	3.4 vs 7.0 CO in 1979 dollars	
		1981	1982
AM	151	0 (fail)	108–146.
GM	231 (3.8L) 4V Turbo.	0 (fail)	(No data).
Lotus	122 (2.0L)	0 (fail)	0 (no data).
	134 (2.2L)	0 (no data)	0 (no data).
	134 (2.2L) Turbo.	0 (no data)	0 (no data).
Toyota	108	−16*	−16*

*Includes the addition of an oxidizing start catalyst.

Manufacturers' Cost Estimates

Table VI–2 presents the manufacturers' estimates of cost to the consumer of compliance with the 3.4 CO standard over cost of meeting 7.0 CO [16 at Vol. I, Sec. V, p. D–2] [10 at A–6] [17 at 10] [5 at 10] [2 at 5–2]. Most manufacturers claimed some degree of confidentiality for their cost estimates, therefore, this table contains only that information which can be released. A cost of "0" dollars signifies that the manufacturer did not specify different control systems to meet 3.4 CO and 7.0 CO.

Table VI-2.—*Manufacturers' Cost Estimates*

Manufacturer	Cost of compliance—3.4 CO v. 7.0 CO
AM	Confidential
GM	0
Lotus	$1000
Toyota	$90–$240

VII. Driveability

American Motors

The issue of driveability is of little importance in the determination of American Motors' ability to comply with the 1981 CO emission standard of 3.4 g/mile. No quantitative driveability data were included in any of their submissions regarding a waiver request for the 151 in^3 engine family.

The only mention made of vehicle driveability was in American Motors contention that since their emission control systems are purchased from General Motors, they have lead time problems packaging these systems in their vehicles with adequate driveability [5 at 97]. AM says they will go with GM's second generation C-4 system to meet the 3.4 g/mile CO standard, or the first generation (1980 California) system if granted a waiver [5 at 170].

The representative from AM discussed driveability difficulties with their 1980 Federal systems, which were also purchased from GM.

"First of all, out 1980 application to passenger cars has been a rather unsuccessful application. We have two configurations of passenger cars certified for 49 state applications, both of which have outstanding running changes. The driveability of those packages in our vehicles is less than acceptable to our standard. So we are in the process of processing running changes to correct the immediate problems associated with those two calibrations." [5 at 18]

With regard to meeting the 3.4 CO standard, AM claims to need 16 months lead time to apply the second generation C-4 system. They say that a large portion of this lead time must be devoted to driveability testing. [5 at 127].

The absence of driveability data or even an appreciably rigorous testing procedure make it difficult for the EPA staff to assess the magnitude of AMC's alleged difficulties.

General Motors

Driveability was not raised as an issue in the determination of General Motors ability to meet the 1981 CO emission standard of 3.4 g/mile. No quantitative driveability data or even subjective commentary were included in any of their submissions regarding a waiver sought for the 3.8L turbocharged engine family. Driveability, therefore, will *not* be a crucial criterion in the decision for waiver of this engine family.

Lotus

No driveability data were submitted by Lotus Cars Ltd. in their application for CO waivers at the public hearing, or in their supplemental information. There were, however, occasional subjective driveability comments made in discussions of the development programs for exhaust gas recirculation, use of additional catalysts, electronic fuel injection, closed loop carburetion and turbochargers. No objective rating scheme or driveability test procedures were provided.

With regard to the EGR "system 5" with a variable vacuum regulator it was stated that "subjective driveability problems also existed in hard accelerations with this system although these were not quantified" [6 at section 1].

In their original application Lotus asserted, though they did not support their claims with data, that the addition of a second (oxidation) catalyst to their system would cause performance penalties associated with (a) the increased exhaust backpressure, (b) the extra weight of the additional catalyst, an air pump and the associated air management controls and (c) the horsepower absorbed by the air pump [3 at 5]. In their supplementary application, Lotus submitted emission data on vehicle 132S with an additional catalyst and an air pump [6 at 2.2.3], but stated . . .

"Our usual quantitative driveability test (measuring acceleration times) was not attempted because the car was so obviously slow." [6 at section 2]

The car was slow particularly during the cold phase. The driving trace could not be followed even under conditions of wide open throttle. However, the measurement of acceleration times is generally not considered a test of driveability. Driveability is usually assessed in terms of surge, hesitation, backfire, stall, startability, idle quality, run on, afterfire and similar phenomena. Evaluations such as acceleration times and power losses are usually measures of vehicle performance.

Tony Rudd, Corporate Research Director of Lotus Cars of England, mentioned a 6 to 8 horsepower performance penalty associated with the dual bed (three-way plus oxidation) catalyst alternative at the public hearing, but failed to submit the accompanying performance data [5 at 16–17].

Lotus is currently developing alternative technology for new engines aimed at improved economy and performance. They stated that . . .

". . . the design improvements due to be incorporated in the V8 engine will give further improved performance and economy. It is expected that with careful combustion control and digital fuel injection, emissions levels will be within 1982 statutory limits." [6 at section 6]

Another alternative, to be ready for use in 1980 (and 1981 if a waiver is granted), is the turborcharged engine. Lotus suggests that this engine will not meet the 1981 emission standards, but it feels it is a cost effective solution to satisfy customer demands for economy and performance until the new engines become available [6 at section 5].

As a bottom line to this discussion, Lotus declares that they cannot feasibly assess driveability because their present technology does not allow them a comparison:

"Since we have not achieved the 1981/82 statutory limits, we have no data available to accurately assess the effect on fuel economy and driveability of complying with these limits." [6 at section 4]

Toyota

Toyota has stated that the basic difference between their A and B systems with regard to engine family 3T-C is the addition of a monolithic oxidizing start catalyst to system A [5 at 54]. Systems A and B are targeted for the 3.4 and 7.0 g/mile CO standards, respectively. Driveability as assessed by Toyota is better with system A than system B, slightly superior under cold conditions and greatly improved under warmed-up conditions. This assessment is based on only one test vehicle, vehicle 230B-18, and the same vehicle was used for testing both the A and B systems [2 at 5–4]. No vehicle description for 230B-18 could be found in any of the documents provided by Toyota.

It is important to note that based on Toyota's criteria for acceptable driveability, system B is rated marginally unacceptable for the cold start and acceptable in the warmed-up portion of the test. System A meets the acceptable rating for both portions of the test [2 at 5–4]. Toyota concludes that based on this vehicle, system A has "good" driveability and system B has "adequate" driveability [2 at 5–5]. It is the opinion of the EPA technical staff that Toyota has shown better driveability on their 3T-C engine with a start catalyst than without one.

Toyota's 1980 certification vehicle, 80-CD-1, has passed the Monte Carlo simulation model with a start catalyst. However, no driveability data were submitted for vehicles using this type of emission control system.

VIII. Fuel Economy

Of the four applicants in this round of CO Waiver hearings, two manufacturers claimed a fuel economy loss would be incurred if their waiver applications were denied. Those manufacturers were Toyota and Lotus. Of the remaining manufacturers, General Motors did not address the subject of suffering a fuel economy penalty in order to meet 3.4 CO, and AM did not claim a fuel economy loss in meeting 3.4 CO but did indicate that if their waiver request was denied, then their inability to market vehicles with these smaller engines would result in a loss in Corporate Average Fuel Ecomomy (CAFE).

Toyota

Toyota claimed that their 1981 system has the potential of increasing fuel economy from 5 to 20% over 1980 production vehicles [7 at 10 and 5 at 48], if the CO standard were waived to 7.0 g/mi. If the waiver were denied, Toyota claims they would need an additional oxidation catalyst added to the 1981 system which would result in a 2 to 3% fuel economy loss due to the additional backpressure of the catalyst [5 at 47]. However, as seen from the data in table VIII-1, the data supplied by Toyota do not support their claim. The fuel economy of Toyota's system A, for which Toyota is claiming a 5% loss due to an increase in backpressure, appears to show a fuel economy increase of 0.2 MPG compared to their system B, when the respective data are averaged. It is also interesting to note that vehicle #80-CD-1, which is a 1980 California certification vehicle, passed the emission levels of 0.41

HC, 3.4 CO and 1.0 NO_x. The 1980 California system passed these standards with a fuel economy of 23.8 MPGu when averaged throughout its durability. Since composite fuel economy has historically been over ten percent higher than urban fuel economy, vehicles using this engine will surely exceed the 1982 CAFE standard of 24 MPG.

Therefore Toyota has already exhibited that they have in their possession sufficient technology to meet CAFE as well as the emission standards simultaneously for both 1981 and 1982 for this engine family.

Table VIII-I.—*Toyota Fuel Economy Data*

	Exhaust system	Inertia weight	Engine displacement	Transmission	Axle ratio	Ave. durability F.E. (MPGu)	No. of data pts.
Vehicle I.D.:							
353B-40-2	A	2,500	108	A3	3.909	24.2	8
353B-46-2	A	2,500	108	M5	3.727	24.5	10
TE51-50	A	2,500	108	M5	3.727	24.4	6
TE66-15-2	A	2,625	108	M5	3.727	25.7	4
353B-40-1	B	2,500	108	A3	3.909	24.3	7
TE51-60	B	2,500	108	M5	3.727	24.5	8
231B-21-1	B	2,500	108	M4	3.727	23.6	7
235B-5	B	2,500	108	A3	3.909	25.5	6
[1]80-CD-1	OC/Air/EGR	2,500	108	M5	3.73	23.8	13

[1] 1980 California certification data.
A = AI + OC + CL − 3W.
B = AI + CL − 3W.

Lotus

Lotus is apparently planning to use their 1980 California system in the '81 and '82 model years. This system has passed in 1980 Certification below the levels of 0.41 HC, 7.0 CO and 1.0 NO_x with fuel economy marginally above the 1980 CAFE standard. However, Lotus' attempts at improving this system have been somewhat limited since apparently they feel that they do not have a large enough portion of the U.S. market to justify such an expense. Lotus did report, however, that adding an additional oxidation catalyst to their 1980 California system, consisting of an open loop 3-way catalyst with air injection, results in a fuel economy loss of 2 MPG [5 at 12]. Lotus did not supply data to verify this claim, but it does appear to be a high estimate of the loss due to the additional backpressure. If Lotus does use the 1980 California system for 1981 and 1982, it appears doubtful that the fuel economy increase to the CAFE standards of 22 and 24 MPG respectively can be obtained without some type of hardware change. It seems that Lotus' fuel economy problems stem from insufficient technology (i.e. lack of feedback fuel control) and not due to the difference between the 3.4 and 7.0 CO standards, since Lotus' fuel economy would be below CAFE standards with this system. Lotus also reported that they plan to have EFI available to them by 1983 and expect an improvement such that they may be able to achieve 30 MPG_c with this system [5 at 8].

General Motors Corp. (GM)

GM did not address the subject of a fuel economy penalty resulting from meeting the 3.4 CO standard. Since this issue was not presented, it may then be interpreted that fuel economy is not an issue for GM in meeting 3.4 CO with vehicles using the 231 turbocharged engines. Thus it appears that GM has not changed its position from their earlier testimony.

American Motors Corp. (AM)

AM claimed that if their waiver request were denied, they would be left in a position where they would have no 4 cylinder engines to market. If this were in fact the case, AM claims they would be unable to meet the CAFE standard of 22 MPG_c for 1981. Therefore AM claims that they need this waiver such that the 4 cylinder engines can boost their CAFE fleet to an acceptable level [5 at 133].

Summary

As in the past CO hearings, none of the manufacturers who claimed a fuel economy penalty between 3.4 and 7.0 g/mi. CO provided substantiating data to confirm their claim. Also, as in past hearings, those manufacturers failed to submit fuel economy data at the levels of 0.41 HC, 3.4 CO, and 1.0 NO_x. The absence of such data tends to imply that the fuel economy penalties are due to differences in systems and not necessarily related to the differences in CO standard. The opinion of the EPA technical staff, after reviewing each manufacturers' respective data, remains unchanged; that a reduction in CO from 7.0 to 3.4 g/mi does not result in an inherent fuel economy penalty.

IX. Lead Time Considerations

American Motors (AM)

AM currently has certified their 1980 California versions of vehicles using the 151 CID engine from General Motors. The primary emission control components of that system include a feedback carburetor, ported EGR, a pelleted 3-way catalyst, and the first generation electronic control unit (ECU) [5 at 90–92]. These are the same components used by GM, though production calibrations are not identical [5 at 90, 98 and 150 to 152].

The primary emission control components of the 1981 GM system include a feedback carburetor, backpressure EGR, switched air injection (AIR), electronic spark advance (ESA), a monolithic 3-way catalyst, a monolithic oxidation catalyst, and the second generation ECU [5 at 81 to 92]. This is substantially different than the 1980 California system by the addition of ESA, AIR, and a clean up oxidation catalyst. Other differences do exist, but probably are not as important as those already mentioned.

AM already has received a waiver from 1.0 to 2.0 NO_x for the 1981 and 1982 model years. Due to the situation, a waiver to 7.0 CO would allow AM to carry over either their 1980 Federal or California emission control systems for Federal use in both the 1981 and 1982 model years. Since both are currently certified by EPA, no additional development or certification efforts would be required.

The original AM waiver request indicated that the 1980 California system would be used if a waiver were received [13 at 7]. The second AM waiver request said that AM would utilize the 1981 Federal GM system (the same one GM will use without a waiver) if they were to receive a waiver [12 at 4 to 6]. A new system with both warmup and main catalysts would be a back up system [12 at 8 to 10]. In their most recent submission, AM has stated they will use the 1980 California system at 7.0 CO [20 at 1]. This confusion in the AM situation was apparently generated when GM temporarily decided that they could not provide the 1980 California system to AM. This decision by GM was later reversed [12 at 4 to 6 and 5 at 149].

The contract, under which GM provides the 151 CID engine and emission control system to AM, allows AM to use the deterioration factors generated by Pontiac certification vehicles. The contract does not preclude AM from entering additional engine families into the certification process at their own expense. This is apparently the path which has been been chosen by AM in selecting their back up family using an oxidation catalyst system [12 at 8 to 10].

It should be noted that the 1981 back up oxidation catalyst family will probably not be considered by AM at 7.0 CO now that the 1980 California system is available.

The emission control system which would be used by AM if a CO waiver is not received is the same as the 1981 Federal system being used by GM (called the C–4 system by GM). AM has stated that they will be unable to certify vehicles using the 151 CID engine in 1981 without a waiver due to lead time problems in learning to utilize the second generation system [12 at 11 and 5 at 126 to 135]. They stated that "we believe it is unreasonable and inconsistent with the intent of Congress and contrary to the technical reality to expect a vendor-dependent company such as American Motors to possess the necessary advanced emission control technology in the same model year other manufacturers are introducing it for the first time" [12 at 10].

AM believes that they cannot complete the certification of the system for 1981 because ". . . the [C–4] system has such a wide range of capabilities that we are overwhelmed with more flexibility than we can reasonably contain with our in manpower/facilities/time constraints [12 at 6]".

Key dates in the evaluation of the C–4 system at AM have been stated by GM and AM as follows:

Date	Event	Reference
February 1979	1. AM received components from GM that were used to "derive" current emission components.	5 at 138–139.
April 1979	2. AM received the second generation ECU	5 at 139.
May 1979	3. AM received the Pontiac "declaration of their prime package".	5 at 99.
Late August to early September 1979.	4. AM had assembled vehicles with the C–4 system in "usable, functional hardware, short of calibration".	5 at 99.
May 1980	5. AM estimates GM will have 4,000 mile vehicle calibrations developed—AM can then start to develop final calibrations.	5 at 98.
August 1980	6. AM estimates (with high risk) that they can certify the C–4 system to 7.0 CO.	5 at 129.
	7. AM estimates (with much less risk than above) it takes 16 months from August 1980 to certify to 3.4 CO with the C–4 system.	5 at 126–135.

There are several important things to discuss in this group of events which operates against AM's assertion that they need a two year waiver to provide adequate lead time to meet 3.4 CO. First, there was a substantial delay between the time when AM received components from GM and the time AM had a vehicle which was operational. This apparently was due to AM's emphasis on completing their 1980 California certification. The California certification was completed in October, 1979 and was not in time for AM's scheduled start of production in July, 1979 [12 at 11].

Second, AM has claimed that their final calibration efforts can not commence until GM has completed the calibration development for their emission data vehicles. This is peculiar in that AM extensively discussed, (1) the differences between the GM vehicles and the AM vehicles [5 at 107 to 109], (2) the historical differences in final calibration of the GM and AM vehicles [5 at 98 to 102], and (3) the AM responsibilities for the final vehicle calibration [5 at 97 to 99].

Third, it is peculiar that AM would even consider expending their limited efforts on the C–4 system for certification at a 7.0 level (at the time of their submission AM believed that the 1980 California system would not be available) as their 1980 Federal vehicles would already comply with the 0.41 HC, 7.0 CO, 2.0 NO_x standard.

Finally, the AM estimate of the need for a 16 month lead time (from August of 1980) to meet 3.4 CO seems extremely long. AM was asked to provide information supporting this estimate and the method used to obtain this estimate. The AM response is contained in reference 20. In the opinion of the technical staff, the need for sixteen months lead time was not substantiated by the AM submission.

On the more optimistic side, AM has several advantages that most other vehicle manufacturers do not have. First is their 2.0 NO_x standard in 1981 and 1982. This is the result of special legislation contained in section 202(b)(1)(B) of the 1977 Amendments to the Clean Air Act. Second, they have received the benefits of the GM/AM agreement. AM receives emissions control hardware and technical advice from GM. The advice from GM includes assistance in the calibration of AM vehicles [5 at 151]. Also AM stated that it is their current desire to introduce the second generation system in 1981 in California [12 at 8].

Nevertheless according to the most recent AM submission substantial difficulties are still being encountered with the second generation C–4 emission control system. As examples, AM is still having problems with the wiring of the C–4 system. Not a single vehicle is running properly as of December, 1979. And some emission control hardware is still being "cobbled" [20 at 4 to 5].

In view of the lack of progress at AM since the Administrator's initial decision for this engine the current AM problems discussed in the paragraph above, and the continuing lack of any emission data from AM on this engine, it is now the opinion of the technical staff that AM no longer has sufficient lead time to complete development and acceptable calibration of vehicles using the 151 CID engine for Federal use in 1981.

AM was not really sure that a waiver would be needed in the 1982 model year [5 at 125] and indicated that there was still a possibility of achieving 3.4 CO in 1981 with the second generation system. The latter possibility was considered to be "highly unlikely" by AM however [5 at 134 to 135]. With a waiver in 1981, AM will no longer need to expend effort on the calibration and certification of the second generation system for 0.41 HC, 7.0 CO, 2.0 NO_x. The effort saved here should enable AM to introduce the second generation system as planned in California in 1981. Assuming that AM makes a good faith effort to develop and calibrate the second generation C–4 system in 1981 for Federal use, they should have completely adequate lead time for successful federal certification in 1982.

General Motors

General Motors did not make much of an issue of lead time in their application for waiver of the 3.4 g/mile CO standard for the 3.8L turbocharged V–6 engine family. GM claims that the added thermal mass of the turbocharger slows warm-up of the system and delays light-off of the catalytic converter. Therefore, they say that the standard will be difficult to meet in the available time frame [5 at 156]. No evidence was presented, however, to show that this system could eventually meet the standard (in 1983), though GM expects to observe substantial improvements with their dual-bed C–4 technology [5 at 156].

GM would like the field experience with the turbocharger and with their spark knock limiter system. The turbo, they claim, will provide them with a small displacement engine with the power of a larger engine while maintaining many of the benefits of a smaller engine [5 at 154]. It is not evident to the EPA staff however, that it will take GM two additional years of field experience to achieve the 3.4 CO standard with this engine.

From the information submitted so far by GM, it appears that the 3.8L turbocharged engine will not meet the 3.4 g/mile CO standard by 1981 with the systems they have tested. Systems with which they have not really experimented, which might help them meet the standard, were discussed at the public hearing. These included warm-up catalysts, increased catalyst volumes and use of exhaust port liners.

GM did not test warm-up converters, but said that the available evidence indicated very high deterioration factors when warm-up converters were used [5 at 157]. They also did not consider placing a start catalyst or the three-way portion of a dual-bed system before the turbocharger where the exhaust is hotter. This, they explained, was an effort to keep the restriction level between the engine and the turbo as low as possible to conserve the heat for boosting the turbo as quickly as possible [5 at 158].

In a follow-up submission, GM showed data comparing a highly loaded 250 in^3 dual-bed pelleted converter, a 170 in^3 dual-bed monolithic converter and a 130 in^3 dual-bed pelleted converter. Due to the poor warm-up efficiency of 250 in^3 pelleted converter and the emission results and increased exhaust

backpressure of the 130 in³ pelleted converter, they selected the 170 in³ dual-bed monolithic converter as their first choice system for this engine family [19 at 6–7]. The possibility of using a larger volume monolithic converter was not mentioned by GM.

No testing was done on exhaust port liners. GM explained that their engine has a fairly short exhaust port from the valve to the flange and they are concentrating their effort on providing a lower mass exhaust manifold [5 at 162].

In the opinion of the EPA technical staff the use of start catalysts, larger monolithic catalysts, and port liners would improve the emissions from this engine and could be developed for this engine in time for use in 1982 model year certification.

Lotus

An issue with which Lotus cars claims to have lead time difficulties is their development of electronic fuel injection. At the public hearing of November 5, 1979 the representative from Lotus stated . . .

"We do believe that we could meet the standard with the use of electronic fuel injection with a yet undeveloped system of measuring air flow control. We are actively pursuing development of this system to use on the new range of engines [5 at 9]."

In their supplementary submission, Lotus included a letter from the Lucas Company, their prime fuel injection program subcontractor, which contains a schedule of their program and a job one date of June 1981. Lotus noted that the job one date may be delayed three months due to industrial unrest in the United Kingdom, making September 1981 the start of production [5 at 33]. This means that Lotus could definitely use fuel injection technology on their 1982 model year vehicles.

In the letter, Lucas states that the objective of the program is . . .

"To apply Lucas digital electronic fuel injection to a new V8 Lotus engine for both Federal and European vehicle applications. The program is based on the 1982 model year and an annual production rate of 1000 engines [6 at section 6]."

Lotus is therefore placing initial emphasis on the development of electronic fuel injection for their new V8 engine rather than for the in-line four cylinder engines which are the subject of their current waiver application.

It appears logical that the development of fuel injection for a new V8 engine would take considerably more effort and lead time than a similar development program for the in-line four cylinder engines.

In other words, Lotus has sufficient lead time to apply electronic fuel injection to the engines for which a waiver is currently being sought by the 1982 model year.

Toyota

Lead time does not appear to be an issue with Toyota in their request for a waiver of the 1981–82 emission standards for engine family 3T–C. The only mention made of insufficient lead time was to accomodate their vehicles with a clean up oxidation catalyst [7 at 2]. Toyota has stated that they do not feel the clean up catalyst will assist them in meeting the emissions standards and that there is no room for it in their vehicles anyway [7 at 2]. They seem more concerned with meeting the fuel economy standards and having good driveability since the emissions requirements have already been met with their 1980 certification vehicle 80–CD–1 [5 at 67]. At the public hearing, it was confirmed that vehicles using the same emission control system as vehicle 80–CD–1 could be available for sale in the United States for model year 1981 [5 at 64]. Toyota prefers a system with an oxidizing catalyst and has more experience with it.

"The system with start catalyst has a great advantage for non-FTP emissions, especially for cold temperature conditions not under consideration." [7 at 2]

Use of oxidizing start catalysts on the 3T–C engine family is definitely not a question of lead time or availability since they have already been tested and used on development vehicles for system A.

It appears entirely possible then, that Toyota could produce a system like the one that passed 1980 certification with the addition of an oxidizing start catalyst to be used in time for the 1981 model year. This system has been evaluated, run and passed the EPA Monte Carlo simulation model. The system very nearly passed without the aid of a start catalyst so Toyota should have little difficulty meeting the emissions and fuel economy standards in 1981–82 with a start catalyst on their 3T–C engine.

X. References

1. Toyota Motor Co., Ltd. *Request For Waiver Carbon Monoxide Standard Applicable to 1981 and 1982 Light Duty Vehicles,* June 1979.

2. *Toyota CO Waiver Application Supplementary Materials,* September 24, 1979.

3. *Lotus 1981/82 CO Standard Waiver Application.*

4. Leroy H. Lindgren, *Cost Estimations For Emission Control Related Component-Systems and Cost Methodology Description,* EPA Pub. #460/3–78–002, March 1978.

5. *Transcript of Proceedings—United States Environmental Protection Agency—In the Matter of: Applications For Waiver of 1981 Model Carbon Monoxide Emission Standards,* Acme Reporting Company, November 5, 1979.

6. *Lotus Cars Limited, CO Waiver Application Supplementary Information,* November 16, 1979.

7. Letter and Enclosures to Mr. Charles Freed (Manufacturers Operations Division of EPA) from Mr. J. Kawano (Toyota Motor Co., LTD.), November 20, 1979.

8. Letter and enclosures to Mr. Benjamin R. Jackson (Mobile Source and Noise Enforcement Division of EPA) from Mr. S. L. Terry (Chrysler Corporation), Nov. 19, 1979.

9. **Federal Register,** Vol. 43, No. 199; Friday, October 13, 1978.

10. Chrysler Corporation, *Petition For Reconsideration Of EPA's Decision Denying 1981–82 Model Year CO Waiver,* October 16, 1979.

11. **Federal Register,** Vol. 44, No. 179, September 13, 1979.

12. *American Motors Corporation petition for Reconsideration of a Waiver of the 1981 Carbon Monoxide Emission Standard for AM's 151 CID Engine Family,* October 26, 1979.

13. *American Motors Corporation Application For Waiver of the 1981 and 1982 Carbon Monoxide Emission Standard,* July 3, 1979.

14. *General Motors Documents Submitted in Response to EPA Subpoena Dated October 31, 1979, Re: American Motors Corporation CO Waiver Application for the 151 CID Pontiac Engine,* Submitted to Environmental Protection Agency; November 5, 1979.

15. *American Metal Market/Metalworking News,* Dec. 3, 1979.

16. *CO Waiver Application, Chrysler Corporation, Application for Waiver of the 1981–82 Model Year Carbon Monoxide (CO) Standard of 3.4 grams Per Vehicle Mile for Passenger Cars,* July 3, 1979.

17. *General Motors Application For Waiver of 1981 and 1982 Carbon Monoxide Emission Standard (Turbocharged 3.8 Liter Engine Family),* November 2, 1979.

18. Engelhard Industries, July 9, 1979, *Response to the Environmental Protection Agency Subpoena* dated June 29, 1978.

19. Letter to Mr. Charles N. Freed (Manufacturers Operations Division of EPA) from T. M. Fisher (Environmental Activities Staff of GM), November 19, 1979.

20. *Supplemental Submission of American Motors Corporation Concerning Waiver of the 3.4 CO Emission Standard for the 151 CID 4-Cylinder Engine Family,* December 6, 1979.

21. **Federal Register,** Vol. 44, No. 233, December 3, 1979.

[FR Doc. 80–2731 Filed 1–30–80; 8:45 am]

BILLING CODE 6560–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL 1397-8]

Revised Motor Vehicle Exhaust Emission Standards for Carbon Monoxide (CO) for 1981 Model Year Light-Duty Vehicles.

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This regulation establishes CO emission standards for 1981 model year light-duty vehicles belonging to certain engine families for which I have granted waivers from the standard otherwise applicable under section 202(b)(5) of the Clean Air Act, 42 U.S.C. § 7521(b)(5).

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT: Alex Varela, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 472-9413.

PUBLIC DOCKET: Information relevant to this rule is contained in Public Docket EN-79-19 at the Central Docket Section of the Environmental Protection Agency (EPA), Room 2903B, 401 M Street, S.W., Washington, D.C. 20460 and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(A) of the Clean Air Act ("the Act"), 42 U.S.C. 7521(b)(1)(A), requires that regulations applicable to CO emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which require a reduction of at least 90 percent from CO emission levels allowable under the 1970 model year standards. Regulations implementing this requirement have established a CO standard, often referred to as the statutory standard for CO, of 3.4 grams per vehicle mile (gpm).

Section 202(b)(5) of the Act authorizes the Administrator, on application of any manufacturer, to waive the statutory CO standard for the 1981 and 1982 model years for any light-duty vehicle model regarding which the Administrator can make certain findings. In these cases, the Act requires that I promulgate substitute CO standards for 1981 and 1982 model year light-duty vehicles as discussed below. Applications for waivers considered here were submitted by American Motors Corporation (AMC), General Motors Corporation (GM), Toyota Motor Co. Ltd. (Toyota), and Lotus Cars, Ltd. (Lotus). The statutory criteria, my determinations regarding the criteria with respect to the vehicle models covered by the waiver applications, and my decisions to grant or deny the waiver applications appear in the consolidated decision published above. In that decision, I granted waivers covering the following vehicle models (engine families for purposes of that decision) for the 1981 model year only:

Manufacturer	Engine family
Lotus Cars, Ltd.	2.0L.
American Motors Corporation.	151 CID.
General Motors Corporation.	3.8L/231 CID-4V Turbocharged.

Once I have decided to grant waiver applications for these three 1981 model year vehicle models, the Act requires that I simultaneously promulgate regulations adopting emission standards not permitting CO emissions from 1981 model year vehicles of these Lotus, AMC, and GM, models to exceed 7.0 gpm. Moreover, that Act further requires that I promulgate regulations establishing these standards no later than 60 days after I receive the waiver application in question. The public has received an opportunity to comment on the waiver applications at issue, and I have considered those comments in making the consolidated decision which requires the promulgation of this rule. For these reasons, I find that providing notice and an opportunity to comment on this rulemaking before final promulgation is impracticable and unnecessary.

Note.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis under Executive Orders 11821 and 11944 and OMB Circular A-107.

In addition, because the decision accompanying this rulemaking already is based on a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking as well.

Dated: January 22, 1980.

Douglas M. Costle,

Administrator.

40 CFR Part 86 is amended as follows: Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks and 1977 and Later Model Year New Heavy-Duty Engines.

40 CFR 86.081-8(a)(1), published at 44 FR 69416 (December 3, 1979), is revised to read as follows:

§ 86.081-8 Emissions standards for 1981 and later model year light-duty vehicles.

(a)(1) Exhaust emissions from 1981 and later model year light-duty vehicles shall not exceed the following levels for the following pollutants:

(i) Hydrocarbons—0.41 grams per vehicles mile;

(ii) Carbon monoxide—3.4 grams per vehicle mile, except that

(A) carbon monoxide emissions from light-duty vehicles of the following 1981 and 1982 model year engine families shall not exceed 7.0 grams per vehicle mile:

Manufacturer	Engine family
American Motors Corporation.	258 CID.
BL Cars, Ltd.	TR8, XJ12.
Chrysler Corporation	1.7 liter; 3.7 liter; 5.2 liter/4-V.
General Motors Corporation.	2.8 liter/173 CID-2V; 3.8 liter/231 CID-2V.
Toyota Motor Company, Ltd.	88.6 CID.

(B) Carbon monoxide emissions from light-duty vehicles of the following 1981 model year engine families shall not exceed 7.0 grams per vehicle mile:

Manufacturer	Engine family
Toyo Kogyo Company, Ltd.	91 CID, 120 CID.
General Motors Corporation.	3.8 liter/231 CID-4V Turbo.
American Motors Corporation.	151 CID.
Lotus Cars, Ltd.	2.0 liter.

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that:

(A) oxides of nitrogen emissions from 1981 and 1982 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile;

(B) oxides of nitrogen emissions from light-duty vehicles of the following 1981 and 1982 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Model year	NO_x (gpm)
General Motors Corporation.	5.7 liter	1981, 1982	1.5
Daimler-Benz AG.	2.4 liter	1981	1.5
		1982	1.25
	3.0 liter naturally aspirated.	1981, 1982	1.5
	3.0 liter turbocharged	1981, 1982	1.5
AB Volvo	2.4 liter naturally aspirated.	1981, 1982	1.5

(Section 202 and 301(a) of the Clean Air Act, as amended, 42, U.S.C. 7521 and 7501(a)).

[FR Doc. 80-2732 Filed 1-30-80; 8:45 am]

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federal register

Thursday
January 31, 1980

Part VII

Department of Transportation

Research and Special Programs Administration

Highway Routing of Radioactive Materials; Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 177

[Docket No. HM-164; Notice No. 80-1]

Highway Routing of Radioactive Materials

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish routing requirements to apply to carriers by highway of radioactive materials when placarding is required. General requirements would apply to all such carriers, and more specific requirements, concerning use of Interstate highways, written route plans, and driver training, would apply to carriers of large quantity packages (which would include commercial shipments of irradiated reactor fuel). Recent action by the Nuclear Regulatory Commission regarding physical security of irradiated reactor fuel offered for transportation by its licensees would be recognized and extended to all shippers of irradiated reactor fuel. Certain actions by State governments concerning radioactive materials routing by highway would be recognized. This proposal is intended to reduce the possibility of exposure and inadvertent releases in normal and accident situations in transportation, and to clarify the scope of permissible State and local action.

DATE: Comments must be received by May 31, 1980. Public hearings will be announced later.

ADDRESS: Comments should be addressed to: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted. Dockets may be reviewed in Room 8426, 400 Seventh Street, S.W., Washington, D.C. between 9 am and 5:30 pm weekdays.

FOR FURTHER INFORMATION CONTACT: Marilyn E. Morris, Regulations Specialist, Standards Division, Office of Hazardous Materials Regulation, Room 8102, 400 Seventh Street, S.W., Washington, D.C. 20590, phone 202–426–2075.

SUPPLEMENTARY INFORMATION:

I. Historical Background

In 1976, truck shipments of irradiated reactor fuel (spent fuel) from Brookhaven Nationald Laboratories' Long Island facility were interdicted by an amendment to the New York City Health Code. The Health Code amendment had the practical effect of banning most commercial shipments of radioactive materials in or through the City. Associated Universities, Inc., which operates Brookhaven National Laboratories, asked DOT whether that ordinance was preempted by Federal transportation safety requirements issued under the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. 1801 *et seq.*). On April 20, 1978, DOT published an Inconsistency Ruling (43 FR 16954) in which it viewed the City's Health Code amendment as an extreme routing requirement intended to protect the very dense urban population found inside the City. DOT concluded that the HMTA could preempt local requirements such as New York City had implemented, but because highway routing authority had not yet been exercised under the HMTA, the City's health code was not preempted by HMTA requirements.

A number of other State and local governments have either passed, or proposed, legislation that severly restricts transportation of certain radioactive materials through their jurisdictions. These actions do not seem to be based on the relative significance of previous accidents involving radioactive materials transportation. The information available to DOT through the Department's Hazardous Materials Incident Reporting System, to which carriers report incidents involving any release of a hazardous material in transportation, or any suspected radioactive contamination, indicates that radioactive materials transportation has a good safety record. In 1977 the DOT estimated that 2.5 million packages of radioactive materials were being transported by all modes yearly. This estimate closely approximates the 2.19 million packages reported in the study "Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes" (December 1977) (NUREG 0170) (p. 1–18) as being shipped in 1975. From 1971, when the reporting system was established, until August 1979, a total of 463 incident reports were received involving radioactive materials (0.5% of the total reports received). In comparison, approximately 45,000 incident reports were received which involve flammable liquids (51% of the total). Of the 463 reports filed since 1971 involving radioactive materials, 323 concerned highway transportation, and of this number approximately 275 were reports of minor or suspected contamination to the container and/or transport vehicle due to improperly prepared shipments. The more severe of the reported highway incidents involved vehicle accidents which resulted in packages of radioactive materials being burned, thrown from the vehicle, or rolled on by the vehicle. These events occurred in about 15% of the reported incidents. Examples of such incidents reported last year include:

(1) The January 10 collision near Morristown, Tennessee of a truck tractor and flat-bed trailer carrying 5 cylinders, each containing 6800 pounds of radioactive material fissile, n.o.s. (Uranium Hexafluoride UF_6) into the rear end of a tank truck. The crash resulted in the total loss of the truck power unit and personal injuries to the driver. The cylinders however, remained intact and the trailer sustained very limited damage. The load was returned to Oak Ridge, Tennessee using another power unit. No loss of contents or increased radiation levels were detected.

(2) A single vehicle accident on March 22 involving a truck tractor and enclosed semi-trailer carrying 54 steel drums of 55 gallon capacity, each containing approximately 810 pounds of Radioactive Material, LSA, n.o.s. (yellowcake). In this incident the vehicle was travelling on a portion of I–235 near Wichita, Kansas. The shoulder of the road was composed of soft dirt due to a recent excavation required for the construction of an interchange. Travelling at a speed of 50–52 MPH the right rear wheels went into the soft shoulder on the right side of the road. When the driver attempted to steer the truck back onto the road, the truck began to swerve to the left, overturned, and landed across the road on its right side. As a result of the accident, 51 drums came through the roof of the trailer and scattered as far as 100 yards from the truck in the direction the truck was initially travelling. About 1800 pounds of the 43,782 pounds of yellowcake was spilled. Cleanup operations and recovery of the yellowcake required 9 days to complete. This incident resulted in personal injuries to the driver but no radiological damage occurred to personnel and essentially none to the environment.

(3) The loss of a package of radiopharmaceuticals (radioactive yellow–III label) from the rear of a local delivery truck on August 16 onto a city street in Des Moines, Iowa. The package weighing 29 pounds consisted of a lead shielded generator (Molybdenum 99/Technetium 99) and glass vials of a

sterile saline solution. Extensive damage was incurred by the package from the wheels of passing motor vehicles resulting in the scattering of its contents. While several of the glass vials were broken the generator itself was not damaged to the point of releasing its contents, nor was there an increase in radiation levels.

None of these or any of the radioactive materials incidents reported to date resulted in radiological health consequences as severe as the consequences reported sometimes to result from the behavior of flammable liquids in transportation accidents. Nonetheless, it seems likely that State and local interest in radioactive materials transportation will continue. Reasons for this interest involve qualitative differences between transportation hazards posed by radioactive materials and transportation hazards posed by other materials.

Transportation accident risk and estimates of population doses from normal accident-free transportation for radioactive materials have been made in NUREG 0170 and in the preliminary report "Transport of Radionuclides in Urban Environs: A Working Draft Assessment" (May 1978, SAND77-1927) (Urban Environs Draft) (both documents are available for review in the public docket). Those estimated risks are within the magnitudes of other socially accepted risks, such as evidenced in highway traffic fatality rates.

Public concern with radioactive materials transportation, however, is more profound than those estimates would suggest is justified. In part this concern reflects the distinction between risks which are likely to be concentrated and similar risks spread over differing times and locations. The annual death rate from passenger car accidents, for example, usually is perceived as less catastrophic than major aircraft accidents, although far more people die in automobile accidents. This distinction may reflect the perceived limits of society to deal with catastrophic occurrences.

Discomfort from a lack of public familiarity with radiation hazards also increases the likelihood of local responses to radioactive materials transportation risks. Accident risk, for example, may be expressed in such unfamiliar terms as numbers of latent cancer fatalities, early deaths or morbidities, and genetic effects. Unlike other hazardous materials, radioactive materials present an impact during accident-free, or normal, transportation. This impact, called normal dose, results from the fact that under normal circumstances, some small amounts of radiation penetrate the outer surfaces of most packages of radioactive materials. Normal dose is very small, but it is statistically significant in terms of the overall impacts that result from radioactive materials transportation.

Radiation hazards themselves are comprised of a number of phenomena. A radioactive material may be solid, liquid, or gaseous, and thus may or may not easily be dispersed in a transportation accident. A radioactive material may be ingested or absorbed selectively and retained in plant, animal, and human tissues for varying lengths of time due to the basic chemical and physical characteristics of the different radioactive materials as well as the nature of the tissues. A person also can be exposed to radiation by being near an exposed radiation source. Radiation ordinarily cannot be detected except by instrumentation, unlike the well understood flammability hazard of such materials as gasoline.

Radiation health effects are not widely understood but include genetic effects and latent cancer, conditions which may not be mainfested until many years after exposure (which may not be recognized at the time it occurs). A thorough understanding of radiation and its known health effects requires a significant degree of technical knowledge. Other materials possess similar hazards, but the combination of these characteristics in the case of radioactive materials has produced a degree of public concern which has affected actions taken or being considered by State and local governments.

II. Discussion of Public Comments

In August 1978, DOT issued an advance notice of proposed rulemaking (43 FR 36492, August 17, 1978) opening this docket and asking for public comment to assist in deciding whether rules to govern highway routing of radioactive materials should be developed and proposed, and if so, what the rules should say. The advance notice did not propose any action, but asked for comment on whether any action should be taken by DOT. Over 550 comments were received, falling principally into six groups.

A. Individuals; Public Interest and Environmental Organizations

This group comprises almost 70% of all comments received and falls into two subgroups:

(1) Individuals and organizations opposed to the transportation of nuclear materials or Federal involvement in local affairs. These commenters made two major points: local laws which are stricter than Federal regulations should be allowed to stand, and radioactive materials, particularly spent fuel, are inherently dangerous and should not be transported through heavily populated areas. One commenter urged MTB to adopt a full licensing scheme to apply to shipments involving a large number of curies (a unit of radioactivity) with an expressly reserved right in State and local governments to impose stricter standards. This commenter suggested banning large curie shipments from urban areas with population densities above 10,000 persons per square mile.

(2) Individuals and organizations favoring wider Federal preemption of State and local laws. These commenters stressed the excellent transportation safety record of radioactive materials and urged that additional requirements not be imposed. Many commenters in this group asked MTB to adopt a general routing rule which would specifically preempt unnecessary local restrictions that impede commerce.

B. State Governments and Political Subdivisions

Views were expressed by approximately 19 States, 7 counties and 10 cities or towns. Several States endorsed existing DOT requirements and supported a general routing rule such as that found at 49 CFR 397.9(a). Most commenting States appear to favor a general routing rule with provision for some State input. Most States also appear to be interested in obtaining more information on the types, quantities, and forms of radioactive materials shipped, and the routes actually used. Local governments, on the other hand, generally opposed any type of Federal interference with local laws and ordinances. Commenters from both urban and rural counties, as well as from cities, generally opposed transportation of radioactive materials through their jurisdictions.

C. Motor Carrier Industry

Commenters in the motor carrier industry were concerned with inconsistent State and local laws. The American Trucking Associations, Inc., (ATA) suggested that MTB establish a general routing rule which would give carriers some degree of flexibility within certain guidelines to use their own discretion over choice of routes. To provide for State input, ATA suggested that MTB prioritize highways for routing purposes by characteristics that States could use in determining specific routes within their jurisdictions. ATA also suggested the use of a "circuity limit" to establish maximum rerouting distances that could be required by States under

this scheme. Finally, ATA states that any such routing requirements should be keyed to vehicles carrying sufficient amounts of radioactive materials to require placarding. (When certain amounts of any hazardous material are carried in a motor vehicle, DOT requires that a placard, or warning sign, be affixed to the vehicle. For radioactive materials, the placard bears the word "RADIOACTIVE" and an appropriate symbol.)

D. Shippers of "Low-Level" Radioactive Materials and Other Hazardous Materials

This group includes commenters representing manufacturers, users, and shippers of radiopharmaceuticals, medical and industrial isotopes, and other "low hazard" radioactive materials. It also includes shippers concerned with possible future routing controls on other hazardous materials (a matter beyond the scope of this docket). These commenters generally saw little reason to impose more stringent rules, but felt that if such rules were to be imposed, low-level radioactive materials should be excepted because of their time-critical nature (many medical radioisotopes lose their radioactivity over a relatively short period of time), low transport hazard, and medical/research value. Suggestions ranged from excepting all Type A quantity (from 0.001 to 1,000 curies of material per package, depending on the material) and limited quantity packages (small amounts otherwise generally excepted from DOT specification packaging, marking and labeling requirements) to excepting all non-placarded shipments.

E. Shippers of Large Quantity or "High-Level" Radioactive Materials

This group primarily includes shippers or shipper organizations associated with the nuclear power industry. Although there were only nine commenters in this category, one commenter represented 24 electric utility companies which are operating 39 nuclear power generators and planning the construction of 61 new generators. This commenter maintained that routing controls applying only to radioactive materials cannot be justified on the basis of safety alone, but that the proliferation of local restrictions on trnasportation justify the imposition by MTB of a general routing requirement to preempt State and local requirements. One commenter suggested a general rule that would require avoidance of heavily populated areas when possible, would provide for "voluntary licensing" of carriers for specific routes, and would permit State and local governments to seek an order from MTB prohibiting transportation of certain radioactive materials over specific routes.

F. Bridge and Turnpike Authorities

Comments were received from bridge and turnpike authorities, and from the International Bridge, Tunnel and Turnpike Association. These commenters expressed concern that their facilities might become part of a "designated hazardous materials route" established by MTB and pointed out that such action might raise their insurance rates.

III. Regulatory Background

A. Synopsis of Proposed Rule

The proposal presented in this publication would establish a general rule which would apply to any motor vehicle carrying radioactive materials requiring placarding. The general rule would require such a vehicle to be operated on a route that presents a risk to the fewest persons unless there is not any practicable alternative highway route available or unless it is operated on a "preferred" highway as subsequently defined. Subject to this provision, the motor vehicle would have to be operated on a route which minimizes transit times, so as to minimize unnecessary exposure. The carrier would be responsible for notifying the driver of the presence of radioactive materials in the shipment and for indicating generally the route to be followed.

A second, additional and more specific rule would apply to any motor vehicle transporting a package containing a large quantity of radioactive materials, as defined by existing DOT regulations. Such a motor vehicle would be required to operate on "preferred" highways, defined as any highway approved for that purpose by an appropriate State agency, and any Interstate highway for which an equivalent substitute has not been provided by such State agency. The vehicle would operate in accordance with a written route plan prepared by the carrier before departure. State agencies could designate preferred highways, after consultation with local jurisdictions, based on the policy of an overall minimization of radiological and nonradiological impacts of both normal transportation and transportation accidents. When necessary, a motor vehicle containing a large quantity of radioactive materials could operate away from preferred highways under the provisions of the general rule. The driver of a motor vehicle containing a large quantity package would be required to receive specific training. Each shipper of a large quantity package would be provided by the carrier with a copy of the written route plan, which the shipper would file with MTB (except for irradiated reactor fuel covered by NRC requirements). The filed route plans would be used by MTB to provide data on routes, amounts and shipment frequencies for use in State and local emergency response planning. Information on the movements of irradiated reactor fuel would be available after the MTB received this information from the NRC.

The specific large quantity rule would require use of an Interstate urban circumferential or bypass route to avoid cities if available, instead of an Interstate through route, notwithstanding a minor transit time increase. For cities with Interstate through routes without Interstate circumferential or bypass routes, a State could designate any available circumferential or bypass route if it is essentially equivalent in performance or design to an Interstate circumferential or bypass situated in some other urban location.

B. Existing DOT Requirements for Transport of Radioactive Materials

This document focuses on routing and related operational controls for highway transportation of radioactive materials. Existing provisions in the DOT Hazardous Materials Regulations address required packaging and related transportation controls, which constitute the primary safety measures in radioactive materials transportation. A brief summary of those existing rules follows.

Packaging for radioactive materials transportation is based on amount, kind, and physical form of the radioactive material to be transported. Each radionuclide is assigned to a Transport Group, of which there are seven that are ordered to reflect the various radionuclides' degree of radiotoxicity and relative hazard in transportation. For each Transport Group, two quantity limits are established which define Type A and Type B quantities, for which Type A and Type B packaging then is prescribed. If the radionuclide is in "special form" rather than "normal form", quantity limits for Type A and B quantities are larger, because materials in special form are difficult to disperse, either because of the inherent properties of the materials (such as a solid metal) or because the materials are specially prepared (as through encapsulation).

In most cases, a warning label must be applied to each package of radioactive material. The kind of label required depends on the radiation dose

rate at or near the surface of the package. The dose rate, in turn, is determined by the type of packaging and shielding used within the package, and by the type and quantity of radionuclides present in the package. There are three labels which may appear on a package of radioactive materials: White I, Yellow II, and Yellow III. The amount of surface radiation allowed for each type of label is identified subsequently in the discussion of radioactive materials covered by this rulemaking. It is sufficient to state here that any vehicle which carries a package labeled Yellow III must show the radioactive material placard on all four sides of the transport vehicle. In addition, all vehicles which carry Fissile Class 3 (certain fissile radioactive materials which require special transportation arrangements for that reason) and large quantity packages must be placarded regardless of the dose rate of the package.

Three other terms that affect packaging are "limited quantity", "low specific activity" (LSA), and "large quantity". Limited quantities of radioactive materials are small amounts, such as may be found in certain manufactured articles (instruments, electronic tubes). Limited quantities of the various radionuclides also are defined generally by an activity limit in millicuries or curies associated with each Transport Group. Such amounts are excepted from many transportation controls, such as requirements for specification packaging, marking of the shipping name on the package, and labeling the package for a radiation hazard.

LSA materials are materials that contain very little radioactivity per unit weight. Uranium ore, for example, may be shipped as LSA. These materials frequently are shipped in large volume shipments and are transported in Type A packaging unless moved in an exclusive use vehicle (*i.e.*, where a single shipper alone uses the vehicle and all loading and unloading occurs under the direction of the shipper or the consignee, a practice through which larger shipments are permitted).

"Large quantity" amounts of radioactive materials are defined by Transport Group and vary from a minimum of 20 or more curies (for materials such as plutonium, Transport Group I) to 50,000 or more curies (certain radioactive gases, Transport Groups VI and VII). Large quantity amounts must be shipped in Type B packaging, most of which require approval for that purpose, prior to use, by the Nuclear Regulatory Commission.

The distinction between Type A packaging and Type B packaging is significant. In addition to having adequate radiation shielding, Type A packaging is designed to withstand normal transportation conditions as simulated by tests described in the Hazardous Materials Regulations: exposure to the equivalent of extreme climatic conditions; and drop, penetration, compression and vibration tests representing other conditions encountered in normal transportation. Type B packaging, on the other hand, often must be heavily shielded and is designed to withstand extreme accident conditions as simulated by a 30-foot drop onto an unyielding surface; a 40-inch drop onto the end of a pointed steel bar; exposure to a temperature or fire of 1,475° F. for 30 minutes; and submersion in three feet of water for eight hours.

In the vast majority of possible accidents experimental work has indicated that in the event of an accident a release of 0.1 percent of the contents would be a reasonable assumption for Type A packages. On the basis of general handling experience it is further assumed that the actual intake of radioactive material into the body by a person coming into contact with air or surfaces contaminated by such a release is unlikely to exceed 0.1 percent of the amount released from the package. Thus, it is unlikely that any one person would ingest more than one-millionth of the maximum allowable package contents in the event of an accidental release. Stated differently the Type A package quantity limitations are such that an intake of one-millionth of the maximum allowable package contents would not result in a radiation dose to any organ in the body exceeding internationally accepted limits; nor a radiation level of 1 rem per hour at 10 feet from the unshielded contents.

Type B packaging, in a severe transportation accident, would be expected to survive without any significant release of its contents. Spent fuel assemblies, for example, are shipped by highway as large quantity shipments in massive packagings (casks) that may be five in diameter, fifteen feet long and weigh up to 35 tons. Casks are practically impervious to small-arms fire and small explosive charges.

In a highway accident near Oak Ridge, Tennessee, on December 8, 1970, a spent fuel cask was thrown more than 100 feet when a truck driver while negotiating a wide turn lost control after swerving to avoid another vehicle. Although the driver was killed in the impact, there was no release of spent fuel or increase in radiation. Spent fuel casks of an earlier design also have been subjected to destructive testing simulating severe, high speed highway and rail accidents. The casks survived with only minor damage that would have posed little or no risk to the public if the events had been real rather than simulated.

Associated with irradiated fuel and present during its transportation by highway are certain decay gases and volatile fission products along with the essentially solid materials. Given a set of circumstances in which the cask is subjected to extreme crushing forces of 200,000 pounds and a subsequent fire of 1875° F. for 2 hours duration, estimates have been made of the resulting radiological consequences. In Section 5–6 of NUREG 0170 some of these "worst-case" shipment scenarios were considered. One such hypothetical case involves a shipment of spent fuel being transported through a high-density urban area (15,444 people per square kilometer). It was hypothesized that if such an incident were to occur, 100% of the gaseous and volatile materials would be released as an aerosol and then dispersed into the atmosphere where wind currents and other weather conditions would influence both the area and degree of radioactive contamination. Under these particular circumstances it is estimated that the contaminated area would require evacuation for 10 days and the cost of clean-up, lost incomes and temporary living expenses would amount to $200 million (1975). Radiological health consequences are estimated to be minimal with no early or latent cancer fatalities. While an event such as this is likely to occur only once in 3 billion years, the data is significant when weighing its risk against other risk levels which are determined to be acceptable. Extreme incidents which involve the release of as little as 1% of the solids as an aerosol would have extremely serious consequences. Such an incident, however, is likely only once in 25 billion years and is thought by MTB not to warrant undue concern. A more typical high speed collision and fire in a highway accident is not likely to result in extensive radiological injuries or damage from the presence of either Type A, Type B or large quantity packages of radioactive materials.

C. Normal and Accident Exposure Resulting From Transport of Radioactive Materials

This proposal was developed after consideration of impacts from both transportation accidents and accident-free (normal) transportation. Accident

risk includes both radiological risks and nonradiological risks (such as impact damage in a motor vehicle collision). Normal transportation is considered principally from the radiological standpoint of normal population dose. Nonradiological impacts of normal transportation are considered secondarily and largely consist of the costs associated with motor vehicle operation (such as fuel use).

Normal dose is the amount of radiation exposure received generally by persons who come near packages of radioactive materials during accident-free transportation, such as package handlers, truck crews, pedestrians and other passers-by. Normal dose usually is expressed in terms of rems (Roentgen Equivalent in Man, a measure of biological damage from radiation) or units thereof. The term "person-rem" is used to express total (integrated) population dose. The normal dose from a package of radioactive materials is dependent upon the amount of radiation emitted through the package surfaces, which is described by the Transport Index (usually a measure of radiation at three feet from the package surface). Essentially all packages of radioactive materials, from small Type A packages to spent fuel casks, emit at least small amounts of radiation even when in compliance with all Federal packaging requirements. The amount of radiation exposure received by the population as normal dose is proportional to the time during which exposure occurs. It declines at least geometrically with distance from the package. A longer trip means a longer period of exposure which results in greater normal doses to truck crews (drivers) and also may mean greater doses to the surrounding population. In highway transportation, the dose received by the truck crew is the largest single component of normal dose that can be changed by modifying transportation practices. The health effects discussed in this publication are those predicted by a health effects model used in NUREG 0170. Commenters wishing to address the validity and degree of certainty associated with that health effects model will find a brief discussion in NUREG 0170 on p. 3–11.

In NUREG 0170, the impact of normal dose from radioactive materials transportation is summed up in the following way for all modes of transportation.

> The estimated total annual population dose [from radioactive materials transportation] is 9,790 person-rem in 1975 and 25,400 person-rem in 1985. This dose has the same general characteristics as other chronic exposures to radiation such as natural background. The predicted result of public exposure to this radiation is approximately 1.19 latent cancer fatalities and 1.7 genetic effects in 1975 and 3.08 latent cancer fatalities and 4.4 genetic [effects] in 1985. When the value of 9,790 person-rem may seem large, it is small when compared with the [forty million] person-rem received by the total U.S. population in the form of natural background radiation . . . [T]he average annual individual dose [from radioactive materials transportation] is approximately 0.5 [millirem], which is a factor of 300 below the average individual dose from background radiation. [p. 4–49]

Total accident risk is an estimate that combines both the chance that an accident will occur and the probable consequences if it does. Total risk sums both radiological consequences and nonradiological consequences. Accident risk from radiological hazards depends on a variety of factors, but principally on the severity and rates of accidents on the roads traveled (other factors contribute to the accident probability, such as driver training and vehicle condition) and on the density and proximity of the population along the route. All else being equal, unsafe highways, long trips and dense populations near the highways result in higher accident risks. Accident risk also includes the nonradiological hazards, such as the injuries and damage that may be realized in any motor vehicle accident. Nonradiological accident risks generally appear to be much greater than radiological accident risks, but the prediction of radiological accident risks involves more variables than nonradiological accident risks and therefore is less confident.

Regarding radiological risk from potential transportation accidents in all modes of transportation, NUREG 0170 estimates that

> The accident risk for the 1975 level of shipping activity . . . is very small: roughly 0.005 additional [latent cancer fatalities] per year, or one additional [latent cancer fatality] every 200 years, plus an equal number of genetic effects. This number of [latent cancer fatalities] is only 0.3% of those resulting from normal transport population exposures.
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> * * * * *
>
> The projected accident risk in 1985 is . . . about 3.5 times the 1975 risk, but is still very small in comparison to the [latent cancer fatalities] resulting from normal transport.
>
> * * * * *
>
> The principal nonradiological impacts are those injuries and fatalities resulting from accidents involving vehicles used exclusively for the transport of radioactive materials. The number of expected annual nonradiological fatalities [in 1975] is almost 50 times greater than the expected number of additional [latent cancer fatalities] resulting from radiological causes [in transportation accidents] but is less than one fatality every five years. [pp. 5–52, 53]

D. Related Factors Affecting Route Selection Under Proposal

In view of statistics showing lower accident rates and reduced travel times in travel on Interstate highways, this proposal favors use of the Interstate System. MTB believes that in most cases this policy will produce the most significant transportation safety impact reduction and it offers a clear standard for compliance and enforcement purposes. However, the policy is modified by two other considerations which should be kept in mind by persons reviewing this proposal.

First, for reasons of cargo security discussed later in this document, the Nuclear Regulatory Commission (NRC) recently established interim physical security rules (44 FR 34466, June 15, 1979) for transportation of irradiated reactor fuel (spent fuel). Those rules include the following requirements for NRC licensees who ship spent fuel:

(a) Advance notice to and approval from the NRC for each shipment of spent fuel.

(b) Advance arrangements with law enforcement agencies along the route for emergency assistance.

(c) Use of routes that avoid heavily populated areas where practicable, and additional protective measures approved by the NRC where that is not possible.

(d) A trained escort accompanying each shipment.

(e) Motor vehicles that are equipped with radiotelephone and CB radio communications equipment and that are capable of being immobilized.

(f) Procedures for coping with threats and physical security emergencies.

The security of spent fuel in transit was a major concern to commenters in the 1978 hearing on the advance notice of proposed rulemaking in this docket and in the hearing in 1977 regarding the inconsistency ruling on the New York City Health Code amendment. Development of the current DOT proposal reflects existing arrangements between DOT and NRC wherein NRC exercises responsibility for any necessary physical security requirements during transportation. The DOT proposal is therefore directed at reducing impacts associated with normal and accident situations arising in transportation, while NRC is concerned with preventing malicious or deliberate release of radioactive materials. The DOT proposal, however, would extend the NRC physical security requirements to nonlicensee shippers, such as the Department of Energy.

Second, the proposal acknowledges that some local conditions may justify

special routes for shipments of large quantity packages. One such condition is expressly recognized in the proposal and concerns cities which have an Interstate direct route and an Interstate (or equivalent) circumferential or bypass route. The proposal also provides for State action to establish or modify routes for carriers of large quantity packages.

The benefit of routing that avoids cities, or heavily populated areas generally, is difficult to predict, but involves a trade-off between the increased impacts due to longer shipment distances and the decreased impacts due to avoiding dense populations. Avoidance of heavily populated areas is a requirement that currently applies to all shipments of hazardous materials by motor vehicle if the amounts are sufficient to require placarding:

> Unless there is no practicable alternative, a motor vehicle which contains hazardous materials must be operated over routes which do not go through or near heavily populated areas, places were crowds are assembled, tunnels, narrow streets, or alleys. Operating convenience is not a basis for determining whether it is practicable to operate a motor vehicle in accordance with this paragraph. [49 CFR 397.9(a)].

Requiring motor vehicles to avoid heavily populated areas usually will increase trip distance and travel time. For the transportation of radioactive materials, under some circumstances those increases can result in an increased normal dose. If use of less safe highways or increased travel times are necessary to avoid heavily populated areas, accident risk also may be increased. The extent of the safety benefit that might result from motor vehicles avoiding heavily populated areas (such as a possible decrease in normal dose or in accident consequences) is influenced by factors such as differences in population densities, effectiveness of local emergency planning, physical features and weather conditions along the various routes that might be used and the times and days they are used. These factors are site-specific and hard to generalize on a national scale except on a statistical basis.

Some generalizations, however, can be made. Because of their lower accident rates and greater efficiency, use of Interstate highways usually will result in fewer accidents and in reduced travel times. Given equivalent roadways, routing radioactive materials carriers on longer Interstate circumferential roads, with adjoining populations that are less dense than those adjoining a shorter Interstate through route, usually will increase normal truck crew dose and the probability of an accident but usually will decrease total normal dose and accident consequences. The possible reduction in radiological accident consequences in such a situation depends on variable factors including population distribution in the area and meteorological conditions which can affect the movement of airborne debris.

Differences exist between Interstate routes through and around a city. A circumferential Interstate route may have a higher average speed and lower accident rate than an Interstate through route, but the accidents may be more severe. Because of the cost and availability of land, and greater access requirements, the design standards of some urban freeways may be less than optimal and possibly less than those of a suburban circumferential Interstate highway. Data from NUREG 0170 and recent traffic accident statistics indicate that routing to avoid cities may offer a slight reduction in overall radiological risk, but at the probable expense of a greater number of fatalities and injuries resulting from an increase in traffic accidents associated with increased distances. However, even though the resultant increase in nonradiological fatalities appears to be larger than the decrease in radiological fatalities anticipated, the difference is small in terms of absolute numbers (a difference of possibly one fatality every 100 years at 1985 levels of shipping activity). There also is necessarily more uncertainty in the prediction of radiological consequences from transportation than in the prediction of traffic fatalities, due to the number of variables involved, so a conservative approach also suggests circumferential routing.

There also are sound administrative reasons to require that Interstate circumferential and bypass routes be used. Circumferential routing around cities is more consistent than direct routing with requirements that apply to other hazardous materials transported by highway (49 CFR 397.9(a)).

The proposed required use of circumferential routes by large quantity carriers, however, is predicated on the safety and efficiency of transportation on Interstate highways. Where other highways are designated to establish an urban circumferential route, they should offer the same advantages as comparable Interstate circumferentials. For the designation of preferred highways other than urban circumferentials, the proposal would assume an evaluation of all factors pertinent to reducing the impacts of highway transportation of radioactive materials, rather than the abbreviated method of relying on the similarity of the perferred routes to Interstate highways. State action is more fully discussed later in this document.

From a regulatory standpoint, consideration must be given to the need for requirements which are efficient and comprehensible, which encourage compliance and which can be enforced. The term "heavily populated areas", not used in the proposal, is disfavored for this reason. Instead, an attempt has been made to state the routing factors which would be used for placarded vehicles, and to state that the carrier would be responsible for acting to ensure those factors are observed in the operation of its motor vehicles. MTB also must consider the extent to which State and local site-specific participation can be useful in establishing or modifying routes used by highway carriers of radioactive materials.

IV. Analysis of Proposed Rule

A. Radioactive Materials Subject to Routing Requirements

The proposal in this notice is based on the type of radioactive material shipped and the quantity (activity) per shipment. Essentially there are three transportation situations that would require different treatment under this proposal (see table "Examples of Radioactive Materials Under Proposal"):

(1) Packages for which the carrier is not required to placard his vehicle would be excepted from any routing restrictions. These packages comprise the majority of all radioactive materials shipped and include packages excepted from labeling or bearing the White I or Yellow II radioactive material label as a result of a relatively low radiation dose rate at or near the package surface (see CFR 172.403). A package is excepted from labeling under certain conditions if it contains limited quantities of radionuclides (identified in 49 CFR 173.391(a)), manufactured articles (clocks, smoke detectors, or electronic tubes) which contain limited quantities of radioactive materials, or certain other manufactured articles (identified in 49 CFR 173.391(c)). Also excluded from labeling are some low specific activity (LSA) radioactive materials when shipped in an exclusive use motor vehicle (see 49 CFR 173.392).

A radioactive White I label is required on all other packages which have a dose rate measuring up to 0.5 millirem per hour at any point on the external surface of the package (excluding Fissile Class II

or III or large quantity radioactive materials). A radioactive Yellow II label is required on any package measuring more than 0.5 millirems but not more than 50 millirems per hour at any point on the external surface of the package, and not exceeding one millirem per hour at three feet from any point on the external surface of the package, (*i.e.*, the Transport Index may never exceed 1.0 for these packages). A wide range of radioactive materials thus would be excepted from any routing requirement since they are either excepted from labeling or carry the White I or Yellow II label and thus are excepted from placarding.

(2) Packages for which placarding is required would be subject to a general routing requirement. This category of packages includes those requiring a Yellow III label or containing Fissile Class III materials or a large quantity of radioactive material. Also, any package which measures more than 50 millirem per hour at any point on the package surface or which exceeds one millirem per hour at three feet from any point on the external surface of the package (i.e., the Transport Index is greater than 1.0; see 49 CFR 173.389(i)) requires placarding. The proposal would require all such packages, if not transported on an Interstate or specially designated highway, to be transported so as primarily to risk exposure to the least number of people and secondarily to minimize travel times.

Many commercial shipments of radioactive materials fall within this category. For example, many medical-use shipments, both Type A and B quantities, require a Yellow III label and must be placarded. Medical isotopes used for scanning procedures in hospitals such as Tc–99M, Au–198 or I–131 are occasionally packaged such that the Transport Index exceeds 1.0. Isotopes used for teletherapy and medical research such as Co–60 and Cs–137 usually require a Yellow III label. Many industrial-use shipments would also fall into this category. Isotopes such as americium, berylium, Cs–137, and Kr–85 are used by the well-logging industry to determine properties of rock formations. Ir–192 and Co–60 are used in radiography to measure structural integrity of welded joints. Isotopes which are used in industrial gauging devices include Ra–226, Sr–90, Am–241 and others. Many of these industrial isotopes would require a Yellow III label when packaged according to accepted practice.

In short, radioactive materials subject to the general routing requirement in proposed § 177.825(a) include any packaged radionuclide, regardless of quantity, which has a Transport Index of 1.0 or greater.

(3) Shipments of packages containing a large quantity of radioactive materials (defined at 49 CFR 173.389(b)), including spent fuel, would be subject to additional Federally imposed restrictions as well as the possibility of Federally recognized State restrictions. This category includes the most toxic radionuclides, which are found in Transport Groups I and II, when shipped in quantities over 20 curies per package as well as larger quantities in the other Transport Groups. Included in Transport Groups I and II are many shipments of nuclear fuel cycle material, plutonium, polonium, mixed fission products, some isotopes of uranium, and certain commonly shipped isotopes such as Am–241, Ra–226, and Sr–90. A large number of shipments of materials in the first two Transport Groups are already subject to stringent physical security requirements during transportation established by the NRC. Special nuclear materials, potential theft targets which include many shipments of plutonium and the uranium isotopes U–233 and U–235, as well as spend fuel, a possible terrorist target, when shipped by NRC licensees are subject to the physical security requirements in 10 CFR Part 73.

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EXAMPLES OF RADIOACTIVE MATERIALS UNDER PROPOSAL

Radioactive Materials Not Subject to Proposal	Radioactive Materials Subject to General Rule	Radioactive Materials Subject to Additional Restrictions
Shipments for which carrier not required to placard vehicle	Shipments which require carrier to placard vehicle- any Type A or Type B package with radiation levels such that Yellow III label required	Shipments which include any Large quantity package
1. Packages excepted from labeling	1. Medical and research use isotopes	1. Over 20 curies of most toxic radionuclides - Transport Groups I and II
-Smoke detectors -Clocks -Manufactured articles -Very small quantities of radionuclides	-Mo-99, Au-198, and I-131 used for scanning procedures -Small source Co-60 and Cs-137 for research activities	-Americium [1] -Plutonium [1] -Polonium -Spent reactor fuel [1]
2. Packages with either White I or Yellow II label	2. Industrial use isotopes	2. Any other radionuclide depending on the number of curies in package
		No. of Curies
-Most radiopharmaceuticals used in hospitals	-Ir-192 and Co-60 used for radiography	-Transport Group III - over 200 -Transport Group IV - over 200 -Transport Group V - over 5,000 -Transport Group VI-VII - over 50,000 -Special Form - over 5,000
	-Cs-137 and Kr-85 used in well-logging industry	
	-Ra-226, Sr-90 and Am-241 used for industrial gauging devices	-Example - Large source (10,000 curies) Co-60 used for teletherapy or large source Cs-137 (100,000 curies) used for medical research
3. Low Specific Activity (LSA) in Exclusive Use Vehicles	3. Low level radioactive wastes	
-Limited to uranium ores and thorium ores unconcentrated	-Packaged LSA in exclusive use vehicles	

[1] Subject also to NRC physical security requirements in 10 CFR Part 73

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B. General Routing Requirement

The general routing scheme contained in proposed § 177.825(a) would require placarded vehicles carrying radioactive materials first to avoid areas posing hazards to large numbers of people and as a subordinate consideration to operate over routes selected to reduce time in transit. Consideration of "time in transit" includes a prudent evaluation of delays that may result from potential occurrences such as anticipated bad weather. Either of two exceptions permit variance from the condition that selected routes avoid population exposure: (1) when a practicable alternative highway route is not available, or (2) when the motor vehicle is operated on preferred highways under conditions set out in proposed § 177.825(b)(1). The criteria for determining when a "practicable alternative" highway route is not available are the same as those considered to apply under the existing hazardous materials routing rule in 49 CFR 397.9(a): operating necessity and safety. Operating necessity includes such factors as access to origin and destination points, and necessary fuel and repair stops. Safety includes considerations such as adverse weather and roadway conditions, but does not include travel time which is subordinate to the requirement to avoid population exposure. In no case is the operating convenience of the carrier a valid consideration. The second exception from the requirement relies on motor vehicle operation over routes that are intended for large quantity shipments under proposed § 177.825(b).

The requirement that transit time be minimized poses particular problems in multiple stop operations. This is because the number of possible routes between any two points and the number of possible sequential combinations of various stops theoretically can be a very large number. Consequently, for purposes of compliance with the proposed rule, it would be sufficient that a motor vehicle operator choose only the probable quickest route to his next stop, although any more efficient method of selecting routes to reduce transit time may be used.

The proposed general rule would apply only to motor vehicles which are required to be placarded. There are three reasons for this choice. First, hazardous materials placards are highly visible and easily observed by Federal, State and local enforcement authorities. Second, placarding itself is not required for most radiopharmaceuticals, industrial isotopes and other low-hazard radioactive materials. These materials are shipped in large numbers of packages and may be manufactured as well as used in the same urban area. They would be extremely difficult to control by routing requirements. Third, the existing routing rule in 49 CFR 397.9(a) applies to placarded motor vehicles. Carriers as well as enforcement authorities are familiar with the existing connection between placarding and routing control, a fact that should improve initial compliance with any final rules issued in this docket.

Commenters have suggested that cities with a population density of 10,000 to 12,000 persons or more per square mile should be avoided by radioactive materials carriers. The MTB has not used the term "heavily populated area". It does not appear practical to define it as a function of population densities or absolute population figures. The term is vague and its purpose difficult to enforce. In its interim rule on physical security of spent fuel, NRC uses census figures which are publicly available. That program, however, involves specific route approval from NRC for security reasons, which MTB does not consider justified in dealing with normal exposure and the possibility of accidents. A route restriction for placarded highway carriers based on a specific population figure would require an easily accessible, authoritative and highly detailed source of population information. Census figures usually are based on political boundaries, total populations, and total land areas. These figures do not distinguish uneven population distributions within a particular jurisdiction. Use of total jurisdictional figures (or population density figures averaged over a given jurisdiction) may result in unnecessary avoidance of entire jurisdictions or permitted transit through localized areas of high population density within a jurisdiction.

The proposal would require the carrier to affirmatively ensure that routes are selected to minimize the number of persons that may be exposed to a radiological risk. This is the basic goal to which any prohibition of travel in heavily populated areas would aim. Further comment on this is welcome.

C. Special Restrictions on Shipments of Large Quantities, Such as Spent Fuel Shipments

The large quantity package has been selected as the cutoff point for additional requirements presented in this proposal concerning required use of preferred highways, route plans and driver training. MTB recognizes that a substantial argument can be made for choosing some other cutoff point or for not using any such distinction at all, particularly in light of the NUREG 0170 estimates that for all modes of transportation, large quantity packages account for only about 2% of the normal population dose and 37% of the latent cancer fatalities expected to result from transportation accidents (1985 projection, NUREG 0170, pp. 4–44, 5–34). However, large quantity packages generally travel 30% to 50% farther per shipment than Type B and Type A packages (NUREG 0170, p. A–13). Large quantity packages are estimated to have comprised about 378 out of a total of 1.3 million packages of radioactive materials shipped by truck in 1975. NUREG 0170 projects that 1,911 large quantity packages will be shipped in 1985 out of a total of 3.5 million radioacitve materials packages shipped by truck (pp. A–11, A–21, 22), although an estimate of 600 large quantity packages would reflect reduced spent fuel shipments and absence of recycled plutonium shipments in the NUREG 0170 model for 1985. However, it is quite possible that the estimates for large quantity shipments for both years may be several times the stated estimates, due to the manner in which the information was gathered.

Of all the radioactive materials packages shipped, only large quantity packages pose even a remote risk of extraordinary or catastrophic accident consequences. Requiring specified routes for large quantity packages would add to the public certainty as to the location and nature of these unusual risks and permit more rational emergency response planning for remote events that nonetheless may require substantial planning efforts.

MTB thinks that the hazards associated with other than large quantity packages do not warrant requiring them to be routed on preferred highways (Interstate and State-designated highways) and that the enforcement, compliance and possibly economic costs of such a requirement could be substantial. By not requiring all placarded motor vehicles to operate on preferred highways, the proposed general rule acknowledges the pronounced differences between large quantity shipments and other placarded shipments, the fact that the annual volume of all placarded shipments is large, and that a substantial part of those shipments may involve local multiple-stop delivery operations. Although the proposal would not require all placarded motor vehicles to operate on preferred highways, that result is encouraged, subject to the carrier's

judgement, since some circuitous travel and questions about population exposure may be avoided by an election to travel on a preferred highway. Required use of preferred highways, however, would be limited to motor vehicles that transport a large quantity package.

(1) *Type of roadway.* The type of roadway on which radioactive materials would be transported was thought by commenters from all groups to be a prime consideration in any routing requirement. MTB is proposing that large quantity shipments of radioactive materials be restricted to carriage only on a preferred highway. A preferred highway would be defined as any specific highway designated as a preferred highway by an appropriate State-wide agency, and any Interstate highway for which substitute is not provided by such an agency.

Interstate routes. An Interstate highway is an expressway usually with fully controlled access which is part of the 42,500-mile Interstate highway system as designated by Congress. However, the term as used in this proposal includes roadways which also are designated "temporary" Interstates.

The Interstate System is part of the Federal-aid primary system connecting principal cities of the United States. Interstate highways would be defined in the text of this proposal as preferred highways because the Interstate System is built to exacting and generaly uniform specifications and offers the safest and often most direct routes available. Statistics published by the Department's Federal Highway Administration for 1976 indicate that the possibility of an accident involving a fatality or injury on an Interstate highway is as little as 25% of what it is on a non-Interstate highway ("Fatal and Injury Accident Rates on Federal-Aid and Other Highway Systems/1976", September 1978). Since 1967 when such statistics first became available, the fatal accident rate (fatal accidents per 100 million vehicle miles) for Interstate highways consistently has been very much lower than the rate for non-Interstate highways. These figures suggest that travel on Interstate highways significantly reduces the probability of an accident. Consequently, in the absence of State action, MTB believes any vehicle carrying a large quantity shipment generally should be routed via Interstate highways. Restricting large quantity radioactive materials carriers to the Interstate System also is one of the few alternatives determined in NUREG 0170 to be cost-effective, because it substantially reduces overall normal population dose (p. 6–12).

State-designated routes. MTB believes that States may be able to offer useful refinements, particularly in view of the fact that State and local agencies also bear the basic emergency response duties and costs. The proposal would recognize action by appropriate State agencies to designate non-Interstate public roads as preferred highways, and to remove the preferred status of an Interstate highway if an equivalent route is provided. Permissible State action is further discussed later in this document under the heading "Guidelines for State regulation."

A motor carrier who is required to transport a large quantity package on a preferred highway, or a motor carrier of other radioactive materials packages who voluntarily uses a preferred highway would be required to use the most direct preferred highway and would not be required to evaluate population densities. However, in the absence of State action to the contrary, a carrier would be required to use an Interstate or other preferred circumferential or bypass route in favor of an Interstate route through a city. This position represents a compromise between considerations of normal population dose including that of motor carrier personnel, possible accident exposure and the need for uniform and efficient compliance and enforcement.

Exceptions. The motor vehicle would be authorized to leave or travel off preferred highways when necessity or safety considerations dictate and when necessary to travel from shipment origin to the nearest preferred highway and from a preferred highway to the shipment destination. Necessary food, rest, fuel, service and repair stops would be permitted. Any travel on nonpreferred highways would still be subject to the general rule stated in paragraph (a) of proposed § 177.825 including required routing to limit the number of persons potentially exposed to risks.

In the proposed rule, MTB has not attempted to answer the question of how far out of the way a carrier must go to access and use a preferred highway. It would be preferable that the question be answered by State agencies by means of designating additional preferred highways to account for situations wherein an unreasonable amount of circuitous travel may result from carriers accessing the Interstate highways of the State. However, MTB is considering several possible methods of establishing a limit on the circuity that a carrier must accept to access a preferred highway. Two possible rules, which differ in their effect, have been examined. One rule would generally state that a carrier need not increase travel distance more than 25% to access a preferred highway, measuring from points selected by the carrier. This approach has some effects which are much less than optimal. A second rule, which is more precise, would permit the use of a formula to select routes that include non-preferred highways: for each possible route, total mileage on non-preferred highways would be increased by 25% and added to mileage on preferred highways. The route with the smallest mileage sum, computed in that fashion, would be used. Both rules might be offered in the alternative, at the option of the carrier. For enforcement purposes, a violation could be shown only by a demonstration that neither rule was followed.

The proposal, as drafted, would rely on the mutual interests of carriers and State agencies to produce local accommodations on questions concerning access to preferred highways. Comment is solicited on this point.

Placards. MTB is giving serious consideration to proposing the required use of a distinctive mark or logo on radioactive hazard warning placards to permit the ready recognition of motor vehicles carrying large quantity packages. Under existing rules, large quantity packages could be identified only by examining the shipping paper or the package markings.

One method under discussion would involve the use of the placard background presently required for certain railcars (49 CFR 172.510, 172.527). MTB believes use of some such device to distinguish motor vehicles carrying large quantity packages may be necessary and solicits comment on this issue.

(2) *Route plans.* A motor carrier transporting a large quantity of radioactive materials would have to prepare a route plan complying with the provisions of paragraph (b) in proposed § 177.825. A similar requirement now applies to carriers of Class A explosives (see 49 CFR 397.9(b)). The route plan would be supplied to both the shipper and the driver of the vehicle, in most cases before departure. The shipper's copy, for nonexclusive use shipments, could be provided later by mail. The plan would contain specific information concerning the route selected, and emergency telephone numbers for each State traversed. DOT believes that it would be preferable to rely on a single telephone number to access all emergency response and is considering possible methods of achieving this

result. For the purposes of this proposal, however, the text used indicates the basic intent: that the carrier be prepared in advance to contact State emergency response personnel immediately in the event of an accident. The State police in many cases may be the appropriate agency for summoning emergency response assistance.

The shipper would file a copy of each route plan submitted by the carrier with the MTB within 90 days of the date a large quantity shipment of radioactive materials is accepted for transportation. NRC licensees who already are required to provide this information to NRC under physical security requirements would be excepted from filing, since that information will be available to DOT. The MTB intends to make shipment information in accumulated route plans accessible to State agencies for emergency response planning and is considering several possible methods of providing this service. For shipments made under physical security requirements, however, some restrictions on release of information may have to be observed to avoid compromising that security.

(3) *Driver training requirements.* This proposal would apply a driver training requirement to motor carriers transporting large quantity packages of radioactive materials. The training would include instruction to the driver every two years on the Hazardous Materials Regulations pertaining to radioactive materials, the Federal Motor Carrier Safety Regulations (49 CFR Parts 390–397) applicable to operation of the motor vehicle, the hazards and characteristics of large quantities of radioactive materials, emergency features or other special characteristics of the vehicles to be used to transport those materials, and any emergency procedures to be followed in the event of an accident. The training would be evidenced by a certificate in the driver's qualification file and on his person during transportation. The driver training proposal was derived from a proposal now under development concerning drivers of tank trucks. A similar proposal also appears in Docket HM–115 (44 FR 12826, 12842, March 8, 1979) regarding drivers of certain tank trucks carrying flammable cryogenic liquids. For planning purposes, MTB is assuming that training would not exceed 20 hours a year for new drivers and would involve written training materials and written examination. The actual extent of training would be subject to the carrier's judgement and the driver's previous training.

D. Cargo Security

Spent fuel is the most widely recognized large quantity of radioactive materials routinely shipped. For that reason, spent fuel casks could become the target of terrorist activity, although the likelihood of a successful act of sabotage that breaches a spent fuel cask and disperses its contents may be quite small. The NRC recently established new interim physical security procedures in 10 CFR 73.37 for the shipment by its licensees of spent fuel. Those procedures are intended to remain until current studies of the ability of spent fuel casks to withstand acts of sabotage are completed. The MTB has reviewed the interim procedures and believes they will provide adequate physical protection for spent fuel shipments.

Because physical requirements under the NRC's rules may conflict with the DOT highway routing proposal made herein, paragraph (b)(4) of proposed § 177.825 would permit variation from the proposed rule's requirements if necessitated by security requirements under the NRC's rules. This provision also would permit variation for security reasons under previously established NRC rules applicable to special strategic nuclear materials.

Since the NRC interim safegurads rules only apply to NRC licensees, such as operators of commercial nuclear generating stations, MTB is proposing to require shipments of spent fuel by nonlicensees to be made in accordance with general requirements approved by MTB as being essentially equivalent to the NRC requirements. Some shipments made by contractors of the Department of Energy, such as Brookhaven National Laboratories, and possible contractors of the Department of Defense, may be subject to this provision.

In accordance with the DOT–NRC memorandum of understanding, the NRC has primary responsibility for physical security requirements. The MTB believes it is doubtful that terrorist acts would be directed against small source nonfissile isotopes, because of the small radiological consequences involved, and does not see a need for physical security requirements for such shipments. The NRC now is examining the possible need for physical protection of large source nonfissile isotopes and smaller quantities of special nuclear material during transportation. The MTB will await NRC judgment in this matter before considering any further action regarding physical security.

E. Guidelines for State Regulation

The result of stringent local regulation of highway carriers of radioactive materials has been described by some commenters to this docket as a "burden" on commerce. It is the MTB's view that the existence of a burden on commerce imposed by a State or local requirement is relevant to rulemaking responsibilities under the HMTA so far as it may affect transportation safety. The HMTA does not necessarily exclude State and local regulation of highway carriers of hazardous materials, nor is that result desirable. However, the HMTA does provide adequate preemptive authority to ensure that the Act and regulations issued under its authority are effective as intended.

The MTB believes it is important that State and local views be considered in routing decisions. There is, however, an obvious difficulty in permitting local governments to exercise what amounts to a veto power over interstate commerce. A small jurisdiction which does not directly benefit from shipping activities within its borders will often find attractive the option of diverting traffic into neighboring jurisdictions, with concomitant safety impacts in those jurisdictions. Local safety rules that are excessively stringent may produce counterproductive safety impacts and possible violation of Federal requirements in the transportation of improperly identified shipments. A balance is needed in routing decisions between local knowledge of local conditions and the wider demands of safety in interstate commerce. The proposed rule, for this reason, encourages routing participation by State and local governments through an agency with State-wide jurisdiction that would be accessible to all those persons that may be affected by routing decisions. The proposal reflects the current MTB view that a greater degree of uniformity in rules affecting radioactive materials transportation by highway is needed and that unless necessary to ensure the physical security of the cargo, as previously discussed (or otherwise justified by exemption or waiver of preemption), any State or local requirement that amounts to a transportation ban on highway carriage of radioactive materials is not reasonable.

The term "State agency with State-wide enforcement authority" is used in the proposal to describe those State agencies that may designate non-Interstate highways as preferred highways and disapprove (and thus terminate) the defined preferred status of a segment of an Interstate highway

for which the State agency has provided an alternate and equivalent preferred highway. The term "agency" is intended to describe an entity (including a common agency of more than one State, such as one established by interstate compact) which is authorized to use State legal process to impose and enforce routing requirements on carriers of radioactive materials without regard to intrastate jurisdictional boundaries. This description would exclude, for example, a bridge authority unless that authority also is empowered to impose and enforce such rules concerning radioactive materials transporation on State highways generally. This description would not exclude the possibility of more than one agency in a single State sharing responsibility for designating preferred highways.

Reliance on routing designation by agencies with State-wide authority may pose particular problems for cities and for agencies which operate under interstate compacts and which have responsibility for areas with defined jurisdictional boundaries. For this reason, State action establishing a preferred highway must be preceded by consultation with affected local jurisdictions. A route modification to bypass a major city, for example, would require consultation with that city and with any impacted adjacent jurisdictions. A route modification that impacts jurisdictions in another State would require consultation with those jurisdictions. Also, bridge, tunnel and turnpike authorities would require action by a State-wide agency in order to restrict passage of radioactive materials carriers on an Interstate or other preferred highway. Note that the provision in 49 CFR 177.810, which saves for such agencies the right to restrict hazardous materials transporation generally, would be modified to reflect this part of the proposal. Commenters may wish to propose other methods of dealing with the problem of providing a forum for State routing decisions which permits all interests affected by such decisions to participate in the decision process.

Under the proposal, an appropriate State-wide agency would be able to take the following actions.

Designation or modification of preferred highways other than Interstate highways. The goal in designating a preferred highway would be an overall reduction in both radiological and nonradiological impacts from transporation of large quantity packages. Basic criteria for this goal would include:

(1) Normal radiological impacts—including radiation exposure to drivers, cargo handlers, persons in other vehicles and pedestrians, occurring during normal, accident-free transportation.

(2) Normal nonradiological impact—including costs to carriers and shippers, and other impacts of motor vehicle operation such as vehicle emissions and traffic congestion.

(3) Radiological accident impact—including injuries, deaths, property damage, cleanup costs, and costs of emergency response preparedness.

(4) Nonradiological accident impact—including deaths, injuries, and property damage.

This State agency action would be predicated on the results of a technical safety review of available routing choices. It would be prudent for the State agency to document the process.

Modification of the preferred status of Interstate highways. The preferred status of an Interstate highway could be removed as part of an action based on the above-stated criteria only if the continuity of the Interstate System would be maintained by designation of a preferred highway which is essentially equivalent.

Urban circumferentials and bypasses. The proposal would require an Interstate circumferential or bypass route to be used in favor of an urban Interstate through route. Where an urban Interstate through route exists without an Interstate circumferential or bypass route, an abbreviated designation process could be used by a State agency to establish a non-Interstate circumferential or bypass as the preferred route. In this situation, an urban Interstate through route could be replaced by any circumferential or bypass route which is equivalent to other urban Interstate circumferentials or bypass routes elsewhere in either design standards or performance (*i.e.*, actual traffic flows and accident rates).

Continuity must be maintained for Interstate highways, but for non-Interstate preferred highways, continuity would be a safety factor which might not be as important as other safety considerations. However, where a preferred highway would direct traffic to a State's boundary, jurisdictions in the next State which would be impacted by the traffic must be consulted and the impacts considered as part of the designation process. A State boundary, in other words, may define the limits of a State agency's authority, but it does not define the limits of the impacts which must be considered in exercising that authority.

Cargo security and the possibility of sabotage or deliberate release of radioactive materials from a large quantity package are not directly considered in the designation of preferred highways. As previously mentioned, under the current division of responsibilities between DOT and NRC, an accounting for these factors is an NRC responsibility which is discharged through NRC physical security requirements in 10 CFR Part 73 (or the equivalent under this proposal for non-NRC licensees) for which an allowance is made in this proposal. Those requirements, which now apply to shipments of spent fuel as well as special nuclear material, involve the NRC in approving routes and other countermeasures selected to reduce threats to the physical security of the cargo.

V. Alternatives Not Proposed

A. Intrastate Carriers

The HMTA provides authority to regulate intrastate commerce that affects interstate commerce (49 U.S.C. 1802(1)(B)). The existing Hazardous Materials Regulations do not apply to purely intrastate carriers, that is, carriers whose business does not involve them at any time in the transportation of materials in interstate commerce. Intrastate carriers operate only within a State and do not carry materials in transportation whose origin or destination points are not within the State. As a practical matter, such carriers would be most likely to be used in local pickup and delivery services, warehouse distribution and so forth. Intrastate carriers of radioactive materials are regulated by State law and further controlled by requirements expressed through conditions imposed by the NRC on its licensees. Those conditions include provisions which are identical to rquirements imposed on interstate carriers by DOT. Regulation of the routes used by intrastate carriers of large quantity radioactive materials shipments was considered but not proposed because of the primarily local character of such transportation, and the very limited number of such shipments likely to move by intrastate carrier. States are free, at the present time, to establish routing controls for intrastate carriers. Future action by MTB will be considered if new information warrants.

B. Other Modes and Other Hazardous Materials

Interest has been expressed in routing considerations applicable to rail carriers, in view of the amounts of spent fuel the railroads eventually may be called upon to carry. Rail operations, however, differ significantly from highway operations and rail routing raises a separate set of issues. Also, the

routing choices available in rail operations with regard to populated or congested areas are considerably more limited than in highway transportation.

The MTB does not rule out the development of highway routing rules or guidelines for hazardous materials other than radioactive materials, especially for hazardous materials shipped in bulk by highway. It is not practical, however, to attempt to deal with this subject in this docket. A study currently is being conducted for the Federal Highway Administration which eventually may provide a basis for developing general hazardous materials highway routing criteria.

C. Full Licensing of Carriers

Both registration and licensing of highway carriers of large quantities of radioactive materials were considered. With the route plan requirements proposed, however, ready identification of carriers would be possible without registration. Moreover, carriers already are subject to safety and reporting requirements under the Federal Motor Carrier Safety Regulations, and this proposal would require specialized driver training. MTB sees little additional advantage in requiring registration or licensing and has not proposed to require either.

D. Transport Group Limitation

Instead of referencing packages containing a large quantity of radioactive materials as the key to required use of preferred highways, MTB considered referencing large quantities in Transport Groups I and II only. Those transport groups include the most toxic radionuclides which are defined as large quantity when shipped in packages containing more than 20 curies. However, in view of the substantial amounts of other transport groups that can be carried in individual packages, it was felt that use of the large quantity cutoff for this purpose was justified without reference to transport groups. MTB would be interested in suggestions as to other feasible cutoff points. Note that reference to transport groups and to large quantity is proposed to be eliminated in a scheduled revision of the DOT and NRC rules concerning radioactive materials (HM–169, 44 FR 1852, January 8, 1979; 44 FR 23266, April 19, 1979; 44 FR 47966, August 16, 1979; 44 FR 60771, October 22, 1979). Consequently, if the large quantity cutoff is retained, it may be expressed in terms of the A_2 values proposed in that rulemaking rather than transport groups. MTB also solicits views on whether special form materials should be treated separately. In this proposal, large quantity, in addition to specified amounts in each of the transport groups, means 5,000 or more curies of any material in special form. Under the HM–169 proposal, A_1 values also could be used for special form materials.

VI. Expected Environmental and Economic Impacts

The primary operational effect of this proposal would be to encourage use of the Interstate System by carriers of radioactive materials. Although carriers transporting packages containing a large quantity of radioactive materials are generally required to use either the Interstate System or State-designated preferred highways, carriers transporting packages containing lesser quantities are likely also to tend to use the Interstate and preferred highways especially in areas of heavy population, if this proposal is implemented. Overall radiological effects of this proposal would include a very slight reduction in total latent cancer fatalities attributable to normal dose in 1985 and a lesser reduction in the annual latent cancer fatality accident risk (based on NUREG 0170 projections). Some additional reduction in radiological consequences may result from State designation of preferred highways. A slight increase in nonradiological consequences may result from routing on preferred urban bypass or circumferentials. Overall, environmental impacts should be negligible.

Economic costs are expected not to exceed $330,000 annually under 1985 levels of shipping activity and mostly would consist of carrier costs for driver training and route plan preparation and filing. This estimate, however, does not include possible additional insurance costs to State and local bridge and tunnel authorities on the Interstate System or on highways that may be designated by future State action as preferred highways. At present, MTB lacks any quantitative data on this subject. Commenters are encouraged to provide any available estimates.

Because of the level of costs anticipated and the limited potential for environmental impact, the MTB does not consider the preparation of an environmental impact statement or a regulatory analysis necessary for this proposal. A more detailed examination of costs and environmental impacts is available in the draft regulatory evaluation and environmental assessment which may be obtained from the Dockets Branch at the address indicated at the beginning of this notice. Because this proposal varies from the highway routing requirement at 49 CFR 397.9(a), at the time a final rule is published, some further adjustment to § 397.9(a) is contemplated to avoid any conflict.

In consideration of the foregoing, Parts 173 and 177 of Title 49, Code of Federal Regulations, would be amended as follows:

1. In § 173.22, paragraph (b) would be revised and paragraph (c) would be added to read as follows:

§ 173.22 Shipper's responsibility.

* * * * *

(b) Prior to each shipment of fissile radioactive materials, and Type B or large quantity of radioactive material, the shipper shall notify the consignee of the dates of shipment and expected arrival. The shipper shall also notify each consignee of any special loading/unloading instructions prior to his first shipment. For any shipment of irradiated reactor fuel, the shipper shall provide physical protection in compliance with a plan established under—

(1) Requirements prescribed by the U.S. Nuclear Regulatory Commission, or

(2) Equivalent requirements approved by the Associate Director for Operations and Enforcement, MTB.

(c) For any package containing large quantity radioactive material (see § 173.389(b) of this subchapter) accepted for transportation by public highway, the shipper shall file the following information within 90 days with the Associate Director for Operations and Enforcement, MTB (this paragraph does not apply to packages shipped in compliance with physical security requirements of the U. S. Nuclear Regulatory Commission in 10 CFR part 73):

(1) The route plan required under § 177.825(b) of this subchapter;

(2) A statement identifying the name and address of the shipper, carrier and consignee; and

(3) A copy of the shipping paper (or the description of the radioactive material required by § 172.202 of this subchapter).

2. § 177.810 would be revised as follows:

§ 177.810 Vehicular tunnels.

Except as regards radioactive materials, nothing contained in Parts 170–189 of this subchapter shall be so construed as to nullify or supersede regulations established and published under authority of State statute or municipal ordinance regarding the kind, character, or quantity of any hazardous material permitted by such regulations to be transported through any urban vehicular tunnel used for mass transportation. For radioactive

materials, see § 177.825 of this subchapter.

3. § 177.825 would be added preceding subpart B, to read as follows:

§ 177.825 Routing and training requirements for radioactive materials.

(a) The carrier shall act to ensure that any motor vehicle which contains a radioactive material for which placarding is required is operated as follows:

(1) The motor vehicle is operated on routes that risk radiological exposure to the fewest persons, considering time of day and day of week during which the transportation will occur, population density and activities, effectiveness of local emergency planning, terrain and physical features, and weather conditions. In performance of this requirement the carrier shall tell the driver that the motor vehicle contains radioactive materials and shall indicate the general route to be taken in pursuance of this requirement. This requirement does not apply when—

(i) There is only one practicable highway route available, considering operating necessity and safety, or

(ii) The motor vehicle is operated on a preferred highway under conditions described in paragraph (b)(1) of this section.

(2) Subject to paragraph (a)(1) of this section, the motor vehicle is operated on routes selected to reduce time in transit.

(b) A carrier and any person who operates a motor vehicle carrying a package which contains large quantity of radioactive materials as defined in § 173.389(b) of this subchapter shall ensure compliance with the following requirements:

(1) Except as otherwise provided in this section, the motor vehicle shall be operated over preferred highways selected by the person operating the motor vehicle to reduce time in transit. A preferred highway is any highway so designated, and any Interstate highway not disapproved, by a State agency with State-wide enforcement authority. Where a preferred circumferential or bypass route around a city and Interstate highway through that city are both available, the circumferential or bypass route shall be used. The motor vehicle—

(i) May deviate from preferred highways for emergencies and necessary stops; and

(ii) Shall be operated to comply with paragraph (a) of this section when operated off a preferred highway.

(2) The carrier (or his agent) shall prepare a written route plan and supply a copy before departure to the motor vehicle driver and a copy to the shipper (before departure for exclusive use shipments, or otherwise within fifteen working days following departure). The route plan contains—

(i) A statement of the origin and destination points, a route selected in compliance with this section, all planned stops, and estimated departure and arrival times; and

(ii) Telephone numbers which will access emergency assistance in each State that may be entered.

(3) The driver shall have in his immediate possession a certificate of training as evidence of training required by this section and shall operate the motor vehicle in compliance with the route plan.

(4) A person may transport irradiated reactor fuel only in compliance with a plan if required under § 173.22(b) of this subchapter that will ensure the physical security of the material. Variation for security purposes from the requirements of this section is permitted so far as necessary to meet requirements imposed under such a plan, or otherwise imposed by the U.S. Nuclear Regulatory Commission in 10 CFR Part 73.

(c) No person may transport large quantity radioactive material, as defined in § 173.389(b) of this subchapter, on a public highway unless—

(1) That person has provided, and the driver has received within the two preceding years, written training on:

(i) Requirements in Parts 172, 173 and 177 of this subchapter pertaining to the radioactive materials transported;

(ii) Requirements in the Federal Motor Carrier Safety Regulations (Parts 390–397 of this title) applicable to operation of the motor vehicle;

(iii) The properties and hazards of the radioactive materials transported;

(iv) Operating and handling characteristics of the vehicle the driver will be operating and any emergency features and load limitations; and

(v) Procedures to be followed in case of accident or other emergency.

(2) The driver is provided a certificate, and a copy is placed in his qualification file, showing—

(i) The driver's name and operator's license number;

(ii) The date the driver was provided the training.

(iii) The name and address of the person providing the training; and

(iv) That the driver has been trained in the hazards and characteristics of large quantity radioactive material.

(d) Actions to designate or disapprove a preferred highway are taken to minimize the total impact of highway transportation of radioactive materials. However, designation of a preferred circumferential or bypass route around a city as substitute for an Interstate highway may be based on design or performance criteria that approximate those of existing Interstate circumferential or bypass routes elsewhere. Designation and disapproval action is preceded by consultation with affected jurisdictions to ensure consideration of all impacts and continuity of preferred highways. Except as otherwise permitted under paragraph (b)(4) of this section, State and local requirements which apply to any person because that person transports radioactive materials are inconsistent with this subchapter if they have any of the following effects.

(1) Completely prohibiting travel between any two points serviced by highway;

(2) Prohibiting the use of an Interstate highway, including prohibition of travel based on time of day, without designation of an equivalent preferred highway as a substitute in accordance with the provisions of this section;

(3) Requiring use of a preferred highway except in accordance with the provisions of this section;

(4) Requiring prenotification or escort requirements, except as established under paragraph (b)(4) of this section; or

(5) Requiring special personnel or equipment.

(49 USC 1804, 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A to Part 106.)

Note.—The Materials Transportation Bureau has determined that this notice will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034), or in a major Federal action significantly affecting the environment. A draft regulatory evaluation and environmental assessment is available in the public docket.

Issued in Washington, D.C. on January 25, 1980.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

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January 31, 1980

Part VIII

Department of Transportation

Coast Guard

Oil Pollution Prevention—Vessels and Marine Oil Transfer Facilities

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 154, 155, and 156

[CGD 75-124]

Oil Pollution Prevention—Vessels and Marine Oil Transfer Facilities

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the Oil Pollution Prevention Regulations. Changes are necessary due to public and industry comments, Coast Guard experience in enforcing the existing regulations, the availability of economical and practicable pollution control and monitoring equipment, and new requirements accepted as necessary by the Intergovernmental Maritime Consultative Organization (IMCO) during the 1978 International Conference on Tanker Safety and Pollution Prevention (TSPP). The primary reason for revising the regulations is that frequent operational oil spills remain the greatest source of damage to the environment, rather than the occasional catastrophic spill. Cargo tank cleaning, bilge pumping, ballasting, faulty equipment and personnel errors cause more spills than the major catastrophes. These spills can be prevented by proper equipment, personnel and procedural requirements.

EFFECTIVE DATE: This amendment is effective on March 3, 1980.

FOR FURTHER INFORMATION CONTACT: LCDR John G. Busavage, Office of Marine Environment and Systems (G-W/TP12), Room 1200, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, D.C. 20593, (202) 426-9578.

SUPPLEMENTARY INFORMATION: On 27 June 1977, the Coast Guard published a proposed rule (42 FR 32670) concerning these amendments. Interested persons were given until 11 August 1977 to submit comments. On 4 August 1977, the comment deadline was extended until 2 September 1977 (42 FR 39408). On 27 October 1977, the deadline for comments was extended until 15 December 1977, and three public hearings were scheduled (42 FR 56625). The public hearings were held as scheduled: at New Orleans, LA, on 22 November 1977; at Washington, D.C., on 28 November 1977; and at St. Louis, MO, on 30 November 1977. Eighty-five (85) people attended the three public hearings, and 133 written comments were received between 27 June 1977 and 15 December 1977 in addition to the comments received during the public hearings.

Drafting Information: The principal persons involved in drafting this rule are: Lieutenant Commander John G. Busavage, Project Manager, Office of Marine Environment and Systems, and Michael N. Mervin, Project Attorney, Office of Chief Counsel.

Discussion of Major Comments

General Comments

1. There were 28 comments requesting public hearings. Three public hearings were scheduled and held in November 1977, at New Orleans, LA, Washington, D.C., and St. Louis, MO, in response to those requests.

2. Six comments requested time extension for comments. The initial comment deadline of 11 August 1977, was first extended to 2 September 1977 (42 FR 39408, 4 August 1977). It was later extended until 15 December 1977 (42 FR 56625, 27 October 1977) to allow time for the public hearings, and further written comments.

3. Two comments suggested that a joint Coast Guard-industry working group be established to draft the final regulations. This request was denied as being inappropriate. However, all industry and general public comments were completely considered in arriving at this final rule.

4. Numerous industry comments generally questioned the need for such detailed amendments and especially questioned their application to smaller vessels in the towing and offshore service industries. A number of changes were made in response to these broad comments. A supplemental notice of proposed rulemaking (NPRM), to be issued soon, will propose to give vessels of 100 or more gross tons but less than 400 gross tons alternatives to installing oil water separators. This supplemental NPRM is necessary because allowing alternatives to oil water separators is substantially different from the orginal proposal of June 27, 1977. Upon receipt of public comments a final rule will be issued for 33 CFR 155.330 to 155.410. In the meantime, the existing regulations in 155.330 to 155.410 remain in effect.

5. The National Oceanic and Atmospheric Administration and the New York Attorney General's office objected to Coast Guard authority to grant exemptions to any part of the regulations. There are strict guidelines for granting exemptions. The criteria for granting exemptions are considered reasonable, and the agency issuing regulations may relax the requirements in the absence of mandatory statutory constraints on the regulatory function if the guidelines are followed. The wide variety of conditions, locations, operations, equipment, and personnel being regulated makes some exemption authority necessary.

6. Five comments objected to granting discretion to the COTP/OCMI throughout the regulations. Where COTP/OCMI discretion is provided, it is deemed necessary to provide for reasonable compliance under varying local conditions. It is impossible to envision every conceivable contingency in a rule. Under the criteria specified for COTP/OCMI discretion, there is an insignificant hazard to the environment and there should be no unreasonable burden to any parties concerned.

7. Several comments stated that marinas should not be exempt. Marinas are not exempt if they transfer oil to or from vessels with a capacity for 250 barrels or more of oil. The 250 barrel limit is a reasonable guide since bulk transfers justify stringent regulations, while small quantities do not pose the same environmental risks. Also, enforcement for every marina fueling is not feasible or cost effective.

8. One comment stated that public vessels should not be exempt. Public vessels are exempted by the statute (FWPCA). However, Executive Order 11752 requires that Federal agencies take the lead in compliance with environmental standards. It is expected that public vessels and facilities will use these regulations as guidelines for their operations. Although transfers within or between public vessels themselves are exempted, all other transfers involving public vessels are regulated.

9. One comment cited Commandant Instruction 5000.2B policy against over-regulation of waterborne commerce. These regulations are essentially what was issued in 1972, revised and clarified with improvements based on experience.

10. One comment urged that 33 CFR 126 and 33 CFR 154 be reconciled as to facilities. There are no conflicts apparent in the existing Part 126 and Part 154 as amended. An advance notice of proposed rulemaking was published on April 10, 1978 (43 FR 15108) which would place all facility regulations (including those now in Parts 154 and 156) in 33 CFR Part 126. Completion of this project is some time off. The regulations will be consolidated for convenience.

11. The title of these regulations as printed in the **Federal Register** of 27 June 1977 (42 FR 32670) was "Pollution Prevention, Vessel and Oil Transfer Facilities". When the regulations are printed in the Code of Federal Regulations (CFR), only the heading for

each part of the CFR will be printed. The descriptive wording of the regulations is thus eliminated, and the industry and general public could be misled as to the subject of each part of the CFR. To correct this, headings were given to each part.

12. The $65 million economic evaluation of the original proposal on June 27, 1977 (42 FR 32670) was based on estimates of costs for vessels to comply with the equipment requirements for oil water separators, monitors and alarms. Those requirements are deleted from this final rule and will be discussed in a supplemental notice of proposed rulemaking to be issued later. The economic assessment for the revised equipment requirements will be included in the supplemental NPRM.

This final rule generally relaxes existing requirements for containment on vessels and makes some changes to contents of the operations manual and oil transfer procedures, which can be accommodated with only minimal expense to vessel or facility owners. There may be some costs incurred by individual facilities to shield lighting or provide monitors if a COTP expressly requires such improvements as allowed by the final rule. However, the cost of monitors is under $5,000 and will seldom be required, while shielding of lights is very inexpensive.

The cost estimate for bulk oil transfer facilities and vessels to comply with this final rule is well below $3.5 million.

Specific Comments: Part 154

1. § 154.100—(a) Fifteen comments questioned the exemption for marinas in paragraph (c) of this section. Marinas do not normally transfer quantities of oil that justify stringent pollution regulations. Also Coast Guard personnel are not available to monitor all small quantity oil transfers. Marinas are subject to Part 154 during actual transfers involving vessels with a capacity of 250 or more barrels of oil.

(b) One comment suggested changing "capacity" to "amount" of 250 or more barrels of oil. A real pollution risk is posed for vessels with a capacity for 250 or more barrels of oil even when less than that amount is actually being transferred. The regulations are aimed at preventing discharges which are likely and threaten substantial pollution.

(c) Several comments suggested that towboats be exempted if marinas were. Marinas are not totally exempt and towboats with sizable fuel and lubricating oil tanks and machinery space bilges are a much larger pollution threat than small recreational vessels.

2. § 154.105—(a) The definition of "transfer" was added to all 3 parts for clarity since it is mentioned throughout Parts 154, 155, and 156. It makes clear that transfers of oil within vessels are also subject to the regulations.

(b) Two comments asked why the definition of "offshore facility" is limited to the navigable waters while vessels are regulated in the contiguous zone as well. The 1972 Federal Water Pollution Control Act (FWPCA) definition of "offshore facility" is used in the regulations. With the Clean Water Act of 1977 (CWA) the definition has been expanded to include the contiguous zone and beyond. A notice of proposed rulemaking will be published to allow public comment before incorporating the CWA amendments into the regulations. This final rule does not apply to Outer Continental Shelf (OCS) facilities.

(c) One comment suggested that "oil" be defined with a list of oils. This would be more restrictive than the statutory definition, which is sufficient. The definition has been deleted in the final rule because it added nothing to the statutory definition.

(d) One comment suggested defining "tank vessel" in terms of 250 barrel capacity and deleting "vessel" definition or specifying types. The definition of "vessel" has been dropped in the final rule, because the statutory definition is used. The definition of "tank barge" and "tank vessel" are retained, and "tank vessel" is limited to vessels that carry oil in bulk as cargo or in residue.

(e) The definition for "incompatible products" is nonspecific and may lead to confusion among users. Pending Coast Guard rulemaking addresses incompatible products. Therefore, this definition and references to incompatible products have been deleted from the final rule.

3. § 154.107—(a) This subpart was reworded so that the COTP is required to consider economic or physical practicality in granting an alternative since the regulations should not be altered without a good reason even where alternative protection is provided.

(b) The EPA suggested that alternative requests should document the equivalency of environmental protection and allow the Coast Guard to require other information such as economic and environmental assessments. Documentation of alternatives has been added, to include documentation of safety and pollution protection, and the COTP may request additional information, if necessary, to evaluate the proposed alternative. It will necessarily include an economic and environmental analysis. However, since an equivalent level of protection is required no formal environmental impact statement is necessary.

(c) Several comments requested that existing waivers be "grandfathered". This cannot be allowed since the waivers are now split into alternatives (granted by the COTP) and exemptions (granted only by the Commandant). All COTPs should review any existing waivers they have granted under sections 154.330 and 156.107 of the prior regulations to determine which ones may qualify for alternatives and which ones now will require Commandant approval as exemptions.

(d) One comment suggested that the COTP should have to respond within 30 days of receipt of a request for an alternative. This comment has been adopted as a reasonable time period for COTP response to requests, in light of a facility's need for planning operations.

4. § 154.108—(a) The National Oceanic and Atmospheric Administration (NOAA) suggested that exemptions be granted primarily based on minimal likelihood of oil discharge. This of course is a consideration. However, economic or physical practicality and availability of alternatives are equal factors in weighing an exemption request. The final rule was changed to prohibit an exemption that would substantially increase the likelihood of an oil discharge.

(b) NOAA also suggested other sources of information should be considered in addition to the facility's application. The regulation does not force the Commandant to consider only the facility's information. The Coast Guard's operational experience with the regulations and facility operations in general is also applied in deciding whether to grant any exemption.

(c) One comment requested that exemptions also be allowed where compliance would create a safety hazard. None of the pollution regulations are designed to create a safety hazard. Safety will always be considered in any exemption request, and safety has been added as a factor to be documented in any exemption request.

(d) The Commandant's office which determines exemptions has been specified for information purposes and as an express delegation of authority. The same was done for sections 155.110 and 156.110 of this chapter.

5. § 154.110—(a) One comment suggested that 30 days is sufficient to advise the COTP under paragraph (c) of this section. The word "immediately" has been replaced by the phrase "within 5 days" to allow more time, but 30 days is unduly long.

(b) One comment asked if an existing facility is required to resubmit a letter of

intent and modify its operation manual. A sentence has been added to paragraph (a) of this section that exempts existing letters of intent from resubmission. Contents of operations manuals are specified in § 154.310 and must be amended in accordance with § 154.320. If any problems in complying arise, an alternative or exemption may be requested.

6. § 154.120—Seven comments requested that tests and inspections be conducted reasonably, at specified times or only after a written request from the Commandant. It is understood that only reasonable tests or examinations will be required and then at reasonable times. However, examinations must be realistic and advance warning of examinations would likely lessen their utility. Facilities should be operated in compliance with the regulations at all times, not just at specified predesignated times. Normally, these examinations would be conducted during daylight working hours, however, the COTP must be able to conduct them whenever the facility is operational.

7. § 154.300—(a) Two comments suggested deleting the requirement to translate the operations manual where English is not predominant. Manuals are to be working manuals for personnel involved in oil transfers, and must be understood, as a minimum, by all persons in charge. The final rule has been changed to reflect this.

(b) Two comments requested confidentiality for operations manuals. This is generally not possible under the Freedom of Information Act (FOIA) which sets forth standards for release of information in public records. Another wanted a reference to the FOIA in the regulations. This is accomplished in the note following this section.

(c) Sixteen comments stated that there is no need for biennial review of operations manuals. This requirement has been replaced with review when substantial amendments are made and at COTP discretion.

(d) One comment suggested that the letter of adequacy be deleted. This suggestion was not accepted since the letter of adequacy is considered a reasonable, efficient means to ensure review of operations manuals.

(e) One comment suggested that the manual require a facility to demonstrate the emergency shutdown system to the vessel person in charge. Section 156.120(w) (8) and (12) requires that each person in charge understands emergency and shutdown procedures. If a vessel person in charge is not satisfied at the pre-transfer conference he or she should not proceed with the transfer. However, a demonstration of emergency procedures is not necessary for every transfer.

(f) One comment suggested submitting amended manuals to the COTP 18 months after the effective date of the rules for approval. This is unnecessary since existing manuals with proper indexing are now being "grandfathered." Three other comments sought exemption from the letter of adequacy. This is not necessary for the same reason.

(g) One comment suggested that paragraph (f) be amended to make clear that a vessel's person in charge does not get a copy of the facility manual. The word "facility" has been added in front of "person in charge" to make this clear. Section 156.120(t)(2) requires each person in charge to have a copy of the operations manual or vessel oil transfer procedures, as appropriate. Of course, each may refer to the other's manual or procedures before and throughout the transfer operations in order to comply with section 156.120(w) (5), (8) or (12).

8. § 154.310—(a) Twenty-three (23) comments suggested that the operations manual contents should not be in any specified order or requested a delay in rewriting manuals. In answer to these comments, paragraph (c) was added to this section to permit use of a cross referenced index page in the specified order. Also proposed subsection 154.310(b) was deleted since the information was for the convenience of COTP inspections, and it is available on file at the COTP office.

(b) One comment suggested that paragraph (a)(2) cover only safety equipment covered by this part. This is too restrictive; personnel should know the location of all safety equipment required to be at the facility by any regulations or law.

(c) Seventeen (17) comments suggested that time limits not be required for gaining access to oil spill containment material. Section 154.545(c) provides that time limits are to be set by the facilities themselves subject to COTP approval. This is necessary to ensure that equipment sharing agreements are realistic and can provide adequate response to oil discharges.

(d) Two comments suggested deleting the requirement to include in the manual the number and location of all operations manuals and the information on monitoring devices. It was decided that it is not necessary to include the number and location of operations manuals, and this was deleted. However, it is useful to include data on monitoring devices when they are required. The language in (a)(13) was changed to read "if required by § 154.525", since only rarely should COTPs require monitoring devices at facilities.

(e) One comment suggested deleting the requirement to send the operations manual with the letter of intent. This was not accepted since the COTP should know that the facility operator has established procedures which should permit the facility to be operated in an environmentally sound and safe manner.

(f) Two comments suggested deleting paragraph (a)(5)(ii) since cargo information is the responsibility of the vessel operator. This was not done since the data is readily available and is needed by the facility for safety and environmental reasons. This paragraph has been changed to list the necessary data rather than refer to another regulation. Also, paragraph (a)(5)(i) was changed from "category and trade name" to "generic or chemical name" for clarity.

(g) One comment suggested putting personnel names and telephone numbers on a separate sheet for easy amendment. This is a good idea and the regulations allow the entire operations manual to be loose leaf, which would facilitate any amendments.

(h) One comment suggested a briefer manual with details provided in a more complete procedures manual. This has not been accepted since the more detailed guide would likely not be used. The operations manual should be a working publication and a single source for learning standard operations as well as emergency procedures at a facility.

(i) Several comments suggested that NAVIC 9–73 language be added to the regulations or preamble. NAVIC 9–73 was issued by the Coast Guard in 1973 to interpret 33 CFR 154, 155 and 156. This has not been done since in some regards NAVIC 9–73 has become obsolete with this revision. To the extent this preamble or the preamble to the proposed version in the Federal Register of June 27, 1977 (42 FR 32670) fail to answer any questions a new interpretation may be required at a later date.

(j) Proposed item (7) of the operations manual has been deleted as explained in paragraph 2(e) above; proposed item (22) has been added to proposed item (16); and the items have been renumbered in the final rule because of these changes.

9. § 154.320—(a) Two comments requested that facility operators be allowed 30 (not 14) days to comment on COTP proposed amendments to the operations manual, and an unlimited time to petition the Commandant. These suggestions were not adopted since the existing regulations had the same

requirements and the periods specified are reasonable.

(b) Two comments stated there is no need for COTP approval of minor changes. Paragraph (d) has been added in the final rule to allow minor changes in personnel or telephone number lists without prior COTP review.

(c) Three comments suggested there was no need for facility operators to submit proposals under paragraph (b) 30 days before the effective date, and said the COTP should be given 10 or 30 days to respond instead. These suggestions were not accepted since paragraph (b) was added to the prior rules to give the facility operators the right to initiate changes to the manual, and the COTP ought to have some review of all amendments. Paragraph (c) of this section provides that the COTP is to respond before the amendment is effective or immediately if an immediate amendment is requested. This is entirely reasonable.

10. § 154.325—(a) One comment suggested adding "either" after "effective" in paragraph (c) for clarity to show that there are 3 options, and this has been done in the final rule.

(b) Three comments suggested that previously accepted manuals should automatically receive letters of adequacy. This was not done since many changes have been made in the operations manual. Three years are allowed to update manuals, except that new facilities and ones making substantial amendments to their manual must get a letter of adequacy at the start of the operations or substantial change.

(c) Fourteen comments suggested that a simple notation on the operations manual would be better than a letter of adequacy. This suggestion was not adopted since the letter can be easily copied and placed in copies of the manual, and provides an effective means for the COTP to ensure a thorough review of operations manuals.

(d) One comment suggested using a permit or certificate rather than a letter of adequacy. A letter of adequacy ensures that certain matters are addressed in the operations manuals, but does not constitute Coast Guard approval or certification of any particular procedure or equipment mentioned. It addresses the scope of the contents rather than the details of the manual.

11. § 154.500—(a) Six comments discussed existing hose having the test and burst pressure stamped on hose. Paragraph (g) in the final rule requires that the burst pressure and the pressure used for the test required by section 156.170 not be on the hose to prevent confusion with the maximum allowable working pressure (MAWP). The burst and test pressures must be recorded at the facility but not on the hose. Other pressures marked on hoses presently in use may be obliterated by any suitable means until replaced by hose with new, proper markings.

(b) Twenty-three (23) comments suggested deleting paragraph (e), especially grade and product data for all products transferred. These comments have led to changing paragraph (e) to allow "oil service" but the remaining data still must be provided either on the hose or elsewhere at the facility.

(c) One comment questioned the reliability of back pressure nozzles and another questioned their use with large hose. There is no need to test back pressure nozzles since they are reliable for the small hoses with which they are used. They are not intended for large hose, but large hose are not used with flush deck fittings and containment is feasible for manifold connection points of large hose normally. Where containment is not possible for manifold connection points of large hose an alternative or exemption may be granted.

(d) Four comments were received that hose made before 1973 should be allowed even if not complying with the regulations. Most pre-1973 hose will be out of service hence the reference to 1973 is omitted. If a facility does have older hose in storage that does not meet all of the requirements, an alternative may be requested for unused pre-1973 hose under § 154.107.

(e) Four comments suggested color codes on hose and three suggested a multi-product or general category hose marking. As noted in paragraph (b) above, "oil service" is acceptable in paragraph (e)(1). Color coding was not deemed practical for all facilities.

(f) One comment suggested deleting paragraph (b) and two others suggested changing "maximum" to "minimum" and deleting "or more" in (b)(1). Neither suggestion was accepted, since the intent is to ensure that the hose can withstand normal working pressure of 150 psi with a burst pressure 4 times that amount. Most oil hoses in use have a maximum allowable working pressure (MAWP) of 150 psi with a 600 psi minimum design burst pressure.

(g) One comment suggested that full threaded connections should be changed to "ACME" type couplings for hose up to 2 inches in paragraph (d)(1), and two other comments suggested that slip on, welded and weld neck flanges should be allowed. The wording of paragraph (d) has been changed to make clearer that there is a choice among threaded connections, quick connect couplings, or flanges. The quick connect couplings must, however, be approved by the Commandant.

(h) One comment suggested clarifying paragraph (d) by adding an "or" after each option. The word "either" has been added to clarify that an option exists.

12. § 154.510—(a) One comment was received which suggested that loading arms constructed in the field should be tested locally rather than meet ANSI standards. This has not been changed in the final rule. The intent of the regulations is to have a uniform and safe standard; not one subject to local modification. An alternative under § 154.107 may be requested for locally constructed arms.

(b) Two comments suggested that the regulation should apply only to loading arms placed into service after June 30, 1973. This change has been made in the final rule since it was overlooked in the NPRM that old loading arms will not be replaced as fast as hose. They should not have to be replaced at great expense to comply retroactively with a regulation first effective on July 1, 1974.

13. § 154.520—(a) Three comments suggested that blanking devices for gasoline hose can create a safety hazard. The final rule remains as in the NPRM. There should be no hazard if gasoline lines are properly purged of fumes prior to blanking. The unsafe alternative would be to leave hose open to drain on decks where an even greater safety and pollution hazard would result.

(b) Fifteen comments suggested exempting dry, new, unused, or spare hose sections. The final rule has been changed to exempt new and unused hose, but none that have been used for oil transfer, which pose a risk of leaking oil through the unconnected ends of the hose.

(c) One comment suggested changing "each end of each hose" to read "the end of each hose". The regulation has been changed to read the "ends of each hose" to make it clear that a disconnected hose is to be blanked off at both ends to prevent oil leaking out. New, unused hose is exempt.

14. § 154.525—(a) Fourteen comments requested a definition of monitoring devices. This was added in § 154.105.

(b) Seven comments objected to the high cost of monitor installation and requested cost analysis. This section is intended only for those cases where visual surveillance is not sufficient to detect oil spills in very sensitive areas or where a complex operation would likely result in a spill without the device present. In each case use of the oil monitor must significantly increase the probability of detection or aid in limiting

the spread of a spill by early detection. Some devices are available for less than $5,000.

(c) Nine comments stated that existing monitors are not reliable. There are devices on the market which effectively detect oil sheens on water.

(d) Seven comments suggested deleting this entire section. The section remains in the final rule to allow the COTP another option in the case where an oil monitor will significantly increase the probability of detection which will aid in rapid control of an oil spill in a sensitive area, or where the products or complexity of operations increase the risk of spill.

(e) Two comments suggested that monitors be required for all transfers with no COTP discretion, but only after they prove reliable. Existing monitors for facilities are reliable, but the COTP may only require them in cases where the specified criteria exist. It would be an unreasonable economic burden, at this time, to require all transfers to be monitored by devices.

(f) Eight comments suggested that visual means are preferable to monitors. In the vast majority of oil transfers visual checks are preferred. However, under the circumstances specified, continuous monitoring is justified due to the higher risk.

(g) Thirteen comments objected to possible arbitrary and varying interpretations among different COTPs. Of course, over-reaction is possible with any regulations. However, the criteria listed are limiting, and this preamble stresses that use of monitoring devices is to be required only in the case where their use will "significantly" expedite response efforts to limit the size or severity of an oil discharge.

(h) Two comments objected because the monitors would not distinguish between facility spilled oil and oil from nearby sources. The purpose of the monitors is to detect oil and not attach legal responsibility for the oil on the water to that particular facility.

(i) Three comments stated that monitoring is a government duty. The Coast Guard and other agencies, State and Federal, do monitor, but the immediate legal obligation falls on those who own and transfer oil.

(j) One comment suggested that the Coast Guard publish a list of approved monitoring devices. This is not necessary since the devices will not be required often. The COTPs will provide data on devices available in their area when and if they require the installation of devices.

(k) One comment stated that all four criteria mentioned should be satisfied before the COTP can require monitoring devices. This is too restrictive on the COTP, and would limit the prevention methods to significantly limit the spread and severity of oil spills.

(l) The National Oceanic and Atmospheric Administration (NOAA) suggested COTP consultation with State and Federal agencies before requiring monitors. The COTP may consult with any agency before requiring monitors, but the COTP is not required to do so since a quick decision may be needed which precludes such consultation. NOAA also suggested that monitors should be mandatory for environmentally sensitive areas, or where the product transferred poses a significant threat. Other methods are better suited to prevent oil spills, the monitors would seldom be used, and the COTP should make the decision on monitors using the criteria specified.

15. § 154.530—(a) One comment stated that no facility can provide catchment between the face of the dock and a vessel and two others said more spills come from stowed hose, not ones moving for connection. The intent of this section is not to require containment over the water. Blanking of hose until connected and use of hose complying with section 154.500 should prevent most spills over the water.

(b) One comment pointed out the hazard from "lipped" small discharge containment along the edge of a pier or bulkhead. There is indeed some tripping hazard from any lip or protrusion on a dock, yet if sufficiently high to contain the oil required and properly constructed and marked the hazard should be minimal or eliminated. The same comment stated that if the pier is solid there would be no spill over the edge of a pier with no lip. This would be true only for small quantities of spilled oil that do not reach the edge of the pier before being cleaned up.

16. § 154.540—Nine comments suggested that the facility be required to provide some means to receive oil residue from containment systems on unmanned barges. While this is a very good suggestion, the Coast Guard has no clear authority to require a facility to provide such a service to a barge. Section 155.310(a)(2) requires tank vessels to have a means to drain containment devices. Section 155.310(b) requires proper draining of portable or fixed containment inside 4–8" coamings and the coamings themselves on barges. This can be done on the barge itself or through a voluntary arrangement with the facility, as long as oil is not discharged into the water.

17. § 154.545—(a) Fourteen comments stated that the section is unduly restrictive, vague, subject to conflicting interpretations, or punitive. The regulation sets specific criteria for determining time limits for deploying containment equipment and for requiring pre-transfer booming. Paragraph (d)(5) is added to ensure that pre-transfer booming is only required when it is the "only practical" way to avoid environmental damage from an oil transfer. It will only be unusual situations that require pre-transfer booming, and there should be no great COTP variance in interpreting the regulation with the guidance set forth in the section and this preamble. There is no intent for pre-transfer booming to be a common practice.

(b) Ten comments discussed the requirement for "enough" containment for "any" oil discharge. Paragraph (a) has been modified as suggested to require containment for any oil discharged on the water from operations at that facility. It requires sufficient containment to control the spread of oil whether from the facility or any vessel transferring oil at the facility, but does not require that containment equipment be available to contain oil from adjacent sources of oil not related to operations at that facility.

(c) Fourteen comments stated that time limits are not practical due to weather variations. The regulation requires time limits to ensure that equipment sharing is an effective means of containing spills at the facility. The facility itself establishes the time limits and may provide for a different time limit for bad weather. However, the time limit must be a reasonable response time to deal with discharges effectively and must be approved by the COTP concerned.

(d) One comment suggested deleting (d) since each COTP already has that authority and there is no need to emphasize it. The authority to deploy containment before transfer is specifically mentioned because in some rare cases it is the only practical way to protect the environment from particularly risky oil transfers.

(e) Five comments objected to the excessive cost of pre-transfer booming and one feared the effect on competition. As stated, such deployment will only rarely be required, and it is inexpensive in relation to the equipment costs which all oil transfer facilities must incur for the containment itself.

(f) Seven comments stated that booms will not work in tides and strong currents, and reference to currents has been deleted in paragraph (d). However, the facility operator should take currents into account in paragraph (c)(4) when establishing time limits for deploying booms in the event of a spill. While

booms may not contain oil when deployed in rapid currents, they may be effective in directing the movement of the oil and in protecting some areas from environmental damage.

(g) One comment suggested that the COTP conduct a hearing before acting under (d). No hearing is provided for because of the need for immediate action in most cases, but the COTP will certainly consider input from the facility in making a decision to require pre-transfer booming. If the COTP insists on the booming and issues a suspension order, the operator may appeal the suspension order as provided in section 156.113(b).

(h) A number of comments objected to booming before transfer because it could delay cleanup; may be unsafe or impossible; and it is unnecessary as long as containment is available. Pre-transfer booming can be required by paragraph (d)(5) when it is the only practical means to reduce environmental damage under any of the circumstances presented in paragraph (d)(1)–(d)(4). It will only rarely be required. Safety considerations, particularly with gasoline transfers, will always be weighed by the COTP before requiring pre-transfer booming.

(i) NOAA commented that no COTP discretion should be allowed when environmental sensitivity or a significant threat exists. Such a safeguard is expensive and the relative benefit to the environment should be weighed against the feasibility and expense of booming. NOAA would allow COTP discretion in the case of prior record, large or complex operations, and swift current. COTP discretion is allowed throughout, but current has been removed as a criterion for booming since swift current normally makes booming ineffective.

(j) NOAA also suggested that the COTP should be required to consult with appropriate state and Federal agencies in determining the sensitivity of the area and significant threat. Of course the COTP should consult with any available source of data on all of the criteria. However, it may not be reasonable to consult with other agencies in all cases, especially where conditions require a rapid decision. Regional contingency planning and the Regional Response Teams are the appropriate mechanisms for the COTP consultation process.

(k) A comment from a Coast Guard unit in the Eleventh District stated that "facility type" lightering vessels (lightering beyond 12 miles) should comply with this section also. Although vessel to vessel transfers within 12 miles are subject to these regulations, this suggestion exceeds the scope of the original proposal. The Port and Tanker Safety Act of 1978 (§ 5(17)) requires specific regulations for offshore lightering, and a Notice of Proposed Rulemaking for offshore lightering operations was published on May 31, 1979, 44 FR 31486.

18. § 154.550—(a) Seven comments suggested that voice communications are adequate. Voice communications alone have not been satisfactory in many circumstances due to background noise.

(b) One comment stated that the existing regulation is sufficient to control emergencies. There were no limits set in the original regulations on the amount of time required to stop the flow of oil, but this is necessary to ensure rapid, effective action to minimize the size of any accidental oil spill.

(c) Four comments suggested that pumps be stopped prior to closing the pipeline to prevent rupture. Proper closure sequencing may be necessary and it is certainly not precluded by the regulation, provided the applicable time limit in paragraph (c) is met.

(d) Twenty-four comments were received concerning the time limits set for emergency shutdown. Most objected that the time was too fast and would cause equipment damage or rupture. Several suggested 75 to 90 seconds or 3–4 minutes was more reasonable. Others suggested 30–60 seconds to begin shutdown or offered general wording such as "means to stop the flow of oil to minimize loss in event of hose rupture or loading arm failure". All of these suggestions were considered, but the proposed time limits are considered feasible and very close to industry suggested time limits. Existing facilities, are given until 1 November 1980 to meet the 60-second shutdown requirement. New facilities or parts of facilities starting operations after that date must meet the 30 second requirement. The Coast Guard believes proper action can reasonably be taken within the limits set forth.

(e) Two comments suggested that "remotely" be deleted from paragraph (a)(2) to permit manual shutdown. This comment has been adopted and "remotely" is deleted from the final rule to allow manual or remote control shutdown.

(f) Several comments addressed valves. Three suggested that the valve location be left to the facility operator. One stated that if the emergency valve is too close to the manifold valve both may be damaged. Three objected that the industry's rapid shutdown record does not show a need for added quick acting valves. One asked how close to place the emergency valve to the manifold valve, and one suggested that valves are reliable and no backup valve is needed. Two objected to the high cost of a motor operated valve and said that portable communications are sufficient. The final rule does not specify a second valve, although that may be the cheapest or easiest emergency means of shutdown. The means, which may be a combination of pump control, surge tanks and valve controls, are left to the facility operator, together with the specific location. The primary intent is to avoid large continuing discharges due to failures of hose, loading arms or manifold valves, which are the most likely points for a rupture or accident during oil transfers.

(g) One comment stated that there is no rational relation between the effective date for existing facilities and the time required to stop the oil flow. The final rule has been changed to require facilities and parts of facilities that start operations before November 1, 1980 to achieve emergency shutdown within 60 seconds. All existing facilities thus have substantial time to ensure they can shutdown within that time limit. Any facilities starting operations after that date must be able to shutdown within 30 seconds of discovery of the oil discharge.

(h) One comment suggested letting the COTP require devices where a facility has a poor oil spill record. Emergency shutdown is important for all facilities, since lack of prior spills does not rule out accidental damage to the manifold valve.

19. § 154.560—One comment suggested vessels post a bond before receiving expensive commnications gear provided by a facility. The security of communications gear is a matter between the facility and vessel. Paragraph (e) has been modified to correct the references to 46 CFR 110.

20. § 154.570—(a) One comment asked if the facility must provide adequate lighting for vessel to vessel transfers at the dock. Self-propelled vessels are required by section 155.790 to provide their own lighting and that for barges moored to them for oil transfer. A facility must provide lighting for all barges at the facility where no self-propelled vessel is involved.

(b) One comment asked why lighting is singled out for special testing when the COTP has authority to require necessary testing of all facility equipment. The final rule relaxes the prior requirement to meet specific lighting intensities during all oil transfer operations between sunset and sunrise. Only when the lighting appears

inadequate to the COTP is specific testing necessary. Lighting is a basic prerequisite for any night operation and objective standards are needed where the COTP is in doubt as to the adequacy of lighting.

(c) One comment suggested modifying paragraph (d) to change "interfere" to read "distracting or misleading" to navigation. The wording has been changed in the final rule to insure that lighting is shielded so that navigation on adjacent waterways is not adversely affected. The COTP must decide if there is interference with navigation.

(d) The illumination levels in paragraph (b) (1) and (2) have been left at 5.0 and 1.0 foot candles, as in the present rule. Those levels were based on a 1972 Coast Guard survey of facility lighting. No new data indicates a lower level is sufficient. The same is true for vessel lighting in section 155.790(b) (1) and (2).

21. §§ 154.710 and 154.730 as proposed are withdrawn. The existing sections 154.710 and 154.730 remain in effect although not republished with this final rule.

22. § 154.740—One comment suggested that records over 24 months old are not needed. In paragraph (e) of the final rule "each inspection" was changed to "all inspections * * * within the last 3 years". This will give the COTP a reference point to ensure that prior deficiencies have been corrected, but will allow facilities to dispose of inspection records after a reasonable period.

Specific Comments: Part 155

1. § 155.100—(a) One comment stated that it is not clear that all vessels operating in U.S. waters are subject to Part 155. The definition of "vessel", in subsection 311(a)(3), FWPCA applies to these regulations. It applies to all vessels, foreign or U.S. in the navigable waters of the U.S., or in the contiguous zone. A proposal to extend the regulations in 33 CFR 154, 155, and 156 beyond the contiguous zone, as the Clean Water Act of 1977 permits, is being prepared.

(b) Three comments suggested that this section departs from the 1973 Convention and should not apply to foreign vessels, unless provision is made for certification of foreign equipment. The existing Part 155 applied to foreign vessels too, as does the final rule. 46 CFR 162.050 (44 FR 53352, September 13, 1979) allows for certification of foreign equipment; however, sections 155.330 through 155.410 are not being issued as final rules due to substantive changes in the requirement for oil water separators on small vessels.

(c) One comment misinterpreted the last sentence in the proposed section to exempt uninspected U.S. vessels from compliance with Part 155. The last sentence has been deleted since it adds nothing to the regulation and is misleading. Part 155 applies to all vessels (not public vessels), foreign or U.S. 46 CFR Chapter I states that to get a Certificate of Inspection U.S. vessels must comply with Part 155 design and equipment requirements, among other requirements. Another comment asked if Part 155 applies to uninspected river towboats. The answer is yes, if they meet the criteria specified in the applicable section.

(d) One Coast Guard comment suggested that vessel to vessel transfers be treated like a facility type operation. The final rule standards are sufficient as written. A notice of proposed rulemaking for offshore lightering operations was published on May 31, 1979, 44 FR 31486.

2. § 155.105—(a) The definitions in § 154.105 apply to Part 155.

(b) One comment suggested specific definitions of "oily residue" and "oily mixtures". These are not terms of art and have their general meaning of some type of combination of oil and water or other material.

3. § 155.107—(a) The EPA recommended that each request for an alternative should document the equivalency of the alternative proposed. This was added to paragraph (a)(3) in the final rule and requires an equivalent level of safety and environmental protection.

(b) Also, to avoid requests for alternatives where not essential, the requirement was added that compliance with the existing regulation must be shown to be economically or physically impractical. This will avoid excessive local modification of the regulations.

(c) One comment suggested that the COTP respond to alternative requests within 30 days, and this has been added in paragraph (b) because it is a reasonable period of time.

4. § 155.110—One comment suggested adding "or creates a safety hazard" to paragraph (a)(2)(i). Paragraph (a)(2)(ii) has been changed to expressly add safety as a consideration in granting exemptions. See also paragraph 4(d) of the Part 154 preamble comments.

5. § 155.310—(a) The language in paragraph (a)(1) (i), (ii), (iii), (iv) and (v) was changed to clarify the requirements for hoses and loading arms.

(b) Paragraph (b)(1) was changed to require that the specified capacity exist in all conditions of vessel list or trim during the loading operations as required by paragraph (a)(1), and paragraph (b)(2) was changed to expressly allow fixed or portable containers within the coaming allowed for tank barges.

(c) New material was added at (b)(3) and (4) to make clear that if a tank barge uses a coaming instead of complying with paragraph (a), it must still be able to keep leaked oil within the coaming and portable containers until properly drained or removed, without discharging oil into the water.

(d) One comment suggested adding a definition of "mechanical means of closing scuppers" to paragraph (a)(3). The means that are acceptable are valves, threaded caps, or threaded plugs which eliminate the need for placing rags, concrete, plastic or wooden plugs or devices in or over drains in the fixed containment system. The procedures presently required by 46 CFR 35.35–10 for plugging general deck scuppers remain valid.

(e) Twelve comments suggested that facilities receive the product from tank barge containment systems because barges lack easy means to drain fixed containment. These regulations are not designed to require facilities to provide services to vessels. Arrangements between vessels and facilities for removal of oil spilled into containment systems are certainly permissible, but this is a matter to be resolved by those parties.

(f) Two comments suggested peripheral coaming instead of 4–8" coaming around each tank hatch. Coaming around the edge of a tank barge's entire deck poses serious safety and stability problems, which make it undesirable.

(g) One comment suggested that the size of tank barge coaming be left to local COTPs. The COTP may grant alternatives where the conditions of § 155.107 are met, however, generally, the 4–8" size is reasonable.

(h) One comment suggested that tank barges should not have a choice of paragraphs (a) and (b) but should have to have 4–8" coamings in all cases. Barges should be encouraged to meet the stricter requirements in paragraph (a) if possible, but they should not be forced to have coamings. Thus, compliance with (a) is preferred, with (b) as the alternative only for barges.

(i) One comment suggested deleting "without mixing incompatible products" from paragraph (a)(2), and this has been done for the reasons stated in paragraph 2(e) of the Part 154 preamble comments.

(j) One comment suggested that (a)(1) is inconsistent with (b) (1) and (2) in regard to fixed or portable containment.

All tank vessels are required to have fixed containment, except tank barges, which must have either fixed containment or 4–8" coamings around each hatch, manifold and transfer connection with portable or fixed containers under each manifold or transfer connection point within the coaming. Barges are allowed an option which other tank vessels do not have due to deck construction which often makes large fixed containment impractical or unsafe.

(k) One comment suggested that alternative solutions for barge operators under paragraph (b) should be clarified as it is for all tank vessels in paragraph (a). Subparagraphs (3) and (4) have been added to clarify what barge operators must do if they choose the option in paragraph (b). There are no varying containment sizes as in (a); a barge need only have a one-half barrel capacity within a 4–8" coaming due to limited deck space on barges.

6. § 155.320—(a) One comment suggested that fixed containment only be required for vents or overflows in an area not enclosed by a coaming with closable scuppers. If the vents or overflows are in an enclosed area with the required capacity they are in compliance. As noted above, however, a peripheral coaming is not allowed due to the safety and stability hazard.

(b) Several comments questioned the clarity of the requirements. The section was reworded to make it less confusing. Although the section applies to all vessels of 100 or more gross tons, the first division was made by construction dates and then gross tonnage.

(c) One Coast Guard unit commented that 5 gallons containment capacity is too small for vessels of 300 gross tons or larger. The five gallon capacity applies to each fuel oil or bulk lubricating oil tank vent, overflow and fill pipe, and is limited to existing vessels over 300 gross tons. This "grandfather" provision was to avoid expensive retrofitting of existing vessels. New vessels of 300 or more gross tons must have at least one-half barrel containment for each fuel oil or bulk lubricating oil tank vent, overflow and fill pipe.

(d) Several comments concerned whether the containment was required at all times or only during transfers. The section has been revised to require fixed containment at all times to ensure it is available at the time of transfer. Portable containment, where allowed, need only be in place during oil transfer operations. Portable containment may be provided by the facility or the vessel.

(e) A Coast Guard district office commented that "lube oil" is mutually excluded from sections 155.310 and 155.320. As noted in paragraph 2 of the preamble to the proposed regulations (42 FR 32670), the exemption throughout Parts 154, 155, and 156 for lube oil is deleted. When lube oil is carried as cargo the vessel must comply with section 155.310 for containment. Section 155.320 is revised in the final rule to cover lube oil which is carried in bulk as stores for consumption by that vessel. Few vessels carry large quantities of lube oil in bulk for their own consumption, but those which do are subject to this section rather than section 155.310 which covers only cargo oil.

7. Sections 155.330 through 155.410 as proposed require a supplemental notice of proposed rulemaking to allow public comment on the substantial changes necessitated by comments received on the initial proposal. The existing regulations in sections 155.330 through 155.410, therefore remain effective. The economic and environmental analyses for all of Parts 154, 155, and 156, except those sections, have been revised to cover the impact of all revisions, except those dealing with oil water separators, monitors, alarms, and other equipment required by proposed sections 155.330 through 155.410. New economic and environmental analyses for those sections will be completed before a final rule is issued on proposed sections 155.330 through 155.410.

8. § 155.440—(a) Thirteen comments were received that existing placards should be grandfathered. This has been done by adding a new paragraph (b). The minor wording change in the placard clarifies the scope of the pollution laws. Existing stocks of placards manufactured before the effective date of this final rule may be used for the life of the placard.

(b) Two comments suggested that foreign vessels should be exempt because translations would be needed, but one stated that English should always be used since it is the language of the "international fleet". Foreign vessels are not exempt. The placard should be readable by the crew on board so they will know not to spill oil. Not all vessel crews know English, but all are liable for an oil spill and need to know that.

9. § 155.700 and § 155.710—As a result of numerous comments received on these sections and recent IMCO tankerman discussions, the Coast Guard plans to issue a new proposal for these sections. The existing sections 155.700 and 155.710 therefore remain in effect, and sections 155.700 and 155.710 as proposed are withdrawn in the final rule.

10. § 155.720—(a) The intent of this section is that the oil transfer procedures must be on board whenever the vessel is in operation, while their use is required only during transfer operations.

(b) Twenty comments suggested that paragraph (b) should be deleted since there is no threat from tank to tank transfer. This has not been done because a number of Coast Guard districts have documented spills from fuel day tank transfers, cargo tank transfers and other internal vessel transfers. The procedures for internal vessel oil transfers need not be so complex as cargo or fuel oil transfers to a facility or another vessel, but they should be written, available and referred to before and during internal transfers. The Pollution Incident Reporting System (PIRS) documents approximately 140 spills from internal vessel transfers each year (1973–1977). There were 138 spills of a total volume of 23,811 gallons of oil in 1977 from such transfers. Contact with the First, Eighth, Eleventh and Twelfth Coast Guard Districts recently emphasized that procedures are necessary to prevent spills from internal oil transfers.

(c) Three comments suggested that tugs should be exempt. Specific types of vessels should not be exempt; the main criterion is capacity for 250 or more barrels (10,500 gallons) of oil.

(d) Two Coast Guard districts suggested that a requirement be added in Part 156 to use the procedures for tank to tank transfers. Section 155.730 states that the vessel operator shall require the use of the oil transfer procedures for each transfer. Section 156.120(u)(3) requires the vessel person in charge to conduct each transfer operation in accordance with the oil transfer procedures. Section 156.120(v)(2) requires that all vessel personnel involved follow the oil transfer procedures for each transfer. "Transfer" is defined in Parts 154, 155, and 156 to include transfers within a vessel.

(e) Two comments objected to possible varying COTP interpretations. The final rule makes it clear that the oil transfer procedures are required on board at all times, not just during oil transfers. That had been the subject of varying interpretations. As far as the content of the vessel procedures is concerned, if one COTP or OCMI approves of them, other COTPs or OCMIs will generally accept them. However, each COTP or OCMI may require changes based on local conditions. This preamble explains the intent, but alternatives may be requested as needed.

(f) One comment stated that because fueling procedures are posted no manual is needed. Section 155.740(b) allows posted procedures. Oil transfer procedures with the contents required by section 155.750, can be simple enough to be posted. No separate manual is necessarily required.

11. § 155.740—One comment suggested that English alone should be required since it is the "official language" of the fleet. There is no true "official language" of the fleet, and the intent is that primary vessel personnel involved in oil transfers know the procedures regardless of their language. Vessel owners and operators make the decision what crews to hire, but whoever they have transferring oil must know how to do it with minimal risk of pollution.

12. § 155.750—(a) Nineteen comments addressed the requirement for the procedures to be in a certain order. The section has been amended in the final rule to allow use of a cross-referenced index for the specified order.

(b) Five comments stated that the transfer procedures should not be detailed training manuals for certified tankermen. The Coast Guard disagrees. In addition to the general knowledge a qualified tankerman has, the details for each vessel should be at the transfer site for use by the person in charge.

(c) Three comments suggested rewording paragraph (a)(4) (now (a)(3) in the final rule) to require the person in charge to be responsible for having the proper number of persons on duty. The proper number of personnel required for each type of transfer should be determined well in advance. Section 155.730 makes it clear that the vessel operator is responsible for maintaining and requiring vessel personnel to comply with the procedures. Section 156.120 (t) and (u) places the burden of compliance with the procedures on the person in charge and each person required to be on duty. Therefore, all involved vessel personnel are required to follow the oil transfer procedures approved by the COTP or OCMI.

(d) Three comments suggested deleting paragraph (a)(7), (10), (13), (14), and (15), since this material is covered elsewhere and the person in charge must already know it. Paragraph (a)(13) has been deleted, but (a)(7), (10), (14), and (15) remain in the final rule because it is necessary to specify how to meet those requirements in the oil transfer procedures. Knowledge by the person in charge is not enough; the vessel operator must ensure the procedures are effective and followed. In the final rule, paragraph (a)(7) has been moved to (a)(6); (a)(10) to (a)(2)(iii); (a)(14) to (a)(10); and (a)(15) to (a)(1) (i) and (ii).

(e) Two comments suggested that NVC 9–73 be incorporated into this section so it would not be used as a training manual. NVC 9–73 was issued over 5 years ago as an interpretation of the existing regulations. It does not belong in the regulations and is obsolete to the extent that the regulations have been changed. This preamble and the preamble to the proposal should answer most questions of interpretation. The guidance found in the preambles and any new guidance will be placed in the Marine Safety Manual (CG–495).

(f) Two comments suggested that listing all grade and trade names is an undue burden. Paragraph (a)(1) has been changed to require the generic or chemical name; to require cargo information described in § 154.310(a)(5)(ii) of this chapter; and to delete data on incompatible products for the reasons stated in paragraph 2(e) under the Part 154 preamble comments. The names are necessary to determine application of the oil transfer procedures.

(g) One comment suggested that duties not be preset by title in paragraph (a)(5) (now (a)(4)). The duties are preset by title to ensure that required functions are carried out regardless of personnel changes and to ensure that adequately qualified persons are assigned to each task.

13. § 155.760—(a) Four comments objected to possible varying amendments by different COTPs or OCMIs. The section allows for a petition to the Commandant which will resolve any conflicting requirements. Also an alternative may be requested from the COTP under section 155.107, if necessary.

(b) One comment suggested letting operators make amendments. The COTP or OCMI normally initiates the amendment process, however, the vessel operator may change the oil transfer procedures at any time, since there is no "letter of adequacy" for oil transfer procedures. Also, in response to COTP or OCMI initiated changes, a vessel operator may suggest amendments and may petition to the Commandant if the amendment is denied by the COTP or OCMI.

14. § 155.770—(a) Four comments suggested that this section be deleted as impractical and unnecessary. The intent is to prevent intentional use of the bilges for collecting waste oil and the final rule has been changed to prohibit intentional draining only. The bilge oil water separator requirement has been postponed, and greater control is needed to prevent the discharge of oil into the water during bilge pumping, which is an increasingly serious problem according to Coast Guard statistics.

(b) Five comments suggested exempting emergency situations as determined by the person in charge. This cannot be specified in the regulations, but common sense dictates that personnel safety will take precedence over pollution prevention. If a spill occurs, a civil penalty will be assessed. However, the existence of an emergency (as determined by the hearing officer) will be considered in determining the gravity of the violation and the amount of the penalty. If any pollution prevention regulation is violated, oil is spilled as a result, and if no true emergency existed at the time, the penalty is likely to be heavier. In addition, a penalty of up to $5,000 may be assessed for the violation of the prevention regulation itself.

(c) One comment stated that this section contradicts § 155.330 which assume that oil will be in the bilges and will need to be separated through an oil water separator. The regulation seeks to minimize the amount of oil introduced into bilges. Oil will still accumulate in the bilges to some extent. The oil water separator proposal (withdrawn from this final rule) would allow discharge of water from bilges after the oil had been separated.

15. § 155.780—(a) Two comments stated that personnel are readily available to close manual valves to stop oil from siphoning through a pump. In an emergency, many other things will be required, especially in a marine disaster, such as fire or collision, and manual shutdown may well be impractical. This requirement was already in the existing regulation.

(b) One comment suggested that paragraph (a) specify the vessel person in charge. This would normally be the case, but the regulation should not preclude a facility person in charge from acting. This section addresses the requirement to have a means of emergency shutdown on a vessel, not who uses it.

(c) One comment suggested setting a minimum time for closing a "quick-acting power operated valve" to prevent surging, and forbidding the use of such valves with reciprocating cargo pumps. The Coast Guard is currently reconsidering the use of quick acting valves. The final rule has been changed to clearly indicate a performance requirement, rather than require specific equipment. Surge tanks and pump control or other devices or procedures could well suffice. Vessel operators are given the option of a pump control, valve or other means and they may

choose the means best suited for their engineering plant.

16. § 155.785—One comment suggested that voice communications are adequate when vessels are side by side transferring. The regulation requires continuous communication in order to insure rapid shutdown is possible among other reasons. Voice may not be sufficient due to noise levels in the area. Paragraph (d) has been modified to correct the references to 46 CFR 110.

17. § 155.790—(a) One comment asked why a test is only required for lighting. The existing regulation required the same test standards for all night operations. The final rule relaxes that requirement to apply only in cases where lighting appears inadequate to the COTP or OCMI. Objective standards are needed in such cases. Lighting is a basic requirement for any night operation, and it is essential for safety and pollution prevention.

(b) See also paragraph 20(d) of the part 154 preamble comments.

18. § 155.800—A Coast Guard unit suggested adding "and § 156.170" after § 154.500 to ensure that vessel operators have only inspected hose on board. The suggestion was not adopted, because the intent of the regulations is to impose a sanction only if the uninspected hose is used in oil transfer.

19. § 155.805—(a) The Second Coast Guard District commented that vessel closure devices should be in place at all times, not just during transfer operations unless the transfer system is empty and gas freed. The final rule has been reworded accordingly to implement the intent of the proposal that all oil hoses for a vessel's transfer system be blanked off at all times when not connected for oil transfer.

(b) Two comments suggested that new or standby hose be exempt from this section. Paragraph (b) has been added in the final rule to exempt only new hose that has never been used for oil transfer, and could therefore contain no oil residue.

20. § 155.815—(a) Paragraph (a) in the final rule has been revised to apply only to tank vessels, to expressly include a vessel at anchor, and to change "secured" to "closed" to clarify that the listed openings must be tightly shut to prevent the entry of water or loss of oil, except as allowed by paragraph (b).

(b) Paragraph (b) has been added in the final rule in response to six comments that the rule would prevent supervised tank cleaning, repairs, testing or purging while underway. As revised, any closure mechanism may only be opened underway after express authorization from a licensed officer or a tankerman required by 46 CFR 31.15–5(a). The actual cleaning, repair or other operation must also be supervised by a licensed officer or a tankerman required by 46 CFR 31.15–5(a) to ensure that the closure mechanism is properly opened and closed.

(c) One comment suggested that a paragraph be added to require the tankerman in charge to ensure that all openings on unmanned barges are closed prior to getting underway. The person in charge of transferring oil to or from a barge may be from the towing vessel or from a facility. The vessel operator must be responsible for the vessel's safety and for preventing the loss of oil into the water. Good seamanship requires that a towing vessel operator ensure the seaworthiness of any towed barge, rather than rely on some facility person in charge of oil transfer.

(d) Four comments suggested that this section apply only to loaded vessels. The final rule has been changed to apply only to tank vessels, which includes tank barges. "Tank vessel" is defined in this final rule as a vessel that carries oil in bulk as cargo or in residue. Thus, when tank vessels have oil cargo or oil residue onboard while in U.S. navigable waters or the contiguous zone they must comply with this section. Tank vessels that are gas free are clearly not covered by this section.

21. § 155.820—(a) Eight comments suggested that the Declaration of Inspection (DOI) be kept ashore in the case of barges. Barges have tubes or "mailboxes" for holding the Certificate of inspection, which may also be used for the DOI. The vessel records should be readily available to Coast Guard personnel who board the vessel.

(b) The requirement to keep records on valve inspection has been deleted, since 46 CFR 61 adequately regulates valve inspection.

Specific Comments: Part 156

1. § 156.100—(a) Three comments suggested correcting "156.170" to read "156.100" and this clerical error has been corrected.

(b) Three comments suggested that facility operations covered under this regulation be exempt from all portions of 33 CFR 126 not specifically cited. This has not been done in the final rule because Part 126 is currently being corrected to eliminate any duplication with 33 CFR 154 and 156, as well as other facility regulations.

(c) The wording has been changed slightly to clarify that oil transfers within a public vessel and the oil transfer operations on a public vessel are not covered by these regulations. However, public vessels are usually required by internal guidelines to meet or exceed FWPCA standards. All other vessels with a capacity of 250 or more barrels of oil are regulated for transfers to, from or within them, including fuel and lube oil internal transfers, which have been the source of numerous spills in the past.

2. § 156.105—(a) The definitions for this part are listed in Part 154 and are cross-referenced to avoid repetition.

3. § 156.107—(a) The comments for § 154.107 are also applicable to this section.

(b) Two comments suggested that alternatives, once granted, should be permanent, barring any future amendments to the statute or regulations. This is not feasible since local circumstances change and vessels transit more than one COTP zone. COTPs will normally honor alternatives granted by other COTPs or OCMIs, but a COTP may rescind an alternative that another COTP previously allowed based on actual operations on the facility or vessel, or due to some change in circumstances that makes the alternative unsafe or creates an unreasonable threat of pollution.

(c) Safety has been added to paragraph (a)(3) to ensure that an alternative is as safe as the regulatory requirement.

4. § 156.110—One comment suggested adding to (a)(2)(i) "or creates a safety hazard". The regulations should not create a safety hazard. If a safety hazard is created, it would be treated as making compliance "physically impractical", and the regulation would be amended to remove the hazard. Safety has been added to paragraph (a)(2)(ii), however, to ensure that the alternatives considered provide equivalent safety and environmental protection. See also paragraph 4(d) of the Part 154 preamble comments.

5. § 156.112—(a) One comment stated that this section (and § 156.113) is dictatorial and does not allow sufficient time for rebuttal by an operator. The intent of the regulation is to allow rapid suspension orders for serious conditions which threaten an imminent discharge of oil. A sentence was expanded to also allow suspension if the COTP or OCMI is not permitted to inspect the operation to ensure compliance with the regulations.

(b) Another comment objected to inexperienced personnel making the costly decision to stop oil transfers. Each COTP or OCMI has either delegated this authority to trained personnel or requires COTP or OCMI express approval prior to suspending operations. The COTP or OCMI should immediately be advised of any action

suspending an oil transfer operation, and in most cases is consulted by his or her representative prior to any suspension order. In any event, the operator is free to immediately contact the COTP or OCMI to question the suspension order or to advise of corrective action taken or planned to have the order lifted.

6. § 156.113—This section was changed to permit the applicable OCMI or District Commander as well as the COTP to withdraw a suspension order. The final rule has also been substantially changed to ensure a rapid and fair appeal process for suspension orders. The intent is to have the same Coast Guard official who issued the suspension order or the District Commander withdraw it.

7. § 156.115—(a) Seventeen comments suggested that the existing rule be retained due to a fear of the COTP being too conservative in allowing one person to supervise more than one transfer at a time. The general rule should be that the facility and each vessel have a person in charge of an oil transfer, unless the COTP determines there is no increased risk of pollution from supervising more than one vessel. There are too many variables to list all of them in the regulation. In some cases, the conditions imposed in old section 156.110 were too restrictive and in others too loose to ensure proper supervision.

(b) One comment suggested deleting the requirement in paragraph (b) that the vessel and facility operators must agree before one person can act as person in charge of the oil transfer operation on both a vessel and a facility at the same time. This requirement has been deleted as not appropriate. However, the intent remains that the COTP should not approve of such a procedure if either the vessel or facility objects to it. Both persons in charge are required by section 156.120 of this chapter to agree on the procedures during transfer before the operation starts.

(c) One comment requested to know the intent behind the revised section. The intent is to remove specific conditions for serving as the person in charge for more than one vessel at a time. The decision is to be made by the COTP concerned, bearing in mind the general rule that normally each transfer operation should have its own person in charge.

(d) The Seafarers International Union suggested that a certified tankerman be required as a facility person in charge. The Coast Guard does not have the same certification authority for dock workers that it has long had for vessel personnel. Also, the facility personnel do not need all of the training required for a vessel tankerman. The facility person in charge criteria in section 154.710 are sufficient.

8. § 156.118—New section 156.118 has been added to the final rule in response to thirty-three comments that the 4 hours advance notice required for all transfers by subsection 156.120(a) is unnecessary and often impossible to meet. As changed, the 4 hours advance notice is discretionary with the COTP. It may only be required for oil transfer operations at facilities which meet the criteria in paragraph (a)(1)–(4), or for any vessel to vessel transfers.

9. § 156.120—(a) Proposed paragraph (a) of this section has been revised and moved to new section 156.118. Also, paragraph (m) has been added to ensure that whenever pretransfer booms are required they are in place before the transfer starts. The remaining paragraphs in this section have been relettered accordingly.

(b) One comment stated that this entire section is too detailed and the average tankerman lacks the education or desire to comply. The obligation for compliance falls on vessel or facility owners or operators as well as the personnel performing the transfer operations. Vessel and facility owners and operators are responsible for the actions or inactions of their employees, and have the responsibility to train personnel and demand compliance with safety and environmental standards. Because personnel error is the predominant cause of oil pollution, training and personnel compliance are essential to any pollution prevention program.

(c) One comment suggesting limiting this section to oil transfers of more than 250 barrels. The threat of pollution is best gauged by the capacity of the vessel transferring oil, and not the actual amount to be transferred. Section 156.120 specifies that oil transfers to or from a vessel with a capacity for 250 or more barrels of oil are regulated.

(d) One comment requested more specific criteria in proposed paragraph (b) (paragraph (a) in the final rule) for mooring. The intent of this requirement is to ensure that mooring lines are regularly checked throughout the transfer operation to prevent parting or strain on hoses that could well lead to an oil spill.

(e) One comment suggested that proposed paragraph (d) (paragraph (c) in the final rule) should include that "hose supports must be non-damaging to the cover or inner hose components." This suggestion was accepted by adding that hose should be supported to prevent "other damage" to it.

(f) One comment noted that proposed paragraphs (f) and (h) (paragraphs (e) and (g) in the final rule) conflict with the fixed piping requirements of 46 CFR 35.35–20. This comment exceeds the scope of the present regulations, since it deals with requiring fixed piping for substances other than oil. There are no conflicts with any section in 46 CFR 35.

(g)(1) Seven comments suggested that proposed paragraph (g) (paragraph (f) in the final rule) be revised to require blanking of hose except when disconnected at both ends. This has not been done since totally disconnected hose can have oil residue. However, sections 154.520 and 155.805 exempt new and unused hose from the blanking requirement.

(g)(2) One comment suggested that proposed paragraph (g) (paragraph (f) in the final rule) be clarified that closure devices are not part of the hose. This has not been done in the final rule, since the reference to sections 154.520 and 155.805 clearly indicates the nature of the closure devices.

(h) One comment objected to the "deep tank" exemption in proposed paragraph (h) (paragraph (g) in the final rule) due to safety considerations. NAVIC 9–73 stated that the existing rule in paragraph 156.120(f), which requires fixed piping with no "deep tank" exemption, superseded 46 CFR 35.35–20(d), which allowed loose hose transfers over the top for Grade D and E cargoes. 46 CFR 35.35–20(d) was to be amended accordingly, but never has been. Due to the fire hazard (static electricity combustion) produced from free falling Grade D and E cargoes, and the health hazard posed to personnel in the cargo hold above the "deep tank" from fumes, the proposed exemption has been deleted from paragraph (g) in the final rule. The existing rule does not allow the exemption, so there is no retro-fitting problem posed by deleting the exemption. Although there would be no direct pollution risk from the exemption, the fire and asphyxiation hazards preclude the exemption.

(i)(1) Five comments stated that proposed paragraph (i) (paragraph (h) in the final rule) is unreasonable and could cause spills if the ballast system is secured during transfer. They stressed that on a VLCC the draft and windage areas are controlled by ballast to ease the strain on mooring lines, and that time will be lost if ballasting and oil transfer are not done at the same time. The requirement has been modified slightly in the final rule to allow the ballasting and deballasting of segregated ballast tanks (SBT) and dedicated clean ballast tanks (CBT) in compliance with 33 CFR Part 157. In

addition, the requirement allows the simultaneous ballasting and discharge of cargo tanks on a tank vessel with a crude oil washing (COW) system to prevent hydrocarbon vapor omissions in U.S. ports, provided the operation is conducted in compliance with 33 CFR 157. This modification prohibits simultaneous cargo transfer and ballasting or deballasting of cargo tanks except for specific circumstances which have been internationally accepted by the 1978 Protocol to the 1973 Marine Pollution Convention. These circumstances which allow simultaneous ballasting and cargo transfer are:

a. ballasting or deballasting SBT because the pump and piping system are separate from the cargo system;

b. ballasting or deballasting CBT in accordance with 33 CFR 157, which requires a double valve separation between CBT and cargo tanks that must be closed when loading cargo tanks; and

c. simultaneous ballasting and cargo discharge in accordance with 33 CFR 157 to prevent hydrocarbon vapor emissions on a tank vessel with a crude oil washing system.

The intent is to prevent accidental mixing of ballast water and cargo oil or loss of oily mixtures to the water.

(i)(2) Two comments stated that proposed paragraph (i) (paragraph (h) in the final rule) failed to delete the prior requirement to lock valves and also failed to prohibit simultaneous oil transfer and ballasting. As noted in paragraph 9(i)(1) above, segregated ballast tanks (SBT) or clean ballast tanks (CBT) may be ballasted or deballasted safely during an oil transfer. Valves should be sealed to warn against opening, but not locked, because locking valves prevents their use in an emergency, is an unsafe practice, and is prohibited by 46 CFR 35.35–10.

(i)(3) One comment suggested changing the wording in proposed paragraph (i) (paragraph (h) in the final rule) to read "each overboard discharge or sea suction valve that is connected to the vessel's oil transfer or cargo tank system not independent from tanks carrying cargo or transfer systems involved in cargo operations is to be sealed and lashed in the closed position." This wording is too confusing. The final rule has been changed, as noted in paragraph 9(i)(1) above, to allow SBT, CBT and crude oil washing (COW) procedures in compliance with 33 CFR 157.

(j) Six comments suggested defining "loose covers" in proposed paragraph (j) (paragraph (i) in the final rule) and allowing repair of gouges, cuts and scratches. The paragraph has been changed to prohibit any unrepaired defect or any defect which allows oil to leak through the hose material. "Reinforcement" is defined in the regulation. However, if the first fabric layer (or "breaker" layer) is loosely woven and primarily intended to aid in bonding the cover to the rest of the hose, it is not considered a reinforcement layer. Hose repairs are allowed, provided the reinforcement is not penetrated, there are no leaks, and the hose, as repaired, meets the testing requirements in section 156.170.

(k) Three comments suggested deleting proposed paragraph (m) (paragraph (l) in the final rule). This has not been done, because, in the few cases where the COTP requires them, monitoring devices should be in use to warn of oil spills.

(l) Three comments suggested deleting the requirement in proposed paragraph (n) (paragraph (n) in the final rule) to have containment drained provided automatic level control equipment is in place. The paragraph has been changed to require periodic draining to maintain the specified capacity. Automatic level control equipment, if operating properly, could provide the periodic draining required by the rule. The equipment would have to be adjusted to ensure that the required capacity is available at all times.

(m) Eight comments suggested that some small leakage from connections should be allowed by proposed paragraph (p) (paragraph (p) in the final rule). The requirement is necessary since leaking is a sign of weakness in a connection and can easily lead to a rupture or larger leak. Paragraph (p) has been changed to specify that leaks not exceed the required containment during the transfer operation.

(n)(1) Seventeen comments suggested rewording proposed paragraph (t)(2) (paragraph (t)(2) in the final rule) to "readily available" rather than "in his possession." This requirement remains in the final rule. It is not necessary for the person to carry the guide. It is necessary that the person in charge have the appropriate transfer guide in his or her immediate area so that it may be consulted throughout the transfer operation without leaving the area. Since the person in charge is required to be at the site of the oil transfer operation, the guide must be there also to be effective and used. "Readily available" cannot be used because it could be interpreted as allowing the guide to be kept in an office or other location accessible to the person in charge.

(n)(2) Two comments suggested clarifying being "at the site of the oil transfer" in proposed paragraph (t)(1) (paragraph (t)(1) in the final rule). The paragraph has been modified to make it clear that the person in charge must be available to supervise all oil transfer personnel during the transfer. "At the site" means the transfer point is in sight, and that the person in charge is in a position to supervise the overall transfer operation and respond to emergencies immediately.

(n)(3) One comment stated that proposed paragraphs (t) and (u) (paragraphs (t) and (u) in the final rule) are redundant. The requirements are not redundant. Paragraph (t) applies to the person in charge and (u) requires all personnel to be on duty and comply with transfer guides. If the person in charge is the only person involved then he or she must comply with both (t) and (u).

(o) Two comments concerned the requirements for an interpreter to comply with proposed paragraph (v) (paragraph (v) in the final rule). The requirement remains the same. Clear communications between persons in charge are absolutely essential. The means to ensure this are left to the vessel and facility owners and operators, but no requirements are given for either to provide an interpreter.

10. § 156.125—(a) Six comments suggested revising paragraph (a) to require stopping only the transfer that caused a spill. This is too restrictive, since an oil spill at the transfer site will affect operations and spread if not rapidly contained and removed. Only rarely will an oil spill near an oil transfer operation be unrelated to the facility or vessel involved in the transfer.

(b) Five comments concerned the criteria for resuming transfer. The intent is to control the spread of oil as well as stop the source before resuming the transfer. COTP authorization is required for normal transfer resumption, not the removal of discharged oil from the water and return to proper storage. As long as removal by the spiller is proper, the COTP (on-scene-coordinator for response activities) will not interfere in the spiller's cleanup operation. Cleanup should start immediately upon discovery and reporting of the discharge to federal and state authorities.

(c) Ten comments stated that the tankerman should be allowed to keep pumping or resume pumping without COTP approval if it prevents a larger spill. It will rarely help prevent a larger spill to continue transfer. In any event, subsection 311(b)(5), FWPCA requires immediate notification of a spill, and COTP approval to continue pumping can

be requested upon notification of the discharge.

(d) One comment suggested that spills into containment devices which do not exceed the required capacity should not require shutdown of the transfer. There should be no spills or leaks during transfer in the operations work area. Of course, a leak into containment devices is not treated as a discharge into the water, and if the leak can be stopped without stopping the transfer that is sufficient. However, the containment capacity must be available throughout the transfer. The intent is not to require the transfer to be stopped for periodic small leaks into the fixed small discharge containment.

(e) One comment stated that this section is unnecessary in view of the added spill containment. The spill containment size requirement of the existing rule has been decreased in the final rule, not increased. This section is necessary to insure that spills are contained and properly removed immediately and not after the transfer is completed.

11. § 156.130—(a) One comment suggested substituting "tight" for "leak-free" seal. This is not sufficient; no proper transfer operation should allow leaks at connections.

(b) Two Coast Guard units stated that (a)(2) conflicts with 33 CFR 126.15(o)(2)(v) and 46 CFR 35.35–15(a) on the number of bolts required for flanges. There is no conflict. 33 CFR 126.15(o)(2)(v) requires "sufficient bolts" and 46 CFR 35.35–15(a) requires no less than 3 bolts for cargoes subject to subchapter D. The final rule simply requires at least 4 bolts in the case of flanges used for oil transfer.

(c) One comment suggested that foreign flanges of equivalent standards should be allowed. Paragraph (a)(3) allows the use of non-ANSI standard flanges if a bolt is in every hole. Another comment suggested that there should be a bolt in each hole in temporary connections even if the flange meets ANSI standards. ANSI standard flanges will provide a leak-free seal if at least 4 bolts are used.

12. § 156.150—(a) Nine comments were received which stated that keeping the declaration of inspection (DOI) on board unmanned barges is not practicable. Stowage tubes and other devices are in common use for storage of the Certificate of Inspection (COI) and the Certificate of Financial Responsibility (COFR) on unmanned barges. The DOI can easily be stowed with the COI and COFR on board any barge.

(b) Ten comments concerned the detail and signing of the DOI. Initialling of specific items before signing is the best way to ensure that the proper procedures have been followed in the transfer. An improperly checked DOI is an indication that proper transfer procedures are not being followed. Spill reports have shown that more attention to the details on the DOI would have prevented a substantial number of spills. A sample DOI has not been provided because of the number of possible variations which still meet the requirements.

(c) One Coast Guard unit commented that the DOI should define what the requirements are, not just list regulation references. Paragraph (c)(4) states that the DOI must contain a list of "the requirements" in § 156.120. It is not sufficient to simply refer to the paragraph of § 156.120. For example, the DOI should state "Vessel moorings are strong enough to hold during all expected conditions during the transfer operation". A reference to § 156.120(b) may be added but not substituted for the actual requirement.

(d) A towing company commented that the regulation should require facilities to provide blank copies of the DOI to vessels, especially for unmanned barges. Facilities may provide this service, but it is improper to require it by regulations.

(e) Two comments requested that the existing DOI forms should be acceptable. Existing DOI forms, modified to add the new requirements in § 156.120 are permissible.

(f) One comment suggested 2 separate DOIs signed by the opposite party before transfer. One DOI is required with each person in charge keeping a copy. This documents that both the receiving and transferring party have followed all of the requirements, and ensures a pretransfer conference, since both persons in charge must use the same DOI before transfer.

13. § 156.160—(a) One comment stated that this section is redundant and should be deleted. This section is in the existing rule and has been retained in the final rule. It is important, because it clearly requires the person in charge to authorize oil transfers before they begin, and prohibits any oil transfer actions unless supervised by the person in charge.

(b) One comment stated that any licensed deck officer is competent to supervise the connecting of cargo hose. This is permissible, but the person in charge must approve of this indirect supervision. The person in charge is in overall control of the oil transfer operation.

(c) Two comments suggested that "immediate vicinity" should be interpreted to allow the person in charge to use a shelter off the vessel in bad weather. The person in charge may use a shelter during an oil transfer if that person is in a position to observe and properly supervise the transfer operation.

(d) One comment suggested that paragraph (b) should be revised to allow only the "appropriate person in charge" to start the transfer rather than have two persons in charge. Both persons in charge (on the transferring and receiving side of the operation) must have a pretransfer conference and sign the DOI before the transfer starts. However, either one may actually instruct personnel to physically start the transfer. This should be determined during the pretransfer conference.

14. § 156.170—(a) Four comments concerning paragraph (e), recommended that specified test fluids be compatible with the hose materials. Paragraph (e) has been revised in the final rule to specify the use of test fluids that are compatible with the hose tube according to the hose manufacturer. Although using compatible oils as test fluids could pose a risk of pollution, under proper test conditions any leaks should be readily detected and corrected without a discharge into the water, especially with required containment devices in place. The threat of deterioration by using high aromatic content test liquids is sufficient reason to modify the regulation.

(b) One comment suggested that paragraph (c)(1)(iii) should read "facility working pressure". This has not been done in the final rule, because it is not reasonable to rely on a facility to use a reduced working pressure. A procedure should not compensate for an acceptable equipment standard. Testing at 1½ times a lower pressure routinely used by a facility will not expose weaknesses if the facility decides later to increase the routine transfer pressure to the design maximum allowable working pressure.

(c) Four comments objected to a higher test pressure, and said it will not prevent failure shortly after testing. Another suggested that testing to the relief valve pressure is sufficient. The higher test pressure is highly likely to expose a weakness or leak under controlled conditions, where corrective action can take place before a spill. If only the MAWP is used for the test, there is only a random chance that any leak will be discovered and corrected then rather than during routine transfers, which may not be as well supervised as the tests.

(d) Paragraph (c)(1)(iv) is added to the final rule to give the COTP a means to

determine how much damage to the hose can be permitted.

(e) The language in paragraph (a) concerning the frequency of testing has been modified and placed in a new paragraph (f). As revised, facilities must be inspected each year, while vessels must either be inspected annually or as part of both the biennial and mid-period inspections (which is essentially once a year).

(f) One comment suggested exempting submarine pipelines from paragraph (c)(4) and relying instead on visual inspections during normal operations. This has not been done in the final rule. Visual inspection of submerged pipelines is not adequate or practical in many cases. A fluid other than oil may be used if the integrity of the pipeline is really doubtful.

(g) A Coast Guard district suggested clarifying this section to cover transfers from, to or within a vessel. The new definition of "transfer" in § 154.105, which applies to Parts 154, 155, and 156 clarifies that the regulations cover internal vessel transfers as well as those to or from a vessel.

(h) A hose manufacturer suggested amending paragraph (c)(2) to indicate that relief valves are not part of the hose; should never be set higher than 1½ times the MAWP; and should normally not be set above the MAWP. This has not been done in the final rule. There is no indication that relief valves are a part of oil hose. The setting or relief valves varies and is a function of facility construction and transfer procedure.

(i) One comment questioned how hose can have no "external deterioration" and still be allowed to have cuts, gouges, and abrasions that do not penetrate the first layer of reinforcement. The regulation is intended to prohibit hose that is likely to leak. Deterioration is an indication of a serious defect or breakdown in the material of a hose, while minor surface cuts and abrasions are not as serious, and without penetration of the reinforcement are not likely to allow oil to leak through the hose.

(j) One comment requested a definition of "reinforcement", and stated that there is no reason to prohibit loose covers if the outer ply can be cut under the regulation. Paragraph 9(j) under Part 156 comments of this preamble addresses the question reinforcement and loose covers.

(k) Two hose manufacturers suggested that oil hose be tested only in a horizontal position. This has not been added in the final rule because a realistic test is required to detect leaks before they become oil spills. The normal transfer position of the hose is the most realistic test position.

Final Evaluation

1. These regulations are considered to be "nonsignificant" and accordingly, a final evaluation has been prepared and placed in the public docket as required by the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11040–11045). The DOT Order requires that each evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State and local governments, as well as the anticipated benefits and impact of the regulations.

2. As explained more fully in the Final Evaluation filed in this docket, the estimated total cost to comply with the amendments to 33 CFR 154, 155, and 156 is less than $3.5 million a year. The estimated total cost of $232 million to the U.S. consumer over a 10 year period ($23.2 million a year) and the $65 million cost estimate over a 2 year period for the towing industry, which were discussed in the preamble to the proposed rule (42 FR 32673) have been greatly revised downward. This is because the proposal for oil water separators, monitors and alarms has been totally deleted from this final rule. A supplemental notice of proposed rulemaking will be published later under CGD 75–124a. That supplemental proposal will contain a new environmental and economic evaluation, and will take into account the numerous comments received on CGD 75–124, which opposed oil water separators, monitors and alarms, especially for vessels under 400 gross tons. It also will take into account the 1978 protocol which amended the International Convention for the Prevention of Pollution from Ships, 1973. The $3.5 million estimate will cover the administrative costs of amending facility operations manuals, vessel oil transfer procedures, and Declarations of Inspection, plus the cost of facility monitors to detect oil spills and deployment of oil containment material (booms, etc.) before transfer in the limited cases where COTPs feel such added precautions are necessary for proper oil transfer operations.

3. The ultimate benefits of these amendments will be to ensure environmentally safe oil transfer operations in a realistic and cost effective manner. A very real added benefit to industry will be more conservation of precious oil resources, which will be transported more carefully where these regulations are followed, and resultant savings from avoided penalties for oil discharges under 33 U.S.C. 1321(b)(3) and cleanup costs under 33 U.S.C. 1321(f). The benefit to the general public will be more healthful waters and better protected shorelines, plants and wildlife. The savings to federal, state and local government will be in avoided federal removal costs and costs to restore or protect wildlife and plants from oil damage. Accordingly, in Title 33 of the Code of Federal Regulations, §§ 154.100 through 154.700; §§ 154.740 through 154.780; §§ 155.100 through 155.320; §§ 155.440 through 155.480; §§ 155.720 through 155.820; and Part 156 are revised to read as follows:

PART 154—OIL POLLUTION PREVENTION REGULATIONS FOR MARINE OIL TRANSFER FACILITIES

Subpart A—General

Sec.

154.100 Applicability.
154.105 Definitions.
154.106 Incorporation by reference.
154.107 Alternatives.
154.108 Exemptions.
154.110 Letter of intent.
154.120 Facility examinations.

Subpart B—Operations Manual

154.300 Operations manual: General.
154.310 Operations manual: Contents.
154.320 Operations manual: Amendment.
154.325 Operations manual: Letter of adequacy.

Subpart C—Equipment Requirements

154.500 Hose assemblies.
154.510 Loading arms.
154.520 Closure devices.
154.525 Monitoring devices.
154.530 Small discharge containment.
154.540 Discharge removal.
154.545 Discharge containment equipment.
154.550 Emergency shutdown.
154.560 Communications.
154.570 Lighting.

Subpart D—Facility Operations

154.700 General.
* * * * *
154.740 Records.
154.750 Compliance with operations manual.
154.760 Reserved.
154.770 Reserved.
154.780 Reserved.

Authority: 33 U.S.C. 1321(j)(1)(C); E.O. 11735, 3 CFR, 1971–1975 COMP., p. 793; 49 CFR 1.46(m).

Subpart A—General

§ 154.100 Applicability.

(a) Except as provided in paragraphs (b) and (c) of this section, this part applies to each facility that is capable of transferring oil in bulk to or from any vessel or public vessel with a capacity of 250 or more barrels of that oil.

(b) This part does not apply to a facility in a caretaker status (one that is not operational or not capable of conducting oil transfer operations).

(c) This part does not apply to a marina (a facility that services primarily pleasure craft) unless it engages in the transfer of oil in bulk to or from a vessel or public vessel with a capactiy of 250 or more barrels of that oil.

§ 154.105 Definitions.

As used in this part:

"Captain of the Port" (COTP) means the U. S. Coast Guard officer commanding a Captain of the Port Zone described in Part 3 of this chapter, or that person's authorized representative.

"Commandant" means the Commandant of the Coast Guard or an authorized representative.

"Contiguous Zone" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone, but not extending beyond 12 miles from the baseline from which the breadth of the territorial sea is measured.

"District Commander" means the officer of the Coast Guard designated by the Commandant to command a Coast Guard District, as described in Part 3 of this chapter or an authorized representative.

"Facility" means either an onshore facility or an offshore facility and includes, but is not limited to structures, equipment, and appurtenances thereto, used or capable of being used to transfer oil to or from a vessel or a public vessel. A facility includes federal, state, municipal, and private facilities.

"Facility operator" means the person who owns, operates, or is responsible for the operation of the facility.

"Mobile facility" means any facility that can readily change location, such as a tank truck or tank car, other than a vessel or public vessel.

"Monitoring device" means any fixed or portable sensing device used to monitor for a discharge of oil onto the water, within or around a facility, and designed to notify operating personnel of a discharge of oil.

"Officer in Charge, Marine Inspection" (OCMI) means the U. S. Coast Guard officer commanding a Marine Inspection Zone described in Part 3 of this chapter, or an authorized representative.

"Offshore facility" means any facility of any kind located in, on, or under any of the navigable waters of the United States other than a vessel or a public vessel.

"Person in charge" means an individual designated as a person in charge of oil transfer operations under §§ 154.710 (for facilities) or 155.700 (for vessels) or this chapter.

"Tank barge" means any tank vessel not equipped with a means of self-propulsion.

"Tank vessel" means any vessel that carries oil in bulk as cargo or in residue.

"Transfer" means any movement of oil to, from, or within a vessel by means of pumping, gravitation, or displacement.

"Vessel operator" means a person who owns, operates, or is responsible for the operation of a vessel.

§ 154.106 Incorporation by reference.

(a) The American National Standards Institute (ANSI) standards referred to in this Part are incorporated by reference. The incorporation by reference was approved by the Director of the Federal Register under the provisions of 1 CFR Part 51 on December 20, 1978.

(b) The standards are on file in the Federal Register library, and copies may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017.

(c) The standards may also be examined at the Merchant Marine Technical Division (G-MMT-2/TP12), Room 1214, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593 ((202) 426-2160).

§ 154.107 Alternatives.

(a) The COTP may consider and approve alternative procedures, methods, or equipment standards to be used by a facility operator in lieu of any requirement in this Part if—

(1) compliance with the requirement is economically or physically impractical;

(2) the alternative provides an equivalent level of safety and protection from pollution by oil, which is documented in the request; and

(3) The facility operator submits a written request for the alternative.

(b) The COTP takes final approval or disapproval action on the request, in writing, within 30 days of receipt of the request.

§ 154.108 Exemptions.

(a) The Chief, Office of Marine Environment and Systems, acting for the Commandant, grants an exemption or partial exemption from compliance with any requirement in this part if—

(1) a facility operator submits an application for the exemption via the COTP; and

(2) it is determined, from the application, that—

(i) compliance with the requirement is economically or physically impractical;

(ii) no alternative procedures, methods, or equipment standards exist that would provide an equivalent level of safety and protection from pollution by oil; and

(iii) the likelihood of oil being discharged is not substantially increased as a result of the exemption.

(b) If requested, the applicant must submit any appropriate information, including an environmental and economic assessment of the effects of and reasons for the exemption, and proposed procedures, methods or equipment standards.

(c) The exemption may specify the procedures, methods, or equipment standards that will apply.

(d) An exemption is granted or denied in writing. The decision of the Chief, Office of Marine Environment and Systems is a final agency action.

§ 154.110 Letter of intent.

(a) The facility operator of any facility to which this part applies must submit a letter of intent to operate a facility or to conduct mobile facility operations to the COTP not less than 60 days before the intended operations unless a shorter period is allowed by the COTP. Previously submitted letters of intent need not be resubmitted.

(b) The letter of intent required by paragraph (a) of this section may be in any form but must contain—

(1) the name, address, and telephone number of the facility operator;

(2) the name, address, and telephone number of the facility or, in the case of a mobile facility, the dispatching office; and

(3) except for a mobile facility, the geographical location of the facility in relation to the associated body of navigable waters.

(c) The facility operator of any facility for which a letter of intent has been submitted, shall within five (5) days advise the COTP in writing of any changes of information and shall cancel, in writing, the letter for any facility at which oil transfer operations are no longer conducted.

§ 154.120 Facility examinations.

(a) The facility operator shall allow the Coast Guard, at any time, to make any examination and shall perform, upon request, any test to determine compliance with this part and part 156, as applicable. The facility operator shall conduct all required testing of facility equipment in a manner acceptable to the Coast Guard.

(b) The COTP shall provide the facility operator with a written report of the results of the examination for the record required by § 154.740(e) and shall

list the deficiencies in the report when the facility is not in compliance with the requirements in this part and Part 156 of this chapter.

Subpart B—Operations Manual

§ 154.300 Operations manual: general.

(a) The facility operator of each facility to which this part applies shall submit, with the letter of intent, an operations manual that—

(1) describes how the applicant meets the operating rules and equipment requirements prescribed by this part and Part 156 of this chapter;

(2) describes the responsibilities of personnel under this part and Part 156 of this chapter in conducting oil transfer operations; and

(3) includes translations into a language or languages understood by all designated persons in charge of transfer operations employed by the facility.

(b) The facility operator shall maintain the operations manual so that it is—

(1) current; and

(2) readily available for examination by the COTP.

(c) The COTP shall review the operations manual when submitted, after any substantial amendment, and as otherwise required by the COTP.

(d) In determining whether the manual meets the requirements of this part and Part 156 of this chapter the COTP shall consider the size, complexity, and capability of the facility.

(e) If the manual meets the requirements of this part and Part 156 of this chapter, the COTP shall issue a "letter of adequacy" as described in § 154.325.

(f) The facility operator shall ensure that a sufficient number of copies of the operations manual, including a sufficient number of the translations required by paragraph (a)(3) of this section, are readily available for each facility person in charge while conducting an oil transfer operation.

Note.—The facility operator may request that the contents of the operations manual or portions thereof be considered commercial or financial information that is privileged or confidential. Under the Freedom of Information Act, the Coast Guard would withhold any part of the contents of the operations manual from public disclosure upon determining that it is commercial or financial information that is privileged or confidential.

§ 154.310 Operations manual: contents.

(a) Each operations manual required by § 154.300 must contain—

(1) The geographic location of the facility;

(2) A physical description of the facility including a plan of the facility showing mooring areas, transfer locations, control stations, and locations of safety equipment;

(3) The hours of operation of the facility;

(4) The sizes, types, and number of vessels that the facility can transfer oil to or from simultaneously;

(5) For each product transferred at the facility—

(i) Generic or chemical name; and

(ii) The following cargo information:

(A) The name of the cargo, as listed in Table 30.25–1 of 46 CFR;

(B) A description of the appearance of the cargo;

(C) A description of the odor of the cargo;

(D) The hazards involved in handling the cargo;

(E) Instructions for safe handling of the cargo;

(F) The procedures to be followed if the cargo spills or leaks, or if a person is exposed to the cargo; and

(G) A list of fire fighting procedures and extinguishing agents effective with fires involving the cargo.

(6) The minimum number of persons on duty during transfer operations and their duties;

(7) The names and telephone numbers of facility, Coast Guard, and other personnel who may be called by the employees of the facility in an emergency;

(8) The duties of watchmen, required by § 155.810 of this chapter and 46 CFR 35.05–15, for unmanned vessels moored at the facility;

(9) A description of each communication system required by this part;

(10) The location and facilities of each personnel shelter, if any;

(11) A description and instructions for the use of drip and discharge collection and vessel slop reception facilities, if any;

(12) A description and the location of each emergency shutdown system;

(13) Quantity, types, locations, and instructions for use of monitoring devices if required by § 154.525;

(14) Quantity, type, location, instructions for use, and time limits for gaining access to the containment equipment required by § 154.545;

(15) Quantity, type, location, and instructions for use of fire extinguishing equipment required by § 126.15(j) of this chapter;

(16) The maximum relief valve setting (or maximum system pressure when relief valves are not provided) for each oil transfer system;

(17) Procedures for—

(i) Operating each loading arm including the limitations of each loading arm;

(ii) Transferring oil;

(iii) Completion of pumping; and

(iv) Emergencies;

(18) Procedures for reporting and initial containment of oil discharges;

(19) A brief summary of applicable federal, state, and local oil pollution laws and regulations;

(20) Procedures for shielding portable lighting authorized by the COTP under § 154.570(c); and

(21) A description of the training and qualification program for persons in charge.

(b) The facility operator shall incorporate a copy of each amendment to the operations manual under § 154.320 in each copy of the manual with the related existing requirement, or add the amendment at the end of each manual if not related to an existing requirement.

(c) The operations manual must be written in the order specified in paragraph (a) of this section, or contain a cross-referenced index page in that order.

§ 154.320 Operations manual: amendment.

(a) Using the following procedures, the COTP may require the facility operator to amend the operations manual if the COTP finds that the operations manual does not meet the requirements in this part:

(1) The COTP shall notify the facility operator in writing of any inadequacies in the operations manual. The facility operator may submit written information, views, and arguments on and proposals for amending the manual within 14 days from the date of the COTP notice. After considering all relevant material presented, the COTP shall notify the facility operator of any amendment required or adopted, or the COTP shall rescind the notice. The amendment becomes effective 30 days after the facility operator receives the notice, unless the facility operator petitions the Commandant to review the COTP's notice, in which case its effective date is delayed pending a decision by the Commandant. Petitions to the Commandant must be submitted in writing via the COTP who issued the requirement to amend.

(2) If the COTP finds that there is a condition requiring immediate action to prevent the discharge or risk of discharge of oil that makes the procedure in paragraph (a)(1) of this section impractical or contrary to the public interest, the COTP may issue an amendment effective on the date the facility operator receives notice of it. In

such a case, the COTP shall include a brief statement of the reasons for the findings in the notice. The owner or operator may petition the Commandant to review the amendment, but the petition does not delay the amendment.

(b) The facility operator may propose amendments to the operations manual by—

(1) Submitting any proposed amendment and reasons for the amendment to the COTP not less than 30 days before the requested effective date of the proposed amendment; or

(2) If an immediate amendment is needed, requesting the COTP to approve the amendment immediately.

(c) The COTP shall respond to proposed amendments submitted under paragraph (b) of this section by—

(1) Approving or disapproving the proposed amendments;

(2) Advising the facility operator whether the request is approved, in writing, before the requested date of the amendments;

(3) Including any reasons in the written response if the request is disapproved; and

(4) If the request is made under paragraph (b)(2) of this section immediately approving or rejecting the request.

(d) Amendments to personnel and telephone number lists required by § 154.310(a)(8) do not require prior COTP approval, but the COTP must be advised of such amendments as they occur.

§ 154.325 Operations manual: letter of adequacy.

(a) The letter of adequacy is a letter, from the COTP to the facility operator, certifying that the operations manual meets the requirements of this part.

(b) No person may use an operations manual for oil transfer operations, as required by § 156.120 (t)(2), (t)(3), and (u)(2) of this chapter, unless the facility operator has a valid letter of adequacy for the operations manual.

(c) The requirement in paragraph (b) of this section for a valid letter of adequacy is effective either on (date three years after effective date of the final rule); upon issuance to a facility operator of the first letter of adequacy; or upon any substantial amendment to the operations manual, whichever is earliest.

(d) The letter of adequacy is voided if the facility operator—

(1) amends the operations manual without following the procedures in § 154.320; or

(2) fails to amend the operations manual when required by the COTP.

Subpart C—Equipment Requirements

§ 154.500 Hose assemblies.

Each hose assembly used for transferring oil must meet the following requirements:

(a) The minimum design burst pressure for each hose assembly must be—

(1) At least 600 pounds per square inch; and

(2) At least four times the sum of the pressure of the relief valve setting (or four times the maximum pump pressure when no relief valve is installed) plus the static head pressure of the oil transfer system at the point where the hose is installed.

(b) The maximum allowable working pressure (MAWP) for each hose assembly must be—

(1) At least 150 pounds per square inch; and

(2) More than the sum of the pressure of the relief valve setting (or the maximum pump pressure when no valve is installed) plus the static head pressure of the oil transfer system at the point where the hose is installed.

(c) Each nonmetallic hose must be usable for oil service.

(d) Each hose assembly must either have—

(1) Full threaded connections;

(2) Flanges that meet standard B16.5—1977, *Steel Pipe Flanges and Flang Fittings*, or standard B.16.24—1971, *Brass or Bronze Pipe Flanges*, of the American National Standards Institute (ANSI); or

(3) Quick-connect couplings that are acceptable to the Commandant.

(e) Except as provided in paragraph (f) of this section, each hose must be marked with—

(1) The products for which the hose may be used or the words "oil service";

(2) Maximum allowable working pressure;

(3) Date of manufacture; and

(4) Date of the latest test required by § 156.170 of this chapter.

(f) The information required by paragraph (e)(3)–(4) of this section need not be marked on the hose if it is recorded elsewhere at the facility and the hose is marked to identify it with that information.

(g) The hose burst pressure and the pressure used for the test required by § 156.170 of this chapter must not be marked on the hose and must be recorded elsewhere at the facility as described in paragraph (f) of this section.

(h) Each hose used to transfer oil for fuel to a vessel that has a fill pipe for which containment can not practically be provided must be equipped with an automatic back pressure shutoff nozzle.

§ 154.510 Loading arms.

(a) Each mechanical loading arm used for transferring oil and placed into service after June 30, 1973, must meet the design, fabrication, material, inspection, and testing requirements in ANSI Standard B31.3—1976 with Addenda B31.3a—1978, *Petroleum Refinery Piping*.

(b) The manufacturer's certification that the standard in paragraph (a) of this section has been met must be permanently marked on the loading arm or recorded elsewhere at the facility with the loading arm marked to identify it with that information.

(c) Each mechanical loading arm used for transferring oil must have a means of being drained or closed before being disconnected after transfer of oil.

§ 154.520 Closure devices.

The facility must have enough butterfly valves, wafer-type resilient seated valves, blank flanges, or other means acceptable to the COTP to blank off the ends of each hose or loading arm that is not connected for the transfer of oil. New, unused hose is exempt from this requirement.

§ 154.525 Monitoring devices.

The COTP may require the facility to install monitoring devices if the installation of monitoring devices at the facility would significantly limit the size of a discharge of oil and either—

(a) The environmental sensitivity of the area requires added protection;

(b) The products transferred at the facility pose a significant threat to the environment; or

(c) The size or complexity of the transfer operation poses a significant potential for a discharge of oil.

§ 154.530 Small discharge containment.

(a) Except as provided in paragraphs (c) and (d) of this section, the facility must have fixed catchments, curbing, or other fixed means to contain oil discharged in at least—

(1) Each hose handling and loading arm area (that area on the facility that is within the area traversed by the free end of the hose or loading arm when moved from its normal stowed or idle position into a position for connection); and

(2) Each hose connection manifold area.

(b) The discharge containment means required by paragraph (a) of this section must have a capacity of at least—

(1) Two barrels if it serves one or more hoses of 6-inch inside diameter or

smaller, or loading arms of 6-inch nominal pipe size diameter or smaller;

(2) Three barrels if it serves one or more hoses with an inside diameter of more than 6-inches, but less than 12 inches, or loading arms with a nominal pipe size diameter of more than 6 inches, but less than 12 inches; or

(3) Four barrels if it serves one or more hoses of 12-inch inside diameter or larger, or loading arms of 12-inch nominal pipe size diameter or larger.

(c) The facility may use portable means of not less than ½ barrel capacity each to meet the requirements of paragraph (a) of this section for part or all of the facility if the COTP finds that fixed means to contain oil discharges are not feasible.

(d) A mobile facility may have portable means of not less than five gallons capacity to meet the requirements of paragraph (a) of this section.

§ 154.540 Discharge removal.

The facility must have a means to safely and quickly remove discharged oil from the containment means required by § 154.530 without discharging the oil into the water.

§ 154.545 Discharge containment equipment.

(a) Each facility must have ready access to enough oil containment material and equipment to contain any oil discharged on the water from operations at that facility.

(b) For the purpose of this section, "access" may be by direct ownership, joint ownership, cooperative venture, or contractual agreement.

(c) Each facility must establish time limits, subject to approval by the COTP, for deployment of the containment material and equipment required by paragraph (a) of this section considering—

(1) Oil handling rates;

(2) Oil capacity susceptible to being spilled;

(3) Frequency of facility operations;

(4) Tidal and current conditions;

(5) Facility age and configuration; and

(6) Past record of discharges.

(d) The COTP may require a facility to surround each vessel conducting an oil transfer operation with oil containment material before commencing an oil transfer operation if—

(1) The environmental sensitivity of the area requires the added protection;

(2) The products transferred at the facility pose a significant threat to the environment;

(3) The past record of discharges at the facility is poor; or

(4) The size or complexity of the transfer operation poses a significant potential for a discharge of oil; and

(5) The use of vessel containment provides the only practical means to reduce the extent of environmental damage.

§ 154.550 Emergency shutdown.

(a) The facility must have an emergency means to enable the person-in-charge of the transfer of oil on board the vessel, at his or her usual operating station, to stop the flow of oil from the facility to the vessel. This means must be—

(1) An electrical, pneumatic, or mechanical linkage to the facility; or

(2) An electronic voice communications system continuously operated by a person on the facility who can stop the flow of oil immediately.

(b) The point in the oil transfer system at which the emergency means stops the flow of oil on the facility must be located near the dock manifold connection to minimize the loss of oil in the event of the rupture or failure of the—

(1) Hose;

(2) Loading arm; or

(3) Manifold valve.

(c) Not later than November 1, 1980, the means required by paragraph (a) of this section must be able to stop the flow of oil in—

(1) 60 seconds on any facility or portion of a facility which starts operations on or before November 1, 1980; and

(2) 30 seconds on any facility which starts operations after November 1, 1980.

§ 154.560 Communications.

(a) Each facility must have a means that enables continuous two-way voice communication between the person in charge of the vessel transfer operation and the person in charge of the facility transfer operation.

(b) Each facility must have a means, which may be the communications system itself, that enables a person on board a vessel or on the facility to effectively indicate the desire to use the means of communication required by paragraph (a) of this section.

(c) The means required by paragraph (a) of this section must be usable and effective in all phases of the transfer operation and all conditions of weather at the facility.

(d) A facility may use the system in § 154.550(a)(2) to meet the requirement of paragraph (a) of this section.

(e) Portable radio devices used to comply with paragraph (a) of this section during the transfer of flammable or combustible liquids must be intrinsically safe, as defined in 46 CFR 110.15–100(i), and meet Class I, Division I, Group D requirements as defined in 46 CFR 110.80.

§ 154.570 Lighting.

(a) Except as provided in paragraph (c) of this section, for operations between sunset and sunrise, a facility must have fixed lighting that adequately illuminates—

(1) Each transfer connection point on the facility;

(2) Each transfer connection point in use on any barge moored at the facility to or from which oil is being transferred;

(3) Each oil transfer operations work area on the facility; and

(4) Each oil transfer operations work area on any barge moored at the facility to or from which oil is being transferred.

(b) Where the illumination is apparently inadequate, the COTP may require verification by instrument of the levels of illumination. On a horizontal plane 3 feet above the barge deck or walking surface, illumination must measure at least—

(1) 5.0 foot candles at transfer connection points; and

(2) 1.0 foot candle in oil transfer operations work areas.

(c) For small or remote facilities, the COTP may authorize operations with an adequate level of illumination provided by the vessel or by portable means.

(d) Lighting must be located or shielded so as not to mislead or otherwise interfere with navigation on the adjacent waterways.

Subpart D—Facility Operations

§ 154.700 General.

No person may operate a facility unless the equipment, personnel, and operating procedures of that facility meet the requirements of this part.

* * * * *

§ 154.740 Records.

Each facility operator shall keep at the facility and make available for examination by the COTP—

(a) A copy of the letter of intent for the facility;

(b) The name of each person currently designated as a person in charge of oil transfer operations at the facility;

(c) The date and result of the most recent test or examination of each item tested or examined under § 156.170 of this chapter;

(d) The hose information required by § 154.500 (e) and (g) except that marked on the hose;

(e) The record of all examinations of the facility by the COTP within the last 3 years; and

(f) The Declaration of Inspection required by § 156.150(f) of this chapter.

§ 154.750 Compliance with operations manual.

The facility operator shall require facility personnel to use the procedures in the operations manual prescribed by § 154.300 for operations under this part.

§ 154.760 [Reserved]

§ 154.770 [Reserved]

§ 154.780 [Reserved]

PART 155—OIL POLLUTION PREVENTION REGULATIONS FOR VESSELS

Subpart A—General

Sec.
155.100 Applicability.
155.105 Definitions.
155.107 Alternatives.
155.110 Exemptions.

Subpart B—Vessel Equipment

155.310 Cargo oil discharge containment.
155.320 Fuel oil and bulk lubricating oil discharge containment.
* * * * *
155.440 Placard.
155.470 Prohibited oil spaces.
155.480 Reserved.

Subpart C—Oil Transfer Personnel, Procedures, Equipment, and Records

* * * * *
155.720 Oil transfer procedures.
155.730 Compliance with oil transfer procedures.
155.740 Availability of oil transfer procedures.
155.750 Contents of oil transfer procedures.
155.760 Amendment of oil transfer procedures.
155.770 Draining of oil.
155.780 Emergency shutdown.
155.785 Communications.
155.790 Deck lighting.
155.800 Oil transfer hose.
155.805 Closure devices.
155.810 Tank vessel security.
155.815 Tank vessel integrity.
155.820 Records.
Appendix A—Specifications for shore connection.

Authority: 33 U.S.C. 1321(j)(1) (C) and (D); E.O. 11735, 3 CFR, 1971–1975 COMP., p. 793; 49 CFR 1.46(m).

Subpart A—General

§ 155.100 Applicability.

This part prescribes procedures, methods, equipment and other requirements for equipment to prevent and contain oil discharges from vessels on the navigable waters and contiguous zone of the U.S.

§ 155.105 Definitions.

The definitions in Part 154 of this chapter apply to this part.

§ 155.107 Alternatives.

(a) The COTP or OCMI may consider and approve alternative procedures, methods, or equipment standards to be used by a vessel operator in lieu of any requirements in this part if—

(1) Compliance with the requirement is economically or physically impractical;

(2) The vessel operator submits a written request for the alternative at least 30 days before operations under the alternative are proposed; and

(3) The alternative provides an equivalent level of safety and protection from pollution by oil, which is documented in the request.

(b) The COTP or OCMI takes final approval or disapproval action on any alternative requested, in writing, within 30 days of receipt of the request.

§ 155.110 Exemptions.

(a) The Chief, Office of Marine Environment and Systems, acting for the Commandant, grants an exemption or partial exemption from compliance with any requirement in this part if—

(1) a vessel operator submits an application for exemption via the COTP or OCMI 30 days before operations under the exemption are proposed unless the COTP or OCMI authorizes a shorter time; and

(2) it is determined, from the application, that—

(i) compliance with a specific requirement is economically or physically impractical;

(ii) no alternative procedures, methods, or equipment standards exist that would provide an equivalent level of safety and protection from pollution by oil; and

(iii) the likelihood of oil being discharged as a result of the exemption is minimal.

(b) If requested, the applicant must submit any appropriate information, including an environmental and economic assessment of the effects of and reasons for the exemption and proposed procedures, methods or equipment standards.

(c) The exemption may specify the procedures, methods, or equipment standards that will apply.

(d) An exemption is granted or denied in writing. The decision of the Chief, Office of Marine Environment and Systems is a final agency action.

Subpart B—Vessel Equipment

§ 155.310 Cargo oil discharge containment.

(a) A tank vessel with a capacity of 250 or more barrels that is carrying oil cargo must have—

(1) under or around each oil loading manifold and each oil transfer connection point, a fixed container or enclosed deck area that, in all conditions of vessel list or trim encountered during the loading operation, has a capacity of at least—

(i) one half barrel if it serves one or more hoses with an inside diameter of 2 inches or less, or one or more loading arms with a nominal pipe size diameter of 2 inches or less;

(ii) one barrel if it serves one or more hoses with an inside diameter of more than 2 inches but less than 4 inches, or one or more loading arms with a nominal pipe size diameter of more than 2 inches but less than 4 inches;

(iii) two barrels if it serves one or more hoses with an inside diameter of 4 inches or more, but less than 6 inches, or one or more loading arms with a nominal pipe size diameter of 4 inches or more, but less than 6 inches;

(iv) three barrels if it serves one or more hoses with an inside diameter of 6 inches or more, but less than 12 inches, or one or more loading arms with a nominal pipe size diameter of 6 inches or more, but less than 12 inches; or

(v) four barrels if it serves one or more hoses with an inside diameter of 12 inches or more, or one or more loading arms with a nominal pipe size diameter of 12 inches or more;

(2) means of draining or removing discharged oil from each container or enclosed deck area without discharging the oil into the water; and

(3) a mechanical means of closing each drain and scupper in the container or enclosed deck area required by this section.

(b) A tank barge with a capacity of 250 or more barrels that is carrying oil cargo must meet paragraph (a) of this section or be equipped with—

(1) a coaming, at least 4 inches high but not more than 8 inches high, enclosing the immediate area of the cargo hatches, oil loading manifolds, and transfer connections, that has a capacity, in all conditions of vessel list and trim to be encountered during the loading operation, of at least one-half barrel per hatch, manifold, and connection within the enclosed area;

(2) a fixed or portable container, under each oil loading manifold and each oil transfer connection within the coaming, that holds at least one-half barrel:

(3) a mechanical means of closing each drain and scupper within the coaming; and

(4) a means of draining or removing discharged oil from the fixed or portable container and from within the coamings without discharging the oil into the water.

§ 155.320 Fuel oil and bulk lubricating oil discharge containment.

(a) A vessel of 300 gross tons or more constructed after June 30, 1974 must have a fixed container or enclosed deck area under or around each fuel oil or bulk lubricating oil tank vent, overflow, and fill pipe, which—

(1) for a vessel of 300 or more but less than 1600 gross tons has a capacity of at least one-half barrel; and

(2) for a vessel of 1600 or more gross tons has a capacity of one barrel.

(b) A vessel of 100 gross tons or more constructed before July 1, 1974, and a vessel of 100 or more but less than 300 gross tons constructed after June 30, 1974 must—

(1) meet paragraph (a)(1) of this section;

(2) equip each fuel oil or bulk lubricating oil tank vent, overflow, and fill pipe during oil transfer operations with a portable container of at least a 5 U.S. gallon capacity; or

(3) if the vessel has a fill fitting for which containment is impractical, use an automatic back pressure shut-off nozzle.

* * * * *

§ 155.440 Placard.

(a) A vessel, except a vessel of less than 26 feet in length, must have a placard of at least 5 by 8 inches, made of durable material, fixed in a conspicuous place in each machinery space, or at the bilge and ballast pump control station, stating the following:

Discharge of Oil Prohibited

The Federal Water Pollution Control Act prohibits the discharge of oil or oily waste into or upon the navigable waters of the United States or the waters of the contiguous zone if such discharge causes a film or sheen upon or discoloration of the surface of the water or causes a sludge or emulsion beneath the surface of the water. Violators are subject to a penalty of $5,000.

(b) Existing stocks of placards may be used for the life of the placard.

(c) The placard required by paragraph (a) or (b) of this section must be printed in a language or languages understood by the crew.

§ 155.470 Prohibited oil spaces.

A self-propelled vessel of 300 or more gross tons must not carry bulk oil or oily waste in any space forward of a collision bulkhead except—

(a) for vessels constructed after June 30, 1974, fuel oil for use on the vessel may be carried in tanks forward of a collision bulkhead, if such tanks are at least 24 inches inboard of the hull structure; or

(b) for vessels constructed before July 1, 1974, fuel oil for use on the vessel may be carried in tanks forward of a collision bulkhead, if such tanks were designated, installed, or constructed for fuel oil carriage before July 1, 1974.

§ 155.480 [Reserved]

Subpart C—Oil Transfer Personnel Procedures Equipment, and Records

* * * * *

§ 155.720 Oil transfer procedures.

The operator of a vessel that has a capacity for 250 or more barrels of oil must provide oil transfer procedures that meet the requirements of this part and Part 156 for—

(a) transfers of oil to or from the vessel; and

(b) transfers of oil from tank to tank within the vessel.

§ 155.730 Compliance with oil transfer procedures.

The vessel operator of each vessel required by § 155.720 to have oil transfer procedures shall maintain them current and shall require vessel personnel to use the oil transfer procedures for each oil transfer operation.

§ 155.740 Availability of oil transfer procedures.

The oil transfer procedures required by § 155.720 must be—

(a) available for inspection by the COTP or OCMI whenever the vessel is in operation;

(b) legibly printed in a language or languages understood by personnel engaged in oil transfer operations; and

(c) permanently posted or available at a place where the procedures can be easily seen and used by members of the crew when engaged in oil transfer operations.

§ 155.750 Contents of oil transfer procedures.

(a) The oil transfer procedures required by § 155.720 must contain, either in the order listed or by use of a cross-reference index page—

(1) a list of each product transferred to or from the vessel, including the following information:

(i) generic or chemical name;

(ii) cargo information as described in § 154.310(a)(5)(ii) of this chapter; and

(iii) applicability of oil transfer procedures;

(2) a description of each oil transfer system on the vessel including—

(i) a line diagram of the vessel's oil transfer piping, including the location of each valve, pump, control device, vent, and overflow;

(ii) the location of the shutoff valve or other isolation device that separates any bilge or ballast system from the oil transfer system; and

(iii) a description of and procedures for emptying the discharge containment system required by §§ 155.310 and 155.320;

(3) the number of persons required to be on duty during oil transfer operations;

(4) the duties by title of each officer, person in charge, tankerman, deckhand, and any other person required for each oil transfer operation;

(5) procedures and duty assignments for tending the vessel's moorings during the transfer of oil;

(6) procedures for operating the emergency shutdown and communications means required by §§ 155.780 and 155.785, respectively;

(7) procedures for topping off tanks;

(8) procedures for ensuring that all valves used during the oil transfer operations are closed upon completion of transfer;

(9) procedures for reporting oil discharges into the water; and

(10) procedures for closing and opening the vessel openings in § 155.815.

(b) Exemptions or alternatives granted must be placed in the front of the oil transfer procedures.

(c) The vessel operator shall incorporate each amendment to the oil transfer procedures under § 155.760 in the procedures with the related existing requirement, or at the end of the procedures if not related to an existing requirement.

§ 155.760 Amendment of oil transfer procedures.

(a) The COTP or OCMI may require the vessel operator of any vessel that is required to have oil transfer procedures under § 155.720 to amend those procedures if the COTP or OCMI finds that the oil transfer procedures do not meet the requirements of this part.

(b) The COTP or OCMI shall notify the vessel operator in writing of any inadequacies in the oil transfer procedures. The vessel operator may submit written information, views, and arguments on and proposals for amending the procedures within 14 days from the date of the COTP or OCMI

notice. After considering all relevant material presented, the COTP or OCMI shall notify the vessel operator of any amendment required or adopted, or the COTP or OCMI may rescind the notice. The amendment becomes effective 30 days after the vessel operator receives the notice, unless the vessel operator petitions the Commandant to review the COTP or OCMI notice, in which case its effective date is delayed pending a decision by the Commandant. Petitions to the Commandant must be submitted in writing via the COTP or OCMI who issued the requirement to amend.

(c) If the COTP or OCMI finds that there is a condition requiring immediate action to prevent the discharge or risk of discharge of oil that makes the procedure in paragraph (b) of this section impractical or contrary to the public interest, he or she may issue an amendment effective on the date the vessel operator receives notice of it. In such a case, the COTP or OCMI includes a brief statement of the reasons for the findings in the notice, and the vessel operator may petition the Commandant, in any manner, to review the amendment. The petition does not postpone the amendment.

§ 155.770 Draining of oil.

No person may intentionally drain oil or oily waste from any source into the bilge of any vessel.

§ 155.780 Emergency shutdown.

(a) A tank vessel with a capacity of 250 or more barrels of cargo oil that is carrying oil must have on board an emergency means to enable a person in charge of an oil transfer operation to stop the flow of oil to a facility, other vessel, or within the vessel.

(b) The means required in paragraph (a) of this section may be a pump control, a quick-acting, power actuated valve, or an operating procedure. If an emergency pump control is used, it must stop the flow of oil if oil could siphon through the stopped pump.

(c) The means required in paragraph (a) of this section must be operable from the cargo deck, cargo control room, or the usual operating station of the person in charge of the oil transfer operation.

§ 155.785 Communications.

(a) During vessel to vessel oil transfers, each tank vessel with a capacity of 250 or more barrels of cargo oil that is carrying oil must have a means that enables continuous two-way voice communication between the persons in charge of the transfer operations on both vessels.

(b) Each vessel must have a means, which may be the communication system itself, that enables a person on board each vessel to effectively indicate his desire to use the means of communication required by paragraph (a) of this section.

(c) The means required by paragraph (a) of this section must be usable and effective in all phases of the transfer operation and all conditions of weather.

(d) Portable radio devices used to comply with paragraph (a) of this section during the transfer of flammable or combustible liquids must be intrinsically safe, as defined in 46 CFR 110.15–100(i), and meet Class I, Division I, Group D requirements as defined in 46 CFR 110.80.

§ 155.790 Deck lighting.

(a) A self-propelled vessel with a capacity of 250 or more barrels of oil that is transferring oil between sunset and sunrise must have deck lighting that adequately illuminates each—

(1) transfer connection point on the vessel;

(2) transfer connection point in use on any barge moored to the vessel to or from which oil is being transferred;

(3) oil transfer operations work area on the vessel; and

(4) oil transfer operations work area on any barge moored to the vessel to or from which oil is being transferred.

(b) Where the illumination is apparently inadequate the OCMI or COTP may require verification by instrument of the levels of illumination. On a horizontal plane 3 feet above the deck the illumination must measure at least—

(1) 5.0 foot candles at transfer connection points; and

(2) 1.0 foot candle in oil transfer operations work areas.

(c) Lighting must be located or shielded so as not to mislead or otherwise interfere with navigation on the adjacent waterways.

§ 155.800 Oil transfer hose.

Hose used to transfer oil must meet the requirements of § 154.500 of this chapter.

§ 155.805 Closure devices.

(a) Each end of each oil transfer hose on board which is not connected for the transfer of oil must be blanked off with butterfly valves, wafer-type resilient seated valves, blank flanges, or other means acceptable to the COTP or OCMI.

(b) New, unused hose is exempt from the requirement in paragraph (a) of this section.

§ 155.810 Tank vessel security.

The vessel operator of each tank vessel that contains more oil than the normal clingage and unpumpable bilge or sump residues in any cargo tank shall maintain surveillance of that vessel by using a person who is responsible for the security of the vessel and for keeping unauthorized persons off the vessel.

§ 155.815 Tank vessel integrity.

(a) Except as provided in paragraph (b) of this section, a tank vessel underway or at anchor must have all closure mechanisms on the following openings properly closed:

(1) Expansion trunk hatches;

(2) Ullage openings;

(3) Sounding ports;

(4) Tank cleaning openings; and

(5) Any other tank vessel openings that maintain the seaworthy condition of the tank vessel and prevent the inadvertent release of oil in the event of a tank vessel accident.

(b) No person may open any of the closure mechanisms in paragraph (a) of this section while the tank vessel is underway or at anchor except when authorized and supervised by a licensed officer or the tankerman required by 46 CFR 31.15–5(a).

§ 155.820 Records.

The vessel operator shall keep a written record available for inspection by the COTP or OCMI of—

(a) the name of each person currently designated as a person in charge of oil transfer operations.

(b) the date and result of the most recent test and inspection of each item tested or inspected as required by § 156.170 of this chapter;

(c) the hose information required by § 154.500(e) and (g) of this chapter unless that information is marked on the hose; and

(d) the Declaration of Inspection as required by § 156.150–(f) of this chapter.

Appendix A—Specifications for Shore Connection

[See §§ 340, 350, 370 and 380 of this Part]

Item	Description	Dimension
1	Outside diameter.	215 mm. (8 in.).
2	Inside diameter.	According to pipe outside diameter.
3	Bolt circle diameter.	183 mm. (7 $^{3}/_{16}$ in.).
4	Slots in flange.	6 holes 22 mm. ($^{7}/_{8}$ in.) in diameter shall be equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width is to be 22 mm. ($^{7}/_{8}$ in.).
5	Flange thickness.	20 mm. ($^{3}/_{4}$ in.).
6	Bolts and nuts.	6, each of 20 mm. ($^{3}/_{4}$ in.) in diameter and of suitable length.

The flange must be of steel having a flat face, with a gasket of oilproof material, and must be suitable for a service pressure of 6 kg./cm.2 (85 p.s.i.).

The steel materials used must meet the material specifications of standard B16.5, Steel Pipe Flanges and Flanged Fittings of the American National Standards Institute. (See § 154.106 of this chapter.)

PART 156—OIL POLLUTION PREVENTION REGULATIONS FOR OIL TRANSFER OPERATIONS INVOLVING VESSELS

Sec.

156.100 Applicability.
156.105 Definitions.
156.107 Alternatives.
156.110 Exemptions.
156.112 Suspension order.
156.113 Compliance with suspension order.
156.115 Person in charge: Limitations.
156.118 Advance notice of oil transfer.
156.120 Requirements for oil transfer.
156.125 Oil discharge cleanup.
156.130 Connections.
156.150 Declaration of inspection.
156.160 Supervision by person in charge.
156.170 Equipment tests and inspections.

Authority: 33 U.S.C. 1321(j)(1)(C) and (D); E.O. 11735, 3 CFR, 1971—1975 COMP., p. 793; 49 CFR 1.46(m).

§ 156.100 Applicability.

This part applies to the transfer of oil on the navigable waters or contiguous zone of the U.S. to, from, or within any vessel and to or from a public vessel with a capacity of 250 or more barrels of that oil, except that this part does not apply to the transfer operation within or on a public vessel.

§ 156.105 Definitions.

The definitions in Part 154 of this chapter apply to this part.

§ 156.107 Alternatives.

(a) The COTP may consider and approve alternative procedures, methods, or equipment standards to be used by a vessel or facility operator in lieu of any requirements in this part if—

(1) compliance with the requirement is economically or physically impractical;

(2) the vessel or facility operator submits a written request for the alternative at least 30 days before operations under the alternative are proposed, unless the COTP authorizes a shorter time; and

(3) the alternative provides an equivalent level of safety and protection from pollution by oil, which is documented in the request.

(b) The COTP takes final approval or disapproval action on any alternative requested, in writing, within 30 days of receipt of the request.

§ 156.110 Exemptions.

(a) The Chief, Office of Marine Environment and Systems, acting for the Commandant, grants an exemption or partial exemption from compliance with any requirement in this part if—

(1) the vessel or facility operator submits an application for exemption via the COTP at least 30 days before operations under the exemption are proposed, unless the COTP authorizes a shorter time; and

(2) it is determined, from the application, that—

(i) compliance with a specific requirement is economically or physically impractical;

(ii) no alternative procedures, methods, or equipment standards exist that would provide an equivalent level of safety and protection from pollution by oil; and

(iii) the likelihood of oil being discharged as a result of the exemption is minimal.

(b) If requested, the applicant must submit any appropriate information, including an environmental and economic assessment of the effects of and reasons for the exemption and proposed procedures, methods or equipment standards.

(c) The exemption may specify the procedures, methods, or equipment standards that will apply.

(d) An exemption is granted or denied in writing. The decision of the Chief, Office of Marine Environment and Systems is a final agency action.

§ 156.112 Suspension order.

The COTP or OCMI may issue a suspension order to suspend oil transfer operations to the vessel or facility operator when the COTP or OCMI finds there is a condition requiring action to prevent the discharge or threat of discharge of oil, or when the COTP or OCMI is unable to verify compliance with the regulations through an inspection. A suspension order—

(a) may be effective immediately;

(b) is issued in writing unless it is effective immediately and then it may be issued orally and followed up in writing;

(c) includes a statement of each condition requiring action to prevent the discharge of oil; and

(d) is withdrawn when the COTP, OCMI, or District Commander, as applicable, determines that the condition requiring action to prevent the discharge or threat of discharge of oil has been corrected or no longer exists.

§ 156.113 Compliance with suspension order.

(a) No vessel or facility operator to whom a suspension order has been issued may conduct oil transfer operations from the time the order is effective until that order is withdrawn by the applicable COTP, OCMI, or by the District Commander.

(b) The vessel or facility operator may request reconsideration of the suspension order either orally or in writing to the COTP or OCMI who issued it. The request may contain supporting documentation and evidence that the vessel or facility operator wishes to have considered.

(c) Any person not satisfied with a ruling made under the procedure contained in paragraph (b) of this section may appeal that ruling in writing, except as allowed under paragraph (e) of this section, to the Coast Guard District Commander of the district in which the suspension order was issued. The appeal may contain supporting documentation and evidence that the appellant wishes to have considered. The appeal does not stay the effect of the suspension order while the COTP or OCMI ruling is being reviewed. The District Commander issues a ruling after reviewing the appeal.

(d) The ruling by the District Commander is final agency action.

(e) If the delay in presenting a written appeal under paragraph (c) of this section would have a significant adverse impact on the appellant, the appeal may initially be presented orally. If an initial presentation of the appeal is made orally, the appellant must submit the appeal in writing within five days of the oral presentation to the District Commander to whom the oral appeal was made, containing, at a minimum the basis for the appeal and a summary of the material presented orally.

§ 156.115 Person in charge: Limitations.

(a) No person may serve as the person in charge of oil transfer operations on more than one vessel at a time during oil transfers between vessels or between two or more vessels and a facility unless authorized by the COTP.

(b) No person may serve as the person in charge of both a vessel and a facility during oil transfer operations unless authorized by the COTP.

§ 156.118 Advance notice of oil transfer.

(a) The COTP may require a facility operator to notify the COTP of the time and place of each oil transfer operation at least 4 hours before it begins for facilities that—

(1) are mobile;

(2) are in a remote location;

(3) have a prior history of oil spills; or

(4) conduct infrequent oil transfer operations.

(b) In the case of a vessel to vessel transfer, the COTP may require a vessel

operator of a lightering or fueling vessel to notify the COTP of the time and place of each oil transfer operation, as specified by the COTP, at least 4 hours before it begins.

(c) No person may conduct such oil transfer operations until advance notice has been given as specified by the COTP.

Note.—The notification may be accomplished by submitting a written schedule, periodically updated to be current.

§ 156.120 Requirements for oil transfer.

No person may conduct an oil transfer operation unless—

(a) the vessel's moorings are strong enough to hold during all expected conditions of surge, current, and weather and are long enough to allow adjustment for changes in draft, drift, and tide during the transfer operation;

(b) oil transfer hoses and loading arms are long enough to allow the vessel to move to the limits of its moorings without placing strain on the hose, loading arm, or oil transfer piping system;

(c) each hose is supported to prevent kinking or other damage to the hose and strain on its coupling.

(d) each part of the oil transfer system is aligned to allow the flow of oil;

(e) each part of the oil transfer system not necessary for the transfer operation is securely blanked or shut off;

(f) the end of each hose and loading arm that is not connected for the transfer of oil is blanked off using the closure devices required by §§ 154.120 and 155.805 of this chapter;

(g) the transfer system is attached to a fixed connection on the vessel and the facility except that when a vessel is receiving fuel, an automatic back pressure shutoff nozzle may be used;

(h) each overboard discharge or sea suction valve that is connected to the vessel's oil transfer or cargo tank system is sealed or lashed in the closed position; except when used to receive or discharge ballast in compliance with 33 CFR 157;

(i) each oil transfer hose has no unrepaired loose covers, kinks, bulges, soft spots, or any other defect which would permit the discharge of oil through the hose material and no gouges, cuts, or slashes that penetrate the first layer of hose reinforcement ("reinforcement" means the strength members of the hose, consisting of fabric, cord and/or metal);

(j) each hose or loading arm in use meets §§ 154.500 and 154.510 of this chapter, respectively;

(k) each connection meets § 156.130;

(l) any monitoring devices required by § 154.525 of this chapter are installed and operating properly;

(m) the discharge containment equipment required by § 154.545 of this chapter is readily accessible or deployed as applicable;

(n) the discharge containment required by §§ 154.530, 155.310, and 155.320 of this chapter, as applicable, is in place and periodically drained to provide the required capacity;

(o) each drain and scupper is closed by the mechanical means required by § 155.310;

(p) all connections in the oil transfer system are leak free except that a component in an oil transfer system, such as the packing glands of a pump, may leak at a rate that does not exceed the capacity of the discharge containment provided during the transfer operation;

(q) the communications required by §§ 154.560 and 155.785 of this chapter are operable for the transfer operation;

(r) the emergency means of shutdown required by §§ 154.550 and 155.780 of this chapter, as applicable, is in position and operable;

(s) there is a person in charge on the transferring vessel or facility and the receiving vessel or facility except as otherwise authorized under § 156.115;

(t) each person in charge required by paragraph (s) of this section—

(1) is at the site of the oil transfer operation and immediately available to the oil transfer personnel;

(2) has in his or her possession a copy of the facility operations manual or vessel oil transfer procedures, as appropriate; and

(3) conducts the transfer operation in accordance with the facility operations manual or vessel oil transfer procedures, as appropriate;

(u) the personnel required, under the facility operations manual and the vessel oil transfer procedures, to conduct the oil transfer operation—

(1) are on duty; and

(2) conduct the transfer operation in accordance with the facility operations manual or vessel oil transfer procedures, as appropriate;

(v) at least one person is at the site of the oil transfer operation who fluently speaks the language or languages spoken by both persons in charge;

(w) the person in charge of oil transfer operations on the transferring vessel or facility and the person in charge of oil transfer operations on the receiving vessel or facility have held a conference, to ensure that each person in charge understands the following details of the transfer operation—

(1) the identity of the product to be transferred;

(2) the sequence of transfer operations;

(3) the transfer rate;

(4) the name or title and location of each person participating in the transfer operation;

(5) details of the transferring and receiving systems;

(6) critical stages of the transfer operation;

(7) federal, state, and local rules that apply to the transfer of oil;

(8) emergency procedures;

(9) discharge containment procedures;

(10) discharge reporting procedures;

(11) watch or shift arrangement;

(12) transfer shutdown procedures;

(x) the person in charge of oil transfer operations on the transferring vessel or facility and the person in charge of oil transfer operations on the receiving vessel or facility agree to begin the transfer operation;

(y) between sunset and sunrise the lighting required by §§ 154.570 and 155.790 of this chapter is provided; and

(z) for transfer operations between tank barges from sunset to sunrise, lighting is provided as described in § 155.790 of this chapter.

§ 156.125 Oil discharge cleanup.

(a) Each person conducting an oil transfer operation shall stop the transfer operation whenever oil from any source is discharged—

(1) in the transfer operation work area; or

(2) into the water or upon the adjoining shoreline in the transfer area.

(b) Except as permitted under paragraph (c) of this section, no person may resume an oil transfer operation after it has been stopped under paragraph (a) of this section, unless—

(1) oil discharged in the oil transfer operation work area is cleaned up; and

(2) oil discharged into the water or upon the adjoining shoreline is cleaned up, or is contained and being cleaned up.

(c) The COTP may authorize resuming the oil transfer operation if it is deemed appropriate.

§ 156.130 Connection.

(a) Each person who makes a connection for oil transfer operations shall—

(1) use suitable material in joints and couplings to ensure a leak-free seal;

(2) use a bolt in at least every other hole, and in no case less than four bolts, in each temporary bolted connection that uses a flange that meets American National Standards Institute (ANSI) standard flange requirements under § 154.500(d)(2) of this chapter;

(3) use a bolt in each hole in each temporary bolted connection that uses a flange other than one that meets ANSI standards;

(4) use a bolt in each hole of each permanently connected flange;

(5) use bolts of the correct size in each bolted connection; and

(6) tighten each bolt and nut uniformly to distribute the load and sufficiently to ensure a leak free seal.

(b) A person who makes a connection for oil transfer operations must not use any bolt that shows signs of strain or is elongated or deteriorated.

(c) Except as provided in paragraph (d) of this section, no person may use a connection for oil transfer operations unless it is—

(1) a bolted or full threaded connection; or

(2) a quick-connect coupling acceptable to the Commandant.

(d) No person may transfer oil to a vessel that has a fill pipe for which containment cannot practically be provided unless an automatic back pressure shutoff nozzle is used.

§ 156.150 Declaration of inspection.

(a) No person may transfer oil to or from a vessel unless each person in charge, desiganted under §§ 154.710 and 155.700 of this chapter, has filled out and signed the declaration of inspection form described in paragraph (c) of this section.

(b) No person in charge may sign the declaration of inspection unless he or she has determined by inspection, and indicated by initialling in the appropriate space on the declaration of inspection form, that the facility or vessel, as appropriate, meets § 156.120.

(c) The declaration of inspection may be in any form but must contain at least—

(1) the name or other identification of the transferring vessel or facility and the receiving vessel or facility;

(2) the address of the facility or location of the transfer operation if not at a facility;

(3) the date the transfer operation is started;

(4) a list of the requirements in § 156.120 with spaces on the form following each requirement for the person in charge of the vessel or facility to indicate by initialling that the requirement is met for the transfer operation; and

(5) a space for the date, time of signing, signature, and title of each person in charge during oil transfer operations on the transferring vessel or facility and space for the date, time of signing, signature, and title of each person in charge during oil transfer operations on the receiving facility or vessel.

(d) The form for the declaration of inspection may incorporate the declaration-of-inspection requirements under 46 CFR 35.35–30.

(e) The vessel and facility persons in charge shall each have a signed copy of the declaration of inspection available for inspection by the COTP during the oil transfer operation.

(f) The operators of each vessel and facility engaged in an oil transfer operation shall retain a signed copy of the declaration of inspection on board the vessel or at the facility for at least 1 month from the date of signature.

§ 156.160 Supervision by person in charge.

(a) No person may connect or disconnect a hose, top off a tank, or engage in any other critical procedures during an oil transfer operation unless the person in charge, required by § 156.120(s), supervises that procedure.

(b) No person may start the flow of oil to or from a vessel unless instructed to do so by either person in charge.

(c) No person may transfer oil to or from a vessel unless each person in charge is in the immediate vicinity and immediately available to the oil transfer personnel.

§ 156.170 Equipment tests and inspections.

(a) Except as provided in paragraph (d) of this section, no person may use any equipment listed in paragraph (c) of this section for oil transfer operations unless the vessel or facility operator, as appropriate, tests and inspects the equipment in accordance with paragraphs (b), (c) and (f) of this section and the equipment is in the condition specified in paragraph (c) of this section.

(b) During any test or inspection required by this section, the entire external surface of the hose must be accessible.

(c) For the purpose of paragraph (a) of this section—

(1) each nonmetallic oil transfer hose must—

(i) have no unrepaired loose covers, kinks, bulges, soft spots, or any other defect which would permit the discharge of oil through the hose material, and no gouges, cuts or slashes that penetrate the first layer of hose reinforcement, as defined in § 156.120(j).

(ii) have no external deterioration and, to the extent internal inspection is possible with both ends of the hose open, no internal deterioration;

(iii) not burst, bulge, leak, or abnormally distort under static liquid pressure at least 1½ times the maximum allowable working pressure; and

(iv) where a dispute arises under paragraph (c)(1)(i) of this section, be acceptable for use after a hydrostatic test is successfully completed in the presence of the COTP;

(2) each transfer system relief valve must open at or below the pressure at which it is set to open;

(3) each pressure gauge must show pressure within 10 percent of the actual pressure;

(4) each loading arm and each oil transfer pipe system, including each metallic hose, must not leak under static liquid pressure at least 1½ times the maximum allowable working pressure; and

(5) each item of remote operating or indicating equipment, such as a remotely operated valve, tank level alarm, or emergency shutdown device, must perform its intended function.

(d) No person may use any hose in underwater service for oil transfer operations unless the operator of the vessel or facility has tested and inspected it in accordance with paragraph (c)(1) or (c)(4) of this section, as applicable.

(e) The test fluid used for the testing required by this section is limited to liquids that are compatible with the hose tube as recommended by the hose manufacturer.

(f) The frequency of the tests and inspections required by this section must be—

(1) annually for facilities; and

(2) annually or as part of the biennial and mid-period inspections for vessels.

(33 U.S.C. 1321(j)(1)(C) and (D); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46(m)).

R. H. Scarborough,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 80-3064 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-14-M

federal register

Thursday
January 31, 1980

Part IX

Department of Health, Education, and Welfare

National Institutes of Health

Recombinant DNA Research; Proposed Actions Under Guidelines; Recombinant DNA Advisory Committee; Meeting

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Wilson Hall, Building 1, Bethesda, Maryland 20205, on March 6, 1980, from 9:00 a.m. to recess at approximately 6:00 p.m. and on March 7, 1980, from 8:30 a.m. to 5:00 p.m. This meeting will be open to the public on March 6 from 9:00 a.m. to recess at approximately 6:00 p.m., and on March 7, from 8:30 a.m. to 3:00 p.m., to discuss:

Amendment of Guidelines.
Containment practices appropriate for large-scale production.
Exceptions to prohibitions.
Exemptions for organisms that exchange genetic information.
Procedures for lowering characterized clones.
Review of large-scale experiments.
E. coli K–12 host-vector systems.
Host-vector systems other than *E. coli* K–12.
NIH risk-assessment plan.
Review of protocols for required containment levels.
Other matters requiring necessary action by the Committee.

Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 7 from 3:00 p.m. to 5:00 p.m. for the review, discussion and evaluation of proposal(s) from a commercial concern(s) for scale-up of recombinant DNA experiments. The proposal(s) and the discussions could reveal confidential trade secrets or commercial property such as patentable material.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone 301–496–6051, will provide materials to be discussed at the meeting, rosters of committee members and substantive program information. A summary of the meeting will be available at a later date.

Dated: January 25, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3040 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHEW.

ACTION: Notice of proposed actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposals for actions to be taken under the 1978 NIH Guidelines for Research Involving Recombinant DNA Molecules [**Federal Register** of December 22, 1978 (43 FR 60108)]. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its March 6–7, 1980, meeting, the Director of the National Institutes of Health will issue decision on these proposals in accord with the Guidelines.

DATE: Comments must be received by March 3, 1980.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 4A52, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Drs. Stanley Barban or Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following changes and amendments under the Guidelines for Research Involving Recombinant DNA Molecules (43 FR 60108), as well as actions under these Guidelines.

1. *Amendment of Section IV–D–2–a.* As a comment on the Proposed Revised Guidelines for Research Involving Recombinant DNA Molecules published for comment in the **Federal Register** on November 30, 1979 (44 FR 69210), David Lester of Princeton, New Jersey, has proposed that Section IV–D–2–a, dealing with membership and procedures for the Institutional Biosafety Committee, be modified by adding as the penultimate sentence of IV–D–2–a the following:

"Such nonaffiliated members shall be appointed by the governing body of the community in which the institution is situated."

2. *Amendment of Section III–O of the Proposed Revised Guidelines.* Dr. Kent Wilcox of the Medical College of Wisconsin has suggested a clarification of the language of Section III–O, Classification of Experiments Using the *E. coli* K–12 Host-Vector Systems, of the proposed revised Guldelines published for comment in the **Federal Register** on November 30, 1979 (44 FR 69210). Section III–O is proposed to read, in part, as follows:

* * * For these experiments no Memorandum of Understanding and Agreement (MUA) as described in Section IV–D–1–c need be submitted, nor is any registration with NIH necessary. However, for these experiments, prior to their initiation, investigators must submit to their Institutional Biosafety Committee (IBC) a registration document that contains a description of (a) the source(s) of DNA, (b) the nature of the inserted DNA sequences, and (c) the hosts and vectors to be used. This registration document must be dated and signed by the investigator and filed only with the local IBC. The IBC shall review all such proposals but such review is not required prior to initiation of experiments. An exception, however, which does require prior review and approval by the IBC is any experiment in which there is a deliberate attempt to have the *E coli* K–12 efficiently express any gene coding for a eukaryotic protein * * *.

Dr. Wilcox suggests that the term "eukaryotic protein" is not well defined. He questions whether this term refers specifically to proteins encoded in the DNA of eukaryotic organisms and if so, whether animal viruses and viroids are considered to be eukaryotic organisms. Dr. Wilcox suggests that the last sentence of the above citation be modified to read as follows (modified text in italics):

* * * An exception, however, which does require prior review and approval by the IBC is any experiment in which there is a deliberate attempt to have the *E. coli* K–12 efficiently express *as a protein product the information carried in any gene derived either from a eukaryotic organism or from any virus or viroid which infects a eukaryotic organism* * * *.

3. *Amendment of Section III–O of the Proposed Revised Guidelines.* Dr. Stuart Levy of Tufts University School of Medicine has recommended an amendment to Section III–O of the Proposed Revised Guidelines (44 FR 69210). Dr. Levy notes that the plasmid studied in his risk-assessment studies was a nonconjugative poorly

mobilizable plasmid. He suggests that a distinction be made between nonconjugative plasmids and nonconjugative plasmids which are also poorly mobilizable; such an amendment would provide additional biological containment. The relevant portion of Section III–O of the Proposed Revised Guidelines which would be amended reads as follows:

* * * Other experiments using *E. coli* K–12 shall use P1 physical containment and, except as specified in the last paragraph of this section, an EK1 host-vector system (i.e., (a) the host shall not contain conjugation-proficient plasmids or generalized transducing phages, and (b) lambda or lambdoid bacteriophages or nonconjugative plasmids shall be used as vectors) * * *.

The amended section proposed by Dr. Levy would read as follows (amended text in italic):

* * * Other experiments using *E. coli* K–12 shall use P1 physical containment and, except as specified in the last paragraph of this section, an EK1 host-vector system (i.e., (a) the host shall not contain conjugation-proficient plasmids or generalized transducing phages, and (b) *lambda or lambdoid bacteriophages or nonconjugative poorly mobilizable (able to be mobilized at a frequency of less than 10^{-5} by a derepressed conjugative plasmid in the same cell) plasmids shall be used as vectors)* * * *.

4. *Request to Eliminate Section I–D–3 from the Guidelines.* In response to the proposed revised Guidelines published in the **Federal Register** on November 30, 1979 (44 FR 69210), Dr. Clarence Kado of the University of California, Davis, has asked the NIH to consider deleting from the Guidelines Section I–D–3 which reads as follows:

Deliberate creation by the use of recombinant DNA of a plant pathogen with increased virulence and host range beyond that which occurs by natural genetic exchange.[2A]

Dr. Kado explains his arguments for elimination of the prohibition in a letter to ORDA.

5. *Request to Include all Species of the Genus Erwinia in Appendix A, Sublist A.* In response to the proposed revised Guidelines published in the **Federal Register** on November 30, 1979 (44 FR 69210), Dr. Clarence Kado of the University of California, Davis, has requested that the NIH consider the inclusion of all *Erwinia* species in Sublist A, Appendix A. Currently, only one *Erwinia* species, *E. amylovora*, is included on the list. Dr. Kado suggests that consideration be given to all *Erwinia* species on the basis of an exchange of genetic material by natural means with *E. coli* and a 20% DNA–DNA homology of *E. coli* with *Erwinia* species.

6. *Classification of Plant Pathogens.* In response to the proposed revised Guidelines for Research Involving Recombinant DNA Molecules published in the **Federal Register** on November 30, 1979 (44 FR 69210), M. T. Goff, Animal and Plant Health Inspection Service, United States Department of Agriculture, has proposed that a classification of plant pathogens be included in the Guidelines. Philip D. Harriman, National Science Foundation, has also submitted a similar proposal. Messrs. Goff and Harriman request that a portion of the Report of a Workshop on Risk Assessment of Agricultural Pathogens, dealing with a hazard classification of plant pathogens, be included in the Guidelines. This Workshop was held on March 20–21, 1978, and the report appeared as Appendix G to the Environmental Impact Assessment which accompanied proposed revised Guidelines published for comment in the **Federal Register** of July 28, 1978 (43 FR 33042). Specifically, they request that the following classification be added to Appendix B of the Guidelines:

IV. Plant Pathogens

Class 1A Agents—Plant pathogens not in Class 1B.

Class 1B Agents—All organisms that are subject to quarantine restrictions for any of the following reasons:

(i) Plant pathogens not known to occur in the United States.

(ii) Plant pathogens that are not widely distributed throughout the ecological range of their hosts in the United States.

(iii) Plant pathogens subject to U.S. Federal or State eradication or suppression programs.

A USDA permit [2] is required to import or to move plant pathogens across State lines.

Footnote 2 of Appendix B of the proposed revised Guidelines reads as follows:

USDA permit also required for import and interstate transport.

It is proposed that this footnote be modified to read as follows in order to serve as a single footnote for both animal and plant pathogens:

[2] A USDA permit, required for import and interstate transport of pathogens, may be obtained form the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD 20782.

7. *Containment Standards for Large-Scale Research and Production.* A Working Group on Large-Scale Research and Production prepared a draft set of physical containment standards for recombinant DNA research involving more than 10 liters of culture.

Comments on the draft standards were invited through January 10, 1980, in an announcement in the **Federal Register** of November 1, 1979 (44 FR 63074). Preliminary comments were reviewed by the RAC at its December 6–7, 1979 meeting. Comments will be taken into account by the Working Group in its preparation of a revised draft. Revised draft standards will be available from ORDA on February 1, 1980, and will be considered along with comments at the March 6–7, 1980 RAC meeting.

If eventually approved by the NIH Director, the substantive standards for large-scale work could be combined with the procedural standards recommended by the RAC at the September 1979 meeting or a subsequently revised version. The combined standards could then constitute a new Part VII of the NIH Guidelines.

8. *Proposal To Amend Portions of Section III–A–2–a, Viruses of Eukaryotes, of the Proposed Revised Guidelines.* In portions of Section III–A–2–a of the proposed revised Guidelines a level of biological containment requiring the use of "an HV1 host and a vector certified for use in an HV2 system" has been substituted for "an EK1 host and a vector certified for use in an EK2 system." This level of biological containment is abbreviated as "HV1CV" in Table III of the proposed revised Guidelines. At the December 6–7, 1979 meeting, a working group was appointed to review the appropriateness of this level of biological containment for the experiments described in this section of the Guidelines. The working group proposes that HV2 biological containment be required for these experiments. Therefore, the working group proposes that "an HV2 host-vector" be substituted for "an HV1 host and a vector for use in an HV2 system" in Sections III–A–2–a–(1)–(a)–(*2*)–(*c*), III–A–2–a–(1)–(a)–(*3*)–(*b*), III–A–2–a–(1)–(b)–(*1*)–(*b*), III–A–2–a–(1)–(b)–(*2*)–(*b*), III–A–2–a–(2)–(a)–(*1*)–(*b*), III–A–2–a–(2)–(a)–(*2*)–(*b*), and III–A–2–a–(2)–(c)–(*2*)–(*b*). In Table III, "HV2" would be substituted for "HV1CV."

9. *Request for Exemption Under Section I–E–4.* Dr. Francis Macrina of the Virginia Commonwealth University has proposed that *Streptococcus mutans* and *Streptococcus sanguis* be included under the exemption category of Section I–E–4 of the Guidelines on the basis that these bacteria have been shown to exchange chromosomal DNA by known physiological processes. These two organisms would then constitute a new Sublist of Appendix A.

10. *Request for Approval to Clone Exotoxin A Gene of Pseudomonas aeruginosa.* Dr. C. W. Shuster of Case Western Reserve University has requested the RAC to consider whether

the cloning of the exotoxin A gene of *Pseudomonas aeruginosa* in *E. coli* K–12 is permitted. Under exemption I–E–4, *P. aeruginosa* and genus *Escherichia* are listed in Appendix A, Sublist A. However, according to Section I–E, Exemptions:

> It must be emphasized that the following exemptions (4) are not meant to apply to experiments described in the Sections I–D–1 to I–D–5 as being prohibited.

Section I–D–2 prohibits:

> Deliberate formation of recombinant DNAs containing genes for the biosynthesis of toxins potent for vertebrates (2A) (e.g., botulinum, diphtheria toxins; venoms from insects, snakes, etc).

Dr. Shuster notes that exotoxin A and *P. aeruginosa* are safe under normal laboratory conditions. *P. aeruginosa* is an opportunistic pathogen and exotoxin A is only one of a series of virulence factor necessary to produce pathogenicity. This request was presented to the RAC at its December 6–7, 1979 meeting. At that time, the RAC felt that approval of the proposed experiments appeared to require an exception to a prohibition. Accordingly, the request is being published in the **Federal Register** for a 30 day comment period prior to being reconsidered by the RAC at its March 6–7, 1980 meeting.

11. *Request for Consideration of Appropriate Containment Levels.* Dr. Marvin Schwalb of New Jersey Medical School has requested that the RAC consider the containment levels appropriate to the return of *Schizophyllum commune* DNA cloned in *Saccharomyces cerevisiae* to *Schizophyllum commune*. In addition, Dr. Schwalb requests permission to clone the *S. cerevisiae* derived vector YR414/ura 3 and the *Saccharomyces* 2 plasmid containing yeast or *S. commune* sequences in *S. commune*.

2. *Request for Consideration of Appropriate Containment Levels.* Dr. Olen Yoder of Cornell University has asked the RAC to consider the appropriate containment level for the return of *Helminthosporanium maydis* DNA, which has been cloned in *Saccharomyces cerevisiae*, to the host of origin.

13. *Request to Lower Containment Conditions for Prokaryotic Cloning.* Dr. David Wilson of Cornell University has requested a lowering from P3 to P2 containment levels for experiments involving the cloning of the cellulase gene of *Sporocytophaga ep.* into a thermophilic *Bacillus*.

14. *Recombinant DNA Experiments Involving Foot-And-Mouth Disease Virus.* The RAC at its December 6–7, 1979 meeting recommended, and the Director, NIH, subsequently approved, the cloning of foot-and-mouth disease virus in *E. coli* K–12 at the Plum Island Animal Disease Center. The RAC further recommended, and the Director, NIH, subsequently approved, that prior to the shipment of any clones off of Plum Island, first a working group of the RAC and subsequently the full RAC would examine data arising from the foot-and-mouth disease virus recombinant DNA work on Plum Island.

If any such data are ready for presentation to the RAC, they will be considered at the March 6–7, 1980 meeting. The RAC analysis may include reexamination of the appropriate containment levels for experiments with any clones recommended to be shipped from Plum Island.

15. *Proposed EK2 Host-Vector Systems.* Dr. P. H. Pouwels of the Medisch Biologisch Laboratorium of Rijswijk, The Netherlands, has requested EK2 certification of several *trp* plasmids derived from plasmids pBR345 and pBR313. The *trp* vectors derived from pBR345 carry no antibiotic resistance genes. These plasmids would be used in conjunction with the host x1776 as an EK2 certified host-vector system.

16. *Revision of Section III–C–1–e of the Guidelines.* The proposed revised Guidelines (44 FR 69210), in Appendix C, cite a limited exemption, under Section I–E–5, for certain recombinant DNA experiments in tissue culture:

> Under exemption I–E–5 of these Revised Guidelines are those recombinant DNA molecules that are propagated and maintained in cells in tissue culture and that are derived entirely from non-viral components (that is, no component is derived from a eukaryotic virus.).

This exemption was promulgated in the **Federal Register** of July 20, 1979 (44 FR 42914). In its original formulation (44 FR 22314), the exemption proposed to include recombinant DNA molecules that contain no more than one-fourth of the genome of a eukaryotic virus. At its December 6–7, 1979 meeting, Dr. Wallace Rowe submitted a document requesting that the RAC reconsider the question of allowing exemption for tissue culture experiments involving recombinant molecules containing no more than one-fourth of the genome of a virus. A working group was appointed to make recommendations for consideration at the March 6–7, 1980 meeting. It has been recommended that Sections III–C–1–e, III–C–1–e–(1), III–C–1–e–(1)–(a), and III–C–1–e–(1)–(b) of the Guidelines be changed and that a new Section III–C–1–e–(1)–(c) be added. Section III–C–1–e–(2) would remain unchanged. The proposed revised sections would read as follows:

III–C–1–e. *All Viral Vectors.*

III–C–1–e–(1). Other experiments involving eukaryotic virus vectors can be done as follows:

III–C–1–e–(1)–(a). Recombinant DNA molecules containing no more than two-thirds of the genome of any eukaryotic virus (all viruses from a single Family being considered identical) may be propagated and maintained in cells in tissue culture in the absence of helper virus using P1 containment. The DNA may contain fragments of the genomes of viruses from more than one Family but each fragment must be less than two-thirds of a genome. For such experiments, no MUA need be submitted but prior notice must be given to the IBC as described in Section III–0 of the Guidelines. The IBC should handle such registration documents as described in Section III–0.

"*III–C–1–e–(1)–(b).* Recombinants with less than two-thirds of the genome of any eukaryotic virus may be rescued with helper virus using P2 containment if wild type strains of the helper virus are not able to grow in human cells.

III–C–1–e–(1)–(c). Recombinants with less than two-thirds of the genome of any eukaryotic virus may be rescued with helper virus using P3 containment if wild-type strains of the helper virus are able to grow in human cells.

17. *Consideration of Appropriate Containment Levels.* Dr. Charles Jacobs of the University of Texas at Austin has requested permission from the RAC to clone *Wangiella dermatitidis* DNA in *Wangiella dermatitidis* using *Saccharomyuces/E. coli* hybrid plasmids as vectors. Dr. Jacobs requests that the RAC assess appropriate containment conditions.

Dated: January 23, 1980.

Donald S. Fredrickson, M.D.,

Director, National Institutes of Health.

[FR Doc. 80–3041 Filed 1–30–80; 8:45 am]

BILLING CODE 4110–08–M

federal register

Thursday
January 31, 1980

Part X

Office of Management and Budget

Budget Rescission and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

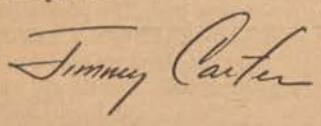
To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two proposals to rescind a total of $122.2 million in budget authority previously provided by the Congress. In addition, I am reporting five new deferrals of budget authority totalling $1,028.5 million and ten revisions to previously transmitted deferrals increasing the amount deferred by $598.6 million.

The rescission proposals affect programs in the Department of the Interior and the Department of Health, Education, and Welfare.

The new defferals and revisions to existing deferrals involve programs in the Departments of Commerce, Defense, Health, Education, and Welfare, the Interior, Justice, State, Transportation, the Treasury, and the National Alcohol Fuels Commission.

The details of each rescission proposal and deferral are contained in the attached reports.



THE WHITE HOUSE,
January 28, 1980.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No.	ITEM	Budget Authority
	Department of Health, Education, and Welfare:	
	Health Resources Administration	
R80-2	Health resources	104,218
	Department of the Interior:	
	Geological Survey	
R80-3	Exploration of national petroleum reserve in Alaska	18,000
	Subtotal, rescission proposals	122,218
Deferral No.		
	Department of Commerce:	
	National Oceanic and Atmospheric Administration	
D80-5A	Construction	46,459
D80-8A	Fisheries loan fund	5,207
	Department of Defense-Military:	
D80-41	Shipbuilding and conversion, Navy	997,500
D80-9A	Military construction, all services	387,166
D80-42	Family housing, Defense	18,651
	Department of Health, Education and Welfare:	
	Office of Assistant Secretary for Health	
D80-43	Scientific activities overseas (special foreign currency program)	10,000
	Department of the Interior:	
	Bureau of Land Management	
D80-44	Oregon and California grant lands	1,134
	Bureau of Mines	
D80-16A	Drainage of anthracite mines	1,465
	Department of Justice:	
	Legal Activities	
D80-45	Fees and expenses of witnesses	1,181
	Federal Prison System	
D80-17B	Buildings and facilities	50,351
	Department of State:	
	International Organizations and Conferences	
D80-32A	Contributions to international peacekeeping activities	12,000
	United States emergency refugee and migration assistance	
D80-18A	fund	25,000
	Department of Transportation:	
	Federal Aviation Administration	
D80-20A	Facilities and equipment (airport and airway trust fund)	304,292
	Department of the Treasury:	
	Bureau of the Mint	
D80-24A	Construction of mint facilities	5,730

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral No.	ITEM	Budget Authority
	Other Independent Agencies:	
	National Alcohol Fuels Commission	
D80-28A	Salaries and expenses	750
	Subtotal, deferrals	1,866,886
	TOTAL, rescission proposals and deferrals	1,989,104

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1980
(in thousands of dollars)

	Rescissions	Deferrals *
Fourth special message:		
New items	122,218	1,028,466
Change to amounts previously submitted	---	598,608
Effect of fourth special message	122,218	1,627,073
Previous special messages	114	1,592,337
Total amount proposed in special messages	122,332	3,219,410 1/

1/ This amount represents budget authority except for $44 thousand in a general revenue sharing deferral of outlays only (D80-23).

* Detail does not add to total due to rounding.

Rescission Proposal No: R80-2

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Health, Education, and Welfare	New budget authority (P.L. 96-123): $688,202,000
Bureau: Health Resources Administration	Other budgetary resources: 7,284,526
Appropriation title & symbol: Health Resources 7500712*, 756/00712, 75X0712	Total budgetary resources: 695,486,526
	Amount proposed for rescission: $104,218,000
OMB identification code: 75-0712-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual; ☒ Multiple-year September 30, 1980 (expiration date); ☒ No-year	Type of budget authority: ☒ Appropriation; ☐ Contract authority; ☐ Other

Justification: During the 1960's and early 1970's, the supply of health professionals increased dramatically, primarily as a result of increased Federal subsidies to expanded numbers of health professions students and training programs. Since 1960, the Federal government has spent about $18 billion to help increase the supply of health professionals by 50%. Between 1960 and 1975, the number of physicians in active practice increased 46%. By 1990, the supply of active physicians is expected to reach nearly 600,000, or an increase of 58% between 1975 and 1990. Moreover, the physician to population ratio rose from 142:100,000 in 1960 to 174:100,000 in 1975, and is expected to reach 244:100,000 in 1990 or 40% greater than in 1975.

In recognition of these trends, the President's 1979 and 1980 Budgets proposed phasing down general institutional support and concentrating on alleviating the problems of geographic maldistribution through service commitment scholarships and of overspecialization of medical practice through support of primary care training programs. These policies are continued in the President's 1981 Budget. The current adequate supply and potential oversupply during the 1980's underscore the point that special Federal subsidies are no longer required to increase the supply of particular categories of health professionals.

* This account was the subject of a rescission proposal in FY 1979.

The $104,218,000 in health professions training funds proposed for rescission in 1980 includes $87,718,000 for capitation grants and $16,500,000 for health professions non-service student loans. These funds have been identified as unnecessary to program needs for meeting the goal of providing health services to the medically underserved. This is in keeping with the strategy articulated in the President's 1980 and 1981 Budgets to terminate capitation grants and initiate phaseout of other institutional subsidies and student assistance programs that in the past have served to increase the supply of health professionals without regard to specialty or geographic shortages.

Capitation grants are not an efficient means for correcting either specialty or geographic maldistribution problems. The Administration supports various training programs that are more effective in addressing the health services needs of the coming decade, including service commitment scholarships, family medicine and primary care residency training grants, and grants to develop family medicine departments and for the training of nurse practitioners and physician assistants. Health professions schools will be able to accommodate the loss of capitation subsidies -- which account for less than 5% of medical schools' total revenues -- through increased tuition, State appropriations, more efficient management, or by reducing the high faculty costs created by faculty to student ratios in medical schools currently at 10 faculty members for every 13 students. Average medical tuition is now only about $3,000 per year and as a percentage of total medical school revenues has remained at an average of 4%-5% over the last ten years. Moreover, even with the loss of capitation subsidies, medical and other health professions schools will remain filled to capacity. The nation's 126 medical schools have 2.5 times as many qualified applicants as places and will be producing in excess of 16,000 new physicians annually during the 1980's.

The Budget proposes that the Health Professions Student Loan (HPSL) program be phased out in favor of service commitment programs, e.g., the National Health Service Corps (NHSC) scholarship program. While the HPSL program includes a partial Federal repayment provision (60% to 85%) for service in shortage areas, the Administration is proposing that the Health Education Assistance federally guaranteed loan program (HEAL) -- which has the same loan-repayment provision -- become the primary source of Federal loan support for graduate health professions training. The HEAL program will provide access to financial markets for health professions students who prefer not to make a service commitment. Health professions students are also eligible for

Department of Education guaranteed student loans, which have an interest subsidy but are limited in annual amounts to $5,000 and aggregate amounts to $15,000. For the 1980-1981 academic year, it is estimated that the HEAL program will provide loan guarantees totaling $40 million among 5,000 students in over 300 eligible institutions. The HPSL program will continue to support health professions training through existing revolving fund resources which total $16 million in 1980.

Estimated Effects: Federal support for HEW health professions training programs will continue at a level of $410.4 million in 1980, including $85.5 million for NHSC scholarships and $108.5 million for primary care and family medicine training, area health education centers, and grants for nurse practitioner and physician assistant training. The proposed rescission of $104 million will not affect the goal of providing improved health services to the medically underserved.

Outlay Effect: (estimated in millions of dollars)

1. Budget outlay estimate for FY 1980 (anticipates congressional aproval of this proposal).....	$565.6
2. Outlay estimate if this proposal is not approved..	578.1
3. 1980 outlay savings attributable to this proposal.	12.5
Outlay savings for FY 1981.....	36.6
Outlay savings for FY 1982.....	55.1

HEALTH RESOURCES ADMINISTRATION

Health Resources

Of the funds provided for "Health resources" for fiscal year 1980 in P.L. 96-123, making further continuing appropriations for the fiscal year 1980, $104,218,000 are rescinded.

Rescission Proposal No: R80-3

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 96-126): $175,627,000
Bureau: Geological Survey	Other budgetary resources: 21,105,397
Appropriation title & symbol: Exploration of National Petroleum Reserve in Alaska 14X 0805	Total budgetary resources: 196,732,397
	Amount proposed for rescission: $18,000,000
OMB identification code: 14-0805-0-1-271	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

Funds were appropriated to this account in fiscal year 1980 and prior years for the exploration and assessment of the National Petroleum Reserve in Alaska (NPR-A).

The 1980 budget recommended that federally funded drilling be concluded after completion of the 19th well. The Congress added $141.5 million to the FY 1980 appropriation to drill five additional wells in 1980 and to make preparations in 1980 to commence drilling four more wells in 1981. Congressional intent was to provide funds for drilling the latter wells in fiscal 1981. The legislative history of the 1980 appropriation bill indicates that an additional appropriation of between $160 and $190 million would be required to drill the four wells contemplated in 1981.

This proposal is to rescind $18 million that would otherwise be used in preparation for drilling the four additional exploratory wells in 1981. This includes $11 million appropriated for prepositioning supplies and equipment and $7 million for conducting seismic surveys to locate drilling sites. Under this proposal, the additional five wells for which 1980 funds were appropriated will be drilled. Funds for drilling additional wells in 1981 and beyond are affected by this rescission.

The President has recommended that Congress quickly enact the Administration's draft bill to open NPR-A to oil and gas exploration and development under private leasing. Adequate controls would be provided by that bill to protect surface values. The private leasing approach offers the fastest way to find and produce any commercial quantities of crude oil or natural gas in NPR-A. A number of firms conducting exploration under several exploration strategies have a higher probability of success than does exploration under a single government strategy. Also, under the private leasing strategy, instead of paying the cost of exploration, the Federal Government will receive payments from the oil companies for exploration and development rights.

The bill recommended by the President anticipates that the first lease sale would be conducted within 20 months after enactment. The 1981 budget would provide for resources to prepare for such leasing as well as $45 million in new budget authority to close the Federal exploration contract after completion of the 24 wells funded through FY 1980.

The Federal drilling program has contributed data for the preparation of an overall assessment of the petroleum resource potential of NPR-A. That assessment was an important element supporting the draft bill to open the Reserve to private leasing. The Administration strongly recommends that federally funded drilling be terminated in NPR-A and that the Congress approve this proposal.

Estimated Effects

Supplies and equipment will not be shipped to NPR-A to prepare for new drilling in 1981 and seismic surveys will not be completed to locate sites for such drilling.

Outlay Effect: (estimated in millions of dollars)

1. Budget outlay estimate for FY 1980 (anticipates congressional approval of this proposal)	$193.0
2. Outlay estimate if this proposal is not approved	211.0
3. 1980 outlay savings attributable to this proposal	18.0

R80-3

DEPARTMENT OF THE INTERIOR

Geological Survey
Exploration of National Petroleum Reserve in Alaska

Of the funds appropriated under this head in P.L. 96-126, making appropriations for the Department of the Interior and related agencies for fiscal year 1980, $18,000,000 are rescinded.

D80-5A

SUPPLEMENTARY REPORT

Report pursuant to Section 1014(c) of P.L. 94-344

This report revises Deferral No. D80-5 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral for the National Oceanic and Atmospheric Administration's Construction account increases the amount previously reported as deferred from $7,000,000 to $46,459,000. This increase of $39,459,000 results from an expected reduction of $35,158,682 in FY 1980 obligations due to construction startup delays, and an increase of $4,300,318 in budgetary resources because the actual amount of unobligated balances brought forward on October 1, 1979, was higher than originally estimated.

Deferral No: D80-5A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce	New budget authority (P.L._____) $ ---
Bureau National Oceanic and Atmospheric Administration	Other budgetary resources 64,300,318*
Appropriation title & symbol	Total budgetary resources 64,300,318*
Construction 13X1452 1/	Amount to be deferred: Part of year $ ---
	Entire year 46,459,000*
OMB identification code: 13-1452-0-1-306	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other _____

Justification:*

The Supplemental Appropriations Act, 1979 (P.L. 96-38) provided $60,000,000 to complete the construction of the National Oceanic and Atmospheric Administration's Western Regional Center in Seattle, Washington. Additional budgetary resources totalling $4,300,318 remain available from the 1978 appropriation. Due to construction startup delays, present program plans call for the obligation of only $17,841,318 in FY 1980. The remaining $46,459,000 for construction of piers and staging area, shops complex, education center, and research areas I and II, is planned for obligation in FY 1981, and is deferred for the remainder of this fiscal year. This deferral is consistent with congressional intent to provide no-year funding for this project and is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral has no effect on outlays.

1/ This account was the subject of a similar deferral during FY 1979.

* Revised from previous report.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report revises deferral No. D80-8 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral for the Fisheries Loan Fund reflects a change in justification due to the Administration's 1981 legislative proposal to transfer any balance of funds remaining in, or other assets of, the Fisheries loan fund, as of September 30, 1980, to the fishing vessel portion of the Federal ship financing fund established under Title XI of the Merchant Marine Act of 1936 as amended (46 U.S.C. 1271-1280).

Deferral No: D80-8A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce	New budget authority (P.L.) $ ---
Bureau National Oceanic and Atmospheric Administration	Other budgetary resources 5,906,961*
Appropriation title & symbol Fisheries Loan Fund 1/ 137/04317	Total budgetary resources 5,906,961* Amount to be deferred: Part of year $ 5,206,961* Entire year ---
OMB identification code: 13-4317-0-3-376	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act * ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1980 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☒ Other 16-USC-742c

Justification:*

This fund was established pursuant to the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c). Its purpose is to provide funds for loans to segments of the fishing industry unable to obtain commercial loans on reasonable terms for financing the cost of purchasing, constructing, equipping, maintaining, repairing or operating new or used fishing vessels or gear.

In 1965, the Act was amended to require the National Oceanic and Atmospheric Administration (NOAA) to pay interest to the Treasury on the difference between the available funds and the cash balance at the end of the year. The current program covers the 1980 interest liability of $680,000 and provides $20,000 for the care and preservation of collateral throughout the year. Of the total budgetary resources in the fund, only these amounts are presently planned for expenditure in 1980 to support the estimated program requirements.

On February 20, 1973, the Administrator of NOAA declared a moratorium on accepting further loan applications effective March 1, 1973, due to a level of loans outstanding and loan applications pending which exceeded the Fund's capital. Additionally, the General Accounting Office concluded in a report issued February 22, 1973, that loans made from the Fisheries Loan Fund (1) allowed the continued use of inefficient vessels and (2) maintained or added vessels to segments of the fishing industry which were considered to have excess, but not necessarily efficient harvesting capacity. GAO recommended that the Secretary of Commerce develop criteria for evaluating vessel efficiency and priorities for directing these program funds.

In order to provide effective and efficient use of these funds, the Department is proposing legislation to transfer any balance of funds remaining in, or other assets of, the Fisheries Loan Fund, as of September 30, 1980, to the fishing vessel portion of the Federal ship financing fund established under Title XI of the Merchant Marine Act of 1936 as amended (46 U.S.C. 1271-1280). The legislation proposes the continuation of activities specified in Title XI for fishing vessels, and also provides for the guarantee of obligations incurred by fishing vessels engaged in the development of previously underutilized fisheries. Funds totalling $5,206,961 are deferred pending congressional approval and enactment of the transfer proposal.

D80-8A

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be used if made available.

Outlay Effect:

This deferral action has no effect on outlays.

* Revised from previous report.

1/ This account was the subject of a similar deferral in FY 1979.

Deferral No: D80-41

D80-9A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Defense-Military	New budget authority (P.L. 96-154) $ 6,648,050,000
Bureau	Other budgetary resources 2,000,000
Appropriation title & symbol: Shipbuilding and Conversion, Navy - 170/41611 1/	Total budgetary resources 6,650,050,000
	Amount to be deferred: Part of year $ ---
	Entire year 997,500,000
OMB identification code: 17-1611-0-1-051	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual; [X] Multiple-year September 30, 1984 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification:

These funds are proposed for deferral through September 30, 1980. Due to the long period of time required to build ships, the Congress makes appropriations available for five-year periods. The amount deferred is not expected to be needed to meet program requirements during this fiscal year.

Prudent financial management requires the deferral of those funds that could not be used effectively during the current year even if made available for obligation.

The above multiple-year appropriation is currently being deferred under the provisions of the Antideficiency Act (31 U.S.C. 665), which authorizes the establishment of reserves for contingencies.

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral action has no effect on outlays.

1/ This account was the subject of a similar deferral during FY 1979.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D80-9 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral of Department of Defense military construction funds increases the amount previously reported as deferred from $31,386,000 to $387,166,000. This increase of $355,780,000 results primarily from an increase in budgetary resources made available by the Military Construction Appropriation Act, 1980 (P.L. 96-130).

Deferral No: D80-9A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. 96-130): $2,170,455,000
Bureau	Other budgetary resources: 2,143,540,783
Appropriation title & symbol: See coverage section below	Total budgetary resources: 4,313,995,783
	Amount to be deferred: Part of year: $387,166,000
	Entire year:
OMB identification code: See coverage section below	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [X] Annual; [X] Multiple-year September 30, 1984 / September 30, 1983 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Coverage 1/

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Military construction, Army	210/42050	21-2050-0-1-051	$178,912,000
Military construction, Army	219/32050	21-2050-0-1-051	0
Military construction, Navy	170/41205	17-1205-0-1-051	0
Military construction, Navy	179/31205	17-1205-0-1-051	0
Military construction, Air Force	570/43300	57-3300-0-1-051	47,462,000
Military construction Air Force	579/33300	57-3300-0-1-051	18,840,000
Military construction, Defense Agencies	9700500 2/	97-0500-0-1-051	81,800,000
Military construction, Defense Agencies	979/30500	97-0500-0-1-051	11,752,000
Military construction, Army National Guard	210/42085	21-2085-0-1-051	10,374,000
Military construction, Army National Guard	219/32085	21-2085-0-1-051	0
Military construction, Air National Guard	570/43830	57-3830-0-1-051	9,325,000
Military construction, Air National Guard	579/33830	57-3830-0-1-051	0
Military construction, Army Reserve	210/42086	21-2086-0-1-051	16,616,000
Military construction, Army Reserve	219/32086	21-2086-0-1-051	1,364,000
Military construction, Naval Reserve	170/41235	17-1235-0-1-051	4,836,000
Military construction, Naval Reserve	179/31235	17-1235-0-1-051	0
Military construction, Air Force Reserve	570/43730	57-3730-0-1-051	5,885,000
Military construction, Air Force Reserve	579/33730	57-3730-0-1-051	0
			$387,166,000

1/ These accounts were the subject of a similar deferral during FY 1979.
2/ A supplemental request (appropriation language) has been proposed that would extend the availability of this appropriation until September 30, 1984.

Justification:

The above amounts in the listed appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

With the exception of a single appropriations account, noted above, the Congress made appropriations for this purpose available for five years beginning with fiscal year 1979. Previously, these appropriations were available for obligation until expended. The above funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination.

Estimated Effects:

These deferrals have no programmatic or budgetary effect because the funds would not be obligated if they were made available.

Outlay Effects:

These deferrals have no effect on outlays.

Deferral No: D80-42

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. ____): $ ____
Bureau:	Other budgetary resources: 188,772,909
Appropriation title & symbol: Family Housing, Defense 979/30701	Total budgetary resources: 188,772,909
	Amount to be deferred: Part of year: $ ____
	Entire year: 18,651,000
OMB identification code: 97-0701-0-1-051	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1983 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification:

These funds were appropriated in 1979 and prior years for family housing construction and debt payment. Savings from Navy construction contracts and proceeds from sales of surplus family housing facilities have created unprogrammed balances in the Family Housing account. The 1981 Budget proposes reappropriation of these funds for family housing construction. These funds are deferred pending congressional approval and enactment of the reappropriation request.

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available. Sufficient funds are available to execute approved projects and to make necessary mortgage payments.

Outlay Effect:

This deferral action has no effect on outlays.

Deferral No: D80-43

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health, Education and Welfare	New budget authority (P.L. 95-205): $ 6,520,000
Bureau: Office of Asst. Sec. for Health	Other budgetary resources: 13,440,177
Appropriation title & symbol: Scientific Activities Overseas (Special Foreign Currency Program) 75X1102	Total budgetary resources: 19,960,177
	Amount to be deferred: Part of year: $ ---
	Entire year: 10,000,000
OMB identification code: 75-1102-0-1-552	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification:

The Scientific activities overseas program of the Department of Health, Education, and Welfare is funded with appropriations which consist of excess foreign currencies owned by the United States. The currencies of Egypt, Burma, Guinea, India, and Pakistan held by the Treasury have been designated as in excess of normal U.S. needs. Funds for this program, which remain available until expended, are used for scientific research projects in those countries.

The amount of funds to be obligated during FY 1980 and the amount to be deferred for the entire year was determined after a careful review of the scientific merit of project proposals in the countries for which excess currency is available. The research projects in those countries that will contribute toward meeting U.S. scientific needs have been selected for funding in FY 1980 by HEW. The amount being deferred is excess to current program requirements and is being reserved for contingencies under provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral action has no effect on outlays.

Deferral No: D80-44

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 96-126): $ 55,000,000 1/
Bureau: Bureau of Land Management	Other budgetary resources: 8,833,570
Appropriation title & symbol: Oregon and California Grant Lands 2/ 14X5136	Total budgetary resources: 63,833,570
	Amount to be deferred: Part of year: $ ---
	Entire year: 1,133,570
OMB identification code: 14-5136-0-2-302	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other _____
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☐ Contract authority ☒ Other Appropriated Receipts

Justification:

The Interior and Related Agencies Appropriation Act, 1980 (P.L. 96-126) includes an indefinite no-year appropriation equivalent to 25 percent of timber sale receipts from revested Oregon and California Railroad grant lands. The appropriated receipts provide for management, development, and protection of Federal Oregon and California grant lands including the construction and maintenance of roads. Because the appropriation is based on receipts collected in the same fiscal period and the receipts are based on the timber harvested, the total amount which will be available for obligation can only be estimated. Not only may actual receipts vary from estimates, but receipts for the last two months of the fiscal period are not known in time to make programmatic adjustments to offset a possible shortfall between estimated and actual amounts. Deferral is planned to cushion fluctuating receipt levels. This deferral is taken pursuant to the Antideficiency Act (31 U.S.C. 665).

Total resources for this program are estimated at $63,833,570. In accordance with the provisions of P.L. 96-126, $62,700,000 is planned for obligation in FY 1980. The remaining balance of $1,133,570 is deferred.

1/ Estimated. The appropriation is for "an amount equivalent to 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands."

2/ This account was the subject of a similar deferral during FY 1979.

D80-44

Estimated Effects:

There will be no programmatic impact from this deferral in FY 1980.

Outlay Effect:

This deferral action has no effect on outlays.

SUPPLEMENTARY REPORT

Report pursuant to section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-16 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral for the drainage of anthracite mines account in the Department of the Interior increases the amount previously reported as deferred from $1,137,000 to $1,464,980. This increase of $327,980 is attributable to an adjustment in unobligated balances brought forward on October 1, 1979. The adjustment was necessary because the actual amount of unobligated balances brought forward was $327,980 higher than originally estimated.

Deferral No: D80-16A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior	New budget authority (P.L. ____) $ ---
Bureau Bureau of Mines	Other budgetary resources 1,664,980*
Appropriation title & symbol	Total budgetary resources 1,664,980*
Drainage of Anthracite Mines 1/ 14X0956	Amount to be deferred: Part of year $ ---
	Entire year 1,464,980*
OMB identification code: 14-0956-0-1-306	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [X] Yes [ ] No	[X] Other Matching grant provision of P.L. 84-219 (69 Stat 460)
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification:

Funds totalling $200,000 have been apportioned for this account to match funds anticipated to be made available by the Commonwealth of Pennsylvania for water monitoring stations and for sealing and other public health and safety projects. The remaining unobligated balance has been deferred because the Commonwealth of Pennsylvania is not expected to provide further matched funding during the year.

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral action has no effect on outlays.

1/ This account was the subject of a similar deferral during FY 1979.

* Revised from previous report.

Deferral No: D80-45

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice	New budget authority (P.L. 96-68): $27,000,000
Bureau: Legal Activities	Other budgetary resources: ---
Appropriation title & symbol: Fees and Expenses of Witnesses 1500311	Total budgetary resources: 27,000,000
	Amount to be deferred: Part of year: $1,181,000
	Entire year: ---
OMB identification code: 15-0311-0-1-752	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☒ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year (expiration date)	☐ Contract authority
☐ No-year	☐ Other

Justification:

Funds totalling $1,181,000 of annual budget authority provided to the Department of Justice's Legal Activities for fees and expenses of witnesses are being deferred pending congressional approval and enactment of a transfer of these funds to help offset increased pay costs of the Department. The funds are proposed for transfer to the Drug Enforcement Administration, salaries and expenses account ($1,077,000) and to the Legal Activities, salaries and expenses account ($104,000).

These funds are proposed for transfer because of a lower-than-anticipated caseload in the U.S. Attorney's Office.

If the deferred funds are not approved for transfer, the Office of Management and Budget will reassess the activity in this account. At that time, consideration would be given to proposing the funds for rescission.

Estimated Effect:

The effect of this deferral is to preserve these funds pending congressional action on the transfer proposal.

Outlay Effect:

This deferral action has no effect on outlays.

D80-17B

SUPPLEMENTARY REPORT

Report pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-17A transmitted to the Congress on November 15, 1979, and printed as House Document No. 96-228.

This revision of a deferral for the Federal Prison System's Buildings and facilities account modifies the justification for the deferral and increases the amount previously reported as deferred from $37,741,400 to $50,351,400. These changes make the deferral consistent with a request in the 1981 Budget to transfer funds that are available as a result of the cancellation of plans to construct two correctional facilities and apply them for increased pay costs in other Department of Justice accounts.

Deferral No: D80-17B

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Justice	New budget authority (P.L. 96-68) $ 5,960,000*
Bureau Federal Prison System	Other budgetary resources 74,167,264*
Appropriation title & symbol	Total budgetary resources 80,127,264*
Buildings and Facilities 1/ 15X1003	Amount to be deferred: Part of year $ 28,214,000*
	Entire year 22,137,400*
OMB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): [X] Antideficiency Act ($22,137,400)*
Grant program [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other

Justification:*

This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping of necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries, and provide a safe and humane environment for staff and inmates. These funds were appropriated in the Departments of State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act of 1980 and previous years. Due to the time required for planning, site acquisition, design efforts, and selection of contractors, it is not possible to complete the construction, renovation, and rehabilitation associated with all of these projects during FY 1980. The deferral of funds for the entire year, totalling $22,137,400, is consistent with congressional intent to provide no-year funding for the total cost of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665).

An additional $28,214,000 in funds are deferred in this account pending congressional approval and enactment of a transfer of these funds to help offset increased pay costs in eight other Department of Justice accounts. These funds are available for transfer due to the cancellation of plans to build both the Detroit Metropolitan Correctional Center and the Federal Correctional Institution at Camarillo, California. If these funds are not approved for transfer, the Office of Management and Budget will reassess program requirements in this account. At that time, consideration will be given to proposing these funds for rescission.

1/ This account was the subject of a similar deferral during FY 1979.

* Revised from previous report.

Estimated Effect: *

The amount deferred for the entire year could not be economically used, if made available, in fiscal year 1980, because of the planned and phased procurement, construction and installation cycle. The effect of the part-of-year deferral is to preserve these funds pending congressional action on the transfer proposal.

Outlay Effect:*

In light of current plans to transfer these funds for use in other accounts, no effect on outlays is anticipated from this deferral.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-32 transmitted to the Congress on November 15, 1979, and printed as House Document No. 96-228.

This revision to a deferral for Contributions to International Peacekeeping Activities in the Department of State reports a change in justification and increases the amount previously reported as deferred from $10,000,000 to $12,000,000. The increase is attributable to a final 1980 assessment by the United Nations of the U.S. share of the United Nations Disengagement Observer Force in the Golan Heights (UNDOF) and the United Nations Interim Force in Lebanon (UNIFIL) peacekeeping costs and close out costs for the United Nations Emergency Force in the Sinai (UNEF) which were only estimates at the time the initial deferral was reported. The change in justification involves a proposal to transfer the deferred funds to other State Department accounts to cover increased pay costs.

Deferral No: D80-32A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of State	New budget authority (P.L. 96-68) $ 67,000,000
Bureau International Organizations and Conferences	Other budgetary resources
Appropriation title & symbol Contributions for International Peacekeeping Activities 1901124	Total budgetary resources 67,000,000 Amount to be deferred: Part of year $ 12,000,000* Entire year
OMB identification code: 19-1124-0-1-153	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act* ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:*

Three United Nations Middle East peacekeeping operations are provided for in this account--the United Nations Disengagement Observer Force in the Golan Heights (UNDOF), the United Nations Interim Force in Lebanon (UNIFIL), and the United Nations Emergency Force in the Sinai (UNEF).

In July 1979 the United Nations failed to extend the mandate of UNEF. As a result, the forces associated with UNEF were either rotated to other UN peacekeeping operations in the Middle East or returned to their country of origin. Of the $20,000,000 provided in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980 (P.L. 96-68) for UNEF, only $8,000,000 was required to pay the U.S. share of UNEF close out costs and to pay our increased assessed share of UNEF and UNDOF costs.

The President's 1981 Budget proposes to transfer the remaining $12,000,000 to cover increased pay costs in other State Department accounts. These funds are deferred pending congressional approval and enactment of the proposed transfer. If the transfer is not approved, the Office of Management and Budget would recommend to the President that these funds be proposed for rescission.

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be used if made available.

Outlay Effect:

This deferral has no effect on outlays.

* Revised from previous report.

D80-18A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-18 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

The amount deferred for the United States Emergency Refugee and Migration Assistance Fund is $25,000,000, an increase of $19,350,000 over the amount previously reported as deferred. This increase results from additional budgetary resources made available by the second 1980 continuing resolution (P.L. 96-123).

Deferral No: D80-18A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State	New budget authority (P.L. 96-86, 96-123): $25,505,827*
Bureau:	Other budgetary resources: 7,494,173*
Appropriation title & symbol: United States Emergency Refugee and Migration Assistance Fund, Executive 1/ 11X0040	Total budgetary resources: 33,000,000*
	Amount to be deferred: Part of year: $25,000,000*
	Entire year:
OMB identification code: 11-0040-0-1-151	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: *

Section 501(a) of the Foreign Relations Authorization Act, Fiscal Year 1976, Public Law 94-141, approved November 29, 1975, amended section 2(c) of the Refugee and Migration Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

By Executive Order No. 11922 of June 16, 1976, the President allocated all funds appropriated to him for the Emergency Fund to the Secretary of State but reserved to himself the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

Consistent with the President's reservation of authority set out in Executive Order No. 11922 and to achieve the most economical use of budgetary resources, $25,000,0000 of unobligated balances in the Fund have been deferred. It is anticipated that reapportionments may be made on a case-by-case basis as the President determines assistance to be furnished and designates refugees to be assisted by the Fund.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect:

There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect:

This deferral action has no effect on outlays.

1/ This account was the subject of a similar deferral during FY 1979.

* Revised from previous report.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report revises Deferral No. D80-20, transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision of a deferral for facilities and equipment (Airport and Airway Trust Fund) in the Federal Aviation Administration increases the amount previously reported as deferred from $138,211,075 to $304,291,699. This increase of $166,080,624 results from additional budgetary resources made available to this account by the enactment of the Department of Transportation and Related Agencies Appropriation Act, 1980 (P.L. 96-131).

Deferral No: D80-20A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. 96-131) $ 250,000,000*
Bureau Federal Aviation Administration	Other budgetary resources 346,991,699*
Appropriation title & symbol Facilities and Equipment (Airport and Airway Trust Fund), FAA 1/* 69X8107 699/18107 698/08107 690/48107	Total budgetary resources 596,991,699* Amount to be deferred: Part of year $ --- Entire year 304,291,699*
OMB identification code: 69-8107-0-7-402	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program ☐ Yes [X] No	☐ Other
Type of account or fund:* ☐ Annual [X] Multiple-year 698/08107 Sept. 30, 1980 2/ 699/18107 Sept. 30, 1981 690/48107 Sept. 30, 1984 (expiration date) [X] No-year	Type of budget authority: [X] Appropriation ☐ Contract authority ☐ Other

Justification:

Funds from this account are used to procure specific congressionally-approved facilities and equipment for the expansion and modernization of the national airway system. Projects financed from this account include construction of buildings and purchase of new equipment for new or improved air traffic control towers, automation of the en route airway control system, and expansion and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Acts of 1980 and prior years. The estimated total cost for each project is included in the budget submission and appropriation for the year in which it is requested. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with the congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

Estimated Effect:

This deferral action is consistent with the normal operation of this program. The amount deferred could not be economically used if made available in FY 1980 because of the planned

1/ This account was the subject of a similar deferral in FY 1979.

2/ None of these funds are deferred.

* Revised from previous report.

D80-20A

multi-year procurement, construction, and installation cycle.

Outlay Effect:

This deferral action has no effect on outlays.

D80-24A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D80-24 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral for the construction of mint facilities in the Department of the Treasury's Bureau of the Mint reports a change in justification and increases the amount previously reported as deferred from $3,229,583 to $5,729,583. These revisions to the previous report reflect deferral of the entire amount remaining in this account pending congressional action on a request for transfer of the funds to cover increased pay costs of the United States Secret Service.

Deferral No: D80-24A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Treasury	New budget authority (P.L. ____): $ ---
Bureau: Bureau of the Mint	Other budgetary resources: 5,729,583
Appropriation title & symbol: Construction of Mint Facilities 1/ 20X1617	Total budgetary resources: 5,729,583
	Amount to be deferred: Part of year: $5,729,583 *
	Entire year: *
OMB identification code: 20-1617-0-1-803	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year ____ (expiration date)	☐ Contract authority
☒ No-year	☐ Other ____

Justification:*

The Department of the Treasury is no longer seeking funding authority to construct a new mint at Denver. Other, lower priority uses for these funds could be found. However, after considering these various other uses, the Administration has proposed a transfer of the remaining funds in this account to cover increased pay costs for the United States Secret Service. Therefore, $5,729,583 is deferred pending congressional approval and enactment of the proposed transfer.

Estimated Effect:*

The effect of this deferral is to preserve these funds pending congressional action on the transfer proposal.

Outlay Effect:*

In light of current plans to transfer these funds for use in another account, no significant effect on outlays is anticipated from this deferral.

*Revised from previous report.
1/ This account was the subject of a similar deferral in FY 1979.

D80-28A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D80-28 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral for the National Alcohol Fuels Commission increases the amount previously reported as deferred from $250,000 to $750,000. This increase of $500,000 results from an increase in budgetary resources made available by the Department of Transportation and Related Agencies Appropriation Act, 1980 (P.L. 96-131).

Deferral No: D80-28A

D80-28A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency National Alcohol Fuels Commission	New budget authority (P.L. 96-131) $1,500,000*
Bureau	Other budgetary resources 1,498,136*
Appropriation title & symbol Salaries and expenses 1/ 48X1700	Total budgetary resources 2,998,136* Amount to be deferred: Part of year $ --- Entire year 750,000*
OMB identification code: 48-1700-0-1-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: *

Authorized by P.L. 95-599, the Federal Aid Highway Act of 1978, the National Alcohol Fuels Commission is undertaking a thorough investigation of the long and short-term potential of alcohol fuels from various sources as a way to meet the nation's energy needs. The Commission will recommend policies and provide an assessment of the associated costs and benefits of those policies. The commission must publish its report in December 1980, and phase out its operations by June 1981.

The Supplemental Appropriations Act, 1979 (P.L. 96-38) and the Department of Transportation and Related Agencies Appropriation Act, 1980 (P.L. 96-131) provided funds totalling $3.0 million to fund the Commission's activities. The latest Commission spending plan indicates funding requirements through FY 1980 will total $2.25 million, and $750,000 will be required for obligation in FY 1981. Therefore, $750,000 is deferred for the remainder of this fiscal year.

This deferral is consistent with the congressional intent to provide no-year funding for the Commission and is taken under the provisions at the Antideficiency Act (31 U.S.C. 665). The deferral will assure prudent financial management for the duration of the Commission and is consistent with their operating plan.

1/ This account was the subject of a similar deferral during FY 1979.

* Revised from a previous report.

Estimated Effects:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effects:

This deferral action has no effect on outlays.

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Part XI

Department of Agriculture

Food and Nutrition Service

1979 Amendments to the Food Stamp Act: Provision of Social Security Numbers; Fraud Disqualification and Recovery; Rounding Procedures and Clarification on Hotline Alternatives

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdts. 152, 154 and 161]

1979 Amendments to the Food Stamp Act: Provision of Social Security Numbers; Fraud Disqualification and Recovery; Rounding Procedures and Clarification on Hotline Alternatives

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking implements the 1979 Amendments to the Food Stamp Act of 1977 on provision of social security numbers, and fraud disqualification and recovery. Final rulemaking on group living arrangements will be published separately at a later date. The delay in publishing the final rulemaking on group living arrangements allows the Department additional time to consider all the ramifications of this provision. Proposed regulations on all three provisions were published at 44 FR 62862; October 31, 1979 and republished at 44 FR 63496; November 2, 1979. In addition, this rulemaking finalizes proposed rules revising the current rounding procedures published at 44 FR 57414, October 5, 1979; and provides new language to clarify outreach regulations published at 44 FR 64386, November 6, 1979.

Two major impacts are expected from these final regulations. The Department expects program integrity to be enhanced by the social security number and fraud procedures since these will provide the tools and incentives necessary to lessen fraud and abuse. The second impact the Department expects is that the rounding procedures (published proposed at 44 FR 57414; October 5, 1979) will improve program efficiency by increasing comparability between this program and public assistance programs.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Policy/Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, FNS, USDA, Washington, D.C. 20250. (202) 447–9075.

SUPPLEMENTARY INFORMATION: 1979 Amendments to the Food Stamp Act of 1977.

This preamble articulates the basis and purpose behind any significant requirements which have been changed from the proposed rulemaking. The reasons supporting the provisions of the proposed rules which are unchanged by the final rules were carefully examined in light of the comments to determine the continued applicability of each justification. Unless otherwise stated, or unless inconsistent with the final rules or preamble, the rationale contained in the proposal should be regarded as a basis for the pertinent final rules. Thus, a thorough understanding of the grounds for the final rules may require reference to the proposed rulemaking.

The amendment sets forth procedures by which social security numbers may be obtained for all members of food stamp households as authorized by Section 4 of Pub. L. 96–58. That section amended the Food Stamp Act of 1977 (Title XIII of Pub. L. 95–113, 91 Stat. 958) to enable the Department to require as a condition of eligibility for participation in the Food Stamp Program, that each household member furnish to the State agency his or her social security account number or numbers.

In addition, this rulemaking amends the regulations so that individuals subject to disqualification from program participation for fraudulent conduct are required to agree to either a reduction in the household's food stamp allotment or to a repayment in cash in order to again participate in the Food Stamp Program, as mandated by Section 5 of Pub. L. 96–58.

This rule also amends Part 273 to reflect changes made by Section 6 of Pub. L. 96–58 to permit each State agency to retain 50 percent of the value of all funds or allotments recovered or collected through prosecutions or other State activities directed against individuals who fraudulently obtain food stamp allotments.

A total of 69 comment letters were received on the 1979 amendments on social security numbers, group homes and fraud disqualification and overissuance recovery. There were 23 comment letters received from State agencies, 32 from public interest groups, 4 from local agencies, two from other government agencies, two from regional offices and six from the general public.

It should be noted that all of the comments received by December 17, 1979 were given full consideration. The comments received after December 17, 1979 were considered to the fullest extent possible. There were several technical comments, relating to regulation references, word changes, etc. These are not specifically addressed in this preamble.

Social Security Numbers

Implementation

The section on implementation of the social security numbers (SSN) provisions received 17 comments. Two of the commenters misunderstood the proposed regulations, commenting that implementation of the SSN requirement by July 1980 is unrealistic. The Department did not intend that this requirement be fully implemented by July 1980. The final rules require that State agencies start requesting participants' and applicants' social security numbers no later than the first of the month, 120 days from the date of publication of final rules. The numbers will be requested at the time of application and recertification.

The Department feels that this implementation schedule will provide State agencies adequate time to prepare for implementation. One State agency commented that the proposed implementation schedule was reasonable and would not be disruptive to normal operations. The Department concurs with this position.

Fourteen commenters expressed the opinion that program participants should receive advance notification of this eligibility requirement and the consequences of the failure to comply. One local agency and 13 public interest groups suggested advance notification in the form of individual notices, media releases and other outreach efforts. The Department believes that these suggestions have merit, and the final rulemaking has been rewritten to include an advance notification requirement. Specifically, the final rulemaking allows the State agency to send a one-time notice prior to implementation or to send a notice of the SSN requirement when notices of expiration are sent. State agencies may use one or a combination of these alternatives. In addition the State agency will have to give some type of notice through the media, for example, a press release announcing the requirement.

Requirement for Participation

The four large areas of concern expressed by the commenters on this section were as follows: (1) Requiring the SSN as a condition of eligibility; (2) application of requirement to children; (3) status of aliens relative to the requirement; and (4) 90-day participation pending receipt of the number.

The first area, requiring SSN's as a condition of eligibility received a total of 32 comments with four State agencies and 11 public interest groups opposing

the requirement, and 12 State agencies, two local agencies, two government agencies and one public interest group supporting the requirement. One State agency opposing the requirement stated it could not serve any purpose related to cross matching of information in their State since they were on a manual system. One State was concerned about the increase in workload and administrative cost although this State, while not actually in support of the requirement for that reason, did not strongly oppose the requirement. One State agency questioned the value of SSN's as antifraud devices, especially to noncomputerized States. Another State agency was opposed to making the requirement mandatory. This State suggested that since Congressional legislation offered this provision as an option, at least initially, this option should be passed along to the States. It was believed, based on AFDC enumeration experience, that this requirement would consume an "extraordinary amount of staff time" and that the results did not justify the increased workload.

The public interest groups opposing this requirement gave numerous reasons. Those most often cited were as follows: clients are already overburdened with a process requiring excessive verification of personal situations; there are enough eligibility requirements already and further eligibility requirements will reduce program participation; the requirement is an overzealous attempt to eliminate fraud and constitutes harassment; it will be a hardship for poor people to obtain SSN's; and, finally, Congress intended to allow the requirement, not mandate it. As stated in the preamble to the proposed regulations, the Department researched Congressional intent in the area of requiring SSN's as a condition of eligibility. The legislative history views the use of an SSN as a positive measure to counteract fraud and program abuse. The Department has decided to mandate the requirement as the best way to effectively carry-out the Congressional intent. The Department also does not agree that this requirement will create an unmanageable workload or will result in reduced program participation by harassing and overburdening applicants and participants. It is estimated that over half of the food stamp caseload already has SSN's i.e., that portion of the caseload which has been subject to AFDC enumeration as well as participants who receive social security and/or SSI benefits and the working members of nonassistance food stamp households. The Department is allowing for program participation pending receipt of the SSN. Unless an applicant or participant actually refuses to cooperate it is unlikely that participation will be adversely affected.

The State agencies and other commenters supporting the requirement generally feel that the requirement will indeed reduce fraud, and that it clearly follows Congressional intent.

Some of the State agencies supporting the requirement did, however, comment in the second area of concern in this section, that is, the application of the requirement to children. Seven comments were received on this subject. One Regional Office, four States and two public interest groups wanted the requirement limited to adults or persons receiving income. Some of the commenters suggested limiting the requirement to members of households over 16 or 18 years of age. Another commenter suggested that the requirement be applied to all individuals who are or have been employed, or who are or have been receiving income from any source, regardless of age. These commenters all felt that there is very little benefit to be gained by requiring SSN's for children, particularly those without income. Delaware pointed out that based on their AFDC experience, social security enumeration requires a significant amount of staff time and that since most adults have social security numbers, most staff time is spent trying to enumerate infants and young children. They further note that "the number of infants and young children who are subsequently found on computer cross checks to have earned income is obviously zero; the number found to be receiving unreported SSI or OASDI benefits is very small". It was the opinion of the four States commenting on this that the benefits to be derived from enumerating children could not justify the manhours that would be expended in this effort.

After evaluating these comments, the Department has decided to require SSN's for household members 18 years and over and for those children under 18 years who receive countable income from any source. It is the Department's opinion that this responds both to the concern of the commenters and to the intent of Congress that SSN's be used for income cross-checking. The final rulemaking has been rewritten to reflect this decision.

The Department plans, at a later date, to evaluate the cost effectiveness of requiring SSN's as a condition of eligibility for all household members, regardless of age, and may expand the requirement in the future, if, contrary to the comments of these States, it is proven cost effective.

The third issue raised in this section concerned the application of the requirement for an SSN to aliens. Eight commenters, all public interest groups, stated that aliens should be exempt from the requirement until such time as SSA and USDA have negotiated an agreement for the provision of SSN's to aliens. As stated in the preamble to the proposed regulations, SSA currently issues SSN's to aliens admitted for permanent residence, for refugees and for those legal temporary aliens who are given employment authorization by the Immigration and Naturalization Service (INS). Moreover, legally admitted temporary aliens who do not have documentation that they are "employment authorized" are issued SSN's when they have valid nonwork reasons, for example if they have a bank account. Discussion with SSA indicates that applying for food stamps will be considered a valid reason for obtaining an SSN. However, there should not be significant problems relative to temporary aliens since most aliens, with status as alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country, are not eligible for food stamps, although they may be able to obtain an SSN as explained above.

Thirteen commenters addressed the last area of concern in this section, the provision of allowing 90-day participation pending receipt of an SSN. One State agency and seven public interest groups supported the 90-day provision as a fair and reasonable time to allow for participation pending receipt of an SSN. One government agency opposed 90 days as too long and suggested a 45–60 day time-period, although, as explained below, this may have been based on a misunderstanding of the time it takes to get an SSN. One State agency and one member of the general public suggested 180 days instead of 90 days, stating that 90 days is not long enough. The proposed regulations (in the preamble) noted that the 31 day average processing time was from the completion of the application for an SSN to the date of SSN issuance. SSA staff indicated that this should be reworded to state that, based on study information, the average processing time from the point at which *all required documentation has been submitted* to the date of SSN issuance is approximately 31 days. In many cases the individual applying for an SSN will need some time to obtain the documents required to be submitted with the

application for the SSN. For example, an individual may need to write to a State or local agency to obtain a copy of a birth certificate and receipt of this document may take several weeks. To allow for a possibly longer processing time due to a delay in the receipt of required documentation the Department has reworded the final regulations to specify that the 90 day participation pending the receipt of an SSN shall begin at the date of the food stamp eligibility determination rather than the date of application. This provision, as well as allowing for participation in excess of 90 days (with good cause), should address those situations in which the process takes longer than 90 days. It is the Department's position that the 90 days as reworded, and, in addition, the good cause provision, will result in equitable treatment of program participants.

Obtaining SSN's for Household Members Required To Provide an SSN

There were four comments on this section of the proposed regulations. One local agency felt that it should be optional for the State agency to file the SS–5, to avoid requesting verification of citizenship which is not currently required in the Food Stamp Program. A public interest group wanted it made clear that States having agreements with SSA to allow filing of SS–5's for individuals without SSN's are obligated to file those applications. As both the proposed and final regulations note, it is actually up to the applicant or the participant to decide whether or not to request the State agency to take the applications for an SSN. If the individual requests this service and the State agency has such an agreement with SSA, then the State agency will process the application. SSA commented that State agencies with an agreement with SAA for AFDC enumeration should renegotiate new agreements with SSA to include the Food Stamp Program as soon as possible.

Language has been added to the final regulations to this effect and to require that all State agencies which currently have agreements with SSA have to renegotiate those agreements to include food stamps. One State suggested that USDA should come to some agreement with SSA to ensure prompt processing of applications for an SSN. The Department expects that SSA will handle these applications as expeditously as possible.

Verification of Social Security Numbers

The section on verification of SSN's at initial and subsequent certification received 15 comments. Six public interest groups supported certification pending verification of an SSN and there were no comments opposing this concept, which remains unchanged in the final rules. One Regional Office and one other government agency noted that State agencies do not have routine user status of BENDEX for food stamps purposes and until such status is approved BENDEX could only be used if the responsible individual representing the household signs an individual release of information form. This was true at that time but effective January 7, 1980, the Food Stamp Program was given routine user status of BENDEX (exclusive of use of wage information) and consequently no change to the proposed regulations is necessary.

SSA commented that it should not be directly queried by local food stamp staff until the State agency has been queried for SDX information since each State receives a SDX tape or printout. Local agencies should attempt to contact their State office for SDX information prior to contacting SSA directly for this information.

One Regional Office, two States and one public interest group suggested that the regulations specify that staff should not reverify an SSN that has already been verified for use in other programs such as AFDC, Medicaid, etc. The Department concurs with this suggestion and has included this in the final rulemaking. The Department has also clarified that once an SSN is verified it shall not be reverified unless the number or the identity of an individual becomes questionable.

Finally, two States commented on the methods of verification; one State suggested that verification of SSN's should be performed through a tape exchange with SSA and another State suggested that verification should be limited to either a copy of an actual social security card, verification from SSA through tapes or other means. The Department wants to allow State agencies the flexibility to handle the variety of case situations which they will face. For those States which have BENDEX and/or SDX tapes readily accessible the use of these tapes to verify SSN's would be practical. In situations where household members will not be either BENDEX or SDX or these tapes are not readily accessible, then the State agency will have to use, as verification of SSN's, documents containing the SSN which are provided by the household. If the State agency chooses to rely on the household to provide documentation then the State agency cannot specify that only one type of documentation, such as a social security card, is acceptable as verification.

Expedited Service

This section received 12 comments, 11 of which reflected a misunderstanding of the proposed rulemaking. A total of 11 public interest groups interpreted the proposed rules incorrectly, assuming that the Department was proposing to establish a shorter time standard for getting an SSN in those cases in which households receive expedited service. The Department never intended that households certified under expedited procedures would not receive the 90 days allowed other households to participate pending receipt of an SSN. The Department's intention was that households receiving expedited service be certified before being asked to furnish or obtain a social security number. Once these households receive their first allotment they will be required to furnish or apply for an SSN and allowed the full 90 days from the date of eligibility determination allowed other households to obtain the SSN. The final regulations have been rewritten to clarify this provision.

One State agency felt that applicants using expedited service should furnish or obtain their SSN's before receiving their first allotment. However, as stated in the preamble to the proposed regulations, Congress specifically indicated that individuals entitled to expedited service would be permitted to furnish an SSN after receiving their first allotment. This was intended to avoid a delay in benefits simply because an SSN cannot be furnished immediately. The final regulations as written reflect this intent.

Failure To Comply

This section of the proposed regulations prompted 11 comments. One government agency suggested that the disqualification should be applied to the entire household. As stated in the preamble to the proposed regulations the intent of Congress was very clear on this subject. The legislative history specifically references the individual without an SSN who fails to comply by either refusing to provide or to apply for an SSN. It never refers to disqualification of the entire household. Ten public interest groups expressed the opinion that only adults should be disqualified for failure to supply their SSN. The feeling of these commenters was that minors are not responsible for obtaining their own number and thus should not be disqualified if an adult member of a household acts irresponsibly. This concern is, of course, alleviated somewhat by the fact that the

final rulemaking requires SSN's only for household members 18 years and over as well as for children under 18 who receive countable income. The Department, however, is of the opinion that obtaining SSN's for children under 18 who receive countable income is a household responsibility and that there would be no incentive for the responsible adult to obtain and furnish a number for such a child if it makes no differenre if they do not. The Department feels that it is more consistent with present disqualification policy and more straight forward to disqualify the household member who is receiving income and for whom the SSN is sought, even if this individual is a minor. The final rulemaking is this section is written to apply to each household member for whom an SSN is required.

Determining Good Cause

Ten comments were received on this section of the proposed regulations. One State and five public interest groups supported the section as written. Some commenters thought that the section should be more specific and one commenter felt that a requirement should be added to require a caseworker to assist a household member in obtaining the documents required by SSA to establish age, identity and citizenship or alien status if the individual is having difficulty obtaining these. The Department feels that the section is adequately specific: it is clear that as long as the individual has applied for and provided, or is trying to obtain, the documentation necessary for an SSN application, good cause will exist for a delay in furnishing an SSN. The Department has added language to this section suggesting that the State agency caseworker assist the individual in every way possible in obtaining the SSN. SSA has also suggested that it would be helpful if the State agencies distributed the SSA pamphlet "Applying for a Social Security Number" to program applicants and participants. State agencies are encouraged to do so and should contact SSA to obtain sufficient copies of this informational pamphlet.

Use of Social Security Numbers

This section of the proposed regulations received ten comments, nine of which were from public interest groups. These groups felt that the language was too broad and that it could result in abuse of "client privacy and rights." These commenters generally suggested that the use be limited to verification of income eligibility, preventing duplicate participation and facilitating mass changes. The remaining commenter, a government agency, felt that the language was too weak and that the use should be more specifically addressed, i.e., use of SSN's to match wage information, etc. As explained in the preamble to the proposed rulemaking, the Department felt that Congress did intend that SSN's be used as an antifraud device. Using the SSN's to avoid duplicate participation is an example of this use. The amendment specifies that State agencies shall have the same access provided to HEW to the information regarding individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act, to the extent that the Secretaries of USDA and DHEW determine that access to SSI information is within the purposes set forth in the statute. Other uses not inconsistent with Federal or State privacy laws or other pertinent legislation, and which further administration of the program, would also be permitted. The proposed regulations allowed for such usage, and the final regulations remain unchanged.

SSN Disqualification

This section of the proposed regulations, concerning the sending of a notice of adverse action to a household containing a member who has failed to comply with the SSN disqualification, received six comments, all from public interest groups. The six commenters all requested that the notice of adverse action reference the household's right to a fair hearing and one commenter suggested that available legal aid be mentioned. There is no change needed in the final regulations to satisfy these comments. The content of a notice of adverse action is clearly defined in the October 17, 1978 regulations (43 FR 47846) and includes an explanation of the household's right to a fair hearing. A reference to the section of the October 17 regulations specifying the content of the notice has been included in the final regulations.

Mass Changes

This section received a total of 15 comments. One State, one local agency and seven public interest groups opposed the requirement to conduct desk reviews after July 1, 1980 for those households receiving social security/SSI benefits. These commenters felt that these households are being unfairly singled out. They also questioned the Department's requiring desk reviews in this situation when desk reviews were not mandated for the implementation of the new medical and shelter deductions. The Department gave State agencies the option of conducting desk reviews of cases affected by the medical and shelter deduction regulations. Desk reviews for medical expenses are pointless as the level of the deduction can only be determined through a report made by the household. Desk reviews for shelter expenses alone would duplicate effort to process reported changes in medical expenses. With these factors in mind the Department did not think it practical to mandate desk review conversion for the medical and shelter deduction amendment. State agencies do have available to them information on the SSI/Social Security cost-of-living increases and can act without contact from a participant. State agencies with the capability to make point-in-time changes through use of a computer or by other means will be able to make the change in benefits without the use of desk reviews. In addition, in most States some cases will be handled through recertifications which are due during the 180 days allowed to effect the cost-of-living increase change.

For the remaining cases, it is the Department's opinion that, in 1980, desk reviews of cases receiving social security/SSI cost-of-living increases, within 180 days of the effective date of the increase, will result in these cases being treated more uniformly and equitably than in the past. The variance between States in the handling of this change will be greatly reduced. For this reason the final regulations retain the desk review requirement for cases which are not changed through other means. The final regulations also allow States with the capability to perform an automated conversion, but which have some difficulty in doing so, to identify the affected cases by other means.

Six State agencies commented on the method of effecting the social security/SSI cost-of-living increase on an ongoing basis. One State agency felt that desk reviews were preferable to conducting complete recertifications of these particular cases. Two State agencies and one local agency were concerned about the increased workload resulting from mandatory mass reviews of social security and SSI cases each year. Another State agency, Kentucky, suggested that States "be given the latitude to either assign certification periods as provided in the proposed regulations or conduct desk reviews during July, August, and September on cases whose certification does not expire during one of these months." They felt that allowing this option would reduce the number of times elderly participants would need to come to the

certification office and also reduce the administrative burden on the State agency. The department has rewritten the final regulations to allow all State agencies without the capability to perform an automated conversion the option of effecting the social security/SSI cost-of-living increases through scheduled recertifications and/or through a desk review on these specific cases.

A State agency may use one or a combination of these options. If a State agency with the capability to perform an automated conversion has difficulty doing so, it may also effect the increases through recertification and/or desk reviews. Moreover, to lessen the workload burden on State agencies, the final rulemaking allows States to complete this conversion over a 120 day period. The Department wants to both allow States sufficient time and to ensure uniform treatment of these cases.

Fraud Disqualification, Recovery and Retention

Introduction

Of the 69 comment letters, 46 letters made one or more references to the proposed regulations on fraud claims. The comments were primarily on areas in which the Department has discretion and not areas set by the statute. Overall, 22 State and local agencies and 19 public interest groups submitted comments on the fraud provisions with the remaining comments from the general public and from FNS Regional Offices and other governmental offices. The primary issues discussed by commenters included the minimum amount of a claim for conducting a fraud hearing; implementation; the six-month disqualification for individuals convicted of fraud by a court when the court does not impose a period of disqualification; holding fraud hearings for current ineligibles, the rate of allotment reductions and claims repayment.

Increasing the Minimum Amount for Fraud Claims

In the preamble to the proposed rule, suggestions were requested on raising the present limit of $35 for conducting a fraud hearing. Fourteen comments suggested that the minimum be raised to $100, five suggested that the amount be tied to the cost of pursuing a fraud claim; and the remaining comments had various suggestions or opinions including a two-tiered system based on the amount of the claim and any previous offenses. Although the comments received provided various suggestions on the minimum level of claims to pursue, the Department does not believe that sufficient information is yet available to make a decision on changing the $35 minimum.

The comments did, however, point out the need for further study of the issue. The Department intends to survey States' costs for collecting fraud and nonfraud claims. After the results of the survey are evaluated, proposed rulemaking will be issued, if warranted.

Implementation

Two comments were received which discussed the implementation schedule. The issues raised were the 120-day implementation schedule and when the 50 percent retention rate becomes effective. The proposed 120-day implementation deadline was adopted for the final rule; however, the Department did clarify that implementation would be the first of the month following the 120th day after publication. The Department believes that this period gives States adequate time to make all necessary changes. Changes in reports required by FNS are currently being made and, if not completed by implementation, FNS will provide instructions on submitting interim reports.

One commenter suggested that the Department clarify whether fraud claims established or collected after implementation are subject to the new provisions including the 50 percent State retention. The Department is adding language to make clear that the State may keep half of fraud claims *collected* after implementation, even though the fraud claim was established prior to implementation. The 50% retention would even apply to fraud claims established under the 1964 Act which are collected after these provisions are implemented. However, the State agency may only apply the recovery provisions of these regulations to fraud claims which have been established through an administrative fraud hearing or a court of appropriate jurisdiction as provided for by the 1977 Act and subsequent regulations. These provisions are, therefore, retroactive to implementation of the fraud claims provisions under the 1977 Act.

Any individual who was found guilty of fraud either through an administrative hearing or by a court and who is not already making restitution must be notified (through the revised agreement letter) of the new recovery requirements and be notified that failure to agree to restitution will result in another period of disqualification until agreement is made. In addition to notifying these individuals, the State agency may want to notify persons making cash repayments of the changes in order to allow them to convert to allotment reduction. Regardless, should this latter category of individuals fail to continue its cash repayments subsequent to implementation, these individuals must be sent the agreement letter when cash repayments cease or diminish, before allotment reduction may be imposed.

Six-Month Disqualification

Another provision which received several comments was the imposition of an automatic six-month disqualification for individuals found guilty of fraud by a court which failed to address or specify a period of disqualification. The majority of comments opposed this provision. Seven comments opposed the six-month disqualification based on lack of legal authority although those States commenting on the issue generally supported it if the Deparment believed that there was sufficient legal authority. The rationale for this decision was provided in the preamble to the proposed regulations. The Department believes that disqualification of individuals found guilty of fraud is required by the Act and supported by the legislative history. A six-month disqualification is the minimum cited in the Act for a court decision of fraud. The Act specifically provides that an individual is ineligible upon being found criminally or civilly fraudulent for a period of not less than six and not more than 24 months as determined by the court. Thus, the Department believes Congress intended the court to have authority to set the period of disqualification but, without the court's determination, the individual would be ineligible to participate for six months by operation of the statute itself. This provision allows for more equity between individuals found guilty of fraud by a court as all such individuals would be disqualified, regardless of whether or not the court addressed the issue. It should be noted that the individual and his/her household would receive notice prior to the disqualification. The Department believes, therefore, that a six-month disqualification balances legislative intent and program uniformity with fairness to fraudulent individuals and provides for protection of their rights.

Fraud Hearings for Current Ineligibles

About 19 commenters expressed an opinion on holding an administrative fraud hearing for currently ineligible households; all but five opposed the provision. Of these, 12 public interest groups and one State agency were in opposition with five State agencies and the Department's Office of the Inspector

General expressing support. The most frequent reason given for opposing the provision was that the individual's rights could be violated primarily because the person would be more likely not to attend the hearing when not participating. Most of those supporting the provision believed it would further curb abuse and be a meaningful deterrent to fraud.

The Department is retaining this provision as proposed. An opinion from the Department's Office of General Counsel (OGC) states that the Food Stamp Act clearly provides authority for administrative fraud hearings but "* * * is not explicit as to the appropriate time for them." Further, it is believed that this provision contributes to the clear Congressional intent of aggressive action to counteract fraud.

This provision will also assist individuals accused of fraud because the information necessary to oppose the allegation of fraud would be more current and witnesses more readily available. One commenter, a public interest group, conditionally supported this provision if "clear and specific notice" were provided. The notice procedures already set forth in the regulations would be followed, thus assuring timely notices of an impending hearing and an explanation of the household's rights.

Agreement Letters

Eleven letters contained comments on some aspect of the written agreement letter for restitution. Five commenters felt that States should not be permitted to deviate from the FNS-designed agreement letter. This suggestion is not adopted as States need the flexibility to develop forms compatible with their own systems. However, all State-designed forms must be approved by FNS which will closely monitor them to assure that the minimum requirements are met including a clear explanation of the household's rights. One commenter suggested that the names and addresses of available legal services be added. The Department has not adopted this suggestion since the notices telling the household of the fraud hearing and other hearing notices contain this information.

Two State agencies commented that the notice should contain language that advises the household that it will automatically be subject to benefit reduction for failure to make a scheduled cash payment. As a result of these regulations, changes in the claims forms are in preparation, and all the information required by these regulations is being incorporated, including language on this point. States will be allowed, however, to deviate from the FNS-designed forms under the same conditions allowed for other forms.

Changes in Household Composition

Only two comments were received on handling fraud claims when the guilty individual has left the household. One was technical and the other opposed taking recovery action against the household in which the fraudulent individual currently is a member. The Department is adopting the technical suggestion which is to delete the introductory phrase from § 273.18(d)(1) concerning collection of nonfraud claims. The provision on collection of fraud claims is retained and a clarification on pursuing nonfraud claims is added. The Department can only reiterate the reasons for this action from the proposed rule. This provision conforms most closely to the law which states that the fraudulent individual is responsible for making repayment of the overissuance. This provision places the liability with the individual thus making the individual's current household liable, not the former household.

Repayment of Fraud Claims

General. Numerous comments addressed various aspects of the fraud collection system. The majority of these comments were from public interest groups expressing concern that the regulations did not adequately ensure the negotiation of the amount of a repayment schedule or the renegotiation, if needed, of these items if the household's economic situation changes. The Department believes these rights are stressed in the regulations as the method of repayment and the amount of cash installments are discussed with the household and fully explained in agreement letters. Establishing a repayment schedule can only be accomplished with participation by the household. Consequently, the final decision of the State agency is based on discussion with the household and analysis of its economic situation.

The guilty individual has a responsibility to repay the fraudulent overissuance, and the regulations are structured to require repayment, either through cash or allotment reduction, or to enforce disqualification for failure to agree to repayment. Therefore, these provisions are revised slightly to require that the household be advised of its right to request a renegotiation of repayment agreements but the State agency retains its rights to enforce collection. Another area of concern was that the set rate of allotment reduction allows for only limited exceptions. The Department believes because allotment reduction is more administratively complex than cash repayment, and because the household is offered the option of cash repayments that the State agency must be permitted to recover an amount which will possibly provide a higher rate of return than cash especially when allotment reduction is imposed for failure to make scheduled cash payments. Therefore, the State agency is allowed a set rate, with the only exceptions being those that will allow for liquidation within a year or to make reduction easier to account for, both by the State agency and for the household to know exactly, from month to month, its allotment level.

Comments were received that stressed the need for reinstating the disqualified member as soon as possible at the end of disqualification period. This is desired to allow for prompt recovery of the fraudulent overissuance through allotment reduction should the individual fail to make cash repayment. However, due to statutory constraints, these regulations require that the fraudulent individual continue his/her disqualification period for failure to agree to restitution. The only time a State agency can automatically impose allotment reduction is when the fraudulent individual makes a lesser payment or no payment at all. These households will not receive a notice of adverse action as they are informed of the consequences of failure to make agreed to cash payments. The regulations do prevent participation by individuals who do not meet their responsibility to make restitution.

Other comments received suggested considering coupons "retained" during the individual's period of disqualification as recovered funds. The Department maintains that recovery and disqualification including disqualification for failure to agree to repayment are two separate and distinct issues and must remain so. The Act requires both disqualification *and* recovery and discusses these in terms of two separate actions. If benefits lost during disqualification were counted towards repayment, the fraudulent individuals are being credited benefits which, by law, they are ineligible to receive. The language from the proposed regulation prohibiting this action is retained. Another issue raised by commenters on this provision was that households should not be forced to liquidate all of its assets to make a lump sum cash repayment. It was never intended in the proposed rules that a household would be so compelled. Therefore, sentences are added to the

final regulations to avoid this misunderstanding.

One commenter suggested that claims over $100 be subject to a combination of cash repayment and allotment reduction. This was not adopted as a requirement but it is not precluded by the regulations if voluntarily agreed to by both the State agency and the household. Because of the potential for administrative complexities in many States for tracking the two methods of payments, this was not mandated. The household would be informed of its rights especially including its right to renegotiate the monthly cash payment level should its economic circumstances change.

Two State agencies suggested that a minimum cash repayment amount be established. This prospect is not precluded by the regulations. The regulations allow for negotiation of the repayment schedule between the State agency and the household, with the State agency having to "accept installment payments." Therefore, the State agency has the right to refuse to settle on the amount tendered by the individual when it considers this amount to be insufficient. The individual would then be required to make adjustments or be subject to either disqualification or automatic allotment reduction depending on the timing of the negotiation.

One commenter suggested that repayment be postponed until the household's income reaches a set percent of the poverty guideline. This is not contemplated by the statute, and the Department has not adopted this suggestion. The law does not exempt any individual found guilty of fraud from repayment.

Rate of allotment reduction. About 39 comments were received on this aspect of fraud claims recovery. Of these, 13 suggested that the reduction be set at 25% or the pro-rata share of the fraudulent individual's entitlement, whichever is less. Four commenters supported the 25% figure; two opposed it without suggesting any alternatives; four simply suggested making the criteria more flexible, depending on the household's circumstances; and three suggested that the AFDC rate be adopted in lieu of the 25%.

Seven commenters suggested that a maximum percentage amount, not a minimum, be set, and two commenters preferred that a fixed dollar amount be set, not a percentage. The latter commenters felt the percentage method would require frequent recalculations of the recovery amounts. The remaining comments include extending the three-year payment period.

The Department adopted the suggestion that the rate of reduction be set at the lesser of 25% or the fraudulent individual's pro-rata share of the entitlement. This is adopted primarily because it has been determined that the regulations, as proposed, would have imposed an undue burden on the households of five or more and because of the number of commenters, including State agencies, that supported this procedure. Approximately 21 percent of the food stamp caseload (as of February, 1978) contain five or more persons. We feel this provision will not cause a significant administrative burden on the State agency due to the different calculation. This provision will, however, prevent the disincentive for larger households to not participate in the Program due to the relatively larger loss of coupons as compared to smaller households. The option for percentage reduction of a lesser amount if the claim amount can be recovered within a year is retained as is the exception for setting equal amounts.

As to comments about a maximum recovery level, the Department believes this was set by the 25% recovery rate and further constrained by adding the pro-rata share limit. Further, a household is able to choose either a negotiated cash repayment schedule or an allotment reduction.

The House Agriculture Committee recently considered an amendment to pending legislation which would have penalized the entire household for fraudulent conduct, not just the individual. This amendment was voted down, thus reaffirming Congress' intent that the individual be held responsible for fraud. Adding the pro-rata share method is, therefore, consistent with Congressional intent to have the liability rest with the individual by not subjecting larger households to losing a disproportionate share of its allotment; i.e., a share that reflects benefits for other household members in addition to the fraudulent individual.

State Retention of Funds

Only five comments were received on this provision—one opposed, two in support, and two suggesting that the coupons "retained" during disqualification be counted toward the State's retention level. The rationale for not considering coupons "retained" during disqualification as restitution was discussed earlier under the heading of repayment of fraud claims. Clearly, the State agency cannot be allowed to be credited for this method of recovery while the fraudulent individual is not. Clarification was also added that retention of 50% of recovered amounts applies to any claims *collected* after implementation, not just established. This will provide incentive for State agencies to reevaluate suspended claims and is also administratively easier as a dual accounting system is not required.

Outreach

The Department issued final outreach regulations in the November 6, 1979 **Federal Register** (44 FR 64386–64395). One provision of those regulations requires State agencies to operate, at the State level, toll-free statewide hotline services which participants and potential participants can use to obtain program information and applications, lodge complaints and make inquiries. There was some misunderstanding among readers as to what the November 6, 1979 regulations meant in reference to the use of machine answering systems. This amendment to the November 6, 1979 outreach regulations is intended only to resolve this misunderstanding. In no way does this amendment impose an additional regulatory requirement upon State agencies or weaken the requirement for either a hotline or an alternate system of equal quality.

The Department required the establishment of statewide Food Stamp hotlines because it believes that hotlines are the most effective way to offer the required services to participants and potential participants. However, the Department recognized that, in some States, a hotline service may not be the best way to offer the required services. Therefore, the regulations allowed State agencies, with FNS approval, to get exemptions from this requirement. According to the regulations, such exemptions would be granted to State agencies that can demonstrate that the low level of use of the hotline service does not warrant the continued expense of its operation. In lieu of the hotlines in these States, an alternative method of providing the required services to participants and potential participants must be established. These regulations clarify that a machine answering system may be used as one alternative that would be acceptable and that any alternative system must provide telephone access at no cost to the caller and assure that the calls are promptly answered.

Rounding Procedures

Introduction

On October 5, 1979 (44 FR 57414), the Department published a proposal to revise the current rounding procedures used to calculate net income and benefits in the Food Stamp Program. These procedures would have allowed

State agencies to use either the standard rounding procedures or rounding procedure in effect for that State's AFDC program. At that time the Department invited interested parties to comment on the proposed rulemaking. Seventy-three organizations and individuals commented—25 State and local agencies, 25 interest groups, 21 members of the public, and two FNS Regional Offices. Their comments addressed the issues of the comment period, the implementation schedule, the rounding procedures, rounding as applied to shelter, net income and allotment figures, publication of allotment tables by FNS and the publication schedule of this final rulemaking.

Comment Period

Six commenters stated that there was an inconsistency between the Department's determination that the proposed rulemaking was significant and its decision to allow a comment period of only 45 days. To allow interested parties the fullest opportunity to comment, the Department extended the comment period until December 15, 1979.

Implementation

Two State agencies supported the Department's proposal to allow State agencies to implement any changes in the rounding procedures in three methods: at recertification, desk review, or mass conversion of all or part of the caseload. One commenter opposed the option of converting only part of a State agency's caseload at one time. One State agency suggested implementation should be restricted only to recertification or recomputation for currently certified households. One commenter suggested that State agencies be allowed to delay implementation for new applications until they conduct mass conversions by computer. The schedule allows State agencies to implement in accordance with their own respective capabilities. Gradual implementation of these regulations will result in slightly different treatment of similar households for a limited period of time. However, the impact upon most clients will be minimal or nonexistent while the impact upon program administration will be significant.

The Department has not revised the proposed implementation schedule except to require implementation for new applications and recertifications and conversions by July 1, 1980.

Calculating Net Income

This issue drew 72 comments. The procedure currently in use requires State agencies to drop the cents from all figures used in calculating net income and allotments, except for individual shelter expenses. Three State agencies, two local agencies, 25 interest groups and 19 members of the public supported the continued use of this procedure. The Department's proposal would allow State agencies either to round all figures to the nearest whole dollar or to follow their own AFDC rounding procedures. This proposed procedure received the support of 15 State agencies, two local agencies, and one member of the public. Two State agencies and one local agency suggested a third option, that is, allowing State agencies to implement the Department's proposal or to continue using the current procedure.

The final regulations contain the same rounding procedures proposed in the rulemaking of October 5, 1979. This decision was made after considering the comments, particularly as they related to the effects of the procedures on clients and State agencies, and the cost of the alternatives to the Department's proposal.

The new rounding procedures will assure greater consistency between AFDC and food stamps, which helps improve the administrative efficiency of both programs. In addition, under the old rounding procedures, some households' incomes were slightly overstated. The new rounding procedures will more accurately calculate the benefits to which households are entitled. The Department is not allowing State agencies to continue using the current method unless it is also used for AFDC because it does not calculate households' benefits as precisely as the procedure of rounding to the nearest whole dollar.

Calculating the Allotment

One State agency recommended that all cents be dropped from net monthly income before calculating the allotment; and one Regional Office recommended that rounding to the nearest whole dollar be used through to the calculation of the allotment. According to Section 8(a) of the Food Stamp Act of 1977 rounding in the calculation of the allotment must be to the nearest whole dollar. Therefore, the Department is changing the regulations by requiring that State agencies calculate the allotment by multiplying the household's net income (rounded in accordance with § 273.10(e)(1)(ii)) by 30 percent, rounding the product to the nearest whole dollar and subtracting the rounded product from the household's Thrifty Food Plan. The remainder is the household's allotment. This uniform method guarantees that all households with the same net monthly income will receive the same allotment.

Remaining Issues

One commenter recommended that rounding not be allowed in computing total shelter cost. The Department believes that State agencies should be allowed the flexibility to round the total shelter cost if they want to, or to use the actual unrounded amount. Consequently, this recommendation is not being adopted.

Two commenters recommended that FNS continue to provide allotment tables for use by State agencies. While the Department intends to continue this practice, two groups of tables will be needed until the end of the conversion period. The Department will attempt to continue to distribute tables at the earliest date practicable.

One commenter recommended that these regulations be published in conjunction with the final regulations implementing the 1979 Amendments to the Food Stamp Act of 1977. This is being done in this final rulemaking.

Rounding may also be necessary in other calculations involving the allotment, such as the benefit reduction calculation required by § 273.18(e)(2).

Therefore, Parts 272 and 273 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. New subparagraphs (8), (9) and (12) are added to § 272.1(g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(8) *Amendment 152.* The rounding procedure set forth in § 273.10(e) shall be in effect for new applications and recertifications no later than July 1, 1980. The State agency shall have up to 12 months following the implementation date of final regulations to convert the current caseload to the rounding procedure that is chosen under § 273.10(e)(1)(ii). The State agency shall have a choice of the following three options in converting households that are already participating at the time the new rounding procedure goes into effect: (i) convert households at recertification: (ii) convert households by conducting a desk review; or (iii) convert all households, or all households in a certain category, at a point-in-time. For example, the State agency may convert all public assistance households or all

households in a project area by computer. Point-in-time mass conversions shall be conducted no later than July 1, 1980. In any case, the State agency shall advise FNS regarding which rounding and caseload conversion procedures are chosen and when the conversion will be completed.

(9) *Amendment 154.* State agencies shall implement the program changes required by Amendment 154 as follows:

(i) State agencies shall begin requiring social security numbers for all new applications and recertifications no later than the first day of the first month which commences 120 days from the date of publication of final rules. Participating households shall be requested to provide or apply for social security numbers (SSN) for appropriate household members at recertification, or at the time of office contact for any other reason. The State agency shall provide advance notification of this requirement and the consequences of noncompliance by sending an individual notice to all participating households and by providing press releases for dissemination through the media. The individual notices may be sent as either a one-time notice prior to implementation and/or with the notices of expiration of a certification period.

(ii) If any affected member(s) of a household does not have his or her SSN readily available at the time of application, recertification, or any office contact, he or she shall follow the procedures for furnishing an SSN in accordance with § 273.6 as amended.

(iii) State agencies shall implement the fraud claims procedures contained in § 273.16 and § 273.18. Implementation shall be no later than the first of the month following the 120th day from the date of publication of final rules. By implementation the State agency shall also have an approved system for handling claims, including a method for accounting for the fifty percent retention of the value of funds collected from fraud claims. Any collection action on fraud claims after implementation is subject to the fifty percent retention including claims established under the Food Stamp Act of 1964 as amended and under the Food Stamp Act of 1977, as amended. However, only individuals found guilty of fraud through an administrative fraud hearing or through a court of law under regulations promulgating the Food Stamp Act of 1977, as amended, are subject to the recovery provisions in §§ 273.16 and 273.18 retroactive to implementation of fraud claim provisions under the 1977 Act.

* * * * *

(12) *Amendment 161.* The clarification on hotline alternatives in § 272.6(b)(8) is effective January 31, 1980

* * * * *

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.6 paragraph (b)(8) is amended and reads as follows:

§ 272.6 Outreach

* * * * *

(b) *Minimum requirements.* * * *

(8) *Hotlines.* State agencies shall operate toll free telephone hotline services at the State level that can be used by participants and potential participants to secure program information and application forms, lodge complaints and generally facilitate their participation in the Program. The Alaska State agency is exempt from the requirement for maintaining a toll free hotline at the State level. The Alaska State agency shall, however, provide an alternative means for participants and potential participants to secure program information and applications, lodge complaints and make inquiries. The alternate procedures for Alaska are subject to FNS approval through the Outreach Plan submitted in accord with paragraph (e) of this section. Other State agencies that can demonstrate conclusively that the number of calls received on the food stamp hotline does not justify the expense of its operation may be granted an exemption by FNS from this requirement, provided an alternative system is established to allow participants and potential participants, at no cost to themselves, to secure program information and applications, lodge complaints and make inquiries. State agencies requesting exemptions shall provide documented evidence of justification to FNS, including the average number of calls per month; the cost of hotline equipment, service, and staff; efforts to publicize the availability of the hotline service; and a description of the alternate service that will be offered in lieu of the hotline service. An example of an acceptable alternative would be a machine answering system where toll free calls are recorded and promptly returned by someone knowledgeable in program policy and procedures. The quality of a State agency's alternative system shall meet the hotline standards outlined in this paragraph, i.e., it must provide some means of telephone service at no cost to those who use it and the response to users shall be prompt.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.2, a new subdivision (v) is added to § 273.2(f)(1), subdivision (i) of § 273.2(f)(9) is revised, and § 273.2 (i)(4)(i) is amended to read as follows:

§ 273.2 Application processing.

* * * * *

(f) *Verification.* * * *

(1) *Mandatory verification.* * * *

(v) *Social Security Numbers.* The social security number(s) (SSN) reported to the State agency by the household shall be verified by the State agency. However, the State agency shall not delay certification of an otherwise eligible household solely to validate any member's SSN, even if the 30 day processing period has not expired. As soon as all other steps necessary to certify a household are completed except for verification of an SSN, the State agency shall certify the household. If verification of an already reported SSN is not completed at inital certification, it shall be completed at the time of or prior to the household's next recertification. The SSN shall be verified in one of the following ways:

(A) Matching the reported SSN with information supplied by the Social Security Administration (SSA) such as BENDEX or SDX computer tapes or printouts;

(B) Observing the household member's social security card or any official document containing the SSN. If the individual has no social security card or other official document containing the SSN or the social security number appears questionable, the State agency shall verify the number either by matching it with SSA tapes or submitting or having the individual submit Form SS–5, Application for a Social Security Number, to the Social Security Administration. In the latter case, the State agency shall advise the individuals where to file and discuss with them what evidence will be needed. Once an SSN has been verified, the State shall annotate its file accordingly to prevent the need for reverification in the future. State agencies shall accept as verified an SSN which has already been verified through the Aid to Familes with Dependent Children program, Medicaid, or other similar programs. A verified SSN shall be reverified only if the identity of the individual or the SSN becomes questionable.

* * * * *

(9) *Verification subsequent to initial certification.*—(i) *Recertification.* At recertification, the State agency shall verify a change in income, medical

expenses or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than $25 since the last time they were verified. State agencies may verify income, actual utility expenses, or medical expenses claimed by households which are unchanged or have changed by $25 or less, provided verification is, at a minimum, required when information is questionable as defined in paragraph (f)(2) of this section. Unchanged information, other than income and medical or utility expenses, shall not be verified at recertification unless the information is questionable as defined in paragraph (f)(2) of this section. Newly obtained social security numbers shall be verified at recertification in accordance with verification procedures outlined in § 273.2(f)(1)(v).

* * * * *

(i) *Expedited service.* * * *

(4) *Special procedures for expediting service.* * * *

(i) To expedite the certification process, the State agency shall postpone the verification required by § 273.2(f). However, the household's identity and residency shall be verified through a collateral contact or readily available documentary evidence. Examples of acceptable documentary evidence which the household may provide include, but are not limited to, a driver's license, work or school I.D., voter registration card or birth certificate. Households entitled to expedited service shall not be required to furnish or apply for a social security number until after they have received their first allotment. However, these households shall be required to furnish an SSN before their next issuance in accordance with subdivision (iii) of this subparagraph. Those households unable to provide the required SSN's or who do not have one shall be allowed 90 days to obtain the SSN, in accordance with § 273.6(a)(2). The household's income statements shall be verified through a collateral contact, or readily available evidence whenever it can be done in sufficient time to meet the expedited processing standards. However, benefits shall not be delayed beyond the delivery standards described in paragraph (i)(3) of this section solely because income has not been verified.

§ 273.20 [Redesignated from § 273.6]

4. In § 273.6 SSI Cash-out States is renumbered § 273.20 and § 273.6 is retitled Social Security Numbers. The new § 273.6 reads as follows:

§ 273.6 Social security numbers.

(a) *Requirement for participation.* (1) The State agency shall require that a household participating or applying for participation in the Food Stamp Program provide the State agency with the social security number (SSN) for each household member 18 years or older and each child under 18 who receives countable income. If individuals have more than one number, all numbers shall be required. The State agency shall explain to applicants and participants that refusal to provide an SSN will result in disqualification of the individual for whom an SSN is not obtained in accordance with paragraph (c) of this section.

(2) If any household member(s) required to provide an SSN is unable to provide the State agency with an SSN prior to certification or recertification, the member who does not have an SSN, and therefore must apply for one, shall be allowed to participate for 90 days from the date of eligibility determination while awaiting receipt of the social security number.

(3) If the SSN has not been obtained within the 90 days from the date of eligibility determination and the participant cannot show good cause why an SSN has not been obtained, the participant shall be disqualified in accordance with § 273.6(c). If the SSN has not been obtained within the time limit but good cause has been established, then the participant may continue to participate provided the individual has documentation indicating he/she has, in fact, applied for the SSN. Household members without an SSN who are required to provide an SSN shall be eligible to participate while waiting for the Social Security Administration (SSA) to issue an SSN as long as they have filed an application for an SSN accompanied by the necessary verification and can document this.

(b) *Obtaining SSN's for food stamp household members 18 years and over and children receiving income.* (1) For those individuals who provide SSN's prior to certification, recertification or at any office contact, the State agency shall record the SSN and verify it in accordance with § 273.2(f)(1)(v).

(2) For those individuals required to provide an SSN who do not have one, the State agency shall use one of the following two procedures:

(i) In a State where an agreement exists between the State agency and SSA which allows the State agency to complete the application for an SSN, Form SS–5 the State agency shall offer to and shall complete this form at the household's request. State agencies which have such an agreement with SSA for AFDC and Medicaid shall be required to renegotiate these agreements for food stamp purposes as soon as possible in order to offer this service to food stamp applicants and participants. To complete Form SS–5, the State agency must document the verification of identity, age, and citizenship or alien status as required by SSA and forward the SS–5 to SSA. The State agency can complete the SS–5 only when this renegotiated agreement between SSA and the State exists.

(ii) If the household member elects to complete the SS–5 and apply to the SSA directly or in a State in which no agreement with SSA exists, the State agency shall inform the household member where to apply and what information will be needed. The State agency shall suggest that the household member ask for proof of application from SSA, in the event his or her application is not processed within the 90 day time period described in paragraph (a) of this section. SSA normally uses the Receipt for Application for a Social Security Number, Form SSA–5028, as evidence that an individual has applied for an SSN. State agencies may also use their own documents for this purpose.

(3) The State agency shall follow the procedures described in subparagraphs (2) (i) and (ii) above for individuals who do not know if they have an SSN, or are unable to find their SSN.

(c) *Failure to comply.* If the State agency determines that a household member(s) required to provide an SSN as a condition of eligibility has refused to provide it, then the individual without the SSN shall be ineligible to participate in the Food Stamp Program. If, at the end of the 90 day period allowed in paragraph (a) of this section, the State agency determines that a household member(s) required to provide an SSN has failed without good cause to attempt to supply the documentation required by SSA to be submitted with the application for an SSN, the individual without the SSN shall be ineligible to participate until that individual complies. The disqualification applies to the individual(s) for which the SSN is not provided and not to the entire household. The earned or unearned income of an individual disqualified from the household for failure to comply with this requirement shall be handled as outlined in § 273.9(b)(3) of these regulations.

(d) *Determining good cause.* In determining if good cause exists for failure to comply with the requirement to provide the State agency with an

SSN, the State agency shall consider information from the household member, the Social Security Administration and the State agency (especially if the State agency was designated to send the SS–5 to SSA and either did not process the SS–5 or did not process it in a timely manner). Documentary evidence or collateral information that the household has applied for the number or made every effort to supply SSA with the necessary information shall be considered good cause for not complying timely with this requirement. If the household member(s) applying for an SSN has been unable to obtain the the documents required by SSA, the State agency caseworker should make every effort to assist the individual(s) in obtaining these documents.

(e) *Ending disqualification.* The household member(s) disqualified may become eligible upon providing the State agency with an SSN or demonstrating that an application has been made at SSA for a social security number.

(f) *Use of SSN.* The State agency is authorized to use social security numbers in the administration of the Food Stamp Program. To the extent determined necessary by the Secretary and the Secretary of HEW, State agencies shall have access to information regarding individual Food Stamp Program applicants and participants who receive benefits under title XVI of the Social Security Act to determine such a household's eligibility to receive assistance and the amount of assistance, or to verify information related to the benefits of these households. State agencies shall use the State Data Exchange (SDX) to the maximum extent possible. The State agency should also use the SSN's to prevent duplicate participation, to facilitate mass changes in Federal benefits as described in § 273.12(e)(3) and to determine the accuracy and/or reliability of information given by households.

5. In § 273.9, paragraph (b)(3) is revised to read as follows:

§ 273.9 Income and deductions.

* * * * *

(b) *Definition of income.* * * *

(3) The earned or unearned income of an individual disqualified from the household for fraud in accordance with § 273.16, for failing to comply with the student work registration requirements in § 273.7(b)(9)(i) or for failing to comply with the requirement to provide an SSN in accordance with § 273.6, shall continue to be counted as income, less the pro rata share for the individual. Procedures for calculating this pro rata share are described in § 273.11.

6. In § 273.10 paragraphs (e)(1)(ii) and (e)(2)(ii) are revised and a new paragraph (f)(3)(iv) is added as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(e) *Calculating net income and benefit levels.*—(1) *Net monthly income.* * * *

(ii) In calculating net monthly income, the State agency shall use one of the following two procedures: (A) Round down in each income and allotment calculation that ends in 1 through 49 cents and round up for calculations that end in 50 through 99 cents; or (B) apply the rounding procedure that is currently in effect for the State's Aid to Families with Dependent Children (AFDC) program. If the State AFDC program includes the cents in income calculations, the State agency may use the same procedure for food stamp income calculations. Whichever procedure is used, the State agency may elect to include the cents associated with each individual shelter cost in the computation of the shelter deduction and then to round the final shelter deduction amount.

* * * * *

(2) *Eligibility and benefits.* * * *

(ii) The household's monthly allotment shall be equal to the Thrifty Food Plan for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. After multiplying the net income by 30 percent, the State agency shall round the product down if it ends in 1 through 49 cents and round the product up if it ends in 50 through 99 cents, prior to subtracting that amount from the Thrifty Food Plan. All eligible one and two-person households shall receive a minimum monthly allotment of $10. This rounding method shall be used in all determinations of allotments.

* * * * *

(F) *Certification periods.* * * *

* * * * *

(3) * * *

* * * * *

(iv) If a State agency opts to effect the Social Security/SSI cost-of-living increase through the process of recertification, the affected cases shall be assigned certification periods that ensure that they are due for recertification in accordance with § 273.12(e)(3)(ii). Households entitled to a certification period of up to 12 months as discussed in § 273.10(f)(5) shall, on a one-time basis, be certified for less than a year in order to comply with this provision.

* * * * *

7. In § 273.11 the introductory text of paragraph (c) is rewritten and a new subdivision (iii) is added to (c)(5) to read as follows:

§ 273.11 Action on households with special circumstances.

* * * * *

(c) *Treatment of income and resources of disqualified members.* Individual household members may be disqualified for fraud, for failure to meet the student work registration requirements during the school year or for failure to obtain, or refusal to provide, an SSN. During the period of time a household member is disqualified, the eligibility and benefit level of any remaining household members shall be determined as follows:

* * * * *

(5) *Reduction or termination of benefits within the certification period.* * * *

* * * * *

(iii) *SSN disqualification.* If a household's benefits are reduced or terminated within the certification period because one or more of its members required to provide an SSN is being disqualified for failure to meet the SSN requirement, the State agency shall issue a notice of adverse action, in accordance with § 273.13(a)(2), which informs the household that the individual without an SSN is being disqualified, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification.

* * * * *

8. In § 273.12, paragraph (e)(3) is revised to read as follows:

§ 273.12 Reporting changes.

* * * * *

(e) *Mass changes.* * * *

* * * * *

(3) *Mass changes in Federal Benefits.* (i) State agencies shall treat cost-of-living increases received in July 1981 and all other subsequent years and any other mass changes in social security and SSI payments as a mass change for food stamp purposes. The household shall not be responsible for reporting these changes. The State agency shall be responsible for automatically adjusting a household's food stamp benefit level to reflect the change in accordance with the procedures in paragraph (e)(2) of this section, or as noted in paragraph (e)(3)(ii) of this section.

(ii) State agencies which have the capability shall treat the increases as a mass change in accordance with the

procedure in paragraph (e)(2) of this section. A State agency is capable of treating these changes as a mass change if the State agency's computer system can identify by social security number individual household members receiving social security or SSI payments and the amount of these payments, and the computer system can extract on a timely basis the new benefit data from BENDEX and/or SDX for each recipient. All other State agencies shall have the option to use any one, or a combination of the following methods: Schedule all households containing one or more members who receive social security or SSI benefits for recertification during July, August, September, and October of each year so that the cost-of-living increases can be reflected in a timely manner; conduct desk reviews to effect the change within the 120 day period. If a State agency with the capability to perform an automated conversion has difficulty doing so, it may use one or a combination of the other two methods described.

(iii) For cost-of-living increases scheduled for July 1980, State agencies which have the capability shall treat the increases as a mass change in accordance with the procedures in paragraph (e)(2) of this section. All other State agencies shall, within 180 days of the effective date of the increase, identify cases receiving social security and SSI payments by either desk reviews or at recertification and reflect the cost-of-living increase in the household's allotment. If a State agency with the capability to perform an automated conversion has difficulty doing so, then it may identify cases receiving social security and SSI payments using the methods discussed above and adjust the household's allotment.

9. In § 273.13, a new subparagraph (11) is added to paragraph (b) to read as follows:

§ 273.13 Notice of adverse action.

* * * * *

(b) *Exemptions from notice.* * * *

(11) Converting a household from cash repayment of a fraud claim to benefit reduction as a result of failure to make cash repayment as discussed in § 273.18.

10. In § 273.16, paragraphs (a), the introductory text of paragraph (d) and paragraphs (d) (9)(ii) and (e)(3) are amended and a new subparagraph (4) is added to § 273.16(e) to read as follows:

§ 273.16 Fraud disqualification.

(a) *Fraud disqualification penalties.* Individuals found to have committed fraud through an administrative fraud hearing shall be ineligible to participate in the program for 3 months. Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than 6 months and not more than 24 months as determined by the court. If the court fails to specify or address a disqualification period for the fraudulent act, the State agency shall impose a six-month disqualification period unless it is contrary to the court order. State agencies shall disqualify only the individual convicted of fraud and not the entire household. If the individual fails to agree to make restitution, the period of disqualification shall continue until the individual agrees to make restitution. Individuals or the remaining household members shall be permitted to make restitution during the period of disqualification in accordance with established procedures for cash repayment or allotment reduction.

* * * * *

(d) *Administrative disqualification.* Each State agency shall establish procedures for conducting fraud hearings which must conform with the procedures outlined in this section. An administrative fraud hearing should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has committed one or more acts of fraud as defined in paragraph (b) of this section. Such cases may include those in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system. Other cases may be those previously referred for prosecution but for which prosecution was declined by the appropriate legal authority. The State agency may initiate an administrative fraud hearing regardless of the current eligibility of the individual. The disqualification period for nonparticipants at the time of the final hearing decision shall be deferred until the individual applies for and is determined eligible for program benefits. Fraud hearings shall not be conducted if the amount the State agency contends has been fraudulently obtained is less than $35 or if the value of the coupons used to obtain ineligible items is under $35. The burden of proving fraud is on the State agency. The administrative fraud hearing may be conducted regardless of whether other legal action is planned against the household member.

* * * * *

(9) *Notification of hearing decision.* * * *

(ii) If the administrative fraud hearing finds that the household member committed fraud, the State agency shall mail a written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of either the allotment they will receive during the period of disqualification, or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11. For State level decisions, the notice shall inform the household member of the date disqualification will take effect. For local level decisions, the notice shall inform the household member of the deadline for requesting a State level hearing, the date disqualification will take effect unless a State level hearing is requested, and that benefits will be continued pending a State level hearing if the household is otherwise eligible. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until such time as the individual again applies for and is determined eligible for program benefits. A written agreement letter for restitution explaining the repayment requirements in § 273.18(e) shall also be sent. The written agreement letter for restitution shall inform the individual of the amount owed; the reason for the claim; the period of time the claim covers; any offsetting that was done to reduce the claim; the types and terms of each restitution schedule which is offered; the date restitution must commence in order to avoid continuing the period of disqualification; and the household member's right to a fair hearing if the individual disagrees with the amount of the claim. The household shall also be informed of its rights to request renegotiation of any agreed to schedule should the household's economic circumstance change and contain spaces for the individual to complete indicating the method of repayment and a signature block. Deviations may be granted from the FNS-designed agreement letter under the conditions in § 273.2(b). A list of the household member's rights as contained in § 273.15(p) and the State level hearing procedures shall be enclosed with the local fraud hearing decision notice.

* * * * *

(e) *Court imposed disqualifications.* * * *

(3) State agencies shall disqualify an individual found guilty of fraud for the length of time specified by the court. If

disqualification is ordered but a date for initiating the disqualification period is not specified, the State agency shall initiate the disqualification period for currently eligible individuals with the first month following the date the disqualification was ordered. If the court fails to address or specify a disqualification period, the State agency shall impose a six-month disqualification period unless contrary to the court order. The court-imposed disqualification shall begin the first month following the date the court found a currently eligible individual guilty of civil or criminal fraud. If the individual is not eligible for the program at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits. If the periods of disqualification imposed by a court and by an administrative fraud hearing coincide, the court-ordered disqualification shall run concurrently with the 3-month disqualification period imposed through an administrative fraud hearing. The State agency shall not initiate or continue a court imposed or administratively imposed fraud disqualification period contrary to a court order.

(4) If the court finds that the household member committed fraud, the State agency shall mail a written notice, designed or approved by FNS, to the household member. The notice shall be sent prior to disqualification, whenever possible. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11. The notice shall also inform the household member of the date disqualification will take effect and of the fraud claim repayment requirements in § 273.18(e). In addition, the State agency shall include the written agreement letter for restitution described in paragraph (e)(3) of this section.

* * * * *

11. In § 273.18 paragraphs (c) (3) and (4) are deleted and paragraph (c)(2), and paragraphs (d) and (e) are amended; paragraph (f)(2) is renumbered as (f)(3) and paragraphs (f)(1) and (f)(2) are amended. The amended paragraphs read as follows:

§ 273.18 Claims against households.

* * * * *

(c) *Fraud claim.* * * *

(2) *Collecting fraud claims.* (i) If a household member is found to have committed fraud (through an administrative fraud hearing or by a court of appropriate jurisdiction) the State agency shall send the individual a written agreement letter for restitution as indicated in § 273.16(d)(9)(ii). In addition, a personal contact shall be made, if possible. The State agency shall initiate such collection unless the household has repaid the overissuance as a result of nonfraud demand letters, the State agency has documentation which shows the household cannot be located, or the legal representative prosecuting a member of the household for fraud advises, in writing, that collection action will prejudice the case. In cases where a household member was found guilty of fraud by a court, the State agency shall request the matter of restitution be brought before the court.

(ii) One month prior to the end of the specified period of disqualification, if the household member found guilty of fraud has not responded to the written agreement letter, the State agency shall send a subsequent notice, as described in § 273.16(e)(3), advising the individual that he/she will remain disqualified until such time as an agreement to repay is executed in accordance with the procedures established in paragraph (e)(2) of this section. The disqualified member shall not be considered a household member until a repayment agreement is reached. The procedures for handling the income and resources of this disqualified member are described in § 273.11. A written demand letter for an unpaid or partially paid claim shall be sent even if the household has previously received a nonfraud demand letter because the time period covered by the claim and the method of collection are different for fraud and nonfraud claims. In addition to the written agreement letter a personal contact shall be made, if possible. The State agency may also initiate civil court action to obtain the claim.

(iii) The individual who committed fraud or the remaining household members may begin restitution prior to or during the period of disqualification imposed by an administrative fraud hearing or a court of law. The State agency shall follow the procedures for collecting and submitting payments as well as the applicable accounting procedures in paragraphs (e) and (f) of this section.

(iv) If the household executes a repayment agreement, the State agency shall follow the procedures prescribed in paragraph (e)(2) of this section for collecting and submitting payments or the procedures for reducing the food stamp allotment of the fraudulent individual's household.

(v) If the State agency can document that the fraudulent individual cannot be located, collection action shall be suspended. A claim shall be determined uncollectible after it is held in suspense for three years. The State agency may use a suspended claim to offset benefits in accordance with § 273.17.

(d) *Change in household composition*—(1) *Nonfraud claims.* The State agency shall initiate collection against the head of the household or against the individual who was the head of the household at the time of the nonfraud claim. If the head of the household is no longer living or cannot be located, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred.

(2) *Fraud claims.* If the household member found guilty of fraud moves, resulting in a change in household membership, the State agency shall initiate collection action against the household currently containing the fraudulent individual.

(e) *Methods of collecting payments.* (1) State agencies shall collect payments for nonfraud claims in one of the following ways:

(i) *Lump sum.* State agencies shall collect payments from households in one lump sum if the household is financially able to pay the claim in one lump sum. However, the household shall not be required to liquidate all of its resources to make this repayment.

(ii) *Installments.* If the household has insufficient liquid resources or is otherwise financially unable to pay the claim in one lump sum, a payment schedule shall be negotiated with the household. Payments shall be accepted by the State agency in regular installments. If the full amount of the claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the household to pay the claim in 3 years. A State agency may use the full amount (including any amount compromised) of the claim to offset benefits in accordance with § 273.17.

(2) State agencies shall collect payments for fraud claims in one of the following ways:

(i) *Reduction in food stamp allotment.* Prior to reduction, the State agency shall discuss with the household the amount of food stamps to be recovered each

month. The amount of food stamps to be recovered each month shall be the lesser of 25 percent of the household's monthly allotment *or* the fraudulent individual's pro rata share of the entitlement. Recovery of less than these amounts shall be accepted only if it results in equal increments or if the full amount can be recovered within a year using a lesser percentage. If the full amount of the claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the household to make restitution within 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 272.17.

(ii) *Repayment in cash.* If the household member found guilty of fraud agrees to a repayment in cash, and the individual is financially able to repay the claim in full, the State agency shall collect the payment in one lump sum. However, if the household has insufficient liquid resources or is otherwise unable to pay the claim in one lump sum, payments shall be accepted in regular installments. The household shall not be required to liquidate all of its resources to make this repayment. If the full amount of the claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the individual to pay the claim in 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 2713.17.

(iii) If the household member fails to make a payment in accordance with the established cash repayment schedule, (either a lesser amount or no payment), the State agency shall send the individual a notice explaining that no payment or an insufficient payment was received. The notice shall also inform the individual that unless he or she makes the overdue payments or contacts the State agency to discuss renegotiation of the payment schedule, the State agency may invoke allotment reduction without a notice of adverse action. If the individual fails to respond to the notice, the State agency shall invoke allotment reduction. If the household does respond the State agency shall take one of the following actions as appropriate:

(A) If the individual makes the overdue payments and wishes to continue payments based on the previous schedule, permit the individual to do so;

(B) If the individual requests renegotiation, and if the State agency concurs with the request, negotiate a new payment schedule and execute a new written agreement letter;

(C) If the individual requests renegotiation of the amount of its cash repayment schedule but the State agency believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the State agency may invoke allotment reduction or continue renegotiation until a settlement can be reached and executed. If allotment reduction is invoked, no notice of adverse action is required.

(iv) State agencies may initiate civil court action to obtain payment of the claim prior to the end of the disqualification period. However, the State agency shall not deny, terminate or reduce a household's benefits for failure to repay a claim, to agree to a repayment schedule or to make the agreed upon payment, except for the allotment reduction which shall occur when repayment of a claim is beginning after the period of disqualification and the household member found guilty of fraud does not make agreed to cash repayments in accordance with the procedures prescribed in this section.

(f) *Submission of payments.* (1) The State agency shall retain the value of funds collected for both fraud and nonfraud claims; this includes any claims collected or established after the date the State implements the fraud recovery provisions. This amount includes the total value of allotments reduced to repay fraud claims, except for allotments reduced during a period of disqualification. The States' letter of credit will be amended on a quarterly basis to reflect the States' retention of 50 percent of the value of fraud claims collected as well as full retention by FNS of all nonfraud overissuance recoveries.

(2) Each State shall submit monthly a Form FNS–209, Status of Claims Against Households, to detail the State's activities relating to claims against household. This report is due no later than 30 days after the end of each calendar month and shall be submitted to FNS even if the State agency has not collected any payments. In addition to reporting the amount of funds recovered from fraud claims each month on Form FNS–209, the State agency shall also report this amount on other letter of credit documents as required. In accounting for fraud claim collections, the State agency shall include cash repayments and the value of the allotments recovered or offset by restoration of lost benefits. However, the value of allotments reduced during periods of disqualification shall not be considered recovered allotments and shall not be used to offset a fraud claim. In addition, each State agency shall establish controls to ensure that officials responsible for fraud determinations will not benefit from the State share of recoveries.

* * * * *

Note.—These proposals have been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that these actions should not be classified as significant under those criteria.

Note.—Food Stamp forms are being revised in accordance with the requirements of this amendment. The reporting and/or record keeping requirements anticipated in this amendment resulting from the revisions of forms will be forwarded to the Office of Management and Budget for approval in accordance with the Federal Reports Act of 1942.

(91 Stat. 958 (7 U.S.C. 2011–2027).)

Final Impact Statements have been prepared and are available from Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(Catalog of Federal Domestic Assistance Programs No. 10551, Food Stamps)

Dated: January 29, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-3485 Filed 1-30-80; 8:45 am]

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federal register

Thursday
January 31, 1980

Part XII

Department of the Treasury

Office of Foreign Assets Control

Foreign Assets Control Regulations Unblocking of Assets Blocked Because of an Interest Therein of the People's Republic of China or Its Nationals

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 500

Foreign Assets Control Regulations Unblocking of Assets Blocked Because of an Interest Therein of the People's Republic of China or Its Nationals

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

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending § 500.201(d) of the Foreign Assets Control Regulations by the deletion of "China" from the Schedule of "designated countries," except for the limited purposes of the new Part II of the Schedule. In keeping with the amendment, the Office is amending §§ 500.204, 500.328, 500.557, 500.558, and 500.559 to delete references to China or nationals thereof. The purpose of the amendment is to implement the Agreement Concerning the Settlement of Claims entered into between the United States and the People's Republic of China on May 11, 1979, as amended by an exchange of notes on September 28, 1979, to provide for the unblocking on January 31, 1980 of assets blocked because of an interest therein of the People's Republic of China or its nationals. (See notice of postponement published in the Federal Register of October 1, 1979.) The effect of the amendment is to unblock these assets in the United States and to remove any reference to China as a blocked country, except for the limited purpose described below.

To assist the Government of the People's Republic of China and its nationals in locating and recovering assets following the general unblocking, the Office is also amending the Regulations by the addition of new § 500.206 which retains for a two-year period a prohibition on the transfer of these assets to state agencies under state laws governing abandoned or unclaimed property. The need for the amendment is that the transfer of these assets from the present holders to state agencies may unduly delay recovery of assets by their owners. The purpose and effect of the amendment is to place a temporary hold on such transfers to facilitate presentation of claims.

EFFECTIVE DATE: January 31, 1980, 11:59 p.m. eastern standard time.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, (202) 376-0236.

SUPPLEMENTARY INFORMATION: Under the provisions of the Agreement Concerning the Settlement of Claims entered into between the United States and the People's Republic of China (PRC) on May 11, 1979, as amended by an exchange of notes on September 28, 1979, the PRC will pay to the United States $80.5 million in settlement of claims. The first installment of $30 million, due on October 1, 1979, has been paid. The remainder of $50.5 million will be paid in five equal annual installments ending October 1, 1984. The United States agreed to unblock on January 31, 1980 assets blocked because of an interest therein of the PRC or its nationals.

To assist the PRC Government and its nationals in locating and recovering assets following the general unblocking, the Office of Foreign Assets Control is retaining a two-year hold on transfers of these assets to state agencies responsible for abandoned and unclaimed property. This decision was reached following consultations with the principal affected state agencies. The temporary hold on transfers to state agencies will afford owners time to trace their assets and present claims to the current holders. It will also enable state agencies to better determine which assets have been abandoned for purposes of state law.

Since these amendments involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation and a delay in effective date are inapplicable.

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

31 CFR Part 500 is amended as follows:

§ 500.201 [Amended]

1. Section 500.201(d) is amended by (1) the division of the schedule into Parts I and II; and (2) the transfer of "China: December 17, 1950" to Part II, with the remaining countries being renumbered in Part I. As amended, paragraph (d) reads:

(d) The term "designated foreign country" means a foreign country in the following schedule, and the terms "effective date" and "effective date of this section" mean with respect to any designated foreign country, or any national thereof, 12:01 a.m. eastern standard time of the date specified in the following schedule, except as specifically noted after the country or area:

Part I

1. North Korea, i.e., Korea north of the 38th parallel of north latitude: December 17, 1950.

2. Cambodia: April 17, 1975.

3. North Viet-Nam; i.e., Viet-Nam north of the 17th parallel of north latitude: May 5, 1964.

4. South Viet-Nam, i.e., Viet-Nam south of the 17th parallel of north latitude: April 30, 1975 at 12:00 p.m. e.d.t.

Part II

1. China: December 17, 1950. The inclusion of China in this schedule is for purposes of the prohibition contained in § 500.206 of this Part, as well as for purposes of §§ 500.601 and 500.602 which shall continue to apply to all assets blocked as of January 30, 1980 in which China or any national thereof had any interest whatsoever.

With respect to any country and for any other purpose for which an "effective date" is not otherwise provided, the "effective date" shall be December 17, 1950.

§ 500.204 [Amended]

2. Section 500.204 is amended by the deletion from subsection (a)(1) of the words, "the People's Republic of China," wherever they appear.

3. Section 500.206 is added as follows:

§ 500.206 Transfers under State abandoned property laws of assets blocked because of an interest therein of China or its Nationals.

Except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by regulations, rulings, instructions, licenses, or otherwise, the transfer under laws governing abandoned property to states of the United States or agencies thereof of property blocked as of January 30, 1980 under 500.201 because of the interest therein of China or any national thereof, is prohibited until January 31, 1982.

§ 500.328 [Amended]

4. Section 500.328 is amended by the deletion of the words "China" and the "Republic of China."

§ 500.538 [Deleted]

5. Section 500.538 is deleted.

§ 500.541 [Deleted]

6. Section 500.541 is deleted.

§ 500.546 [Deleted]

7. Section 500.546 is deleted.

§ 500.547 [Deleted]

8. Section 500.547 is deleted.

§ 500.555 [Deleted]

9. Section 500.555 is deleted.

§ 500.557 [Amended]

10. Section 500.557 is amended in the introductory text of paragraph (a) by deleting the word "Chinese" and by deleting the words "and in the case of a Chinese national, prior to May 7, 1971." In addition, the amendment redesignates paragraph (a)(3) as paragraph (a)(2), and renumbers the subsections in numerical order.

§ 500.558 [Amended]

11. Section 500.558 is amended by deletion of the word "China" wherever it appears.

§ 500.559 [Amended]

12. Section 500.559 is amended by the deletion of the words "China"and "Chinese" and the phrase "or to persons in China if the indebtedness existed prior to May 7, 1971."

§ 500.610 [Deleted]

13. Section 500.610 is deleted.

(Sec. 5, 40 Stat. 415, as amended; 50 U.S.C. App. 5, E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1945–1948 Comp., p. 748)

Dated: January 28, 1980.

Stanley L. Sommerfield,

Director, Office of Foreign Assets Control.

Approved:

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-3487- Filed 1-30-80; 8:45 am]

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Reader Aids

Federal Register

Vol. 45, No. 22

Thursday, January 31, 1980

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523-3419	
523-3517	
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523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, JANUARY

1-756.....2
757-988.....3
989-1410.....4
1411-1584.....7
1585-1848.....8
1849-2000.....9
2001-2306.....10
2307-2638.....11
2639-2834.....14
2835-3022.....15
3023-3248.....16
3249-3556.....17
3557-3874.....18
3875-4334.....21
4335-5296.....22
5297-5658.....23
5659-6078.....24
6079-6352.....25
6353-6536.....28
6537-6772.....29
6773-6914.....30
6915-7226.....31

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....2639
302.....2307
305.....2307
310.....2307
445.....2001

Proposed Rules:

Ch. I.....2998
482.....6791

3 CFR

Administrative Orders:

Presidential Determinations:

Memorandum of Jan. 16, 1980.....3557
No. 80-9 of December 20, 1979.....1585

Executive Orders:

11269 (Amended by EO 12188).....989
11539 (Amended by EO 12188).....989
11651 (Amended by EO 12188).....989
11703 (Amended by EO 12188).....989
11846 (Amended by EO 12188).....989
11858 (Amended by EO 12188).....989
12096 (Revoked by EO 12188).....989
12186 (Amended by EO 12189).....3559
12187.....3
12188.....989
12189.....3559

Memorandums:

December 14, 1979 (Amended by EO 12188).....989
December 27, 1979.....1
January 2, 1980.....759

Proclamations:

4710.....757
4711.....1587
4712.....2835
4713.....3561
4714.....3875
4715.....4335
4716.....5659
4717.....6079
4718.....6773
4719.....6915

4 CFR

Proposed Rules:

404.....48
421.....1038

5 CFR

Ch. XIV.....761, 3482, 3522
2.....4337
4.....4337
5.....4337
175.....995
213.....5, 3565
334.....995
540.....1591
630.....1591
733.....1592
771.....5, 4338
831.....996, 2837, 4338
900.....3565
1201.....6537
1250.....2837
1251.....2837
1252.....2837
1253.....2837
1254.....2837
1255.....2837
1256.....2837
1257.....2837
1258.....2837
1259.....2837
1260.....2837
1261.....2837
1262.....2837
1263.....2837
1264.....2837
1265.....2837
1266.....2837
1267.....2837
1268.....2837
1269.....2837

Proposed Rules:

335.....1040
351.....1040
410.....2327, 6114
432.....1040
733.....6114
752.....1040
771.....1040
831.....1041
1320.....2586

6 CFR

705.....966, 1816, 3216, 3217, 6917
707.....3247, 4338, 5297, 6537 6917
706.....966, 3247, 5297
707.....966, 5297

7 CFR

1.....6587
2.....1411
12.....6020
27.....761
101.....6775
102.....5661, 6775
103.....6775
104.....6775
106.....6775

107.....6775
108.....6775
111.....6775
210.....996, 999, 6758
220.....6758
225.....1844
226.....4960
235.....999, 3565
245.....999
272.....2602, 7208
273.....2602, 7208
722.....2310
724.....1001
729.....6081
905.....6591
907.....762, 2001, 3249, 5663, 6917
910.....1001, 2310, 3567, 6082
971.....10
984.....1593
989.....3877
1064.....3878
1133.....2639
1280.....2641
1421.....3023
1701.....4340, 6592
1809.....2641
1822.....2641
1843.....1593
1864.....1002
1890t.....3249
1922.....2641
1942.....1002
1944.....1411, 2641
1951.....1002
1955.....1002
2852.....4340, 4344
2900.....5297

Proposed Rules:

210.....1041, 3592
235.....1041
273.....3593
301.....1615
331.....1615
781.....6115
907.....1621
979.....1887
985.....1888
989.....4358
1001.....3593
1002.....3593
1004.....3593
1006.....3593
1007.....3593
1011.....3593
1012.....3593
1013.....3593
1030.....3593
1032.....3593
1033.....3593
1036.....3593
1040.....3593
1044.....3593
1046.....3593
1049.....3593
1050.....3593
1062.....3593
1064.....1908, 3593
1068.....3593
1071.....3593
1073.....3593
1075.....3593
1076.....3593
1079.....3593
1094.....3593
1096.....3593
1097.....3593
1098.....3593
1099.....3593
1102.....3593
1104.....3593
1106.....3593
1108.....3593
1120.....3593
1124.....3593, 6810
1125.....3593
1126.....3593
1131.....3593
1132.....3593
1133.....3593
1134.....3593
1135.....3593
1136.....3593
1137.....3593
1138.....3593
1139.....3593
1280.....2657
1421.....1042
1427.....5307
1701.....2848, 4358
1941.....6792
2852.....1046
2853.....1049

8 CFR

282.....6776
299.....6776
499.....6776

9 CFR

75.....1002, 2837
79.....6083
82.....2311
92.....1003, 2838

Proposed Rules:

50.....1622
92.....2849
113.....4359
303.....2328
381.....2328

10 CFR

2.....3250
34.....2312
205.....5663
211.....12, 6917, 6919
212.....1582,
436.....5620
507.....6084
797.....3538

Proposed Rules:

2.....3594, 5308
50.....2330, 2669, 3056, 3913, 6793
51.....3056
70.....1625
73.....1625, 2657
211.....799, 3060, 6951
212.....799, 3060
430.....1298, 2632, 5602, 6116
435.....4359

11 CFR

Proposed Rules:

100.....5546
101.....5546
102.....5546
103.....5546
104.....5546
105.....5546
106.....5546
107.....5546
108.....5546
109.....5546
110.....5546
111.....5546
112.....5546
113.....5546
114.....5546
115.....5546
140.....5546
141.....5546
142.....5546
143.....5546
144.....5546
145.....5546
146.....5546
9008.....5546
9031.....5546
9032.....5546
9033.....5546
9034.....5546
9035.....5546
9036.....5546
9037.....5546
9038.....5546

12 CFR

4.....12, 13
18.....15
23.....13
202.....3563
226.....3879, 4345
304.....1594
349.....1594
525.....1849
526.....1853
545.....1849, 1853
563.....1849, 1853
590.....1853, 2840
600.....1594
615.....1594
720.....17

Proposed Rules:

1.....6407
545.....1425, 4360
561.....4360, 4361
563.....1916, 4361
700.....6795
701.....6795
725.....6795
742.....6795

13 CFR

101.....2001
107.....2312
111.....6405
121.....2840
122.....2312
130.....1411

Proposed Rules:

107.....3917
111.....6631

14 CFR

25.....3880
39...762, 763, 1412, 1414, 2002–2010, 2646–2649, 3251–3254, 3883, 3884, 5666–5669, 6353, 6922
61.....5670
63.....5670
71....300, 764, 765, 2011–2013, 2649, 3256, 3885–3887, 5673, 5674, 6354–6360
73.....300, 765, 2013, 3887, 5675, 6360
75.....300, 765
91.....1414, 6923
97.....765, 2016, 5675
121.....3880, 5677
127.....5677
135.....5677
145.....5677
183.....1415
212.....2313
214.....2313
221.....5298
380.....1855
385.....1857, 2018, 6924
399.....2018
1203.....3888
1207.....5298
1209.....1006

Proposed Rules:

Ch. I.....799, 3316
39.....2657, 5741, 6407, 6953
61.....3324
71.....2048–2051, 2658–2661, 3325–3329, 3918–3922, 6408–6414
73.....2051, 5744
75.....5746
93.....4314
107.....1427, 3329
108.....1427, 3329
121.....1427, 3324, 3329
129.....1427, 3329
135.....1427, 3329
159.....2661, 4314
207.....2331
208.....2331
212.....2331
214.....2331
223.....1918
225.....1918
249.....2331
399.....3595

15 CFR

Ch. III.....1595
302.....767
371.....1595, 6362, 6537
373.....1595, 6537
376.....1595, 1883, 6537
377.....1007
385.....1595, 6362, 6537
386.....1883
390.....3027
399.....1595, 1883, 6362, 6537
931.....4306
2301.....1988

Proposed Rules:

806.....1049

16 CFR

13.....1011, 1857
255.....3870
438.....1011

Proposed Rules:

419.....4363
439.....3060
454.....4363
1212.....3762

17 CFR

1.....2019, 2314, 6538
145.....2019, 3257
147.....2019
211.....20, 1416

230 ..... 1601, 6362
231 3258
239 6362
240 5299
241 3258
270 1860
271 3258

Proposed Rules:

200 1627
201 5934
210 ..... 5943, 5963
229 ..... 5943, 5972
230 5934
231 5972
239 ..... 5934, 5943, 5972
240 ..... 5934, 5943, 5963, 5972
241 5972
249 5963

18 CFR

3 6376
4 6377
35 3888
46 ..... 3568, 6377
154 3888
157 1861
201 ..... 767, 5677
204 767
270 5678
271 ..... 1862, 5678, 5685
274 ..... 3890, 3898
282 ..... 21, 767, 1872, 3569, 5677
284 ..... 1872, 6377
290 2023

Proposed Rules:

Ch. IV 7106
2 5321
3 5309
35 6799
141 48
260 ..... 48, 5309
271 ..... 2344, 2873, 5321, 5747, 6415
274 2344
280 2052
282 ..... 1081, 3330
284 2052

19 CFR

4 3570
10 3901
11 3901
24 3901
101 3573
127 3901
132 3901
141 3901
142 3901
143 ..... 1012, 3901
144 3901
151 3901
153 ..... 1013, 1417
158 3901
159 ..... 25, 1013, 2650, 3901
172 3901
173 3901
355 4932

Proposed Rules:

6 1633
10 1633

20 CFR

208 3259
260 ..... 3259, 5685
404 ..... 1605, 1611, 6540
614 1014
615 ..... 797, 1015
676 1016
725 ..... 27, 1017

Proposed Rules:

Ch. II 6954
404 ..... 2345, 6977
416 ..... 2345, 6799, 6977
651 2498
653 2498
656 4918
658 2498

21 CFR

14 4353
16 3732
20 3732
58 0000
104 6314
108 1612
146 1612
175 ..... 2841, 6540
176 6540
177 ..... 2842, 6540
178 1018
182 ..... 1019, 6084
184 6084
186 6084
193 1418
510 2314
520 ..... 3573, 3574, 6086
522 1019
540 1613
558 ..... 1020, 2314, 6087
701 3574
809 3732
812 3732
1075 0000

Proposed Rules:

105 6702
135 6631
172 1085
182 ..... 3598, 6117
184 ..... 3598, 6117
186 ..... 3598, 6117
452 1085
600 2852
610 ..... 2852, 6120
640 ..... 2852, 2854
1308 3923

22 CFR

51 6778
525 28
710 5685

Proposed Rules:

Ch. II 1641
Ch. V 1641
143 1638

23 CFR

260 6377
420 1418
620 1418

Proposed Rules:

450 2296
476 2296
625 ..... 982, 5750
655 ..... 982, 5750
663 952

24 CFR

201 6088
203 3901
207 3902
213 3902
220 ..... 3901, 3902
221 3902
222 3901
226 3901
231 3902
234 ..... 3901, 3902
236 3902
300 3029
805 3029
881 ..... 7072, 7082
883 6886
884 6886

Proposed Rules:

200 ..... 5754, 6415
201 4364
234 4332
570 ..... 802, 6632
881 3602
883 3330
885 802
888 ..... 802, 2534

25 CFR

23 2315
233 5686
261 2026

Proposed Rules:

Ch. I 7106
43a 2665, 5754
151 6955

26 CFR

1 ..... 6088, 6924
5 5688
5a 6778
7 6924
10 6378
15 6088
16 6088
20 6088
25 6088
31 ..... 6088, 6924
36 6088
41 6088
44 6088
45 6088
46 6088
47 6088
48 6088
49 6088
53 6088
144 6088
145 6088
154 6088
301 ..... 6088, 6924
400 6088
404 3904

Proposed Rules:

1 ..... 2349, 3602, 3924, 5754, 6415, 6800
7 3924
31 4364

27 CFR

170 5694
231 5694
240 5694

Proposed Rules:

4 2855
5 50
296 2855

28 CFR

0 6541
2 6379–6381
14 2650
16 ..... 5301, 6780
58 ..... 1836, 2316

Proposed Rules:

Ch. I 7118
31 2808

29 CFR

24 1836
511 6092
1601 1876
1613 ..... 29, 780
1910 6706
1952 6542
1990 5002
2610 2026

Proposed Rules:

Ch. XIV 6956
4 2350
9 1642
32 1392
42 2528

30 CFR

Ch. VII 6913
251 6338
722 ..... 1020, 2626
843 ..... 1877, 2626

Proposed Rules:

II 7106
VI 7106
VII 7106
211 5534
722 5540
723 5540
800 6028
801 6028
805 6028
806 6028
807 6028
808 6028
843 5540
845 5540
870 2805
872 2805
874 2805
877 2805
879 2805
882 2805
884 2805
886 2805
888 2805

31 CFR

240 ..... 1020, 5698
332 4230
350 3261
500 7224
535 1877

32 CFR

65 3905
536 6543
630 6566
801 3030
909 6381
1900 6780

Proposed Rules:

Ch. I 6801
651 1086

32A CFR

Ch. VI 30

33 CFR

117 6932
127 ..... 1418, 6932
154 7156
155 7156
156 7156
164 2027
165 ..... 1418, 6932
183 2028
207 2317

Proposed Rules

Ch. I 2052
158 6956
207 1919

36 CFR

28 3261
222 30
805 4353
1202 4355
1215 5302
1226 780

Proposed Rules:

I 7106
XII 7106
222 1108
1227 3924

38 CFR

3 ..... 1877, 2318
17 6933
21 30

Proposed Rules:

3 ..... 6416, 6957
17 ..... 3061, 5348, 6957
21 ..... 803, 2667, 5350
36 ..... 3330, 3926

39 CFR

233 1613
310 3034

Proposed Rules:

310 ..... 1427, 6801
320 ..... 1427, 6801

40 CFR

52 ..... 780–782, 1022, 1024, 1419, 2031–2036, 2319, 3270, 3603, 3906, 4355, 5303, 5698, 6092, 6569, 6572, 6781, 6784, 6940
60 ..... 3034, 5616
65 ..... 3035, 4356, 5303
81 ..... 2036, 2044, 6103, 6572, 6786
86 ..... 4136, 7138
87 1419
180 ..... 3907, 4356, 6103
201 1252
228 3053
454 3604

Proposed Rules:

Ch. I 52, 3316
Ch. V 1429
50 6958
51 ..... 6120, 6802
52 ..... 52, 1108, 1429, 1643, 2054, 2351, 3331, 3333, 3928, 3929, 4365, 6121, 6417, 6802, 6804, 6959
60 ..... 2790, 3333
61 6960
62 3334
81 ..... 1647, 3333, 6418
85 6960
86 ..... 5988, 6012
87 6962
123 6572
136 6958
180 ..... 2058, 2351, 2352, 3938
201 1109
250 2059
401 ..... 803, 6632
403 3063
410 ..... 53, 806
425 53
429 53
446 912
447 928
454 ..... 53, 3335
774 6632

41 CFR

Ch. 101 ..... 3271, 6104
3–16 5702
3–55 5702
8–75 3035
9–7 942
101–11 5704
101–36 6788
109–1 943
109–60 943

Proposed Rules:

1–15 3296
14H 7106
14R 7106
24–1 1109
60–1 4954

42 CFR

66 1822
85 2651
85a 2651
110 6058
431 ..... 6326, 6331

Proposed Rules:

2 53
52h 5351
74 2353
405 ..... 2353, 6633

43 CFR

Subtitle A 7106
Ch. I 7106
Ch. II 3037, 7106
3 5304
4 5713
29 1026
31 783
401 1878
403 1878
406 1879

Proposed Rules:

17 976
1880 6054

44 CFR

5 1421
64 ..... 3578, 6576–6579
65 ..... 2322, 3580, 6582
67 ..... 2655, 5714, 5719
70 6382–6399

Proposed Rules:

67 ..... 3604–3617, 5351, 5352, 5356, 5780, 6804, 6809, 6962

45 CFR

122a 6044
205 ..... 6326, 6333
601 1422
640 39

Proposed Rules:

Ch. XII 1430
8 2353
64 5648
116 6809
116a 6809
540 806
1060 3335

46 CFR

4 2045
5 2045
502 ..... 1879, 2325
512 3272
514 3311

Proposed Rules:

Ch. I 2052
Ch. IV 6122
42 5780
93 5780

47 CFR

0 ..... 4357, 6104
5 4357
21 4357
22 4357
23 4357
25 4357
63 ..... 3037, 6584
64 ..... 3037, 6584
73 ..... 1880, 1881, 1919–1923, 1976, 2844, 3907–3910, 4357, 5304, 5305, 6105, 6399, 6942–6944
74 4357
76 6403
78 4357
81 4357
83 1924
87 ..... 4357, 6945
90 ..... 4357, 6586
94 4357
95 4357
97 ..... 4357, 6106
99 4357

Proposed Rules:

0 3064
1 ..... 3335, 3349
2 ..... 2060, 2859, 3064, 3349, 6967
22 2859
56 1431
61 ..... 3064, 3353
63 ..... 2066, 3064
67 4365
73 ..... 2067, 3070, 3071, 3939–3941, 5358, 5359, 6122, 6124, 6126, 6419, 6633, 6967–6973
76 3071
81 ..... 3064, 6967
83 ..... 3064, 6967
90 ..... 2067, 3086, 3349
94 ..... 2060, 2069
97 2071
401 1431

49 CFR

Ch. X 5306
1 ..... 783, 2655
173 5737
175 6946
192 3272
531 5738
571 6404
575 6947
580 784
1001 3580
1011 ..... 3580, 5739
1033 ..... 42, 43, 784, 785, 1881, 1882, 2325, 2655, 2656, 4357, 6789, 6790, 6947
1062 3586
1064 3912
1100 ..... 3580, 5739
1111 6107
1127 43
1131 3580
1131a 3580
1249 3588

Proposed Rules:

Ch. X 1434, 2354, 6634, 6974
173 7140
177 7140
395 5781
571 807
575 807
1001 1434
1011 1434
1060 6127
1082 6127
1100 1434
1109 3353
1127 55
1131 1434
1131a 1434
1136 2871
1201 809
1241 809
1249 3618
1301 56

50 CFR

26 3052
32 3053
33 ..... 1026, 1027, 2046, 3589, 6947
296 6062
603 3590
611 ..... 785, 1028, 6405, 6949
652 786
661 6127
671 ..... 785, 1613
672 6949

Proposed Rules:

Ch. I 7106
Ch. IV 7106
13 809
17 5782
22 809
23 1110
107 2616
230 4366
251 2636
255 2636
259 2636
601 3618
611 ..... 56, 2354
651 1112
676 3619

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

CIVIL AERONAUTICS BOARD

2313 1–11–80 / Charter trips by foreign air carriers, allowance of nonemergency wet leases

FEDERAL COMMUNICATIONS COMMISSION

77164 12–31–79 / Amendment to rules on protection of FCC monitoring stations from radio interference

TRANSPORTATION DEPARTMENT

Federal Railroad Administration—

77348 12–31–79 / Safety glazing standards; locomotives, passenger cars and cabooses

Listing of Public Laws

This is the first continuing list of public bills from the current session of Congress which have become Federal laws. 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, D.C. 20402 (telephone 202–375–3030).

H.J. Res. 478 / Pub. L. 96–188 To extend by sixty days the expiration date of the Defense Production Act of 1950. (Jan. 28, 1980; 94 Stat. 3) Price: $.75.

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

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WHO: The Office of the Federal Register.

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: Feb. 22; March 7 and 21; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235. Gwendolyn Henderson, Assistant Coordinator, 202—523–5234.

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