AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

1-25-82
Vol. 47 No. 16
Pages 3339-3538

federal register

Monday
January 25, 1982

Highlights

3339 **National Consumer's Week** Presidential proclamation

3341 **Cuban and Haitian Entrants** Executive order

3512, 3521 **Securities** SEC issues rule and proposed rule on net capital requirements for brokers and dealers. (2 documents) (Part IV of this issue)

3531 SEC proposes to amend rules on borrowing and lending of securities by brokers and dealers. (Part IV of this issue)

3534 SEC publishes interpretation and proposal on uniform net capital rule and customer protection rule. (Part IV of this issue)

3401 **Grant Programs—Education** ED seeks applicants for noncompeting continuation projects under Handicapped Children's Model Program.

3413, 3414 **Grant Programs—Indians** Interior/BIA announces application period for Indian Child Welfare Act grants and publishes program distribution formula. (2 documents)

3417 **Energy** Interior announces availability of Report of the Commission on Fiscal Accountability of the Nation's Energy Resources.

3403 **Environmental Protection** EPA releases draft guideline for restraint of volatile organic compound emissions in gas/gasoline processing plants.

CONTINUED INSIDE

Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

3377 **Postal Service** PS solicits comments on second-class mail privileges change.

3392 **Railroads—Amtrak** ICC adopts interim procedures on costing methodologies for the Northeast corridor.

3486 **Air Transportation** DOT/FAA amends instrument rating requirements for airmen certification. (Part II of this issue)

3374 **Vessels** Treasury/Customs proposes to establish alternative evidentiary requirements for proof of damage to unmanned vessels.

3359 **Maritime Industry** FMC amends environmental assessment procedures.

3375 **Tariffs** Treasury/Customs requests comments on footwear classification.

3343 **Forest and Forest Products** USDA/AMS issues naval stores user fees for services.

3490 **Animal Diseases—Brucellosis** USDA/APHIS proposes to amend regulations on interstate movement of cattle. (Part III of this issue)

Antidumping Commerce/ITA issues notices on the following:

3393 Canned bartlett pears from Australia
3394 Expanded metal of base metal from Japan
3393 High power microwave amplifiers and components thereof from Japan
3395 Steel wire rope from Japan
3399 Sugar from France, Belgium and Federal Republic of Germany

3466 **Sunshine Act Meetings**

Separate Parts of This Issue

3486 **Part II, DOT/FAA**
3490 **Part III, USDA/APHIS**
3512 **Part IV, SEC (4 documents)**

Contents

Federal Register
Vol. 47, No. 16
Monday, January 25, 1982

The President

Executive Agencies
EXECUTIVE ORDERS
3341 Cuban and Haitian refugees, assistance (EO 12341)
PROCLAMATIONS
3339 Consumers' Week, National (Proc. 4892)

Agricultural Marketing Service
RULES
3343 Naval stores; user fee increases; final rule
PROPOSED RULES
Milk marketing orders:
3361 Lake Mead

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service.

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
3412 February

Alcohol, Tobacco and Firearms Bureau
NOTICES
3461 Reporting and recordkeeping requirements

Animal and Plant Health Inspection Service
PROPOSED RULES
Livestock and poultry quarantine:
3490 Brucellosis

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
3435 Acorn Engineering Co.

Centers for Disease Control
NOTICES
3413 Reproductive effects of glycol ethers, contract awards investigation; NIOSH diesel exhaust/coal dust study; and safety recommendations for manufacture of precast concrete products; meetings

Coast Guard
RULES
Navigation requirements:
3351 COLREGS demarcation lines; Puget Sound and adjacent waters, Wash.; interim; correction

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.
RULES
Conduct standards:
3350 Official business transactions, prohibition; revocation

Customs Service
PROPOSED RULES
3375 Tariff classification of merchandise; footwear having foxing or foxing-like band at sole and overlapping the upper, and shells for "moon boots"; administrative ruling
Vessels in foreign and domestic trades:
3374 Lighter-Aboard-Ship ("LASH") barges and similar unmanned vessels; owner and operator applications for remission or refund of duty paid on foreign repairs and equipment purchases; alternative evidentiary proofs

Defense Department
NOTICES
3401 Courts-Martial Manual; policy on publication of proposed amendments

Education Department
NOTICES
Grant applications and proposals, closing dates:
3401 Handicapped children's model program

Energy Department
See Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
3353 California
3352 Massachusetts
Air quality planning purposes; designation of areas:
3354 California
PROPOSED RULES
Hazardous waste programs; interim authorizations; various States:
3378 Texas; extension of time
NOTICES
Air pollution control:
3403 Natural gas/gasoline processing plants; volatile organic compound emissions for equipment leaks; control techniques guideline document availability and inquiry

Federal Aviation Administration
RULES
Airmen certification:
3486 Pilots and flight instructors; instrument rating requirements; cross-country experience
Airworthiness directives:
3346 Government Aircraft Factories
3347 Lockheed-California Co.
3349 Control zones
3349 Control zones and transition areas
3348 Transition areas (2 documents)
3350 Transition areas; correction
PROPOSED RULES
3369 Rulemaking petitions; summary and disposition
3370 Transition areas

NOTICES
Meetings:
3458 Aeronautics Radio Technical Commission (2 documents)
3458 Vertical separation standards and measurements program; meeting

Federal Communications Commission
RULES
Radio services, special:
3360 Amateur radio services; facsimile and television transmissions in additional frequency bands; correction
PROPOSED RULES
Radio stations; table of assignments:
3389 Hawaii
3388 South Dakota
NOTICES
3404 Canadian standard broadcast stations; notification list
Hearings, etc.:
3404 Bryan Industrial Electronics, Inc., et al.
Meetings:
3405 Federal-State Joint Board; jurisdictional separations

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
3357 Alabama et al.
Flood insurance; special hazard areas:
3357 Alabama et al.
3358 Minnesota et al.
PROPOSED RULES
Flood elevation determinations:
3379 California et al.

Federal Energy Regulatory Commission
PROPOSED RULES
Electric utilities:
3374 Cost and quality of fuels for electric plants, monthly report (Form No. 423); revision; extension of time
NOTICES
Environmental statements; availability, etc.:
3402 American Natural Rocky Mountain Co. et al.; construction and operation of pipeline from Fremont County, Wyo., to Kiowa County, Kans., etc.
3466 Meetings; Sunshine Act

Federal Labor Relations Authority
RULES
Regional office addresses, listing:
3343 Denver, Colo.; address change

Federal Maritime Commission
RULES
3359 National Environmental Policy Act; implementation; categorical exclusions
NOTICES
3405, 3407 Agreements filed, etc. (2 documents)

Federal Reserve System
NOTICES
Applications, etc.:
3407 Aktivbanken A/S et al.
3407 Commerce Bancshares, Inc.
3407 Fifth Third Bancorp
3408 First Bancshares, Inc.
3408 First Bulloch Banking Corp.
3408 First City Bancorporation of Texas, Inc.
3408 First Glen Bancorp, Inc.
3409 First State Holding Co., Inc.
3409 Great Guaranty Bancshares, Inc.
3409 Liberty National Bancshares, Inc.
3409 Mark Twain Bancshares, Inc.
3409 Minto Bancorporation
3409 Security Bancshares, Inc.
3410 Southwest National Corp.
3410 UNB Bancshares, Inc.
3410 United Madison Bancshares, Inc.
3410 Woodriver Banco, Inc.
3410 Youell Sales Department, Inc.
Meetings:
3411 Consumer Advisory Council

Federal Service Impasses Panel
RULES
Regional office addresses, listing:
3343 Denver, Colo.; address change

Federal Trade Commission
RULES
Prohibited trade practices:
3350 Tomy Corp.
PROPOSED RULES
Prohibited trade practices:
3371 Germaine Monteil Cosmetiques Corp.
NOTICES
3467 Meetings; Sunshine Act
Premerger notification waiting periods; early terminations:
3411 Brae Corp.
3411 Richco, N.V.

Health and Human Services Department
See Alcohol, Drug Abuse, and Mental Health Administration; Centers for Disease Control; Public Health Service.

Indian Affairs Bureau
NOTICES
Child custody proceedings, reassumption of jurisdiction; petition receipt, approval, etc.:
3414 Passamaquoddy Tribe
Grant applications and proposals, closing dates:
3414 Child and family service programs
3413 Grants; child and family service program; grant fund distribution formula

Interior Department
See also Indian Affairs Bureau; Land Management Bureau; Surface Mining Reclamation and Enforcement Office.
NOTICES
3417 Fiscal Accountability of Nation's Energy Resources Commission; report availability
3415 Reporting and recordkeeping requirements

International Trade Administration
NOTICES
Antidumping:
3393 Canned Bartlett pears from Australia
3394 Expanded metal of base metal from Japan
3393 High power microwave amplifiers and components from Japan; extension of time and postponement of hearing

3395 Steel wire rope from Japan
3399 Sugar from France, Belgium, and West Germany
Meetings:
3399 President's Export Council

Interstate Commerce Commission
PROPOSED RULES
Rail carriers:
3392 Northeast corridor costing methodologies; commuter service and Conrail freight service; advance notice; cross reference
NOTICES
Motor carriers:
3427 Finance applications
3429 Permanent authority applications; operating rights republication
3430 Temporary authority applications
Rail carriers:
3418 Northeast corridor costing methodologies; commuter service and Conrail freight service; interim and proposed procedures

Justice Department
See Antitrust Division.

Land Management Bureau
RULES
Public land orders:
3355 Oregon; correction
NOTICES
Management framework plans, review and supplement, etc.:
3415 Oregon
Meetings:
3415 Battle Mountain District Grazing Advisory Board
Sale of public lands:
3415 Nevada

Management and Budget Office
NOTICES
3443, 3445 Agency forms under review (2 documents)

Metric Board
NOTICES
Voluntary metric conversion plans:
3439 Chemicals and allied products sector
3439 Instrument sector

National Credit Union Administration
NOTICES
3467 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
NOTICES
Marine mammal permit applications, etc.:
3400 Alaska Department of Fish and Game
3400 Korea
3400 Whaling Commission, International; Interagency Committee preparation schedule, etc.

National Science Foundation
NOTICES
Meetings:
3439, 3440 Behavioral and Neural Sciences Advisory Committee (3 documents)
3440 Engineering Advisory Committee
3440, 3441 Physiology, Cellular, and Molecular Biology Advisory Committee (3 documents)

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
3442 Southern California Edison Co. et al.
3442 University of Lowell
3442 Vermont Yankee Nuclear Power Corp.
3443 Virginia Electric & Power Co.
3441 Regulatory guides; issuance and availability

Postal Service
RULES
Domestic Mail Manual:
3351 Northern Mariana Islands; mail security
3352 Rates and fees; controlled circulation type second-class publications; requester provision effective date; correction
PROPOSED RULES
Domestic Mail Manual:
3377 Second-class mail privileges; circulation requirements; comprehensive revision; advance notice

Public Health Service
NOTICES
Committees; establishment, renewals, terminations, etc.:
3412 Health Care Technology Study Section

Research and Special Programs Administration, Transportation Department
NOTICES
Hazardous materials:
3458, 3459 Applications; exemptions, renewals, etc. (2 documents)

Securities and Exchange Commission
RULES
Brokers and dealers; securities net capital requirements:
3512 Alternative net capital requirements and net capital computation under basic or alternative method
PROPOSED RULES
Brokers and dealers; securities net capital requirements:
3531 Customer protection rule; borrowing and lending of securities and related requirements
3521 Percentage deductions ("haircuts") increase
3534 Uniform net capital and customer protection rules; treatment of fails to deliver and fails to receive
NOTICES
Hearings, etc.:
3456 Principal World Fund, Inc., et al.

Small Business Administration
NOTICES
Disaster areas:
3457 California

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submissions; various States:
3377 Massachusetts, Michigan, Oregon, and Rhode Island; coal exploration operations on non-Federal land, etc.; correction
Permanent regulatory program, etc.:
3377 Exemptions for operations which affect two acres or less, definitions and terminology, and performance standards for special bituminous coal mines in Wyo.; correction

Transportation Department
See also Coast Guard; Federal Aviation Administration; Research and Special Programs Administration, Transportation Department; Urban Mass Transportation Administration.
NOTICES
Meetings:
3460 Minority Business Resource Center Advisory Committee; cancellation

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Customs Service.
NOTICES
Organization, functions, and authority delegations:
3464 Internal Revenue Service National Office; reorganization

Urban Mass Transportation Administration
PROPOSED RULES
3391 Capital and operating assistance grants, maintenance of effort; grantees project management procedures; and urban mass transit program (section 5 formula grants) operating assistance applications requirements; withdrawn
NOTICES
3460 Section 5 operating assistance application instructions; revised Circular 9050.1A availability

MEETINGS ANNOUNCED IN THIS ISSUE

COMMERCE DEPARTMENT
International Trade Administration—
3399 President's Export Council, Washington, D.C. (open), 2–11–82

FEDERAL COMMUNICATIONS COMMISSION
3405 Meeting with telecommunications industry concerning jurisdictional separations, Arlington, Tex. (open), 2–2–82

FEDERAL RESERVE SYSTEM
3412 Consumer Advisory Council, Washington, D.C. (open), 1–27 and 1–28–82

HEALTH AND HUMAN SERVICES DEPARTMENT
Alcohol, Drug Abuse and Mental Health Administration—
3412 Basic Behavioral Processes Research Review Committee, Rockville, Md. (partially open), 2–25 and 2–26–82
3412 Basic Psychopharmacology and Neuropsychology Research Review Committee, Silver Spring, Md. (partially open), 2–25 through 2–27–82
3412 Life Course Review Committee, Rockville, Md. (partially open), 2–10 and 2–11–82
3412 Psychopathology and Clinical Biology Research Review Committee, Washington, D.C. (partially open), 2–22 through 2–24–82
Centers for Disease Control—
3413 NIOSH diesel exhaust/coal dust study, Cincinnati, Ohio (open), 2–9–82
3413 Safety recommendations for manufacture of precast concrete products, Rockville, Md. (open), 2–24–82
3413 Three contracts to investigate reproductive effects of glycol ethers, Cincinnati, Ohio (open), 1–26–82

INTERIOR DEPARTMENT
Land Management Bureau—
3415 Battle Mountain District Grazing Advisory Board, Battle Mountain, Nev. (open), 2–11–82

NATIONAL SCIENCE FOUNDATION
3439, 3440 Behavioral and Neural Sciences Advisory Committee: Anthropology Subcommittee, Washington, D.C. (closed), 2–10 through 2–12–82; Neurobiology Subcommittee, Washington, D.C. (closed), 2–11, 2–12, 2–23 and 2–24–82; Sensory Physiology and Perception Subcommittee, Washington, D.C. (closed), 2–11 and 2–12–82
3440 Engineering Advisory Committee: Earthquake Hazards Mitigation Subcommittee, Washington, D.C. (open), 2–10 and 2–11–82
3441 Physiology, Cellular, and Molecular Biology Advisory Committee: Genetic Biology Subcommittee, Washington, D.C. (closed), 2–11 through 2–13–82
3440, 3441 Molecular Biology Subcommittee, Group A, Washington, D.C. (closed), 2–11 and 2–12–82; Cellular Physiology Subcommittee, Washington, D.C. (closed), 2–10 through 2–12–82

TRANSPORTATION DEPARTMENT
Federal Aviation Administration—
3458 Radio Technical Commission for Aeronautics: Special Committee 146 on Airborne Automatic Direction Finding Equipment, Washington, D.C. (open), 2–23 and 2–24–82; Special Committee 147 on Traffic Alert & Collision Avoidance Systems, Washington, D.C. (open), 2–23 through 2–25–82
3458 Vertical separation standards and measurements program, Washington, D.C. (open), 2–11–82

CANCELLED MEETING

TRANSPORTATION DEPARTMENT
3460 Minority Business Resource Center Advisory Committee, Washington, D.C. (open), 1–18–82

TENTATIVE MEETING

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
3400 International Whaling Commission,various locations, January through July meetings

CORRECTED HEARING

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office—
3377 Two-acre exemption rule, Washington, D.C., 1–25–82 (time correction)

RESCHEDULED HEARING

COMMERCE DEPARTMENT
International Trade Administration—
3393 High power microwave amplifiers and components thereof from Japan, Washington, D.C., rescheduled from 1–28–82 to 4–7–82

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

4872 3339

Executive Orders:

12251 (Revoked by EO 12341) 3341

12341 3341

5 CFR

Ch. XIV 3343

7 CFR

160 3343

Proposed Rules:

1139 3361

9 CFR

Proposed Rules:

78 3490

14 CFR

39 (2 documents) 3346, 3347

61 3486

71 (5 documents) 3348–3350

Proposed Rules:

Ch. I 3369

71 3370

15 CFR

0 3350

16 CFR

13 3350

Proposed Rules:

13 3371

17 CFR

240 3512

Proposed Rules:

240 (3 documents) 3521–3534

18 CFR

Proposed Rules:

141 3374

19 CFR

Proposed Rules:

4 3374

177 3375

30 CFR

Proposed Rules:

700 3377

701 3377

764 3377

770 3377

771 3377

779 3377

780 3377

783 3377

784 3377

785 3377

786 3377

788 3377

816 3377

817 3377

825 3377

828 3377

921 3377

939 3377

33 CFR

80 3351

82 3351

39 CFR

111 (2 documents) 3351, 3352

Proposed Rules:

111 3377

40 CFR

52 (2 documents) 3352, 3353

81 3354

Proposed Rules:

123 3378

43 CFR

Public Land Orders:

6100 3351

44 CFR

64 3355

65 (2 documents) 3357, 3358

Proposed Rules:

67 3379

46 CFR

547 3359

47 CFR

97 3360

Proposed Rules:

73 (2 documents) 3388, 3389

49 CFR

Proposed Rules:

Ch. X 3392

635 3391

650 3391

658 3391

Federal Register
Vol. 47, No. 16
Monday, January 25, 1982

Presidential Documents

Title 3—
The President

Proclamation 4892 of January 21, 1982

National Consumers' Week

By the President of the United States of America

A Proclamation

An informed and educated consumer is vital to the long-term healthy growth of our economic system. Consumer education can help us make decisions that are right for ourselves and right for our economy. It helps motivate young people to formulate more realistic, attainable standards for a higher quality of life. It helps adults solve problems and make decisions in our increasingly complex financial world. And because consumer education promotes responsible consumer behavior and customer satisfaction, it is beneficial for consumers, business and government.

The American enterprise system has given us the greatest and most diverse outpouring of goods and services of any economy in history. We are the most prosperous nation in the world with unequaled opportunities for individuals to enjoy the fruits of their labors. Honest transactions in a free market between buyers and sellers are at the core of individual, community, and national economic growth.

In the final analysis, an effective and efficient system of commerce depends on an informed and educated public. Consumer dollars shape the marketplace with an expenditure of roughly two-thirds of the gross national product—almost twice that of government and business combined. The strength of this consumer purchasing power carries with it a responsibility that each citizen wisely decide which economic resources are to be saved and which are to be spent where.

There is a proper role for government involvement in the marketplace. For example, it is the responsibility of government to insure that our food and drug supplies are safe and that defrauders are brought to justice. Too much government regulation, however, simply adds to the costs to business and consumers alike without commensurate benefits. We are striving to correct excesses, at the same time recognizing that informed and educated consumers are our best hope for prosperity, efficiency, and integrity in the marketplace.

As we enter a new era of greater economic freedom, I urge schools, community organizations, the media, labor unions and businesses to develop programs and information so that consumer and economic education and information will be readily available to all.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning April 25, 1982, as National Consumers' Week.

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

Ronald Reagan

[FR Doc. 82-1945
Filed 1-22-82; 10:34 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12341 of January 21, 1982

Cuban and Haitian Entrants

By the authority vested in me as President of the United States of America by Section 501 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) and Section 301 of Title 3 of the United States Code, and to reassign some responsibilities for providing assistance to Cuban and Haitian entrants, it is hereby ordered as follows:

Section 1. The functions vested in the President by Sections 501 (a) and (b) of the Refugee Education Assistance Act of 1980, hereinafter referred to as the Act (8 U.S.C. 1522 note), are delegated to the Secretary of Health and Human Services.

Sec. 2. The Attorney General shall ensure that actions are taken to provide such assistance to Cuban and Haitian entrants as provided for by Section 501(c) of the Act. To that end, the functions vested in the President by Section 501(c) of the Act are delegated to the Attorney General.

Sec. 3. All actions taken pursuant to Executive Order No. 12251 shall continue in effect until superseded by actions under this Order.

Sec. 4. Executive Order No. 12251 of November 15, 1980, is revoked.

Ronald Reagan

THE WHITE HOUSE,
January 21, 1982.

[FR Doc. 82-1946
Filed 1-22-82; 10:35 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 16
Monday, January 25, 1982

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.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Ch. XIV

Regional Office; Location Change; Final Rule

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Amendment of rules and regulations.

SUMMARY: This document amends Appendix A, paragraph (d)(7) (45 FR 3522, January 17, 1980) and paragraph (d)(7)(a) (46 FR 23043, April 23, 1982) of the rules and regulations of the Federal Labor Relations Authority (Authority), General Counsel of the Federal Labor Relations Authority (General Counsel), and Federal Service Impasses Panel (Panel), published at 5 CFR Part 2400 *et seq.* to announce the closing of the Kansas City, Missouri, Regional Office (Region 7) and the relocation of the Authority's Regional Office headquarters for Region 7 to the Denver, Colorado, Office (formerly a Sub-Regional Office within Region 7).

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Laurence M. Evans, Assistant General Counsel (202) 382-0811.

SUPPLEMENTARY INFORMATION: Effective January 28, 1980, the Authority, General Counsel and Panel published at 45 FR 3482, January 17, 1982, final rules and regulations to govern the processing of cases by the Authority, General Counsel and Panel under Chapter 71 of Title 5 of the United States Code. These rules and regulations are required by Title VII of the Civil Service Reform Act of 1978 and are set forth in 5 CFR Part 2400 *et seq.* (1981). Appendix A, paragraph (d) of the foregoing rules and regulations sets forth office addresses and telephone numbers of the Regional Directors of the Authority. Effective April 13, 1981, Appendix A, paragraph (d)(7)(a) of the rules and regulations was amended, at 46 FR 23043, April 23, 1982, and 46 FR 30327, June 8, 1981, to set forth the new address and telephone numbers for the permanent location of the Authority's Denver, Colorado, Sub-Regional Office within the Authority's Kansas City, Missouri, Regional Office. This amendment announces the closing of the Kansas City, Missourt, Regional Office and the designation of the Denver, Colorado, Office as the location of the Regional Office for Region 7. The change in the location of the Regional Office does not alter the geographic jurisdiction of Region 7. Based upon a careful review of costs and operating efficiencies, it has been concluded that the transaction of Authority business would be enhanced by moving the Regional Office headquarters to Denver, Colorado, and by closing the Kansas City, Missouri, Office.

Accordingly, in Appendix A to Chapter XIV, paragraph (d)(7) of the Authority, General Counsel, and Panel rules and regulations (5 CFR Part 2400 *et seq.* (1981)) is revised in its entirety to read as follows:

Appendix A to 5 CFR Ch. XIV—Current Addresses and Geographic Jurisdiction

* * * * *

(d) The Office addresses of Regional Directors of the Authority are as follows:

(7) Denver Regional Office.	1531 Stout Street, Suite 301, Denver, Colorado 80202, Telephone: FTS 327-5224; Commercial: (303) 837-5224.

(5 U.S.C. 7134)

Dated: January 19, 1982.

Federal Labor Relations Authority.

For the Authority:

James J. Shepard,

Executive Director.

For the General Counsel:

S. Jesse Reuben,

Deputy General Counsel.

[FR Doc. 82-1804 Filed 1-22-82; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 160

Regulations and Standards for Naval Stores; Proposed Rulemaking for User Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), enacted August 13, 1981, requires the Secretary, as of October 1, 1981, to fix and collect fees and charges for the establishment of standards, examinations, analyses, classifications and other services provided for by the Naval Stores Act of 1923, as amended, 7 U.S.C. 91-99. Such fees and charges shall cover as nearly as practicable the costs of providing such services, including administrative and supervisory costs. Therefore, the regulations governing naval stores are hereby amended to provide for such fees and charges.

EFFECTIVE DATE: October 1, 1981.

FOR FURTHER INFORMATION CONTACT: J. T. Bunn, Acting Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C., 20250 (202) 447-2097.

SUPPLEMENTARY INFORMATION: Notice was given (46 FR 47053, September 24, 1981) that the Department was implementing as an interim final rule regulations providing for user fees for services provided by the department under the Naval Stores Act of 1923, as amended by the Omnibus Budget Reconciliation Act of 1981. Such fees and charges were set at a level which would cover as nearly as practicable the cost of providing such services, including administrative and supervisory costs. Interested parties were given an opportunity to comment upon the interim final rule. No comments were received. Based on the discussion below, the Department hereby adopts the regulations noticed in the interim final rule which provide for user fees, which as nearly as practicable, cover the costs of providing such services, including administrative and supervisory costs. The authority for

these regulations is contained in the Naval Stores Act of 1923 (42 Stat. 1435; 7 U.S.C. 91–99), as amended by the Omnibus Budget Reconciliation Act of 1981.

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), enacted August 13, 1981, requires the Secretary, as of October 1, 1981, to fix and collect fees and charges for the establishment of standards, examinations, analyses, classifications and other services provided for under the Naval Stores Act of 1923, as amended, 7 U.S.C. 91–99. Such fees and charges shall cover as nearly as practicable the cost of providing such services, including administrative and supervisory costs. Pub. L. 97–35 further requires that fees and charges shall be assessed and collected from the processors and warehousers of naval stores, and inspection and related services shall be suspended or denied to any such processor or warehouser upon failure to timely pay the fees and charges assessed.

Prior to October 1, 1981, the fees charged to users of the naval stores services were unduly low and did not reflect the actual costs of providing the service since the difference between the revenues received and actual costs of providing the service was made up by appropriations from Congress. Since the Omnibus Budget Reconciliation Act now requires the full cost of the services to be borne by users effective October 1, 1981, such fees and charges must be increased to fully recover costs associated with providing the service.

The term "naval stores" is used collectively to describe two products: rosin and turpentine. Presently, there are only six firms operating eight processing plants that receive rosin inspection service. Additionally, there are four firms operating an unknown number of plants that package graded turpentine. One rosin plant is located in Mobile, Alabama, and the remainder are located in the State of Georgia. One turpentine plant is located in Georgia; the remainder are located in Massachusetts, New Jersey, and Ohio. These firms account for virtually all of the gum rosin produced in the United States each year and an unknown portion of turpentine production.

Since 1923, when the Naval Stores Act was promulgated, there have been minimal fees charged to users of the services but supervisory and administrative costs were funded by federal appropriation. Services currently provided by the Department are adequate to meet the needs of the naval stores industry. A revised fee schedule is herein adopted as a final rule based on a thorough review of historical data regarding production and marketing, and it is anticipated that the assessment fees will provide the necessary funds to continue the level of service in effect as of September 30, 1981.

This final rule has been reviewed under United States Department of Agriculture procedures established to implement Executive Order 12291 and has been determined to be a nonmajor rule because it does not meet the criteria contained therein for major regulatory action. Initial review of the regulations contained in 7 CFR Part 29, for need, currency, clarity, and effectiveness will be made within the next five years.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. All naval stores operations within the industry fall within the confines of "small business," as defined in the Regulatory Flexibility Act. The Department has informally advised all segments of the naval stores industry of the anticipated implementation of user fees, and that there would be no change in the level of the services available. It has been determined that the economic impact upon small entities would not be adverse and would in no way affect normal competition in the market place.

There are basically three types of recurrent fees to be collected by the Department as authorized by the Naval Stores Act: (1) Fees for inspections performed by the licensed inspectors; (2) annual rental for each of the approximately 60–70 sets of official U.S. Rosin Standards loaned by the Tobacco Division, Agricultural Marketing Service, to rosin processors; and (3) annual permit fees from processing plants certified eligible for inspection service.

Additionally, there are a number of other possible fees, such as original inspections and reinspections performed by a federal inspector, laboratory testing and analyses, and special request inspections. None of these other fees have been charged to the users of the service for years because the services have not been requested. However, the regulations are hereby amended to reflect an increase in these fees in the event these services are requested. The precentage of increase will parallel the increase in recurrent fees currently paid by the users of the service.

Accordingly, the regulations contained in 7 CFR Part 160, are hereby amended as described below:

1. Section 160.1(c) is amended to conform the regulations to the present agency designation.

2. Section 160.68 relating to fees is amended to specify the Department's collection process.

3. Section 160.69 relating to fees deposited to a trust fund is deleted. This will eliminate reference to a trust fund account.

4. Sections 160.70, 160.71, and 160.72 are renumbered 160.69, 160.70, and 160.71, respectively. Section 160.72 is reserved. Section 160.71 as renumbered is further amended to provide for suspension and denial of inspection and related services for failure to timely pay fees and charges assessed as required by the Omnibus Budget Reconciliation Act of 1981.

5. Section 160.76 is amended to increase the annual charge for providing duplicates and maintenance of the rosin standards and to increase the charge for additional servicing, postage and handling, and replacement parts.

6. Section 160.201 (a) and (b) is amended to increase all fees contained therein. This increase is necessary for the Department to continue to provide an efficient, cost-effective service to the naval stores industry and to recover costs commensurate with services rendered. Additionally, footnotes 1 and 2 thereunder are revised to incorporate increased costs. Footnote 2 is further amended to reflect a change in the organizational structure of the Tobacco Division, Agricultural Marketing Service.

7. Section 160.202 is amended to increase all laboratory analysis and testing fees contained therein.

8. Section 160.204 is amended to increase the hourly fee for laboratory and field inspection work. This rate has not been increased since 1958 and is insufficient to defray costs for rendering such services upon requests from the naval stores industry.

9. Section 160.205 is amended to increase initial and annual permit fees. The "note" thereunder is also amended to increase fees contained therein.

PART 160—REGULATIONS AND STANDARDS FOR NAVAL STORES

Accordingly, the regulations under the Naval Stores Act contained in 7 CFR Part 160, are hereby amended as follows:

§ 160.1 [Amended]

1. Section 160.1 is amended by removing the words "Consumer and" appearing in paragraph (c) and inserting the word "Agricultural" therein.

2. Section 160.68 is revised to read as follows:

§ 160.68 Collection of fees.

Beginning October 1, 1981, all fees and charges assessed to interested parties for services rendered under the Naval Stores Act shall be collected by the Director, Tobacco Division, Agricultural Marketing Service, to cover insofar as practicable, all costs of providing such services. Such fees shall be credited to the Division in accordance with fiscal regulations of the Department.

§ 160.69 [Removed]

§§ 160.70 and 160.71 [Redesignated as §§ 160.69 and 160.70]

3. Section 160.69 is removed and §§ 160.70 and 160.71 are redesignated 160.69 and 160.72 respectively.

§ 160.72 [Redesignated as § 160.71 and amended]

4. Section 160.72 is redesignated as § 160.71 and is further amended by removing the second sentence of the paragraph and inserting the following: "* * *After a claim becomes delinquent, the Administrator shall suspend or deny inspection and related services to any interested party who has failed to make timely payment of the fees and charges assessed, as well as any claims which have been rendered, and shall take such action as may be necessary to collect any amounts due."

§ 160.72 [Reserved]

5. Section 160.72 is reserved.

§ 160.76 [Amended]

6. Section 160.76 is amended by removing the figure "$5" in the first sentence and replacing it with the figure "$20". The figure "$5" appearing in the proviso is removed and replaced with the figure "$30".

Specific Fees Payable for Services Rendered

7. Section 160.201 is revised as follows:

§ 160.201 Fees generally for field inspection and certification of naval stores and drum containers of rosin.

Except as provided in § 160.204, the following fees shall be paid to the United States for the field inspection and certification of naval stores and drum containers of rosin, not conducted under a cooperatiave agreement and where laboratory analysis or testing is not required:

(a) *Inspections by licensed inspectors at eligible processing plants.*

(1) Rosin (grading and incidental certification as to class, condition and weight).

(i) In drums (see Note 1) per drum—$1.24.

(ii) In 100 pound bags (see Note 1) per bag—$.23.

(iii) In tank cars, per car—$67.50.

(iv) In tank trucks, per truck—$34.00.

(2) Turpentine (Grading and incidental certification as to class, condition and volume).

(i) In 55 gallon drums, per drum—$2.25.

(ii) In tank cars or trucks, per unit of 100 gallons—$1.41.

(iii) In bulk for delivery to tank steamer, per unit of 100 gallons—$2.25.

(b) Inspections by regularly employed, salaried Federal inspectors.

(1) Rosin.

(i) Grading and weighing at concentration and storage yards, per drum—$4.05.

(ii) Irregular inspection and grading at distillation or processing plants, up to 400 drums, per drum—$3.60; all over 400 drums, per drum—$2.25.

(iii) Weighing at concentration and storage yards, subsequent to grading, per drum—$2.25.

(iv) Examination of the external or internal appearance and condition of filled rosin drums, and of the rosin contained therein—See Note 2 and § 160.204.

(v) Re-certification under L.S. Certificate of rosin moving in commerce, per drum—$.23.

(2) Turpentine (inspection and certification as to kind, condition, volume, etc.).

(i) In drums of 55 gallons, per drum—$3.38.

(ii) In tank cars or trucks, per unit of 100 gallons—$2.81.

(iii) For bulk delivery to tank steamer, per unit of 100 gallons—$2.25.

Note 1.—When the number of drums and bags inspected and certified at any plant during any calendar month is equivalent to a total of 2,400 or more drums (counting five bags as equivalent to one drum), the fee shall be computed at the rate of $1.01 per drum and $.18 per bag certified. For quantities less than the equivalent of 2,400 drums, the fee shall be computed at the prescribed rate of $1.24 per drum and $.23 per bag.

Note 2.—The inspection or related examination of containers of rosin and their contents under section B(1)(iv) shall be performed only after the inspector or the Chief of the Marketing Programs Branch has been advised regarding the location, nature, scope, and purpose of the service desired, and the charge to be made therefore has been submitted to and accepted by the requesting person.

7. Section 160.202 is revised as follows:

§ 160.202 Fees generally for laboratory analysis and testing.

Except as provided in Section 160.204, the following fees shall be paid to the United States for laboratory analysis and testing of naval stores, when not performed in the conduct of a cooperative agreement with respect to such products:

(a) *Rosin and turpentine.* (See Note 3).

(1) Comprehensive analysis to determine purity, specification compliance, or other chemical and physical properties related thereto:

(i) Single Sample—$40.00.

(ii) Two or more samples analyzed at same time per sample—$35.00.

(2) Limited testing to determine kind, grade, or other factors related to quality of utility.

(i) Single Sample:

(*a*) Rosin—$14.00.

(*b*) Turpentine—$10.00.

(ii) Two or more samples tested at same time:

(*a*) Rosin—per sample—$10.00.

(*b*) Turpentine—per sample—$8.00.

Note 3.—The analysis and testing of rosin involves many different types of laboratory procedures, requiring variable time for performance, and including other cost factors. The charge for such analysis and testing will depend on the type and extent of the work required to supply the information desired by the interested person requesting the service. When it appears that the charges indicated in this section will not defray the costs of making the tests required, the interested person shall be informed before any work is performed and will be supplied with a cost estimate of the actual charges to be made. See also § 160.204.

8. Section 160.204 is revised as follows:

§ 160.204 Fees for extra cost and hourly rate service.

The fees specified in §§ 160.201 and 160.202 apply to the routine field inspection and usual laboratory work incident to the certification of commodities covered by those sections. Should additional work be required to provide special information desired by the person requesting service, or should it be necessary for an inspector to make a special trip or to deviate from his regular schedule of travel, or should the fees prescribed in §§ 160.201 and 160.202 otherwise be insufficient to defray the cost to the Government for rendering such service, then the person requesting the service shall pay, in lieu of the prescribed fees, an amount computed by the Department as sufficient to defray the total cost thereof, including allowances for time spent in collecting and preparing samples obtaining identification records, traveling, performing laboratory tests or other necessary work, and also any expense incurred for authorized transportation and subsistence of the inspector or

analyst while in travel status. The charge for time so spent shall be computed at the rate of $17.80 per hour for laboratory and field inspection work. The overtime rate for services performed outside the inspector's regularly scheduled tour of duty shall be $21.30. The rate of $26.70 shall be charged for work performed on Sundays or holidays.

9. Section 160.205 is revised as follows:

§ 160.205 Permit fees for eligible processing plants under licensed inspection.

Initial permit fee—$20.00.
Annual renewal permit fee—$20.00.

Note.—The renewal permit fee shall be reduced to $10 per year when the inspection fees paid by the eligible processing plant aggregate $200 or more during the preceding fiscal year ended September 30, and shall be waived when such fees aggregate $400 or more during such fiscal year. Such reduced permit fee shall apply only in case the eligible processing plant has made use of the licensed inspection service.

Dated: January 19, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-1791 Filed 1-22-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-CEF-3-AD; Amdt. 39-4302]

Airworthiness Directives; Government Aircraft Factories (GAF), Nomad Models N22 and N24 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), AD 81-11-01, applicable to Government Aircraft Factories (GAF) Nomad Models N22 and N24 series airplanes. Instances have been reported where the passenger emergency exit door could not be opened due to its improper assembly. Therefore, the AD requires visual inspection of the passenger emergency exit and repair, if necessary, to assure that it can be opened when the exit door handle is in the open position.

EFFECTIVE DATE: January 28, 1982, to all persons except those to whom it has already been made effective by airmail letter from the FAA dated May 13, 1981.

Compliance: As prescribed in the body of the AD.

ADDRESSES: GAF Nomad Telex Alert Service Bulletin ANMD 52-2 pertaining to this AD may be obtained from Government Aircraft Factories, 226 Lorimer Street, Port Melbourne, Victoria 3207 Australia. A copy of the Telex Alert Service Bulletin is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. The document may also be examined in Room 7321, Federal Aviation Administration, Pacific-Asia Region, Engineering and Manufacturing District Office, 300 Ala Moana Blvd., Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Gary K. Nakagawa, Chief, Engineering and Manufacturing District Office, APC-210, FAA, Pacific-Asia Region, P.O. Box 50109, Honolulu, Hawaii 96850; telephone (808) 546-8650 or 546-8658; or Earsa L. Tankesley, Chief, Airworthiness Standards Program, ACE-215, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-6937.

SUPPLEMENTARY INFORMATION: There have been reports where the passenger emergency exit door on certain GAF Model N22 and N24 series airplanes could not be opened due to the lock mechanism spindle not being properly positioned to the exit door interior handle. It is essential to the personal safety of the airplane occupants that the emergency exit can be opened when the exit door handle is placed in the open position.

The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby requiring the issuance of an AD. It was also determined that an emergency condition existed, that immediate corrective action was required, and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by letter dated May 13, 1981. The AD became effective immediately as to these individuals upon receipt of that letter and is identified as AD 81-11-01.

The AD, which is applicable to Government Aircraft Factories (GAF) Nomad Models N22 and N24 series airplanes requires visual inspection of the emergency exit door for proper operation and repair if necessary in accordance with the airplane maintenance manual and parts catalog. Since the unsafe condition described herein may still exist on other GAF Nomad Model N22 and N24 series airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

Government Aircraft Factories (GAF): Applies to Nomad Models N22 and N24 series airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished.

To assure the emergency exit can be opened when the emergency exit door handle is placed in the open position, within the next 10 hours time-in-service after the effective date of this AD, accomplish the following:

(A) Visually inspect the emergency exit door for proper operation by rotating the emergency exit door handle (interior) to the open position and open the door by physically pushing outward at the bottom of the exit door. It is only necessary to move the door 0.5 inches (12 millimeters) outward to assure proper emergency door operation and that the door latch pins are fully withdrawn. Further movement of the door beyond 0.5 inches could fracture the door trim panel at the lower edge.

Note.—Operation of the door-locking mechanism should not require undue force in complying with this paragraph.

(B) If the emergency exit door opens properly in accordance with paragraph (A) of this AD, secure the door in the closed position and record compliance of this AD with an appropriate entry in the airplane maintenance records.

(C) If the emergency exit door handle will not rotate or the door will not open in accordance with paragraph (A) of this AD, accomplish the following:

1. Remove the inner trim panel from the door in accordance with the manufacturer's Maintenance Manual No. 25-20-00, page 201, paragraph 1B (3).

2. Visually inspect the door-locking mechanism, including linkage to door locking pins for proper assembly and also assure the door lock pins are free of corrosion and are not seized in the door frame or fuselage by performing the following as applicable:

(a) Proper assembly of the door lock assembly is assured if the forward door lock pin linkage rod is almost horizontal while the rear rod is angled upwards, thus as viewed from the inside, a clockwise rotation (towards open) of the exit door handle will withdraw the door locking pins. If the linkage is incorrectly assembled, refer to the manufacturer's Illustrated Parts Catalog No. 52-20-01, Figure 1, and:

i. Disconnect both operating (linkage) rods (item 8) from the lever assembly (item 12), by removing cotter pin, washer and connecting pins (items 9, 10 and 11).

ii. Rotate the door lever (handle) assembly (item 12) so that the forward end is sloping upwards at approximately 45 degrees and

reconnect the linkage rods using new cotter pins.

iii. Rotate the door lever (handle) clockwise (open position) and confirm that the door lock pins can be withdrawn from the door frame and lubricate the locking pins with MIL–G–21164 grease or equivalent.

(b) If the door locking pins are corroded or seized in the door frame or fuselage, free the pins, remove any corrosion and lubricate the pins with MIL–G–21164 grease or equivalent.

(c) Reassemble the door and reinstall the trim panels.

(D) If any part of paragraph (C) of this AD was completed, reaccomplish paragraph (A) of this AD to assure the emergency exit opens properly and record compliance of this AD with an appropriate entry in the airplane maintenance records.

(E) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD can b accomplished.

(F) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing District Office, FAA, Pacific-Asia Region, P.O. Box 50109, Honolulu, Hawaii 96850.

GAF-Nomad Telex Alert Service Bulletin ANMD–52–2 covers the subject matter of this AD.

This amendment becomes effective on January 28, 1982, to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated May 13, 1981, and identified as AD 81–11–01.

(Secs. 313(a), 601 and 603 of the 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)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting one of the persons identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Court of Appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri, on January 13, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82–1524 Filed 1–22–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 81–NW–97–AD; Amdt. 39–4301]

Airworthiness Directives; Lockheed-California Company Model L–188 Series Airplanes Certificated in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive, applicable to Lockheed L–188 series airplanes, which requires inspection for fuel leakage and fatigue cracks, and replacement, as necessary, of defective parts on the wing lower Butt Line (B.L.) 65 splice joints. The original AD was prompted by reports of wing plank cracks which if undetected could result in fuel leakage and ultimately the structural failure of the wing. Since the issuance of this AD, it has been determined that cracks may develop earlier in the life of the aircraft than was originally known. This amendment therefore lowers the time-in-service threshold after which the aircraft must be inspected.

DATES: Effective date February 2, 1982. Compliance schedule as prescribed in the body of the AD, unless previously accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1, P.O. Box 551, Burbank, California 91520. Also, a copy of the service information may be reviewed at the Federal Aviation Administration, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Harvey Chimerine, Aerospace Engineer, Airframe Branch, ANM–120L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2825.

SUPPLEMENTARY INFORMATION: Telegraphic AD T81–03–53 was issued January 30, 1981, to all known operators of Lockheed Model L–188 airplanes which required an inspection for wing plank cracks and fuel leaks on airplanes with 30,000 or more hours time in service. AD 81–03–53, Amendment 39–4243 (46 FR 52090, October 26, 1981) made this Telegraphic AD effective to all persons.

After issuing Amendment 39–4243, the Chief Los Angeles Area Aircraft Certification Office, Northwest Mountain Region obtained information which indicated that cracks up to 4 inches in length have been found that were initiated at under 30,000 flight hours.

Since this condition is likely to exist or develop in other airplanes of the same type design, an amendment to AD 81–03–53, Amendment 39–4243 (46 FR 52090) is being issued to reduce the initial inspection from 30,000 to 25,000 flight hours time in service. This amendment also includes two alternative nondestructive testing inspection procedures as specified in Lockheed Service Bulletin 88/SB–707A.

Since a situation exists that requires immediate adoption of this regulation, it is found that Notice and Public Procedure hereon are impractical, 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 Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising AD 81–03–53 (Amendment 39–4243; 46 FR 52090 dated October 26, 1981) to read as follows:

Lockheed-California Company: Applies to Lockheed Model L–188 airplanes certificated in all categories. Compliance required as indicated, unless previously accomplished:

A. Compliance Schedule

1. For airplanes with more than 25,000 hours time-in-service on the effective date of this AD, compliance required within 48 hours calendar time after the effective date of this AD.

2. For airplanes with less than 25,000 hours time-in-service on the effective day of this AD, compliance required prior to reaching 25,000 hours time-in-service or within 48 hours calendar time after the effective date of this AD whichever is later.

B. Accomplishment Instructions

To detect cracks and prevent failure of the lower wing planks and fuel leakage, accomplish the following:

1. Visually check the lower Butt Line (B.L.) 65 splice joints for signs of fuel leakage prior to each takeoff.

Note.—This check may be performed and recorded by flightcrew if properly instructed in conducting the inspection.

2. Aircraft exhibiting surface wet with fuel seeps, dripping, and/or running leaks shall be inspected for cracks per Paragraph 6 below prior to further flight.

3. Aircraft exhibiting dry fuel stains that do not become wet shall be inspected for cracks per Paragraph 6 below within the next 500

flight hours time-in-service. Fuel stains that become wet must be inspected for cracks per Paragraph 6 below prior to further flight.

4. Aircraft showing no fuel stains shall be inspected for cracks per Paragraph 6 below within the next 2,000 flight hours time-in-service.

5. Repetitive inspections shall be conducted at intervals not to exceed 2,000 flight hours time-in-service if the inspection procedures specified in Paragraph 6(a) or (b) below are used and alternatively at 4,000 flight hours time-in-service if the inspection procedure in Paragraph 6(c) below is used. For aircraft that have been repaired in accordance with Lockheed-California Drawing No. 842394, this repetitive inspection requirement begins only after 15,000 flight hours time-in-service from the time of the repair have been attained.

6. (a) X-ray inspect both sides of each splice joint front to rear spar per Lockheed-California L-188 Service Bulletin 88/SB-707A dated November 12, 1981 (hereinafter referred to as 88/SB-707A) paragraph 2.A(3).

(b) As an alternate to paragraph 6(a) above, X-ray procedure per 88/SB-707A paragraph 2.A(4) may be substituted.

(c) As an alternate to paragraph 6(a) or 6(b) above, the ultrasonic inspection per 88/SB-707A paragraph 2.A(5) may be substituted.

7. Visual examination of lower surface B.L. 65 splice joint for fuel leakage prior to each takeoff per paragraph B(1) may be discontinued when inspection per Paragraph 6 and repair, if necessary, per paragraph C below are accomplished.

C. All cracks found per Paragraph B.6. must be repaired prior to further flight in accordance with a method approved by the Chief, Los Angeles Area Aircraft Certification Office, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and repairs required for the purposes of this AD when approved by the Chief, Los Angeles Area Aircraft Certification Office, Northwest Mountain Region.

E. Equivalent inspections and repairs may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, Northwest Mountain Region.

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 Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. These documents also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

This amendment becomes effective February 2, 1982.

(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)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on January 13, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-1525 Filed 1-22-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AEA-73]

Alteration of Transition Area and Control Zone: Binghamton, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Binghamton, New York, Control Zone and Transition Area over Broome County Airport, Binghamton, New York. The airport has recently been renamed the Edwin A. Link/Broome County Airport. This will require amending the descriptions of the Zone and the Area to reflect the new name.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Al Reale, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: This rule is editorial in nature and imposes no additional burden on any person. Thus, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective on January 25, 1982 as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description of the Binghamton, New York, control zone by deleting, "Broome County Airport," and substituting, "Edwin A. Link Field/Broome County Airport," therefor.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations, by altering the description of the Binghamton, New York, 700-foot floor transition area by deleting:

(a) "Broome County Airport," and by sutstituting, "Edwin A. Link Field/Broome County Airport," therefor.

(b) "Broome County Airport ILS" and by substituting, "Edwin A. Link Field/Broome County ILS" therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, New York on January 6, 1982.

Timothy L. Hartnett,

Acting Director, Eastern Region.

[FR Doc. 82-1528 Filed 1-22-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AEA-71]

Revocation of Transition Area: Lawrenceville, Va.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule revokes the Lawrenceville, Virginia, Transition Area over Lawrenceville Municipal Airport, Lawrenceville, Virginia. An instrument approach procedure had been developed

for the airport based on the Lawrenceville VORTAC, but the VORTAC could not support the procedure. Since the procedure has been withdrawn, the transition airspace can be released.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Al Reale, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: Since this rule releases airspace, it is less restrictive and imposes no additional burden on any person. Therefore, public comment and procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective January 25, 1982 by revoking the 700-foot floor Lawrenceville, Virginia, Transition Area.

(Secs. 307(a), and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(c)]; sec. 6(c), Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, New York on January 6, 1982.

Timothy L. Hartnett,

Acting Director, Eastern Region.

[FR Doc. 82-1529 Filed 1-22-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AEA-54]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: Pottstown, Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Pottstown, Pennsylvania, Transition Area, by changing the transition area to reflect modifications to the VOR instrument procedures. The new controlled area is necessary to protect aircraft using the approach and departure procedures.

EFFECTIVE DATE: 0901 G.m.t. January 21, 1982.

FOR FURTHER INFORMATION CONTACT: A. J. Reale, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: This rule will delete the transition airspace to the east and south which protected the former approaches. The new extension to the north is contained to a large extent within presently controlled airspace with the exception of approximately a 1 mile by 4 mile segment underlying a 1,200 foot transition area. In view of the foregoing, the rule is minor and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary, and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective January 21, 1982, as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations by altering the description of the Pottstown, Pennsylvania 700-foot floor transition area by deleting, "and within 9.5 miles west and 4.5 miles east of the Pottstown, Pa., VORTAC 190° radial, extending from the VORTAC to 18.5 miles south of the VORTAC; within 5 miles each side of the Pottstown, Pa., VORTAC 086° radial, extending from the Pottstown, Pa., VORTAC to 18 miles east of the VORTAC;" and by substituting, "within 2 miles each side of the Pottstown, Pa., VORTAC 022° radial, extending from the VORTAC to 10.5 miles north of the VORTAC", therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(c)]; Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, New York on January 6, 1982.

Timothy L. Hartnett,

Acting Director, Eastern Region.

[FR Doc. 82-1478 Filed 1-22-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AGL-33]

Designation of Federal Airways Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate airspace necessary for a control zone to serve Columbus Bakalar Municipal Airport near Columbus, Indiana. This is a result of a request by the Columbus Board of Aviation Commissioners which has also advised the Federal Aviation Administration of its intent to operate a non-federal air traffic control tower on a part-time basis at Columbus Bakalar Municipal Airport from 0700 to 2200 local time.

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

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The airspace required would lower the floor of controlled airspace from 700 feet above the surface down to the surface within a five statute mile radius of the geographic center of Columbus Bakalar Municipal Airport. The control zone would be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time would thereafter be continuously published in the Airport/Facility Directory. In addition, aeronautical maps and charts will

reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 52121 of the **Federal Register** dated October 26, 1981, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to establish a control zone near Columbus, Indiana. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rulemaking.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective March 18, 1982, as follows:

In § 71.171 (46 FR 455), the following control zone is added:

Columbus, Indiana

Within a 5-mile radius of Columbus Bakalar Municipal Airport (latitude 39°15'50"N, longitude 85°53'55"W). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61, Federal Aviation Regulations (14 CFR 11.61))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on January 4, 1982.

Paul K. Bohr,

Acting Director, Great Lakes Region.

[FR Doc. 82-1526 Filed 1-22-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

Alteration of Transition Area; Ogdensburg, New York

Correction

In FR Doc. 82-144, appearing on page 760 of the **Federal Register** of Thursday, January 7, 1982, the **"EFFECTIVE DATE"** was incorrect. The **"EFFECTIVE DATE"** should have read January 7, 1982.

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 0

Amendment to Employee Responsibilities and Conduct Regulations

AGENCY: Department of Commerce, Office of the Secretary.

ACTION: Final rule.

SUMMARY: The Commerce Department is proposing to amend its regulations on employee responsibility and conduct. The purpose of the proposed amendment is to revoke a provision of the Department's Standards of Conduct regulations which prohibits an employee from transacting any official business which chiefly affects a person by whom he has been employed or with whom he has had any economic interest within the preceding two years. The provision is unnecessarily restrictive and is revoked because the proper interests of the public and the Government are served by provisions elsewhere in the same regulations applying to situations that create an appearance of impropriety.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Marilyn G. Wagner, Assistant General Counsel for Administration, (202) 377-5387.

SUPPLEMENTAL INFORMATION: This amendment pertains solely to a matter of agency personnel. Therefore, the provisions of 5 U.S.C. 553 requiring notice of proposed rulemaking and delayed effective date are inapplicable. The requirement for an initial or final regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, is also inapplicable. Further, this amendment is exempt from the requirements of Executive Order 12291. Since this amendment does not contain an information collection requirement, the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, does not apply.

This amendment has been reviewed and approved by the Office of Government Ethics.

PART 0—EMPLOYEE RESPONSIBILITIES AND CONDUCT

For this reason, Part 0, Subtitle A of Title 15, Code of Federal Regulations, is amended as set forth below: By revising § 0.735-13(b) to read as follows:

§ 0.735-13 Financial Interests

(b) No employee shall participate in any manner, on behalf of the United States, in the negotiation of contracts, the making of loans, and grants, the granting of subsidies, the fixing of rates, or the issuance of valuable permits or certificates, or in any investigation or prosecution, or in the transaction of any other official business, which affects chiefly a person with whom he has any economic interest or any pending negotiations concerning a prospective economic interest, except with express prior authorization as provided for in Subpart G of this part.

* * * * *

(E.O. 11222, May 8, 1965, 30 FR 6469; 5 CFR 735.104.)

Marilyn G. Wagner,

Assistant General Counsel for Administration.

[FR Doc. 82-1704 Filed 1-22-82; 8:45 am]

BILLING CODE 3510-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3080]

Tomy Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Carson, California corporation, among other things, to cease, in connection with the advertising, distribution and sale of any doll house, accessory, or other toy product, misrepresenting that any collection of products is a set, unless all the products depicted are available for purchase as a set. The firm is prohibited from misrepresenting the availability of any product; describing two or more toys in any advertisement which cannot

be purchased as a set, unless accompanied by a disclosure that such products are sold separately; and failing to distribute a copy of the order to all operating divisions, including any entity engaged in the preparation of the firm's advertising.

DATES: Complaint and order issued Jan. 6, 1982.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PA, Judith Wilkenfeld, Washington, D.C. 20580 (202) 724-1467.

SUPPLEMENTARY INFORMATION: On Monday, August 24, 1981, there was published in the **Federal Register**, 46 FR 42681, a proposed consent agreement with analysis In the Matter of Tomy Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10-1 Availability of merchandise and/or facilities; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records. Subpart—Disseminating Advertisements: § 13.1043 Disseminating advertisements. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1572 Availability of advertised merchandise and/or goods; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or deceptively, To Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45))

Carol M. Thomas,

Secretary.

[FR Doc. 82-1710 Filed 1-22-82; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 80 and 82

[CGD 81-087]

Disestablishing of COLREGS; Demarcation Lines for Puget Sound and Adjacent Waters of Northwest Washington; Correction

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule; correction.

SUMMARY: This document corrects an interim final rule on the disestablishing of COLREGS demarcation lines for Puget Sound and adjacent waters of Northwest Washington that appeared at page 61456 in the **Federal Register** of Thursday, December 17, 1981, (46 FR 61456). This action is necessary to correct an inadvertent error in citations.

FOR FURTHER INFORMATION CONTACT: Commander Roger Pike, Port Safety Branch, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington, 98174, (206) 442-5537.

The following corrections are made in FR Doc. 81-36102 appearing at page 61456 of December 17, 1981:

1. All references to 33 CFR Part "82", including section numbers, are corrected to read 33 CFR Part "80".

2. On page 61457, column 2, the fifth full paragraph, the heading "PART 82-72 COLREGS; INTERPRETIVE RULES" is corrected to read "PART 80—COLREGS DEMARCATION LINES".

(33 U.S.C. 151)

R. A. Bauman,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

January 18, 1982.

[FR Doc. 82-1792 Filed 1-22-82; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Northern Mariana Islands; Mail Security Regulations

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule authorizes postal employees in the Northern Mariana Islands to cooperate with customs officials of the Government of the Northern Mariana Islands by permitting them to examine the exterior of mail entering the Islands which may contain dutiable or prohibited articles and to open, without a search warrant or the consent of the sender or addressee, such incoming mail as the Postal Service has authority to open without a search warrant or consent. This extends to customs officials of the Northern Marianas the same cooperation which is authorized to be given by postal employees in Guam and American Samoa to customs officials of the Government of Guam and the Government of American Samoa, respectively, and by postal employees in the U.S. Virgin Islands to officials of the U.S. Customs Service in the Virgin Islands, under existing postal regulations.

EFFECTIVE DATE: February 24, 1982.

FOR FURTHER INFORMATION CONTACT: Scott L. Reiter, (202) 245-4620.

SUPPLEMENTARY INFORMATION: The Postal Service published this proposal in the **Federal Register** for comment on September 15, 1981, 46 FR 45787. An explanation of the purposes of the proposal accompanied it. Written comments were received from the Government of the Northern Mariana Islands, which is the entity most affected by the proposal, indicating its full concurrence with the proposed regulations. No other person or entity commented for or against the proposal. Accordingly, the Postal Service hereby adopts, without change, the following amendment of the Domestic Mail Manual, which is incorporated by reference in the **Federal Register.** See 39 CFR 111.1.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Part 115—Mail Security

Part 115 of the Domestic Mail Manual is amended by adding a new section 115.95 as follows:

.95 *Customs Inspection in the Northern Mariana Islands.*

Postal employees in the Saipan post office and the Rota post office may permit designated Northern Mariana Islands customs officials, without a search warrant, to open, inspect, and read the contents of unsealed mail, and to examine the exterior (but not open or read the contents) of sealed mail which originates outside the Northern Mariana Islands and is addressed for delivery within the Northern Mariana Islands. Upon the request of Northern Mariana Islands customsofficials, postal employees in the Saipan post office or the Rota post office may ask the addressee of sealed mail which Northern Mariana Islands customs reasonably suspects of containing dutiable or prohibited matter to authorize Northern Mariana Islands

customs officials to open and inspect the contents of the sealed mail, or to appear at the post office to accept delivery of the sealed mail in the presence of a Northern Mariana Islands customs official.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3

(39 U.S.C. 401, 403, 404, 3623(d))

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 82-1747 Filed 1-22-82; 8:45 am]

BILLING CODE 7710-12-M

39 CFR Part 111

Domestic Mail Manual; Correction

AGENCY: Postal Service.

ACTION: Final rule; correction.

SUMMARY: An effective date was included by the Postal Service in the Domestic Mail Manual regulation requiring controlled circulation type second-class publications to be circulated primarily to persons requesting the publication. The Postal Service Board of Governors, however, did not set an effective date for the requester provision. Accordingly, the effective date set by the Postal Service was erroneous.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Gloria Brogan Flanagan, (202) 245-4610.

SUPPLEMENTARY INFORMATION: On March 10, 1981, the Governors of the Postal Service adopted certain changes to the Domestic Mail Classification Schedule (DMCS) in conjunction with the general rate proceeding and published the rates and classification changes in the **Federal Register**. 46 FR 16404. Among the changes was the addition of section 200.0110, subsection f, which establishes a requirement that controlled circulation type second-class publications be circulated primarily to persons who have requested the publication. The last sentence of subsection 200.0110f reads: "This subsection will not be effective prior to March 20, 1982." 46 FR 16404, 16422. The Board of Governors, which has the authority to set the effective date of changes to the DMCS, has not yet acted to set an effective date for the requester requirement contained in subsection 200.0110f.

In the regulations published to implement in the Domestic Mail Manual (DMM) the changes adopted by the Governors, the Postal Service included section 422.6, which parallels the provisions of section 200.0110f of the DMCS. However, section 422.6d of the DMM states that the requester requirement will be effective on March 20, 1982. 46 FR 17758, 17767, March 20, 1981. Since an effective date has not been set by the Board of Governors the Postal Service is correcting section 422.6d of the Domestic Mail Manual to conform to the provision adopted by the Governors. When the Board of Governors takes action on the effective date, notice of that action will be published in the **Federal Register**.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Accordingly, section 422.6d of the Domestic Mail Manual is corrected to read as follows:

422.6 Controlled Circulation Publications

* * * * *

d. The publication must have a legitimate list of persons who request the publication, and 50 percent or more of the copies of the publication must be distributed to persons making such requests. Subscription copies paid for or promised to be paid for including those at or below a nominal rate may be included in the determination of whether the 50 percent request requirement is met. Persons will not be deemed to have requested the publication if their request is induced by a premium offer or by receipt of material consideration. Requests which are more than three years old will not be considered to meet this requirement. This subsection will not be effective prior to March 20, 1982.

A transmittal letter making this change in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of this change will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401(2), 404(a)(2), 3625(f))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-1750 Filed 1-22-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-2024-2]

Approval and Promulgation of Implementation Plans; Massachusetts Revisions—VOC Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this Notice is to approve revisions to the State Implementation Plan (SIP) for the State of Massachusetts which were submitted to EPA. These submittals satisfy two conditions set forth in the September 16, 1980 Part D rulemaking (45 FR 61293) which required that the State submit an updated Statewide VOC emissions inventory for both stationary and mobile sources and the procedures to be used to update them on an annual basis.

EFFECTIVE DATE: February 24, 1982.

ADDRESSES: Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 1903, JFK Federal Bldg., Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St., SW., Washington, D.C.; Office of the Federal Register, 1100 L St., NW., Room 8401, Washington, D.C. and Massachusetts Department of Environmental Quality Engineering, Division of Air Quality Control, One Winter Street, 8th floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Thomas Wholley, Air Branch, Room 1903, JFK Federal Bldg., Boston, MA 02203, (617) 223-5630.

SUPPLEMENTARY INFORMATION: On September 16, 1980 (45 FR 61293) EPA set forth various conditions for approval of revisions to the Massachusetts Part D SIP that were submitted to EPA on December 31, 1978 and May 16, 1979. Two conditions required that the State submit an updated statewide VOC emissions inventory for both stationary and mobile sources and the procedures to be used to update them on an annual basis. The stationary source inventory, including emission contributions from minor point sources (less than 100 tons emissions per year of any one pollutant).

was to be submitted by December 1, 1980. The mobile source inventory, including verification of the assumptions used to develop the inventory, such as vehicle speeds, vehicle mix, hot-cold start percentages, vehicle miles of travel (VMT), growth rates, and other refinements, was to be submitted by March 31, 1981.

The updated VOC emissions inventory, including sources emitting less than 100 tons per year, was submitted on September 3, 1981 and the procedures to be used for the annual update of the inventory were submitted on November 4, 1981. The section of the submittal entitled "Mobile Source Emissions Inventory" describes the procedures for developing the highway emissions inventory. The section of the submittal entitled "Area Sources" describes the procedures for developing the emissions inventory for non-highway mobile and stationary sources that are too small or too numerous to be treated individually as point sources.

EPA published a Notice of Receipt in the November 5, 1981 **Federal Register** (46 FR 54939). No public comments were received as a result of that Notice.

Action: EPA is approving the updated statewide "VOC Emissions Inventory" and the procedures for annually updating the inventory.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

Under Executive Order 12291 EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not major because it only approves State actions.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's Notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Secs. 110(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)))

Dated: January 18, 1982.

Note.— Incorporation by reference of the State Implementation Plan for the Commonwealth of Massachusetts was approved by the Director of the Federal Register on July 1, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart W—Massachusetts

1. Section 52.1120, paragraph (c) is amended by adding subparagraph (44) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(44) The Massachusetts Department of Environmental Quality Engineering submitted an updated VOC emissions inventory on September 3, 1981, and the procedures to annually update this inventory on November 4, 1981.

§ 52.1166 [Amended]

2. In § 52.1166 *Rules and Regulations*, paragraphs (a)(8) and (a)(9) are removed and reserved.

[FR Doc. 82-1703 Filed 1-22-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-9-FRL-2020-3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Sierra County APCD

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: EPA is approving changes to the California State Implementation Plan, specifically to the Sierra County Air Pollution Control District rules. The changes, which were submitted by the California Air Resources Board, cover particulate matter, specific contaminants, process weight per hour, compliance tests and hearing board fees. All of the rules were evaluated and found to be in accordance with EPA policy and 40 CFR Part 51.

EFFECTIVE DATE: This action is effective February 24, 1982.

ADDRESS: A copy of the revisions is located at: The Office of the Federal Register, 1100 "L" Street, N.W., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency Region IX, 215 Fremont Street, San Francisco, CA 94105, ATTN: Douglas Grano, (415) 974-8222.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following Sierra County APCD rules to EPA:

Rule 207, Particulate Matter
Rule 210, Specific Contaminants
Rule 211, Process Weight Per Hour
Rule 218, Compliance Tests
Rule 618, Hearing Board Fees

Under Section 110 of the Clean Air Act, as amended and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan (SIP) revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51. On April 29, 1980 (45 FR 28371) EPA proposed to approve these rules. No comments were received. Therefore, this notice approves all the rule revisions listed above, and incorporates them into the California SIP.

Under Executive Order 12291, EPA must judge whether a rulemaking action is "major". Further, under the Regulatory Flexibility Act, EPA must assess the effect of the rulemaking action on "small entities". This regulation is not "major" because it approves state and local actions and imposes no new requirements. I hereby certify that the action will not have a significant economic impact on a substantial number of small entities.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)))

Dated: January 18, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart F—California

1. Section 52.220 is amended by adding paragraph (c)(51)(xviii) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(51) * * *

(xviii) *Sierra County APCD.* (A) New or amended Rules 207, 210, 211, 218 and 618.

* * * * *

[FR Doc. 82-1687 Filed 1-22-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 81

[A-9-FRL-2030-1]

Designation of Areas for Air Quality Planning Purposes: Attainment Status Designation; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Today's notice revises the attainment status designation of a portion of Kern County, California. The designation is changed from nonattainment to attainment for carbon monoxide (CO).

EFFECTIVE DATE: This action is effective March 26, 1982.

ADDRESSES: Information pertinent to the redesignation is available for public inspection during normal business hours at the EPA Region 9 office cited below and at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812

Kern County Air Pollution Control District, 1601 "H" Street, Suite 250, Bakersfield, CA 93301

Kern County Council of Governments, 1106 26th Street, Bakersfield, CA 93301.

FOR FURTHER INFORMATION CONTACT: Ronald Leach, State Implementation Plan Section, Air Programs Branch, Air Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Telephone: (415) 974-8252.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, under Paragraph 107(d)(2) of the Clean Air Act, as amended, EPA promulgated attainment status designations for all states (43 FR 8962). In California, EPA designated the entire San Joaquin Valley Air Basin (SJVAB) portion of Kern County nonattainment for CO. This designation was recommended by the California Air Resources Board (ARB) and supported by measured ambient air quality violations. Under Paragraph 107(d)(5) of the Clean Air Act, a State may revise its designations of attainment status and submit them to EPA for approval and promulgation.

On April 16, 1981, Kern County submitted a document entitled "Redesignation of the Nonattainment Area for Carbon Monoxide: Kern County Portion of the San Joaquin Valley Air Basin" to the ARB with a copy to EPA, Region 9. This document contains data which support today's redesignation.

In a letter dated June 22, 1981, the ARB submitted a redesignation request to EPA referencing the April 1981 Kern County CO redesignation document. Along with the request, the ARB submitted an ambient air quality data summary for the Bakersfield area, and a legal description and map of the recommended attainment/nonattainment area boundary.

EPA Actions

EPA is redesignating the San Joaquin Valley Air Basin portion of Kern County (except the Bakersfield Metropolitan Area) to attainment for CO. This action is consistent with the EPA policy which allows nonattainment areas to be as small as possible as long as they encompass all areas expected to be experiencing ambient air quality violations and all sources which are believed to have a significant impact upon the expected violations.

The boundary between the Bakersfield Metropolitan Area (nonattainment area) and the remainder of the San Joaquin Valley Air Basin portion of Kern County (attainment area) is described below.

Beginning at the intersection of Gosford Road and White Lane, easterly along White Lane, southerly along Stine Road, easterly along Panama Lane, northerly along Cottonwood Road, easterly along Planz Road, easterly along Muller Road, northerly along Highway 184 (also known as Weedpatch Highway and Morning Drive), westerly along Freeway 178, northerly along Fairfax Road, westerly along Panorama Drive, northwesterly along Manor Street, northwesterly along Chester Avenue, northwesterly along James Road, southerly along Airport Drive, southerly along Freeway 99, southwesterly along the Kern River, and southerly along Gosford Road to the point of beginning.

The area outside the Bakersfield boundary has experienced no CO ambient air quality violations since measurement began in 1976. Also, no violations have been predicted outside the Bakersfield area.

EPA's approval of the above redesignation in California is being done without prior proposal because the redesignation is not controversial. The public should be advised that this approval action will be effective March 26, 1982. However, if notice is received by EPA on or before February 24, 1982 that someone wishes to submit adverse or critical comments, this approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Under Executive Order 12291, EPA must judge whether a rulemaking action is "major." Further, under the Regulatory Flexibility Act, EPA must assess the affect of the rulemaking action on "small entities." This action is not "major" because it approves State and local actions and imposes no new requirements. I hereby certify that the action will not have a significant economic impact on a substantial number of small entities.

(Sec. 107(d) and 301(a), Clean Air Act, as amended, 42 U.S.C. 7407(d) and 7601(a))

Dated: January 18, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designation

1. Section 81.305, California, in the San Joaquin Valley Air Basin, Kern County is divided into two areas, and the designation of Kern County, outside the Bakersfield Metropolitan Area, is revised as follows:

§ 81.305 California

* * * * *

California—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * *		
San Joaquin Valley Air Basin (SJVAB):		
* * * * *		
Kern County (SJVAB: within Bakersfield Metropolitan Area).	x	
Kern County (SJVAB: outside Bakersfield Metropolitan Area).		x
Kings County		x
* * * * *		

[FR Doc. 82-1762 Filed 1-22-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6100

[OR-19328]

Oregon; Revocation of Reclamation Withdrawal

Correction

In FR Doc. 81-37420 appearing on page 21 in the issue of Monday, January 4, 1982 make the following correction:

On page 21, center column, under T. 8 S., R. 19 E., in the entry for Sec. 3, "* * * SE¼NW¼, and * * *" should have read "* * * SE¼NW¼, NE¼SW¼, and * * *".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-6237]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

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

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

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

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

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

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

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

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
Alabama: Jefferson County	Trussville, city of	010133	750626, emergency; 811118, regular	740628
California:				
Monterey County	Gonzales, city of	060198	750725, emergency; 811118, regular	740524
Siskiyou County	Yreka, city of	060367	720825, emergency; 811118	740322
Connecticut: Hartford County	Bristol, city of	090023	750502, emergency; 811118, regular	740517
Florida: Pasco County	Pasco County [2]	120230	710924, emergency; 811118, regular	771104
Michigan: Kent County	Kentwood, city of	260107	730330, emergency; 811118, regular	731102
Minnesota: St. Louis County	Hermantown, city of	270708	800618, emergency; 811118, regular	781013
Montana: Yellowstone County	Yellowstone County [2]	300142	750728, emergency; 811118, regular	0
New Jersey: Hunterdon County	Milford, borough of	340239	750806, emergency; 811118, regular	740628
New York:				
Erie County	Buffalo, city of	360230	740116, emergency; 811118, regular	740628
Niagara County	Newfane, town of	360504	730410, emergency; 811118, regular	740517
Westchester County	Tarrytown, village of	360933	740626, emergency; 811118, regular	740531
Wyoming County	Warsaw, village of	360951	740725, emergency; 811118, regular	740517
Ohio: Montgomery County	Centerville, city of	390408	750519, emergency; 811118, regular	740517
Pennsylvania:				
McKean County	Foster, township of	421855	740723, emergency; 811118, regular	740503
Delaware County	Glenolden, borough of	420416	720630, emergency; 811118, regular	770211
Westmoreland County	Scottdale, borough of	420896	730126, emergency; 811118, regular	730720
Illinois: Kane County	Batavia, city of	170321	811120, emergency; 811118, regular	760910
Virginia: Independent City	Williamsburg, city of	510294	751029, emergency; 811118, regular	750328
Wisconsin: Grant County	Boscobel, city of	550148	811127, emergency; 811118, regular	731217
Alabama:				
Baldwin County	Loxley, town of	010009	750424, emergency; 811201, regular	740628
Do	Bay Minette, city of	010004	750423, emergency; 811201, regular	751024

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
Do	Robertsdale, city of	010222	780828, emergency; 811201, regular	770128
Etowah County	Glencoe, city of	010081	750513, emergency; 811201, regular	740517
Do	Attalla, city of	010079	750701, emergency; 811201, regular	731228
Colorado: Mesa County	Fruita, town of	080194	750605, emergency; 811201, regular	750124
Connecticut:				
Windham County	Ashford, town of	090165	751121, emergency; 811201, regular	741108
New London County	Franklin, town of	090154	750723, emergency; 811201, regular	741101
Florida: Orange County	Orange County [2]	120179	750729, emergency; 811201, regular	760130
Illinois:				
Kane County	West Dundee, village of	170335	750625, emergency; 811201, regular	740405
Rock Island County	Cordova, village of	170586	750418, emergency; 811201, regular	740315
Lake County	Wauconda, village of	170396	750113, emergency; 811201, regular	740405
Winnebago County	Pecatonica, village of	170797	780714, emergency; 811201, regular	740405
St. Clair County	Swansea, village of	170637	750113, emergency; 811201, regular	740405
Sangamon County	Riverton, village of	170603	811120, emergency; 811201, regular	731116
Indiana: Vigo County	Terre Haute, city of	180264	740123, emergency; 811201, regular	740109
Massachusetts: Worcester County	Warren, town of	250342	750723, emergency; 811201, regular	740517
Michigan:				
Oakland County	Franklin, village of	260325	750307, emergency; 811201, regular	750411
Wayne County	Flat Rock, city of	260224	750815, emergency; 811201, regular	740517
North Carolina:				
Surry County	Surry County [2]	370364	791109, emergency; 811201, regular	780811
Stanly County	Stanly County [2]	370361	790712, emergency; 811201, regular	780609
Surry County	Mount Airy, town of	370226	750528, emergency; 811201, regular	740628
Stanly County	Albemarle, city of	370223	740319, emergency; 811201, regular	731228
Lincoln County	Lincolnton, city of	370147	751103, emergency; 811201, regular	740405
Alamance County	Alamance County [2]	370001	750116, emergency; 811201, regular	750103
New Jersey:				
Bergen County	Cresskill, borough of	340024	750530, emergency; 811201, regular	740726
Hunterdon County	Bloomsbury, borough of	340231	750624, emergency; 811201, regular	740614
Camden County	Camden, city of	340128	750516, emergency; 811201, regular	740412
New York:				
Orange County	Monroe, town of	360621	750305, emergency; 811201, regular	740628
Erie County	Lancaster, town of	360249	740516, emergency; 811201, regular	740524
Cayuga County	Union Springs, village of	360129	750818, emergency; 811201, regular	750411
Oregon: Yamhill County	Amity, city of	410250	750520, emergency; 811201, regular	760730
Pennsylvania:				
Adams County	Mount Pleasant, township of	421258	750702, emergency; 811201, regular	750207
York County	Manchester, township of	420931	730126, emergency; 811201, regular	740201
Lebanon County	Swatara, township of	420582	730809, emergency; 811201, regular	740201
Adams County	Oxford, township of	420003	730606, emergency; 811201, regular	731228
South Carolina: Florence County	Florence, city of	450078	750417, emergency; 811201, regular	740531
Texas: Brazoria County	Manvel, town of	480076	751120, emergency; 811201, regular	741220
Virginia: Prince William County	Prince William County [2]	510119	721215, emergency; 811201, regular	750110
Vermont: Franklin County	Fletcher, town of	500054	751121, emergency; 811201, regular	741108
Washington:				
Island County	Island County [2]	530312	750327, emergency; 811201, regular	771025
Skagit County	Hamilton, town of	530155	750807, emergency; 811201, regular	750627
Wisconsin:				
Dane County	Mazonmanie, village of	550085	750729, emergency; 811201, regular	731228
Columbia County	Columbus, city of	550058	741007, emergency; 811201, regular	731217
Pennsylvania: Butler County	Clinton, township of	422345	770301, emergency; 811201, regular	750110
Arkansas: Saline County	Benton, city of	050192	750702, emergency; 811201, regular	731116
Colorado: La Plata County	La Plata County [2]	080097	741212, emergency; 811201, regular	770603
Illinois: St. Clair County	St. Clair County [2]	170616	730330, emergency; 811201, regular	760521
Indiana: Boone County	Zionsville, town of	180016	750502, emergency; 811201, regular	740412
Louisiana: Tangipahoa Parish	Hammond, city of	220208	750414, emergency; 811215, regular	740308
New Jersey:				
Burlington County	Washington, township of	340117	750414, emergency; 811215, regular	740726
Monmouth County	Spring Lake Heights, borough of	340330	750307, emergency; 811215, regular	740503
Bergen County	Hillsdale, borough of	340043	711119, emergency; 811215, regular	740116
Hunterdon County	Bethlehem, township of	340554	750916, emergency; 811215, regular	741122
Somerset County	Raritan, Borough of	340442	741210, emergency; 811215, regular	740503
Passaic County	West Paterson, borough of	340412	750625, emergency; 811215, regular	740628
Ohio:				
Montgomery County	Montgomery County [2]	390775	770927, emergency; 811215, regular	780602
Montgomery County	Riverside, village of	390416	760512, emergency; 811215, regular	740215
Oregon: Linn County	Lyons, city of	410142	750228, emergency; 811215, regular	740308
Pennsylvania:				
Westmoreland County	Upper Burrell, township of	422195	750820, emergency; 811215, regular	740920
Northampton County	Lehigh township of	421931	750610, emergency; 811215, regular	741115
Allegheny County	Pittsburgh, city of	420063	730413, emergency; 811215, regular	740308
Lebanon County	South Lebanon, township of	420581	730316, emergency; 811215, regular	731228
Erie County	Waterford, borough of	420454	750821, emergency; 811215, regular	740510
Westmoreland County	Export, borough of	420876	750417, emergency; 811215, regular	740628
Do	Youngwood, borough of	420908	750324, emergency; 811215, regular	740621
Do	New Stanton, borough of	420892	750930, emergency; 811215, regular	740802
Virginia: Accomack County	Onancock, town of	510298	760217, emergency; 811215, regular	750131
Vermont: Lamoille County	Hyde Park, Village of	500231	760607, emergency; 811215, regular	740830
Washington:				
Lewis County	Lewis County [2]	530102	740408, emergency; 811215, regular	771129
Pierce County	South Prairie, town of	530145	800630, emergency; 811215, regular	761119
Yakima County	Yakima, city of	530311	750120, emergency; 811215, regular	750718
Total—92.				

[1] Key for reading 4th column (Effective Date): First two digits designate the year, the middle two digits designate the month, and the last two digits designate the day.
[2] Disaster community.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1559 Filed 1-22-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Associate Director, State and Local Programs and Support, after consultation with the Chief Executive Officer of each community listed, finds that modification of the proposed Special Flood Hazard Areas (SFHAs) for those communities is appropriate as a result of requests for changes in the interim and/or Proposed Rule.

DATES: These modified SFHAs are in effect as of the dates listed in the sixth column of the attached list and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified SFHA determinations for each community are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0222.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support has published a notification of the SFHAs in prominent local newspapers for the communities listed below. Ninety (90) days have elapsed since that publication, and the Associate Director has received appeals from the communities requesting changes in the proposed SFHA determinations.

The numerous changes made in the SFHAs on the Flood Insurance Rate Map for each community make it administratively infeasible to publish in this notice all of the SFHA changes contained on the maps. However, this notice includes the address of the Chief Executive Officer where the modified SFHA determinations are available for inspection.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 65. (Presently appearing at its former Section 24 CFR Part 1915).

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

These SFHAs are 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).

These SFHAs together with the flood plain management measures required by 60.3 (Presently appearing at its former § 1910.3) 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 modified SFHAs shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

The changes in the SFHAs listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former 24 CFR 1915.4):

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Alabama: Morgan	Town of Falkville (Docket No. FEMA 6066).	*The Hartselle Enquirer:* June 4, 1981; June 11, 1981.	Hon. Homer H. Landrum, Mayor, Town of Falkville, Route 3, P.O. Box 70, Hartselle, Alabama 35640.	Mar. 12, 1982	010177C.
Georgia: Cobb County	City of Smyrna (Docket No. FEMA 6111).	*Smyrna Neighbor:* July 30, 1981; August 6, 1981.	Hon. Frank B. Johnson, Mayor, City of Smyrna, P.O. Box 1226, Smyrna, Georgia 30081.	Mar. 12, 1982	130057C.
New Hampshire: Merrimack.	Town of Hooksett (Docket No. FEMA 6113.	*Union Leader:* July 24, 1981; July 31, 1981.	Mr. Lowell D. Apple, Chairman, Board of Selectmen, Municipal Building, 16 Main Street, Hooksett, New Hampshire 03106.	Mar. 12, 1982	330115C.
Minnesota: St. Louis	City of Duluth (Docket No. FEMA 6134).	*Duluth News Tribune:* August 21, 1981; August 28, 1981.	John Fedo, Mayor, City of Duluth, 403 City Hall, Duluth, Minnesota 55802.	Apr. 2, 1982	270421C.
Ohio: Summit and Portage	Village of Mogadore (Docket No. FEMA 6133).	*Akron Beacon Journal:* August 21, 1981; August 28, 1981.	William R. Gallagher, Mayor, Village of Mogadore, 135 South Cleveland Avenue, Mogadore, Ohio 44260.	Apr. 2, 1982*	390528B.

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

(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 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1558 Filed 1-22-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 6242]

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Associate Director, State and Local Programs and Support reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P. E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0220.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448) 42 U.S.C. 4001-4128, and 44 CFR 65.4 (Presently appearing at its former 24 CFR Part 1915)).

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

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).

These elevations, together with the flood plain management measures required by 60.3 (presently appearing at its former § 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the comunity 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.

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former 24 CFR 1915.4):

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Minnesota: Carver	City of Watertown	Carver County News: Nov. 12, 1981; Nov. 19, 1981.	Gary Neumann, City Coordinator, City of Watertown, Box 278, Watertown, MN 55388.	Nov. 20, 1981	270056B.
Ohio: Butler	City of Hamilton	The Journal News: Oct. 30, 1981; Nov. 6, 1981.	Hon. Robert L. Weigel, Mayor, City of Hamilton, Municipal Building, Room 204, Hamilton, Ohio 45011.	Nov. 6, 1981	390039C.
Illinois: Lake	Village of Round Lake Beach	Round Lake News: Dec. 17, 1981; Dec. 24, 1981.	Hon. Rod Brenner, Village of Round Lake Beach, 1212 North Cedar Lake Road, Round Lake Beach, IL 60073.	Dec. 25, 1981	170389C.
Michigan:					
St. Clair	City of Algonac	Courier Journal: Nov. 25, 1981; Dec. 2, 1981.	Gerald Tuznowski, City Manager, City of Algonac, Box 454, Algonac, MI 48001.	Dec. 4, 1981	260191C.
Wayne	City of Dearborn	Dearborn Times Herald: Dec. 15, 1981; Dec. 22, 1981.	Hon. John B. O'Reilly, City of Dearborn, 13615 Michigan Avenue, Dearborn, MI 48126.	Dec. 25, 1981	260220C.
Minnesota:					
Dakota and Washington	City of Hastings	Hastings Star Gazette: Dec. 10, 1981; Dec. 17, 1981.	Hon. Lou Sotoffel, City of Hastings, 100 Sibley Street, Hastings, MN 55033.	Dec. 18, 1981	270105D.
Houston	City of Houston	Houston Gazette and Country Journal: Nov. 26, 1981; Dec. 3, 1981.	Hon. Richard Dittman, City of Houston, P.O. Box 667, Houston, MN 55943.	Dec. 4, 1981	270193C.
Roseau County	Unicorporated area	Roseau Times Region: Nov. 24, 1981; Dec. 1, 1981.	Luke Hagan, County Engineer, Roseau County, County Highway Department, Route #1, Roseau, MN 56751.	Dec. 4, 1981	270663C.
North Carolina: Watauga	Town of Boone	Watauga Democrat: Dec. 17, 1981; Dec. 24, 1981.	The Hon. Marvin Hoffman, Mayor, Town of Boone, P.O. Drawer 192, Boone, NC 28607.	Dec. 25, 1981	370253C.
Ohio: Cuyahoga	City of Brooklyn	West Side Sun: Nov. 26, 1981; Dec. 3, 1981.	Hon. John Coyne, City of Brooklyn, 7619 Memphis Avenue, Brooklyn, OH 44144.	Dec. 4, 1981	390100C.
Pennsylvania: Dauphin	Borough of Highspire	The Patriot: Dec. 4, 1981; Dec. 11, 1981.	James Brokenshire, Borough Manager, Borough of Highspire, 640 Eshleman Street, Highspire, PA 17034.	Dec. 11, 1981	420381B.
Virginia: Independent City	City of Galax	The Gazette: Oct. 31, 1980; Nov. 7, 1980.	W. Harold Snead, City Manager, City of Galax, 123 North Main St., Galax, VA 24333.	Dec. 25, 1981	510066B.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Texas: Tom Green	City of San Angelo	Standard-Times: Aug. 26, 1981; Aug. 27, 1981.	The Hon. Thomas R. Parrett, Mayor, City of San Angelo, P.O. Box 1751, San Angelo, TX 76902.	Apr. 13, 1982	480623C.

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

(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 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1560 Filed 1-22-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 547

[Docket No. 81-36; General Order No. 45, Amdt. 1]

Procedures for Environmental Assessment

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This amends § 547.4(a) of the Commission's environmental rules (46 CFR 547) by clarifying certain existing categorical exclusions and adding several new exclusions. Based upon its experience with these rules since their publication in May, 1980, the Commission has concluded that several additional exclusions are warranted to avoid unnecessary environmental assessments for actions having no potential for significantly affecting the environment. This action will reduce paper work and will allow the Commission to more effectively pursue actions before it.

DATES: This rule is effective March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: This proceeding was initiated by Notice of Proposed Rulemaking published June 10, 1981 (46 FR 30667). The Commission proposed to amend § 547.4(a) of its environmental rules (46 CFR 547) to clarify existing categorical exclusions and to add certain new exclusions. Comments were received from, or on behalf of: (1) the Port of Seattle (Seattle), (2) the Port Authority of New York and New Jersey (N.Y.–N.J.), (3) the Maryland Port Administration (MPA), (4) Sea-Land Service, Inc. (Sea-Land), (5) the Port of Long Beach, (6) the United States Environmental Protection Agency (EPA), (7) the Pacific Westbound Conference, (8) the Pacific/Indonesian Conference and (9) the Pacific Straits Conference. The rule was also submitted to the Council on Environmental Quality (CEQ) for review pursuant to 40 CFR 1507.3(a). CEQ subsequently determined that the proposed amendments are consistent with its regulations.

All comments received were considered during preparation of the final rules. Those raising substantive issues are discussed below.

Seattle questions proposed § 547.4(a)(30)(ii), which excludes from analysis marine terminal agreements involving construction of facilities or structures of less than 50,000 square feet, contending that the exclusion should not be restricted by a 50,000 square foot threshold. Instead, the Port suggests that the rule simply exempt *all* marine terminal agreements from General Order 45 because (1) most terminal agreements involve nothing more than terms of occupation and use of facilities rather than actual construction, and (2) § 547.4(c) of General Order 45 already gives the Commission the flexibility to assess actions otherwise excluded when it believes such actions offer a reasonable potential of having a significant environmental impact. N.Y.–N.J. and MPA also suggested broader exclusions of marine terminal agreements than were provided by the proposed rule. The Commission agrees, and has therefore excluded all marine terminal agreements from environmental analysis in its final rule (§ 547.4(a)(30)). It has been the Commission's experience that virtually all agreements concerning marine terminal facilities have no significant impact on the quality of the human environment. However, the Commission's Office of Energy and Environmental Impact (OEEI) will continue to review all terminal agreements. When the OEEI identifies an action involving substantial levels of construction, dredging, land-fill, energy usage and other activities which may have significant environmental effects, it will prepare an environmental impact analysis pursuant to § 547.4(c).

Sea-Land also suggested that the scope of the proposed rule be expanded to categorically exclude general rate increases as defined in the Intercoastal Shipping Act, 1933 (46 U.S.C. 843). Since rate increases were not discussed in the proposed rule as published in the **Federal Register**, they cannot be considered in the final rule.

The EPA suggested that § 547.4(a) of the proposed rule be modified to give the Commission authority to complete environmental assessments on unusual actions before it, usually excluded under new § 547.4(a)(30), that could have a significant environmental impact. The change proposed by EPA was not incorporated into the final rule. Section 547.4(c) of the original rule (46 CFR 547) already provides a mechanism for initiating assessments on Commission actions that would routinely be categorically excluded from analysis when the actions appear to have a reasonable potential for significant environmental impact. Expanding the final rule to emphasize this point would be redundant.

Pursuant to 5 U.S.C. 603, the Commission examined the impact the proposed rule might have on small businesses, organizations and/or governmental jurisdictions; *i.e.*, "small entities" as described in section 601 of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164. This rule will not impose additional reporting or record-keeping requirements which might result in a significant compliance or reporting burden on small entities. On the contrary, it will add six new classes of Commission actions which will be

excluded from environmental assessment, thereby reducing reporting requirements of all businesses subject to it. Accordingly, neither a full regulatory evaluation nor a regulatory impact analysis is required.

PART 547—PROCEDURES FOR ENVIRONMENTAL POLICY ANALYSIS

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 533) and section 43 of the Shipping Act, 1916 (46 U.S.C. 841(a)), Part 547, Title 46, Code of Federal Regulations, is amended as follows:

§ 547.4 [Amended]

1. The last sentence of § 547.4(a) introductory text is revised to read, "The following Commission actions, and rulemakings related thereto, are therefore excluded:".

2. Section 547.4(a)(3) is revised to read:

(a) * * *

(3) Certification of financial responsibility for water pollution cleanup pursuant to 46 CFR Parts 542, 543 and 544.

* * * * *

3. Section 547.4(a)(12) is revised to read:

(a) * * *

(12) Consideration of exclusive or non-exclusive equipment interchange or husbanding agreements filed for section 15 approval.

* * * * *

4. Present § 547.4(a)(18) is revised to read:

(a) * * *

(18) Consideration of actions solely affecting the environment of a foreign country;

* * * * *

5. The following new paragraphs (a)(30) through (a)(35) are added to § 547.4:

(a) * * *

(30) Consideration of all agreements involving marine terminal facilities and/or services except those requiring substantial levels of construction, dredging, land-fill, energy usage and other activities which may have a significant environmental effect;

(31) Consideration of agreements regulating employee wages, hours of work, working conditions or labor exchanges;

(32) Consideration of general agency agreements involving ministerial duties of a common carrier such as internal management, cargo solicitation, booking of cargo, or preparation of documents;

(33) Consideration of agreements pertaining to credit rules;

(34) Consideration of agreements involving performance bonds to a conference from a conference member guaranteeing compliance by the member with the rules and regulations of the conference; and

(35) Consideration of agreements between members of two or more conferences or other rate-fixing agreements to discuss and agree upon common self-policing systems or cargo inspection services.

* * * * *

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-1709 Filed 1-22-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[PR Docket No. 80-252; RM-3239; RM-2861]

Amateur Radio Service; Facsimile and Television Transmissions in Additional Frequency Bands; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error made in the release date of the Final Rule (Report and Order) in BC Docket No. 80-252, (47 FR 2872; January 20, 1982) concerning facsimile and television transmissions.

FOR FURTHER INFORMATION CONTACT: Steve Lett, Private Radio Bureau, (202) 632-7597.

SUPPLEMENTARY INFORMATION:

Erratum, PR Docket 80-252, RM-3239, Rm-2861

In the matter of an amendment of the Amateur Radio Service Rules to permit facsimile and television transmissions in additional frequency bands.

On November 24, 1981, the Commission adopted a Report and Order in the above captioned proceeding. This document changes the release date of that Report and Order to read January 19, 1982 instead of January 14, 1982.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-1751 Filed 1-22-82; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 47, No. 16
Monday, January 25, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1139

[Docket No. AO-374-A6]

Milk in the Lake Mead Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order [1]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision provides certain changes in the Lake Mead order based on industry proposals considered at a public hearing held September 23–24, 1980. The changes relate to butterfat differentials for adjusting prices to the actual butterfat content of the milk being priced and to the classification of milk used in the production of ice cream and other frozen desserts. The changes are necessary to reflect current marketing conditions and to insure orderly marketing in the area. Cooperative associations will be polled to determine whether producers favor the issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued August 27, 1980; published September 3, 1980 (45 FR 58366).

Recommended Decision: Issued, September 9, 1981; published September 15, 1981 (46 FR 45776).

Extension of time for filing exceptions to proposed rule: Issued October 2, 1981; published October 8, 1981 (46 FR 49908).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Lake Mead marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Las Vegas, Nevada, on September 23–24, 1980, pursuant to notice thereof issued Agust 27, 1980 (45 FR 58366).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on October 27, 1981, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under Issue number 4, *Payment obligations that must be met by the operator of a partially regulated distributing plant,* 7 new paragraphs are added following paragraph 26.

The material issues on the record of the hearing relate to:

1. Producer status of a dairy farmer delivering to a pool supply plant.
2. Classification of ice cream and other related products.
3. Adoption of a single butterfat differential.
4. Payment obligations that must be met by the operator of a partially regulated distributing plant.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Producer status of a dairy farmer delivering to a pool supply plant.* The requirement that at least 52 days' milk production of a dairy farmer be received at a pool supply plant during January and February if the farmer wishes to deliver milk to the same pool plant in the following March–July period and have it pooled under the order should be deleted.

The deletion of this requirement was proposed by the Lake Mead Cooperative Association (LMCA), which represents a substantial majority of the producers on the market. For a number of years, proponent operated the only supply plant that was regulated under the order. However, the cooperative closed the plant in 1980 and since that time has supplied pool distributing plants by delivering the milk of its member-producers directly from farms to the distributing plants. There is no other supply plant on the market.

Proponent's spokesman contended that the 52-day delivery requirement is no longer needed since the cooperative discontinued using its Minersville, Utah plant facilities as a supply plant for the Lake Mead market. He stated that although the cooperative continues to own the plant, under current marketing conditions it is not likely that in the future the plant will be needed to supply any of the pool distributing plants. Finally, he noted that this delivery requirement was suspended in 1978 to assure the continued association with the market of a number of the cooperative's member producers who were delivering milk to the cooperative's supply plant but who had not met the 52-day delivery requirement because the milk was being delivered at the time directly to pool distributing plants on a regular basis.

A proprietary handler who operates a pool distributing plant opposed the proposal. The handler objected to the proposal on the grounds that the basis for the 1975 decision to adopt the delivery requirement in question continues to be valid under current marketing conditions.

The 52-day delivery requirement became effective under the order on September 1, 1975. The practical effect of this provision is that during the months of March–July it excludes from the pool any dairy farmer whose milk production is received at or diverted from a supply plant with automatic pool status unless at least 52 days' milk production of such dairy farmer was associated with the supply plant during the preceding months of January and February. This provision was intended to prevent the attachment of reserve milk supplies from other markets to the Lake Mead market through a pool

[1] Agreement filed as part of the original document.

supply plant that has automatic pool plant status during the months of March–July. Under automatic pooling, a supply plant does not need to ship a certain percentage of its receipts to pool distributing plants. Thus, a supply plant could pool substantial quantities of milk during the automatic pooling period.

The record evidence establishes that current marketing conditions in the market are substantially different than existed at the time when the Secretary adopted the 52-day delivery requirement. As indicated earlier, there is no longer a supply plant associated with the market, and there is no indication that a supply plant will again be a part of the marketing system for this area.

Also, and perhaps more importantly, past experience with this delivery requirement has indicated that while its intent was valid its application to actual operating situations in the market was less than satisfactory. As indicated, it was necessary to suspend the requirement because it would have resulted in excluding from the pool a number of producers who had a bona-fide association with the market. If the provision were to be retained, it would be necessary to modify it in some manner to overcome this type of problem so that it would be appropriate for the market should there eventually be another supply plant on the market. Modification of this provision was not explored at the hearing. Thus the record provides no guidance on what changes might be made other than to remove it from the order.

Accordingly, it is reasonable that the provision be deleted. As a conforming change, the reference in § 1139.44(a)(7)(vii) to the receipts at a pool supply plant from dairy farmers who do not meet the 52-day requirement also should be deleted.

2. *Classification of ice cream and certain other related products.* A Class II classification should apply to milkshake and ice cream mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes. Such products are now classified under the order as Class III products. This would increase the minimum order price for producer milk in such uses by 15 cents per hundredweight.

LMCA proposed this change in the classification of ice cream and certain other related products. Proponent stated that the adoption of this change will bring the classification of such products under the order in line with the other 29 (formerly 39) orders which uniformly classify the above-mentioned frozen products as Class II products. In this connection, proponents' spokesman asserted there is need to have uniform classification provisions and other provisions among orders to accommodate inter-market movements of milk and milk products and to standardize accounting procedures of the Lake Mead order.

In further support of the proposal, the cooperative's spokesman testified that it initially supported a Class III classification for ice cream and related products at the time the order was promulgated based on the Department's initial tentative decision (37 FR 18984) at the time recommending a uniform milk classification plan for 39 markets. However, after the Lake Mead order was promulgated, the witness noted, a revised recommended decision for the 39 markets was issued by the Department, which provided for a Class II classification for ice cream and related products. This classification was later implemented under the 39 orders. The witness stated that it was always the intent of the cooperative that the Lake Mead order provide the same classification for ice cream and related products as was finally adopted in the 39-market classification decision.

Another reason cited by proponent in support of its proposal was that milk for use in ice cream production in this market by the operator of a pool distributing plant is supplied by producers on a regular and sustaining basis much the same as milk used for making cottage cheese. Proponent stressed that local producers represent the regular source of milk for the only regulated handler in the market that manufactures ice cream. In this connection, proponent's spokesman testified that this handler wants a dependable year-round milk suply from local producers for the production of ice cream in the same manner that handlers seek Grade A milk for the production of cottage cheese, a Class II product. The witness pointed out that the same reasoning for including cottage cheese in an intermediate price class is generally applicable to ice cream and related products. Finally, he contended that the adoption of the proposal will reflect some of the additional value which producer milk used in ice cream has to a regulated handler.

The only regulated handler under the order which manufactures ice cream opposed the proponent's proposal. A spokesman for the handler testified that if the proposal were adopted it would increase the handler's cost of producer milk used to produce ice cream about $550 per month. He claimed that this additional cost would jeopardize the competitive position of the regulated handler with unregulated processors that distribute ice cream in the Lake Mead market. The witness, however, did not provide any data or other evidence to support this claim.

The record clearly establishes that the above-mentioned regulated handler relies regularly on producer milk for ice cream and related products. As proponent pointed out in its testimony, the demand for producer milk used in such products is related closely to the current consumer demand for these products. Thus, the handler processing frozen desserts depends on regular supplies of producer milk being made available at his plant in the quantities and at the times needed for these uses. This is in contrast to the more storable "hard products" (butter, hard cheese and nonfat dry milk) that also are included in Class III. Traditionally, such hard products are residual uses of reserve milk supplies associated with the fluid milk market which is not the case with frozen desserts. Instead, the marketing situation is essentially the same for ice cream and other related products as it is for other "soft" dairy products presently included in Class II, such as cottage cheese. Milk used in cottage cheese is sought by handlers on a regular basis and in the quantities and at the times needed. Such milk is priced under the order at 15 cents per hundredweight over the Minnesota-Wisconsin manufacturing price. The record establishes that the handler processing ice cream generally cannot obtain alternative supplies of milk or product ingredients for frozen desserts on a regular basis at less than this cost. The higher classification of frozen desserts thus will compensate producers for some of the additional value which their milk used in these products has to the regulated handler.

The argument of the opposing handler that this classification change will jeopardize his competitive position for ice cream sales in the market is not convincing. The record evidence establishes that the opposing handler's principal competition is from California handlers. However, the higher cost of producer milk used in ice cream production to the opposing handler that would result from the proposed classification change would be offset, generally, by raw product costs and additional transportation costs incurred by his California competitors in supplying the local market.

3. *Adoption of a single butterfat differential.* A single butterfat differential should be used to adjust prices to the actual butterfat content of the milk being priced. This differential

should be the Chicago Grade A bulk butter price as reported by the Department for the month multiplied by 0.115.

Presently, the order provides for three separate butterfat differentials. For Class I milk, the differential (for each one-tenth percent of butterfat above or below 3.5 percent) is the Chicago butter price for the preceding month multiplied by 0.12, and for Class II and Class III milk it is the Chicago butter price for the current month multiplied by 0.115. The butterfat differential used in adjusting the uniform price is the average of the butterfat differentials for each class weighted by the proportion of butterfat in producer milk allocated to each class.

LMCA proposed that a single butterfat differential apply to all classes of milk. Under the proposal, which in essence would reduce the Class I butterfat differential from 12 percent of the butter price for the preceding month to 11.5 percent of the butter price for the current month, the butterfat differential for Class I milk would be the same as the present butterfat differential for Class II and Class III milk. This proposal was supported in its post-hearing brief by the only other producer association associated with the market, Western General Dairies, Inc.

In proposing a lower Class I butterfat differential, proponent contended that the values now assigned to butterfat and skim milk in Class I products do not reflect the current market values of these components of milk. Proponent's witness testified that the proposal also is designed to make butterfat utilized in all classes by regulated handlers more competitive with butterfat or vegetable oil in products distributed in the marketing area from unregulated sources, but in no event less than its alternative use in butter. Also, the witness stated that the proposal conforms the Lake Mead order to that of most other orders which use a single butterfat differential and simplifies the accounting process for regulated handlers.

The only proprietary handler in the market who operates a pool distributing plant opposed the proposal. The handler's witness testified that reducing the Class I butterfat differential in the manner proposed will increase the handler's cost of Class I low-fat products about one cent per gallon. According to the witness, such sales represent about 25–30 percent of the handler's total Class I sales. At the hearing and in its brief, the opposing handler asserted that similar arguments to decrease the value of Class I butterfat were advanced at the promulgation hearing and were rejected by the Department. On the basis of that hearing record, he added, the Department adopted the order's present Class I butterfat differential which he believes continues to be appropriate under current marketing conditions.

A change in the relative values of the components of milk in Class I uses has been occurring for some time. This has been related to the continuous decline, both nationally and locally, in the proportion of butterfat in Class I sales. An indication of this trend is the average test of fluid milk products sold in the Federal order marketing areas. In 1975 the average butterfat test in 55 Federal order markets for such sales was 2.75 percent. This percentage declined from year to year and in 1980 the comparable average butterfat test was 2.56 percent.[2] On a percentage basis, the average butterfat content in these fluid milk products declined 9 percent from 1975 to 1980. It is anticipated that this decline will continue because of consumer's preference for low-fat products.

Under the Lake Mead order, the average butterfat test of Class I sales has been declining at a rate similar to that experienced nationally. Most recently, the average test of Class I sales by handlers regulated by the order dropped from 3.06 percent in 1974 to 2.83 percent in 1979, a decline of 8 percent.[3]

The increasing demand for fluid milk products with lower butterfat content can be expected to result in a continuing decline in the average butterfat test of Class I sales under the order. Adopting the same butterfat differential for Class I milk as for other classes, as herein provided, will give recognition to the reduced demand and the related lower market value of butterfat in the fluid milk products in Class I. By reflecting a lower value for butterfat in the returns to producers, there will be less incentive to produce high-test milk which consumers do not want.

As indicated previously, the single butterfat differential would be based on the butter price for the current month, which is now used for computing the differentials for Class II and Class III. Presently, the Class I butterfat differential is based on the butter price for the preceding month. This change should have little impact on the level of the butterfat differential since there is little variation from month to month in the Chicago butter price. In view of this, it appears unnecessary to compute butterfat differentials applicable for the same month both on the current and preceding month's average monthly butter quotations, as is now the case.

Since the same butterfat differential would apply to all classes of milk, it is necessary under the order to provide only for a producer butterfat differential. Under this procedure, there is no need to provide for a separate butterfat differential for adjusting class prices nor is there any need to pool the value of butterfat in each class. All producer "differential" butterfat received by handlers will be priced the same to all handlers regardless of the class in which the butterfat is used. Accordingly, the order should be modified to provide only for the announcement and use of a single producer butterfat differential.

4. *Payment obligations that must be met by the operator of a partially regulated distributing plant.* The provisions of the order which specify the payment obligations that must be met by the operator of a partially regulated distributing plant [4] should not be modified on the basis of this record.

Under the present provisions of the order, an operator of a partially regulated distributing plant has three options in meeting the order's payment obligations on any fluid milk products that such operator disposes of on routes in the marketing area:

(a) The plant operator incurs no payment obligation if the operator purchases from any Federal milk order source an amount of milk classified and priced as Class I milk that is equivalent to such operator's fluid milk sales in the marketing area. Such purchases, however, may not be used to offset any obligation under another Federal order.

(b) The plant operator incurs no obligation under the order, except for an administrative assessment charge on the volume of fluid milk products disposed of in the marketing area, if the operator's payments to dairy farmers and to the producer-settlement fund of any Federal order are not less than the pool obligation that such operator would have incurred if such plant had been fully regulated under the order. Under this option, a plant operator whose payments for milk are less than the order's obligations may pay the difference either to his own dairy

[2] Official notice is taken of the February 1980 and May 1981 issues of the Summary of Federal Milk Order Statistics, issued by the Dairy Division, AMS, USDA.

[3] Official notice is taken of the Annual Summary for 1975, Federal Milk Order Market Statistics, Statistical Bulletin No. 554, issued by the Dairy Division, AMS, USDA.

[4] A plant with route disposition in the marketing area of less than 10 percent of its receipts of fluid milk products or its total route disposition of fluid milk products is less than 50 percent of such plant's receipts.

farmers or to the producer-settlement fund.[5]

(c) The plant operator may choose to pay to the producer-settlement fund the difference between the Class I price and the producer blend price of the order (both prices adjusted for the location of the plant) on all fluid milk products distributed in the marketing area (less any purchases of milk classified and priced as Class I milk under any Federal order).

The major cooperative on the market (LMCA) proposed the elimination of option B. The practical effect of the proposal under the current marketing situation would be that, irrespective of the amount that the plant operator may have paid his dairy farmers, a partially regulated distributing plant operator would be required to make payment into the producer-settlement fund on the quantity of Class I milk distributed in the marketing area. This would be at a rate equal to the difference between the order's Class I price and the blend price.

In addition to the proponent cooperative, the proposal was supported by the Nevada Milk Commission, Western General Dairies, Inc., and Anderson Dairy. These latter two parties, together with the proponent, operated at the time of the hearing the only three fully regulated distributing plants under the order.

Proponent's witness indicated that the elimination of option B is necessary to provide equity between dairy farmers supplying distributing plants fully regulated under the Lake Mead order and those dairy farmers supplying partially regulated distributing plants which also compete for total Class I sales in the Lake Mead market. He stated that the proposal was prompted by the rapid increase in recent years in the proportion of the market's Class I sales being made by the four partially regulated distributing plants serving the market. These plants are all located in the State of California and are fully regulated by the California State Bureau of Milk Stabiliation.[6]

In support of the proposal, proponent's witness testified that option B, which allows a partially regulated plant operator to meet the order obligation by demonstrating that he has paid at least the order's full class use value for such milk, has enabled California handlers to incur little or no obligations to the producer-settlement fund of the Lake Mead order. Because of this, the witness contended, producers supplying the fully regulated plants are disadvantaged since they are the only ones who share in the lower-valued reserve milk associated with the market. It was proponent's position that all Class I sales in the marketing area should contribute to the market's uniform producer price.

The spokesman for the proponent indicated that if option B were eliminated, the effect would be to equalize between the dairy farmers supplying regulated plants and the dairy farmers supplying California plants the benefits of the market's higher-valued Class I milk sales and the burden of carrying the market's reserve milk supplies. In his opinion, this would achieve equity between the two groups of dairy farmers involved.

In discussing the appropriateness of the proposal, the spokesman for the proponent noted that option B is uniformly provided in most other orders and may be an appropriate option available to the operator of a partially regulated distributing plant under the marketing conditions existing in those markets. However, the witness contended that option B is inappropriate for the Lake Mead market because of the unique circumstances and conditions existing in the market. He cited several factors to support this contention: (1) The Lake Mead market is small in comparison to the California market, both in terms of population and the volume of milk production involved; (2) The Class I milk disposition in the Lake Mead market by California plants is substantial in terms of the market's total Class I sales; (3) California plants are fully regulated by State regulation under terms markedly different from those of the Lake Mead order; (4) California plants are controlled by food chains operating both in the California and Lake Mead markets; (5) Class I sales in the Lake Mead market by California handlers represent only a minor part of their total Class I disposition; and (6) California plants normally are required by the State regulation to pay prices for Class I milk that are higher than those under the Lake Mead order. Because of these conditions prevailing in the California and Lake Mead markets, the witness concluded that option B is not equitable to fully regulated handlers and the producers supplying them.

At the hearing the proponent cooperative offered two alternative proposals in the event the Department did not adopt its proposal to eliminate option B. These alternative proposals (1) would eliminate the application of location adjustments to California plants in computing their order obligations under option B and (2) would apply the administrative assessment charge on a California plant's total milk receipts rather than on just the quantity of Class I milk distributed in the marketing area as the order now provides.

Proponent did not present any testimony in support of the first alternative proposal. In the case of the second alternative proposal, proponent held that when the handler elects option B the market administrator must audit a California handler's plant on the same basis as though the plant were fully regulated. In this case, proponent contended, it is appropriate that such plant be subject to an administrative charge equivalent to what is assessed against a fully regulated plant. Proponent's witness claimed that this change in the application of the administrative assessment would fully defray the costs of verifying the utilization and payments of such a plant electing option B which, he claimed, are now borne in large part by fully regulated handlers.

At the hearing, three of the four California handlers that presently have Class I route disposition in the Lake Mead market opposed the proposal to remove option B. They claimed that the adoption of the proposal would either force them to discontinue serving the market because of higher product costs or to increase their wholesale and retail prices to noncompetitive levels. In their post-hearing briefs, opponents argued that the proponent failed to demonstrate a need for the proposal. Beyond this, they questioned the legality of the proposal on the basis that it may constitute a trade barrier prohibited by the Act.

The current provisions of the Lake Mead order prescribing the payment obligations of a partially regulated distributing plant have been in effect since the inception of the order in August 1973. They were patterned after those adopted in most of the Federal orders following a 1962 U.S. Supreme Court decision that in effect invalidated many of the existing order provisions relating to the pricing of milk not fully regulated under an order. The court ruled against provisions that resulted in partially regulated handlers paying a higher cost for raw milk than handlers fully regulated under an order. The Court concluded that such a payment constituted a trade barrier to the free movement of milk, and, thus, was prohibited by the Act authorizing Federal milk orders.

In this regard, the Assistant Secretary's June 1, 1973 decision (38 FR

[5] In this proceeding and as used herein, this option is commonly referred to as option B.

[6] For ease of discussion, these plants are referred to herein as "California plants" and the operators of such plants as "California handlers."

15008) proposing a new order for the Lake Mead marketing area adopted the findings and conclusions of the Assistant Secretary's June 14, 1964 decision (29 FR 9002) which provided the basis for the three payment options available under the Lake Mead order to the operator of a partially regulated distributing plant. (These three options were summarized earlier.) These options were designed to place handlers operating partially regulated distributing plants and handlers operating fully regulated plants on a comparable basis with respect to the cost of Class I milk distributed in an order's marketing area.

The basis for option B was stated in the 1964 decision (referred to as option (a) in such decision) as follows:

"If the operator of the unregulated distributing plant elects to show that he has complied with option (a) above, it will be clearly evident that he has paid at least as much for his Class I sales as a fully regulated handler for in fact he has paid for all his milk as if he were fully regulated. Such an option accords him competitive parity with respect to his minimum class prices with regulated handlers. The regulated handler is required to pay for all his milk sold as Class I whether inside or outside the marketing area, at the Class I price established by the order. The operator of the unregulated distributing plant will show that he has also paid at least the equivalent of the order Class I and Class II prices for milk utilized in these respective classes. This option provides a meaningful determination of actual pay prices for milk by such an operator."

The 1964 decision also stated that:

"* * * This option will particularly accommodate such operators who, because of State regulation of milk prices, pay their dairy farmers at least the minimum prices required by the order regulating the handling of milk in the Federal order marketing area where they distribute milk. When he pays for his milk supply as much as if he were fully regulated, this option gives him an opportunity to distribute milk in regulated areas without incurring any additional financial obligations on such milk as the result of the order. At the same time, the fact that he has paid full class prices for his milk, will assure the integrity of the regulatory plan has been protected."

Option B thus was established as a means of providing competitive partiy between fully regulated handlers who are required to pay the order's minimum class prices and those handlers who have only limited in-area sales and thus are not subject to full regulation and minimum prices. In dealing with the issue at hand, it is necessary to determine if there are overriding reasons, as suggested by proponent, for doing away with this means of maintaining competitive parity.

Option B, as well as the other two options available to the operator of a partially regulated distributing plant in meeting the order's payment obligations, was concluded to be appropriate at the outset of the Lake Mead order even though California plants at that time had substantial Class I sales in the Lake Mead market. Such sales were over 15 percent of the market's total Class I disposition during the first month (August 1973) that the order was effective. From 1974 through 1978 the percentage of total Class I sales in the Lake Mead market by the California plants increased slightly—from 19 percent in 1974 to 24 percent in 1978. However, this percentage jumped to over 36 percent in 1979, which was the basic factor prompting the proponent cooperative's proposal. The record reveals that this latter change was due largely to the closing of two pool distributing plants. Most of the Class I disposition from these two plants was taken over by California plants.

Early in 1980, the proponent cooperative started a bottling operation at one of the closed pool distributing plants, the former Logandale, Nevada plant of Knudsen Dairy. The cooperative then customed bottled part of the Lake Mead area sales that had been coming from Knudsen Dairy's California plant. As a result of this change, the share of the market's total Class I disposition by California plants declined in 1980 to 30 percent.[7]

In February 1981 Knudsen Dairy reacquired this plant from the cooperation.[8] With this change, it would be reasonable to expect that the share of the Late Mead Class I market held by California handlers will return to about the same level that existed prior to 1979.

At the time of the hearing, there were four California plants distributing Class I milk on routes in the Lake Mead market. These plants were purchasing their milk in California under regulations established by the California Department of Agriculture. Their principal sales were in the Las Vegas portion of the marketing area to their own retail store outlets. Such sales, however, represented only a small part of each plant's total sales, all of which are large Class I volume plants.

As indicated, the operator of a partially regulated distributing plant is exempt from the payment provisions of the Lake Mead order (except for an administrative assessment) during those months in which each operator pays a utilization value for all milk received at the plant from dairy farmers that is equal to or in excess of what the payment obligation would have been if it had been fully regulated un the Lake Mead order. For the most part, California handlers have not incurred a payment obligation under the order on their Class I sales in the marketing area for they have elected option B. This is because they paid as much or more for their total milk supply under the classified pricing plan established by the State of California than they would have been required to pay if they had been fully regulated by the Lake Mead order. A temporary aberration from this normal situation happened only when the California Class I prices became relatively low in relation to the Lake Mead order Class I prices. Under such circumstances, California handlers incurred a payment obligation to the producer-settlement fund.

Data placed in the record by a representative of the market administrator's office showed the extent of payments made by California handlers to the producer-settlement fund from the inception of the order in August 1973 until July 1980. During the 84 months covered by this tabulation, California handlers made no such payments in 69 of these months. In 15 of the remaining months, one or more of the California handlers made payments to the producer-settlement fund. However, this situation could change at any time as a result of price adjustments under either the State or Federal orders.

There is no indication that California partially regulated handlers enjoy a price advantage over fully regulated handlers in terms of the cost of Class I milk distributed in the marketing area. The order has not contributed to the inroads on the market's Class I sales by California handlers. Instead, it is apparent that the principal reason for the relatively large volume of in-area sales by these handlers is that the handlers operate stores in the Lake Mead market, which they choose to supply from their California plants. Because the handlers have no price advantage over Lake Mead handlers on their raw milk, the reasons for this marketing arrangement presumably are due to other incentives, such as

[7] Official notice is taken of the release entitled "Market Administrator's Report" issued monthly by the market administrator of the Lake Mead order for each month from January 1980 through April 1981.

[8] Official notice is taken of the commercial fact of this acquisition by Knudsen Dairy in February 1981.

increased plant efficiency with large-volume operations.

On the basis of the marketing conditions described above, it is concluded that the present payment provisions applicable to partially regulated handlers are carrying out the basic intent of placing pool and nonpool milk on substantially similar competitive positions.

The problem presented by proponent in connection with its proposal involves basically a concern that there is a lack of equity between dairy farmers supplying fully regulated plants in the Lake Mead area and dairy farmers supplying partially regulated plants that also are competing for Class I sales in the Lake Mead market. Proponent's position was that, when associated with the Lake Mead market, all dairy farmers, whether they are supplying a fully or partially regulated plant, should share proportionately in the benefits of the Class I sales as well as in the burden of the lower-priced reserve milk for the market. Proponent believes that equity for both groups of dairy farmers can be achieved by charging a California handler the difference between the order's Class I and blend prices on all of the handler's sales in the Lake Mead market. Proponent claims that this charge, in turn, would be passed on automatically to the California dairy farmer in the form of a lower price for their milk. The reasoning for this approach was that the California producers would thus share in the volume of the Lake Mead Class I sales only to the extent of the Lake Mead blend price. This is because the California handlers would have to pay the difference between the Class I price and blend price to the Lake Mead pool. Proponent indicated that in this way the returns to California producers would be comparable to these of the Lake Mead producers who also share in the market's Class I sales only to the extent of the blend price.

The present partially regulated plant provisions of the order should not be amended for this purpose. There is no indication that the increased sales by California handlers have had any serious impacts on the local producers supplying the market. Such sales have not reduces the proportion of producer milk classified as Class I under the order and thus have not reduced the net price received by the producers associated with the Lake Mead market. Data introduced into the record show that in 1974, the first full year of operation of the order, producer milk classified as Class I was 63 percent of the total. With one minor exception, Class I utilization of producer milk has increased over the previous year from 1974 to 1980, reaching a high of 74 percent in 1980. During this same period, producer deliveries also increased—129 million pounds in 1974 compared to 146 million pounds in 1980, an increase of over 13 percent. Under these marketing conditions, it is concluded that the sales by California handlers in the Lake Mead market have not had an adverse effect on the Lake Mead producer price.

In their exceptions to the recommended decision, Lake Mead Cooperative Association and Western General Dairies disagreed with the tentative conclusion that no change should be made in the present payment provisions applicable to partially regulated handlers. The cooperatives contended that the recommended decision dealt solely with the issue of equity between partially regulated handlers and fully regulated handlers. They claimed that the Department failed to recognize the producer equity problem that formed the basis of proponent's proposal to eliminate option B. The cooperatives stressed that when the Lake Mead order was established, marketwide pooling was provided so that all dairy farmers supplying the market would share equally in all uses of milk, including the lower-valued reserve supplies. They contended that while option B was included in the order at the same time, and was appropriate under the conditions then existing, it nevertheless departed from the sharing principle of marketwide pooling. The cooperatives argued that because of the increased sales in the Lake Mead area by California handlers, option B is no longer appropriate for the market in that it discriminates against Lake Mead producers relative to California dairy farmers.

In addition, these cooperatives argued that the elimination of option B would be consistent with the 1962 U.S. Supreme Court's decision mentioned earlier. The cooperatives indicated in their exceptions that the recommended decision inferred that option B could not be removed because of the Court's decision. They pointed out, however, that the New York-New Jersey and New England Federal orders do not have a so-called option B in their provisions for dealing with outside milk. The cooperatives argued that these orders were amended in response to the Court's decision and presumably are carrying out the intent of that decision while at the same time complying with 608c(5)(G) of the Act, which precludes any economic barriers to milk sales in the regulated market from outside areas. Exceptors further argued that the Court's decision indicated that the Secretary may take steps to protect the blend price of an order from any adverse economic effects of outside milk if done in a manner consistent with the Act. It was their contention that the elimination of option B would not be contrary to the Act.

A review of the record and the recommended decision in light of the exceptions does not lead to the conclusion that the tentative findings and conclusions were improper. The basic concern of exceptors is that there be "equity" between the Lake Mead producers and the dairy farmers supplying the partially regulated California handlers. The cooperatives contend that such equity results only when the local producers and the California dairy farmers are both sharing in the market's Class I sales through equalization at the order's blend price level.

The desire of the Lake Mead producers for this sharing of all Class I sales in the market is understandable, particularly when sales by local producers are lost to milk from outside sources. Nevertheless, the record of this proceeding does not demonstrate that orderly marketing can prevail only through the equalization of all Class I sales in the Lake Mead market from all sources. It is noted that since the inception of Federal regulation in this market the order has not provided for this type of equalization. For example, handlers in other Federal order markets may distribute Class I milk on routes in the Lake Mead market, or they may transfer packaged Class I products to a Lake Mead handler. In either case, the order does not require the handlers under the other order to equalize with the Lake Mead pool, and thus there is no sharing of sales among the producers in the two markets. Also, the order provides that a partially regulated handler may offset his in-area Class I sales with purchases of Class I milk from handlers under some order other than the Lake Mead order. In this case, also, there is no equalization with the Lake Mead pool. In these several cases, Lake Mead producers are not compensated for the loss of sales to milk originating from other Federal order markets.

Such regulatory treatment of milk from other Federal order markets has been predicated in part on the fact that producers in the other markets are participating in marketwide pools and thus are sharing in all uses of milk in their markets in a manner similar, in this case, to the marketwide sharing in the

Lake Mead market. The record of the current proceeding indicates that the California dairy farmers are not receiving returns reflecting just the Class I sales of California handlers in the Lake Mead market. Instead, their returns are reflecting the lower value of the reserve milk supplies associated with such sales. While there may not be the degree of equity between the California dairy farmers and the Lake Mead producers which the latter desire, the record does not indicate that a change is needed in the current means for incorporating milk from outside sources into the order's regulatory scheme.

In reviewing exceptors' concerns, consideration has been given to whether the current provisions for dealing with outside milk do major violence to the uniformity of treatment of all handlers and dairy farmers associated with the Lake Mead market. Full regulation of all handlers having Class I sales in the market, of course, would give that assurance. However, this would result in undue inequities for those handlers and dairy farmers who are associated basically with another market and who have only a very limited part of their business in the Lake Mead area. We believe that the record shows that the Lake Mead market has been orderly and that the present provisions have not unduly upset the uniform treatment of either producers or handlers in the Lake Mead area.

It should be noted that the retention of option B in the Lake Mead order is not on the basis that it is required by the 1962 Supreme Court decision. When order provisions dealing with milk from outside sources were reviewed in response to the Court's decision, it was concluded on the basis of public hearings that for most orders option B was one of several appropriate ways for dealing with the regulatory treatment of such milk. As exceptors pointed out, this type of provision was not included in the New York-New Jersey and New England orders. The outside milk provisions for these two orders were determined on the basis of separate hearings for each order and were developed in response to the conditions found existing at the time in the two markets.

Exceptors are correct in their contention that the Secretary has the authority to take steps to protect the blend price of an order from adverse effects of outside milk. However, this record does not provide a compelling need to change the regulatory treatment now applicable to such milk. Accordingly, the exceptions regarding option B are denied.

As indicated, the proponent cooperative proposed at the hearing that if its proposal to eliminate option B were not adopted then the California handlers involved in the market should be required to make a payment for administrative assessment based on their total plant receipts of milk from dairy farms. The proposal should not be adopted. There was no indication that the market administrator has inadequate funds to defray the costs of completing an audit to verify the utilization and payments of California handlers when they elect option B. Moreover, to apply the administrative assessment on the total receipts of a partially regulated plant would result in a monetary obligtion to the California handlers, because of their large size, in excess of their obligation through the alternative of electing to make payment into the producer-settlement fund at the Class I price minus blend price rate. Under such circumstance, it would nullify the purpose of providing the partially regulated distributing plant operator alternatives in meeting the order's payment obligations on any fluid milk products that such operator distributes in the marketing area.

Finally, the proponent's alternative proposal to eliminate the application of location adjustments to California partially regulated distributing plants should not be adopted. The spokesman for the proponent cooperative did not present any specific testimony on this issue other than merely offering the proposal. Moreover, the record provides no evidence of marketing problems that would warrant not applying location adjustments to California partially regulated distributing plants.

Rulings on Proposed Findings and Conclusion

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and affirmed, except where the conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to Section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Lake Mead Marketing Area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

October 1981 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Lake Mead Marketing Area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on: January 19, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order [9] Amending the Order, Regulating the Handling of Milk in the Lake Mead Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Lake Mead Marketing Area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Lake Mead Marketing Area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on September 9, 1981 and published in the **Federal Register** on September 15, 1981 (46 FR 45776) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 1139—MILK IN THE LAKE MEAD MARKETING AREA

§ 1139.12 [Amended]

1. In § 1139.12, paragraph (b)(5) is removed.

2. In § 1139.40, paragraph (b)(3) and (c)(1) are revised to read as follows:

§ 1139.40 Classes of utilizations.

* * * * *

(b) * * *

(3) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese; and

(ii) Milkshakes and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes.

(c) * * *

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter, plastic cream, frozen cream, and anhydrous milkfat;

(iii) Any milk product in dry form;

(iv) Custards, puddings, and pancake mixes;

(v) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;

(vi) Evaporated or condensed milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk (plain or sweetened) in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(vii) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in paragraph (b)(1) of this section; and

(viii) Any product that is not a fluid milk product and that is not specified in paragraphs (b) or (c) (1) (i) through (vii) of this section;

* * * * *

3. In § 1139.44, paragraph (a)(7)(vii) is revised to read as follows:

§ 1139.44 Classification of producer milk.

* * * * *

(a) * * *

(7) * * *

(vii) Receipts of milk from a dairy farmer pursuant to § 1139.12(b)(4);

* * * * *

4. Section 1139.53 is revised to read as follows:

§ 1139.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1139.55 [Removed]

5. Section 1139.55 is removed in its entirety.

6. In § 1139.60, paragraph (a), (b), and (c) are revised to read as follows:

§ 1139.60 Handler's value of milk for computing uniform price.

* * * * *

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1139.44 by the applicable class prices (adjusted pursuant to § 1139.52) and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1139.44(a)(14) and the corresponding step of § 1139.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1139.74, that are applicable at the location of the pool plant;

(c) Add the following: (1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I

[9] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1139.44(a)(12) and the corresponding step of § 1139.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

* * * * *

7. Section 1139.61 is revised to read as follows:

§ 1139.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1139.60 for all handlers who filed reports prescribed by § 1139.30 for the month and who made the payments pursuant to § 1139.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1139.75;

(c) Add an amount equal to not less than one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1139.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price."

8. Section 1139.62 is revised to read as follows:

§ 1139.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) the 12th day after the end of each month the uniform price for such month.

9. Section 1139.74 is revised to read as follows:

§ 1139.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

[FR Doc. 82-1744 Filed 1-22-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-82-1]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before March 26, 1982.

ADDRESS: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), 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 (AG-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on January 18, 1982.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division, Federal Aviation Administration.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the rule requested
22470	National Air Transportation Association, Inc	*Description of Petition:* To amend § 91.181(a) to include all aircraft operated in accordance with the provisions of § 91.181(b)(1) through (9). To amend § 91.181(d)(10) to allow an additional charge of 25% of the expenses listed in § 91.181(d)(1). To add a paragraph (11) to § 91.181(d) requiring that records substantiating charges made for flights conducted under Part 91 would have to be maintained for 180 days after the completion of such flights and be made available to the Administrator upon demand.
	Regulations Affected: 14 CFR Subpart D § 91.181	*Petitioner's Reasons for Rule:* The petitioner indicated that the rule change is needed to eliminate the discriminatory treatment now accorded operators of small aircraft

PETITIONS FOR RULEMAKING—Continued

Docket No.	Petitioner	Description of the rule requested
		which prohibits their recovery of certain operational costs. Additionally, the reduction of the additional charge permitted in § 91.181(d)(10) from 100% to 25% of the expenses of fuel, oil, lubricants, and other additives will prevent Part 91 operators from being overcompensated for their services.
22268	Transamerica Airlines	*Description of Petition:* To allow the "Fasten Seat Belt While Seated" signs to be affixed "within legible view of all passengers rather than requiring that they be affixed to each forward bulkhead and each passenger seat back."
	Regulations Affected: 14 CFR § 121.317	*Petitioner's Reasons for Rule:* The petitioner states the placards are not visible when trays are lowered, they are removed by bored passengers on long flights, and that placards on bulkheads across an aisleway are not legible to seated passengers.
20312	Hawk Industries Petition dated 10/19/80	To amend § 1.1 to redefine "small airplanes" to include airplanes weighing up to 20,000 pounds for use in "freight operations" only. "Small aircraft" is defined in § 1.1 as aircraft weighing less than 12,500 pounds maximum certificated takeoff weight.

NOTE.—This petition was previously published. The comment period is reopened as the petitioner amended the original petition to include aircraft weighing up to 20,000 pounds. The original petition included aircraft up to 14,500 pounds.

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No. Petitioner	Description of the Rule Requested
None this period.	

[FR Doc. 82-1527 Filed 1-22-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ARM-13]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking (NPRM) proposes to alter the 700' transition area at Greeley, Colorado to provide controlled airspace for aircraft executing the new RNAV standard instrument approach procedure for Weld County Airport, Greeley, Colorado. There is no change to the 1,200' transition area.

DATE: Comments must be received on or before March 2, 1982.

ADDRESS: Send comments on the proposal to: Chief, Air Traffic Division, ATTN: ARM-500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT: David M. Laschinger, Airspace and Procedures Specialist, Operations, Procedures and Airspace Branch (ARM-530), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 340-5494.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The Federal Aviation Administration is considering an amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the 700' transition area at Greeley, Colorado. This proposal is necessary to provide controlled airspace for aircraft executing the new RNAV standard instrument approach procedure for Weld County Airport, Greeley, Colorado. Accordingly, the Federal Aviation Administration proposes to amend subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending subpart G, § 71.181 so as to amend the following transition area:

Greeley, Colorado

That airspace extending upward from 700' above the surface bounded by a line beginning at latitude 40°38'00" N., longitude 104°53'00" W.; to latitude 40°41'00" N., longitude 104°27'00" W.; to latitude 40°21'30" N., longitude 104°24'00" W.; to latitude 40°19'00" N., longitude 104°50'00" W.; thence to point of beginning and that airspace extending upward from 1,200' above the

surface within 10 miles northwest and 7 miles southeast of the Gill VOR 038° and 218° radials, extending from 20 miles northeast to 13 miles southwest of the VOR.

Drafting Information

The principal authors of this document are David M. Laschinger, Air Traffic Division, and Daniel Peterson, Office of the Regional Counsel, Rocky Mountain Region.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) is certified that at promulgation it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, January 14, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-1523 Filed 1-22-82; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 801 0080]

Germaine Monteil Cosmetiques Corp.; Proposed Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a New York City cosmetic manufacturer and seller, among other things, to cease attempting to fix and maintain the resale prices at which its products are advertised or sold, through coercion or otherwise. The firm would also be prohibited from withholding any earned advertising credit or benefit from recalcitrant dealers; restricting the lawful use of its trademarks or brandnames; and seeking the identity of dealers who deviate from suggested resale prices. Additionally, for a two year period, the order would preclude the dissemination of suggested resale prices unless accompanied by a statement advising that such prices are merely suggested; and would require the firm to mail a letter describing the provisions of the order to all present and future accounts.

DATE: Comments must be received on or before March 26, 1982.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Judith D. Ford, Director, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102 (415) 556-1270.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

In the Matter of Germaine Monteil Cosmetiques Corporation, a corporation, File No. 801 0080 agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Germaine Monteil Cosmetiques Corporation, a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Germaine Monteil Cosmetiques Corporation, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent, Germaine Monteil Cosmetiques Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 40 West 57th Street, New York, N.Y. 10019.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of the complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time

provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purposes of this Order, the following definitions shall apply:

A. "Product"

"Product" is defined as any item of cosmetic, fragrance or soap, any accessory containing any item of cosmetic, fragrance or soap, or any related accessory, including but not limited to any applicator or brush, which is manufactured, offered for sale or sold by respondent.

In addition to the foregoing, "product" is defined to include any item which is manufactured, offered for sale or sold by respondent for resale to consumers together with any "product" as defined hereinabove.

B. "Dealer"

"Dealer" is defined as any person, partnership, corporation or firm which sells any product in the course of its business.

C. "Resale Price"

"Resale Price" is defined as any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit used by any dealer for pricing any product. Such term includes, but is not limited to, any suggested, established or customary resale price as well as the retail price in effect at any dealer.

It is ordered that respondent Germaine Monteil Cosmetiques Corporation, a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of products in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I

1. Fixing, establishing, controlling or maintaining, directly or indirectly, the resale price at which any dealer may advertise, promote, offer for sale or sell any product.

2. Requesting, requiring or coercing, directly or indirectly, any dealer to maintain, adopt or adhere to any resale price.

3. Requesting or requiring, directly or indirectly, any dealer to report the identity of any other dealer who deviates from any resale price; or acting on any reports or information so obtained by threatening, intimidating, coercing or terminating said dealer.

4. Requesting or requiring that any dealer refrain from or discontinue selling or advertising any product at any resale price.

5. Hindering or precluding the lawful use by any dealer of any brand name, trade name or trademark of respondent in connection with the sale or advertising of any product at any resale price.

6. Conducting any surveillance program to determine whether any dealer is advertising, offering for sale or selling any product at any resale price, where such surveillance program is conducted to fix, maintain, control or enforce the resale price at which any product is sold or advertised.

7. Terminating or taking any other action to restrict, prevent or limit the sale of any product by any dealer because of the resale price at which said dealer has sold or advertised, is selling or advertising, or is suspected of selling or advertising any product.

8. Threatening to withhold or withholding earned cooperative advertising credits or allowances from any dealer, or limiting or restricting the right of any dealer to participate in any cooperative advertising program for which it would otherwise qualify, because of the resale price at which said dealer advertises or sells any product, or proposes to sell or advertise any product.

9. Making any payment or granting any other consideration or benefit to any dealer because of the resale price at which any other dealer has sold or advertised any product.

II

1. For a period of two (2) years from the service of this Order, orally suggesting or recommending any resale price to any dealer.

2. For a period of two (2) years from the service of this order, communicating in writing any resale price to any dealer.

3. After said two (2) year period, respondent shall not suggest or recommend to any dealer any resale price on any list or order form, or in any catalogue or stock control book, unless it is clearly and conspicuously stated on each page thereof where any suggested or recommended resale price appears, the following: "The Retail Prices Quoted Herein Are Suggested Only. You Are Completely Free to Determine Your Own Retail Prices."

III

1. Nothing contained in this Order shall preclude respondent from publishing or printing any resale price which is specified by any dealer for use or inclusion in any advertising, mailer or promotional material which said dealer intends to disseminate to consumers; *provided, however,* that for a period of two (2) years from the service of this Order, in connection with each advertising, mailer or promotional material which any dealer intends to disseminate to consumers, respondent shall make a written request to said dealer to specify its resale price(s), and shall disclose therein in a clear and conspicuous manner the following: "Germaine Monteil Dealers Are Completely Free to Specify Retail Prices of Their Own Choosing for Inclusion In This [Advertising, Mailer or Promotional Material]. Please Insert Those Retail Prices You Wish To Be Printed on This [Advertising, Mailer or promotional Material]."

2. After said two (2) year period, respondent shall not suggest any resale price to any dealer for use or inclusion in any advertising, mailer or promotional material which said dealer intends to disseminate to consumers, unless respondent, in connection with each advertising, mailer or promotional material, makes a written request to said dealer to review said advertising, mailer or promotional material for its resale price(s), and discloses therein in a clear and conspicuous manner the following: "Germaine Monteil Dealers Are Completely Free to Specify Retail Prices of Their Own Choosing for Inclusion in This [Advertising, Mailer or Promotional Material]. You May Change Any Price We Have Suggested."

IV

It is further ordered That respondent shall:

1. Within sixty (60) days after service of this Order, mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to each of its present dealers. An affidavit shall be sworn to by an official of respondent verifying that the attached Exhibit A was so mailed.

2. Mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to any person, partnership, corporation or firm that becomes a new dealer within two (2) years after service of this Order.

3. For a period of two (2) years from the date of service of this Order, mail annually under separate cover a copy of the enclosure set forth in the attached Exhibit B to each of respondent's then present dealers.

V

It is further ordered That respondent shall forthwith distribute a copy of this order to all operating divisions of said corporation; to all personnel, agents or representatives having sales, advertising or policy responsibilities with respect to the subject matter of this order, and that respondent secure from each such person a signed statement acknowledging receipt of said order; and, for a period of three years from the date of service of this order, to all new personnel, agents, or representatives having sales, advertising or policy responsibilities with respect to the subject matter of this order, and that respondent secure from each such person a signed statement acknowledging receipt of said order.

VI

It is further ordered That respondent notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the respective corporation which may affect compliance obligations arising out of the order.

VII

It is further ordered That respondent shall within seventy-five (75) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Exhibit A

Dear Retailer: This letter is being sent to all Germaine Monteil accounts. On [date], Germaine Monteil Cosmetiques Corporation agreed to the entry of a Consent Order with the Federal Trade Commission concerning certain distribution practices. This Consent Order was entered into for settlement purposes only and does not constitute an admission that Germaine Monteil violated the law. As part of that Consent Order, we are obligated to send you this letter.

Germaine Monteil wants its accounts to know and understand the following:

1. You can advertise and sell Germaine Monteil products at any price you choose.

2. Germaine Monteil will not take any action against you, including termination, because of the price at which you advertise or sell Germaine Monteil products.

3. Germaine Monteil will not suggest retail prices for any product until [2 years after the date of service of the order].

4. The price at which you sell or advertise Germaine Monteil products will not affect your right to lawfully use Germaine Monteil trademarks or other identification in your sale or advertising of products bearing Germaine Monteil trademarks or identification.

5. You are free to participate in any cooperative advertising program sponsored by Germaine Monteil for which you would otherwise qualify, and to receive any advertising credit or allowance allowed thereunder regardless of the price at which you advertise a Germaine Monteil product.

6. Germaine Monteil will continue to publish or print mailers, advertising and other promotional materials which you intend to disseminate to consumers containing retail prices which you specify. Until [2 years from the date of service of this order], in connection with each advertising, mailer or promotional material we will publish for you to disseminate to consumers, we will be requesting in writing that you specify the retail prices you wish to be printed on these materials.

After [2 years from the date of service of this Order], we will send you materials for your review which may contain our suggested retail prices. You are completely free, however, to change these prices, and we will then print the materials with the retail prices which you have specified.

7. The price at which a store sells or advertises a Germaine Monteil product is its own business. Germaine Monteil does not want to be informed by an account of the price at which any other store sells or advertises any Germaine Monteil product.

If you have any questions regarding the Consent Order or this letter, please call———.

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for Germaine Monteil
Cosmetiques Corporation

Exhibit B

Dear Retailer: We wish to remind you of the following:

1. You can advertise and sell Germaine Monteil products at any price you choose.

2. Germaine Monteil will not take any action against you, including termination, because of the price at which you advertise or sell Germaine Monteil products.

3. Germaine Monteil will not suggest retail prices for any product until [2 years from the date of service of this Order].

4. The price at which you sell or advertise Germaine Monteil products will not affect your right to lawfully use Germaine Monteil trademarks or other identification in your sale or advertising of products bearing Germaine Monteil trademarks or identification.

5. You are free to participate in any cooperative advertising program sponsored by Germaine Monteil for which you would otherwise qualify, and to receive any advertising credit or allowance allowed thereunder regardless of the price at which you advertise a Germaine Monteil product.

6. Germaine Monteil will continue to publish or print mailers, advertising and other promotional materials which you intend to disseminate to consumers containing retail prices which you specify. Until [2 years from the date or service of this Order], in connection with each advertising, mailer or promotional material we will publish for you to disseminate to consumers, we will be requesting in writing that you specify the retail prices you wish to be printed on these materials.

After [2 years from the date of service of this Order], we will send you materials for you review which may contain our suggested retail prices. You are completely free, however, to change these prices, and we will then print the materials with the retail prices which you have specified.

7. The price at which a store sells or advertises a Germaine Monteil product is its own business. Germaine Monteil does not want to be informed by an account of the price at which any other store sells or advertises any Germaine Monteil product.

If you have any questions, please call ———.

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for Germaine Monteil
Cosmetiques Corporation

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Germaine Monteil Cosmetiques Corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter alleges that Germaine Monteil Cosmetiques Corporation has restrained trade by establishing and maintaining the resale prices at which its dealers advertise, offer for sale and sell Germaine Monteil products.

The consent agreement provides as follows:

1. Germaine Monteil Cosmetiques Corporation cannot fix or otherwise control the resale prices at which its products are sold or advertised.

2. Germaine Monteil Cosmetiques Corporation cannot take any action against any dealer, including termination, because of the resale prices at which the dealer sells or advertises any Germaine Monteil product.

3. Germaine Monteil Cosmetiques Corporation cannot suggest resale prices for any product for two years from the date the order is issued.

4. Germaine Monteil Cosmetiques Corporation, for a period of two years, may ask each dealer to specify what resale prices should appear in advertisements and promotional material that Germaine Monteil prints for the dealer's sales campaigns. After that period, Germaine Monteil may suggest prices appearing in advertisements and promotional material, but dealers will have the right to review them. Germaine Monteil will print the advertisements using the prices specified by the dealer.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 82-1794 Filed 1-22-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM 82-4]

Revision of Monthly Report of Cost and Quality of Fuels for Electric Plants: Form No. 423; Further Extension of Time for Comments

January 18, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; further extension of comment period.

SUMMARY: On December 3, 1981, the Commission issued a Notice of Proposed Rulemaking involving the revision of the monthly report of cost and quality of fuels for electric plants (46 FR 60214, December 9, 1981). On December 28, 1981, (47 FR 39, January 4, 1982) the Commission issued a notice extending the comment period to and including January 18, 1982. The comment period is being further extended at the request of McGraw-Hill Publications Company.

DATE: Comments must be submitted on or before February 3, 1982.

ADDRESS: Submit comments to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary (202) 357-8400.

SUPPLEMENTARY INFORMATION: On January 5, 1982, McGraw-Hill Publications Company (McGraw-Hill) filed a request for an extension of time to file comments in response to the Commission's Notice of Proposed Rulemaking issued December 3, 1981, in the above-docketed proceeding. The motion states that additional time is required in order to allow McGraw-Hill's managers to evaluate the effect of the proposed rulemaking and to review documentation used by the Commission in the preparation of the rule.

Upon consideration, notice is hereby given that a further extension of time for the filing of comments is granted to and including February 3, 1982.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1271 Filed 1-22-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Vessels in Foreign and Domestic Trades; Proposed Alternative Evidentiary Requirements

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to set forth alternative evidentiary requirements which may be elected by owners and operators of Lighter-Aboard-Ship ("LASH") barges and similar unmanned vessels applying for remission or refund of the duty to be paid on foreign repairs and equipment purchases under section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466). Because the unmanned vessels are often damaged when there are no witnesses, it is proposed to allow alternative evidentiary proofs to be submitted by owners and operators who cannot meet the present standards.

DATE: Comments must be received on or before March 26, 1982.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Jerry C. Laderberg, Carriers, Drawback and Bonds Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

The owner or master of an American vessel documented under the laws of the United States to engage in the foreign or coasting trade, or a vessel intended to be employed in such trade, is required by section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466), to declare, enter, and pay a special 50 percent ad valorem duty on the coast of all repairs (including purchases of equipment, repair parts, or materials) made to the vessel outside the United States. Section 466 also provides for remission of the duty if: (1) The repairs or purchases were necessary to correct damage caused by stress of weather or other casualty while the vessel was in the regular course of its voyage and to secure the safety and seaworthiness of the vessel to enable it to reach its port of destination; (2) the equipment, repair parts, or materials purchased were of American origin and installed by the vessel's crew or U.S. residents; or (3) the equipment, repair parts, or materials purchased, including the labor cost involved, were used as dunnage for cargo, or for the erection of temporary bulkheads or similar devices for the control of cargo.

By T.D. 80-237, published in the **Federal Register** on September 30, 1980 (45 FR 64560), Customs amended section 4.14, Customs Regulations, to clarify and make more specific the procedures for the reporting and entry of foreign repairs to, and equipment purchases by, U.S.-flag vessels, and established conforming amendments to take account of the consolidation of the Customs forms used in the reporting and entry procedures. In order for an owner or operator of a vessel to obtain a remission or refund of duties under 19 U.S.C. 1466(d)(1) the owner or operator of a vessel must meet certain evidentiary requirements.

As amended, § 4.14(d)(1)(iii) provides for the following evidence:

(iii) *Supporting evidence.* Unless such evidence is already filed with Customs, each application for relief shall include duplicate copies of the following evidence, in additioin to any other documents the applicant wishes to submit in support of the application:

(A) All itemized bills, receipts, and invoices covering items specified in paragraph (a)(1) of this section, segregating the cost of those items for which relief is sought from all other items listed in the vessel repair entry.

(B) Full and complete photocopies of the relevant parts of the vessel's logs.

(C) Photocopies of any American Bureau of Shipping or other

classification society report of the cause and type of damage and the nature of the remedial action taken, together with photocopies of any certifications of seaworthiness.

(D) A certification by the master or other responsible vessel officer with personal knowledge of the facts relating to the relief sought, including, but not limited to, details of the claimed stress of weather or other casualty, when and where it occurred, the damages due to such stress of weather or other casualty, and the place and date where the vessel was repaired or the equipment for the vessel was purchased.

(E) A certification by the master as to whether the repairs or equipment purchases were necessary for the safety and seaworthiness of the vessel to enable it to reach its port of destination in the United States.

(F) A written description of the circumstances involved by the master or other responsible vessel officer having knowledge of the facts when remission or refund is sought under the provisions of paragraph (c)(3)(ii) (relating to the use of American equipment and labor) or (c)(3)(iii) (relating to dunnage) of this section.

Operators of LASH barges have complained to Customs that many of the requirements set forth in § 4.14(d)(1)(iii) cannot be met because LASH barges and similar vessels are unmanned. For example, § 4.14(d)(1)(iii)(D) requires a certification by the master or other responsible vessel officer with personal knowledge of the facts and details of the claimed stress of weather or other casualty and the resulting damage to the vessel. This particular evidentiary standard cannot usually be met because the LASH barges and similar unmanned vessels are often damaged when there are no witnesses, or when such witnesses will not report the damage for fear of personal liability.

In response to these complaints, Customs surveyed its regional field offices and all U.S.-flag operators of LASH-type vessels regarding various aspects of the problem. After considering the data submitted from the field offices, the suggestions and opinions of the LASH vessel operators, and the opinions of industry organizations representing the bulk of the U.S. shipping industry, Customs has concluded that requiring the same evidentiary proofs for these unmanned barges as for cargo vessels carrying a master and crew has unfairly burdened those owners and operators of LASH barges and similar unmanned vessels who are claiming a remission or refund under 19 U.S.C. 1466(d)(1). Accordingly, Customs is proposing to amend § 4.14(d)(1)(iii) by adding a new subparagraph (G) to provide for alternative evidentiary proofs without lessening the enforcement posture of 19 U.S.C. 1466.

It should be noted that the owners and operators of LASH barges and similar unmanned vessels may elect to submit the evidentiary proofs described in the proposed new subparagraph (G), instead of the evidentiary proofs listed under present subparagraphs (B), (D), (E), and (F). Subparagraph (G) is being proposed by Customs merely to afford equitable treatment to owners and operators of LASH barges and similar unmanned vessels in those cases where compliance with present subparagraphs (B), (D), (E), and (F) is impossible or unduly burdensome.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b)(1), Customs Regulations (19 CFR 103.11(b)(1)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities; or generate significant interest or attention from entities through comments, either formal or informal.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Authority

These changes are proposed under the authority of R.S. 251, as amended sections 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 66, 1484, 1498, 1624).

Drafting Information

The principal author of this document was Robert J. Pisani, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Proposed Amendment

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

It is proposed to amend § 4.14, Customs Regulations (19 CFR 4.14(d)(1)(iii), by adding a new paragraph (d)(1)(iii)(G) to read as follows:

§ 4.19 [Amended]

* * * * *

(d) * * *

(1) * * *

(iii) * * *

(G) In the case of LASH barges and similar unmanned vessels, the evidence required in subparagraph (B), (D), (E), and (F) may be omitted, and in lieu thereof, the owner or operator of each vessel will submit evidence showing that: (*1*) The vessel was inspected immediately prior to its lading aboard the vessel which transported it to a foreign port on the voyage in which the damage occurred, (*2*) the vessel was then found to be in seaworthy condition, (*3*) the damage was discovered during the course of the foreign voyage at issue, and (*4*) the repairs were necessary for the safety and seaworthiness of the vessel to enable it to reach its port of destination in the United States.

* * * * *

William Green,

Acting Commissioner of Customs.

Approved: January 7, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 82-1712 Filed 1-22-82; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 177

Tariff Classification of Footwear

AGENCY: Customs Service, Treasury.

ACTION: Notice and proposed change of practice—request for comments.

SUMMARY: This document solicits public comments regarding: (a) The interpretation of a provision in the Tariff Schedules of the United States pertaining to imported footwear having foxing or a foxing-like band applied or

molded at the sole and overlapping the upper; and (b) whether Customs should change its uniform and established practice of classifying shells for "moon boots", a type of footwear, imported with an equal number of removable liners as separate entities, dutiable individually, or whether the shells and liners should be classified as tariff entities pursuant to the doctrine of entireties.

Questions regarding these issues have arisen in connection with the tariff classification of moon boots. Because Customs determination in these matters will have a substantial impact upon both importers and domestic manufacturers, public comments are being solicited to aid Customs in formulating its policy in this regard.

DATE: Comments must be received on or before March 26, 1982.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1031 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

All articles imported into the United States are subject to duty or duty-free entry in accordance with their classification under the applicable items in the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) which is prepared by the U.S. International Trade Commission. In determining the classification of imported merchandise, it is necessary for Customs to consider the type, kind, composition, and use of the imported article. In classifying imported footwear, it also is necessary to consider the design and construction of the article.

In connection with the classification of footwear, the exclusionary parenthetical clause in the superior heading to item 700.56, TSUS, states that "* * * footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper" may not be classified under item 700.56, TSUS.

The term "foxing" has been defined as follows:

Shoe upper material forming or covering the lower part of the quarter of a shoe. With rubber-soled canvas-upper shoes, foxing is usually a strip of rubber covering and securing the joint between sole and upper. *The Art and Science of Footwear Manufacturing* (American Footwear Industries Association), 1974.

A piece of leather put on the upper leather of the shoe along the edge next to the sole. *Funk and Wagnalls New Practical Standard Dictionary* (1956).

A piece of material applied to the upper or extending around the outsole of a boot or a shoe. *Webster's Third International Dictionary* (1961).

Moon boots are footwear which extend above the ankle and are designed to be worn over, or in lieu of, other footwear to protect against water, cold, or inclement weather.

Customs is now considering the question of whether moon boots are precluded from classification under item 700.56, TSUS, dutiable at the rate of 6 percent ad valorem because the bottom, usually of molded unit construction, is designed to simulate a non-functional outside foxing. A determination that the design constitutes a foxing-like band applied or molded at the sole and overlapping the upper would cause these moon boots to be classified under other provisions of the tariff schedules and thus be assessed duty at a substantially higher rate.

In order to consider all points of view before making a final determination in this matter, Customs is soliciting public comments concerning the applicability of the exclusionary parenthetical clause of the superior heading to item 700.56, TSUS, to the classification of moon boots. In addition, Customs is interested in learning how the terms foxing or foxing-like bands are understood within the footwear industry and the effect of such understanding on the tariff classification of footwear other than moon boots.

Moon boots may be imported as completed articles or the shells and liners may be imported unattached to be joined after importation to form the finished product.

By Headquarters Ruling No. 062041, dated August 6, 1979, Customs held that imported moon boot shells with separable liners are not entireties for tariff purposes, but that the shells and liners are classifiable separately. This ruling is in accordance with a previous determination published in the Customs Bulletin as T.D. 67–118(7), in which Customs held that a removable felt inner liner imported with a boot is classifiable separately.

Based upon Headquarter's August 6, 1979, ruling, and liquidations covering entries of the same merchandise at various ports, a uniform practice of classifying imported moon boots with an equal number of removable liners as separate articles exist within the meaning of section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)).

Because other types of merchandise imported as component parts but requiring assembly may be classified as completed articles under the doctrine of entireties, Customs is considering whether moon boot shells imported with separable liners now should be considered entireties for tariff purposes.

In the case of *Donalds Ltd., Inc.* v. *United States*, 32 Cust. Ct. 310, CD 1619 (1954), in discussing the doctrine of entireties, the Court stated "* * * if there are imported in one importation separate entities which, by their nature, are obviously intended to be used as a unit, or to be joined together by mere assembly, and in such use or joining the individual identities of the separate entities are subordinated to the identity of the combined entity, duty will be imposed on the entity they represent."

Proposed Change of Practice

Because the liners and shells are intended to be used as a unit and their individual identities are subordinated to the identity of the combined article, Customs proposes to change the current uniform and established practice of separately classifying moon boot shells imported with separable liners. Customs proposes that moon boot shells imported with an equal number of separable liners be classified as tariff entities pursuant to the doctrine of entireties, dutiable under various sections of Schedule 7, Part 1, Subpart A, TSUS.

Authority: Because the proposed change, if adopted, will result in the imposition of a higher rate of duty, Customs is giving interested parties notice and an opportunity to comment in accordance with section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)), and § 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)).

Comments

Before taking any further action on this matter, consideration will be given to any written comments, preferably in triplicate, timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations Control Branch, Office of Regulations

and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William T. Archey,

Acting Commissioner of Customs.

Approved: January 8, 1982.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82-1711 Filed 1-22-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 921 and 939

Federal Programs To Regulate Coal Exploration Operations on Non-Federal and Non-Indian Lands in the States of Massachusetts, Michigan, Oregon, and Rhode Island; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, (OSM), Interior.

ACTION: Proposed rule; correction of address.

SUMMARY: The Office of Surface Mining is changing the locations where the administrative records on coal exploration operations on non-Federal and non-Indian lands for the States of Massachusetts and Rhode Island, which was published in the **Federal Register** on January 5, 1982, 47 FR 560, may be viewed.

DATES: The dates found in the proposed rule will remain the same.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Federal Lands Specialist, Office of Surface Mining, U.S. Department of the Interior, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, (202) 343-5866.

Correction

On page 562, columns 2 and 3, the addresses for Massachusetts and Rhode Island where written comments will be available for public review are changed to:

For Massachusetts: U.S. Fish and Wildlife Service, Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Contact Beth Foder.

For Rhode Island: Rhode island Department of Environmental Management, 83 Park Street, Providence, Rhode Island 02903. Contact Victor Bell.

Dated: January 20, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-1816 Filed 1-22-82; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Parts 700, 701, 764, 770, 771, 779, 780, 783, 784, 785, 786, 788, 816, 817, 825, and 828

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Definitions and Terminology; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rulemaking; correction.

SUMMARY: The notice of proposed rulemaking relating to two-acre exemption, definitions and terminology, and special bituminous coal mines in Wyoming, published in the **Federal Register**, 47 FR 41-57, on January 4, 1982, inadvertently omitted the hours for the public hearing. The hearing will begin at 9:30 a.m.

DATES: The date for the public hearing on the above parts has not been changed. The public hearing will be held on January 25, 1982, at 9:30 a.m.

ADDRESSES: The public hearing will be held at the Department of the Interior, Main Auditorium, 18th and C Streets NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Harriet Marple, Chief, Division of Regulation and Inspection, 202/343-5365.

Dated: January 20, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-1753 Filed 1-20-82; 3:58 pm]

BILLING CODE 4310-05-M

POSTAL SERVICE

39 CFR Part 111

Change in the Requirements for Second-Class Mail Privileges

AGENCY: Postal Service.

ACTION: Solicitation of comments in advance of proposed rulemaking.

SUMMARY: The Postal Service is considering a comprehensive revision in the circulation requirements for second-class mail privileges. The purpose of this notice is to outline the changes under consideration and to solicit the views of mailers on whether the Postal Service should file a request with the Postal Rate Commission to recommend these changes.

In brief, the changes under consideration would eliminate the paid subscriber and requester requirements for second-class publications mailed at regular (non-subsidized) second-class rates. Elimination of the circulation requirements would simplify the second-class rate and classification structure, and may result in lower costs to both publishers and the Postal Service.

DATE: Comments must be received by February 25, 1982.

ADDRESS: Written comments should be addressed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of written comments received will be available for public inspection and photocopying between 9:00 AM and 4:00 PM, Monday through Friday, in Room 8316, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Martin L. Cohen, 202/245-4569.

SUPPLEMENTARY INFORMATION: As a result of the recent general rate proceeding, the mail classification for controlled circulation publications was merged with regular second-class mail. See 46 FR 16404, 16422, March 12, 1981, and 46 FR 17758, 17767, March 20, 1981. A requirement that the former controlled circulation publications be distributed primarily to requesters (not scheduled to take effect before March 20, 1982) was established to parallel the second-class requirement for circulation primarily to paid subscribers. Since the announcement of the requester requirement, a great deal of concern has been expressed by mailers regarding the burden and expense of complying with the requirement. The Postal Service is aware that both the requester and the paid subscriber circulation requirements for second-class mail necessitate significant administrative costs for mailers to establish and maintain circulation records. Since the regular second-class rates for commingled non-subscriber/non-requester copies are now identical to the rates for subscriber/requester copies, the circulation requirements may no longer serve a useful purpose. Elimination of those requirements would relieve mailers of burden and expense, and reduce Postal Service costs of administration and verification of compliance. Moreover, the Postal Service is committed to doing its part to

reduce the burden of unwarranted government regulation. The requirement for circulation records for second-class publications may be the type of government regulation which should be reviewed at this time to see if it is the best interest of the Postal Service and the public.

The changes under consideration by the Postal Service are limited to regular second-class mail. Preferred subclasses and rate categories for which government subsidies (and therefore lower rates) are authorized would not be included in the changes under consideration. Therefore, publications for which any of the preferred rates are paid (second-class non-profit rate, classroom rate, limited-circulation rate, in-county rate, and the science-of-agriculture rate) would be required to maintain subscription records in accordance with present requirements.

In order to develop an idea of what the attitude of the public might be toward an elimination of the aforementioned circulation requirements for regular-rate second-class mail, the Postal Service is publishing this notice to invite public comments. After the comments have been received and analyzed, a determination will be made as to whether the Postal Service should file a request with the Postal Rate Commission to recomend the necessary changes in the Domestic Mail Classification Schedule.

[39 U.S.C. 401, 403, 404]

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-1749 Filed 1-22-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-6-FRL-2035-2]

Texas Application for Interim Authorization, Phase II, Components A and B Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: Today EPA is announcing the extension of the public review period of the Texas application for Phase II, Components A and B, Interim Authorization, Hazardous Waste Management program because substantial revisions and an addition were made to the Texas application subsequent to the notice in the **Federal Register** of November 13, 1981, (46 FR 55997) announcing the availability of this Texas application for public review. The revisions were made to the Memorandum of Agreement between the State and EPA and the addition was a Memorandum of Understanding entered into between three State agencies.

DATE: Comments will be received on the changes to the Memorandum of Agreement and on the Memorandum of Understanding until February 24, 1982.

ADDRESSES: Written comments should be sent to: Environmental Protection Agency, Region 6, Air and Waste Management Division, Attention: Beverly Foster, Hazardous Materials Branch, 1201 Elm Street, Dallas, Texas 75270, 214/767-2645.

Copies of the Texas Memorandum of Agreement and the Memorandum of Understanding are available during normal business hours at the following addresses for inspection and copying:

Environmental Protection Agency, Region 6, Library, 28th Floor, 1201 Elm Street, Dallas, Texas 75270, 214/767-7341.

EPA Headquarters Library, Room 2404, 401 M Street, SW., Washington, D.C. 20460.

Texas Department of Health, Bureau of Solid Waste Management, Room 602 1100 West 49th Street, Austin, Texas 78756, 512/458-7271.

Texas Department of Water Resources, Stephen F. Austin State Office Building, Library—Room 511, 1700 N. Congress Avenue, Austin, Texas 78711, 512/475-3781.

Texas Department of Water Resources, District Office, 4301 Center Street, Deer Park, Texas 77536, 713/479-5981.

Texas Department of Water Resources, District Office, Klee Square Building, Suite 515, 505 South Water Street, Corpus Christi, Texas 78401, 513/882-2548.

Texas Department of Water Resources, District Office, 2321A 50th Street, Lubbock, Texas 79412, 806/799-1164.

FOR FURTHER INFORMATION CONTACT: Beverly Foster, Hazardous Materials Branch, U.S. EPA, Region 6, Dallas, Texas 75270, 214/767-2645.

SUPPLEMENTARY INFORMATION: In the November 13, 1981, **Federal Register** (46 FR 55997), the Environmental Protection Agency announced the availability for public review of the Texas application for Phase II, Components A and B, Interim Authorization, Hazardous Waste Management Program, invited public comment, and gave notice of a public hearing to be held on the application.

The public hearing was held on December 21, 1981.

Subsequent to the notice published on November 13, 1981, and prior to the public hearing, the State and EPA agreed to the following changes in the Memorandum of Agreement (MOA): (1) The Resource Conservation and Recovery Act of 1976, as amended by the Solid Waste Disposal Act Amendments of 1980, requires that the Administrator shall cause to be broadcast over local radio stations notice of the agency's intention to issue a permit to any facility for the treatment, storage, or disposal of hazardous waste (Section 7004(b)). The Act also makes this same provision applicable to authorized State programs. The regulations of the Texas Department of Water Resources encouraged but did not require that notice of proposed permits be broadcast over local radio stations. In an amendment to the MOA, the Texas Department of Water Resources agrees to mail a summary of public notices, involving each application to store, process or dispose of hazardous industrial waste, to one or more local radio stations and assure that such summaries are broadcast in the affected area.

(2) Regulations promulgated in 40 CFR Part 123 require that State programs have requirements for permitting which are substantially equivalent to EPA's requirements (40 CFR 123.129(d)). Regulations at 40 CFR 124.6 require that the Director tentatively decide whether to prepare a draft permit or to deny the application. If the Director decides to prepare a draft permit, 40 CFR 124.6(d) specifies the information that must be included in the draft permit.

Permitting regulations of the Texas Department of Health do not contain provisions for the issuance of a draft permit. However, the Texas Department of Health has agreed in the MOA to notice the preparation of a summary document prior to a public hearing which contains all of the elements of a draft permit and meets the requirements found at § 124.6(d).

(3) In the October 20, 1981, **Federal Register** (46 FR 51407) EPA proposed to temporarily suspend the effective dates of its January 1981 permitting standards for incinerators and storage surface impoundments, as applied to existing facilities, pending a re-examination of their appropriateness for existing facilities.

EPA also announced that in the period before a final decision is made on the suspension, EPA will continue to review State applications for Components A and B for substantial equivalence with

all aspects of the current Federal standards. However, EPA stated that it would only authorize State programs to permit facilities not covered in the proposed suspension (i.e., new incinerators, new storage surface impoundments and all tanks, containers, and waste piles). Texas, among other States, has recommended that the Administrator change this policy of only authorizing State programs to permit facilities not covered in the proposed suspension.

In anticipation of such a change in policy by the Administrator, Texas has amended the Memorandum of Agreement by adding the following language: "The State is aware that EPA has proposed to suspend the effective date of its January regulations as applied to existing incinerators and storage surface impoundments pending a re-examination of the appropriateness of those standards for existing facilities, 46 FR 51408 (October 20, 1981). The State recognizes that if the Administrator does suspend the effective date of the January regulations as they apply to certain facilities, there will then be no Federal program in effect for those facilities. Thus there will be no program for the State program to operate "in lieu of." The State agrees that if EPA suspends the effective date of its January standards as they apply to existing incinerators and storage surface impoundments, EPA's authorization of the State to issue RCRA permits to those facilities will automatically be suspended. State program authorization to issue these RCRA permits can be reinstated once EPA reestablishes this part of the Federal program by either reinstating the effectiveness of the existing regulations or promulgating new or amended regulations. EPA intends that procedures for reinstatement of State program authorization will be consistent with 40 CFR 123.13(a), (b) (1) and (2). If EPA suspends its January standards only with respect to certain categories of existing incinerators and storage surface impoundments, the State's authorization to issue RCRA permits to owners and operators for the remaining categories of facilities will continue in force. In other words, the State will continue to be authorized to issue RCRA permits to whomever EPA would be able to issue RCRA permits were the State not authorized. Any such suspension will have no effect on the State's ability to issue State permits under State law and regulations."

Should EPA not change its policy, this provision would be deleted from the MOA.

EPA is also making available for review and comment a Memorandum of Understanding between the Texas Railroad Commission, the Texas Department of Water Resources, and the Texas Department of Health. This Memorandum of Understanding, referenced in the Texas application, was executed after the application was submitted and became effective on January 1, 1982. The Memorandum of Understanding clarifies the division of responsibilities among those three agencies with respect to oil and gas related wastes.

(Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq. and 40 CFR Part 123 Subpart F)

Dated: January 19, 1982.

Dick Whittington,

Regional Administrator.

[FR Doc. 82-1737 Filed 1-22-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 6243]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

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 community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency 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. 40001-4128, and 44 CFR 67.4(a)).

These elevations, together with the flood plain management measures required by § 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 of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even of ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Blue Lake (city), Humboldt County	Dave's Creek	20 feet downstream of intersection of Dave's Creek and Arcata and Mad River Railroad Spur.	*86
		Shallow Flooding	Intersection of Gely Street and Chartin Road	#1
		Mad River	700 feet downstream of intersection of Hatchery road and Mad River.	*86
	Maps available for inspection at City Clerk's Office, 111 Greenwood Avenue, Blue Lake, California.			
	Send comments to the Honorable Mark Bryant, 111 Greenwood Avenue, Blue Lake, California 95525.			
California	Grass Valley (city), Nevada County	Wolf Creek	100 feet upstream from confluence with Little Wolf Creek.	*2315
			30 feet upstream from center of Railroad Avenue	*2447
		South Fork Wolf Creek	At intersection of Colfax East and St. Bennett Street	*2434
		Little Wolf Creek	30 feet upstream from center of Freeman Lane	*2358
			30 feet upstream from center of South Auburn Street	*2411
	Maps available for inspection at Department of Public Works, 125 East Main Street, Grass Valley, California.			
	Send comments to the Honorable Dennis Hill, 125 East Main Street, Grass Valley, California 95945.			
Connecticut	Meriden, city, New Haven County	Quinnipiac River	Downstream corporate limits	*73
			Upstream of Hanover Pond Dam	*91
			Upstream corporate limits	*108
		Sodom Brook	Confluence with Quinnipiac River	*91
			Coe Avenue (upstream side)	*100
			West Main Street (upstream side)	*120
			State Route 66 (upstream side)	*131
			Leonard Street (upstream side)	*139
			Approximately 3,550 feet upstream of Leonard Street	*163
		Harbor Brook	Confluence with Quinnipiac River	*91
			Hanover Street (upstream side)	*114
			Cooper Street (upstream side)	*122
			Center Street (upstream side)	*136
			Upstream of Westfield Road (downstream crossing)	*180
			North Broad Street (upstream side)	*158
			Confluence of Willow Brook and Spoon Shop Brook	*201
		Spoon Shop Brook	Confluence with Harbor Brook	*201
			Upstream of Bee Street	*231
			Tumblebrook Road (upstream side)	*247
			Upstream of Maple Avenue	*274
			Upstream of Valley View Drive	*316
			Upstream of Birdsey Avenue	*369
		Willow Brook	Confluence with Harbor Brook	*201
			Upstream of State Route 15	*257
			East Main Street (upstream side)	*275
			East Road (upstream side)	*286
			Research Parkway (downstream side)	*290
		Crow Hollow Brook	Confluence with Sodum Brook	*100
			Downstream of Johnson Avenue	*140
			Upstream of West Main Street	*193
	Maps available for inspection at the Engineering Department, Meriden City Hall, Meriden, Connecticut.			
	Send comments to the Honorable Mr. Dana Miller, City Manager of the City of Meriden, City Hall, Meriden, Connecticut 05450.			
Illinois	(V) Beecher, Will County	Trim Creek Tributary	About 1200 feet downstream of Indiana Avenue	*701
			Just upstream of Church Road	*726
		Trim Creek	Within community	*696
	Maps available for inspection at the Clerk's Office, Municipal Building, 724 Penfield Street, Beecher, Illinois.			
	Send comments to Honorable Landis Wehling, Village President, Village of Beecher, Municipal Building, 724 Penfield Street, Beecher, Illinois 60401.			
Illinois	(C) East Moline, Rock Island County	Mississippi River	About 0.38 mile downstream of the downstream corporate limits.	*572
			At the upstream corporate limits	*574
		Rock River	Southeast of State Route 2	*577
		Shallow flooding (ponding due to rainfall).	Areas bounded by the Mississippi River Levees and the Chicago, Rock Island and Pacific Railroad, near the western corporate limits.	*566
			An area about 1500 feet west of Chicago, Rock Island and Pacific Railroad bridge over Sugar Creek, along the Mississippi River and Sugar Creek Levees.	*568
			An area within the Sugar Creek Levee from the 4th Avenue bridge to the mouth of the creek.	*569
			An area northeast of 4th Avenue bridge over Sugar Creek, east of North 20th Avenue.	*573
			Area southeast of the intersection of 7th Street and 5th Avenue.	*574
	Maps available for inspection at the Public Works Department, City Hall Annex, East Moline, Illinois.			
	Send comments to Honorable Dennis Jacobs, Mayor, City of East Moline, City Hall, 915 Sixteenth Avenue, East Moline, Illinois 61244.			
Iowa	(C) Bellevue, Jackson County	Mississippi River	About 0.7 mile downstream of Lock and Dam No. 12	*602
			About 0.6 mile upstream of Lock and Dam No. 12	*603
		Mill Creek	About 150 feet upstream of the Chicago, Milwaukee, St. Paul and Pacific Railroad.	*602
			About 1250 feet upstream of the Chicago, Milwaukee, St. Paul and Pacific Railroad.	*603
			About 2400 feet downstream of State Highway 62	*616

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 200 feet downstream of State Highway 62	*626
			About 1300 feet upstream of State Highway 62	*629

Maps available for inspection at the City Hall, Bellevue, Iowa.
Send comments to Honorable Larry Cheney, Mayor, City of Bellevue, City Hall, Bellevue, Iowa 52031.

Iowa	(C) Greene, Butler County	Shell Rock River	About 3,750 feet downstream of Traer Street dam	*955
			About 100 feet downstream of Traer Street dam	*956
			About 250 feet upstream of Traer Street dam	*958
			About 650 feet upstream of State Highway 14	*960
		Shell Rock River Overflow Channel.	About 850 feet downstream of Main Street	*955
			About 400 feet upstream of Main Street	*958
			About 1,200 feet upstream of Iowa Street	*959

Maps available for inspection at the City Hall, Greene, Iowa.
Send comments to Honorable Arthur Weiss, Mayor, City of Greene, City Hall, Greene, Iowa 50636.

Iowa	(C) Manchester, Delaware County	Maquoketa River	At downstream corporate limits	*920
			Just upstream of West Marion Street	*932
			About 200 feet upstream of West Marion Street	*933
			About 1.9 miles upstream of West Marion Street	*936
		Tributary A	At mouth	*920
			Just upstream of South Brewer Street	*922
			Just upstream of East Main Street	*937
			Just downstream of East Union Street	*943
			About 1,900 feet upstream of East Acers Street	*952

Maps available for inspection at the City Hall, 208 East Main Street, Manchester, Iowa.
Send comments to Honorable Milt L. Kramer, Mayor, City of Manchester, City Hall, 208 East Main Street, Manchester, Iowa 52057.

Maryland	Poolesville, town, Montgomery County	Dry Seneca Creek	Downstream corporate limits	*327
			Approximately 2,600' upstream of downstream corporate limits.	*338
			Upstream corporate limits	*367

Maps available for inspection at the Town Hall, Poolesville, Maryland.
Send comments to Honorable Charles W. Elgin, President of the Poolesville Board of Commissioners, P.O. Box 158, Poolesville, Maryland 20837.

Massachusetts	North Andover, town, Essex County	Merrimack River	Downstream corporate limits	*31
			Approximately 2 miles above corporate limits	*33
			Confluence of Shawsheen River	*34
		Shawsheen River	Downstream corporate limits	*34
			Salem Turnpike State Route 114 (downstream)	*34
		Cochichewick Brook	Confluence with Merrimack River	*33
			Upstream of Sutton Pond Dam	*50
			Upstream of Osgood Pond Dam	*75
			Approximately 400' upstream of Elm Street	*90
			Approximately 600' upstream of Osgood Street	*97
			Approximately 910' upstream of Osgood Street	*113

Maps available for inspection at the Board of Public Works Office, North Andover Town Hall, North Andover, Massachusetts.
Send comments to the Honorable Jack Graham, Chairman of the North Andover Board of Selectmen, Town Hall, 120 Main Street, North Andover, Massachusetts 01845

Nebraska	(C) Crete, Saline County	Big Blue River	About 2.5 miles downstream of State Highway 33	*134
			Just upstream of Burlington Northern Railroad	*135
			About 1.9 miles upstream of Tuxedo Park Road	*136
		Walnut Creek	At mouth	*135
			Just downstream of Boswell Avenue	*135
			Just upstream of Boswell Avenue	*136
			About 7500 feet upstream of Boswell Avenue	*137

Maps available for inspection at the City Hall, 243 East 13th, Crete, Nebraska.
Send comments to Honorable Harlyn Crisman, Mayor, City of Crete, City Hall, 243 East 13th, Crete, Nebraska 68333.

New Hampshire	Keene, city, Cheshire County	Ashuelot River	Downstream corporate limits	*47
			Upstream of Martell Court	*47
			Upstream of Island Street	*47
			Upstream of State Route 9	*47
			Upstream of State Route 12A	*47
			Upstream corporate limits	*48
		Ash Swamp Brook	Downstream corporate limits	*47
			Upstream of Winchester Street	*47
			Approximately 650' downstream State Route 9	*47
			Approximately 600' upstream State Route 9	*48
			Approximately 100' upstream of West Street	*48
			Approximately 50' upstream of Boston and Maine Railroad.	*49
			At Arch Street	*50
		Beaver Brook	Confluence with Branch River	*47
			Upstream of Water Street	*47
			Approximately 100' downstream of George Street	*48
			Approximately 30' upstream of Old Concord Railroad	*55
			Upstream of State Route 10	*60
			Approximately 2,030' upstream of State Route 10	*68
			Upstream of State Route 9	*76
			Approximately 5,000' upstream of Stone Dam	*79
			Approximately 50' downstream of Stone Dam	*79
			Approximately 50' downstream of Sullivan Center Road.	*80
			Upstream corporate limits	*82

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Branch river	Confluence with Ashuelot River	*472
			Downstream of Main Street	*472
			Approximately 5,000' upstream of Main Street	*487
			Upstream of State Route 101	*520
			Confluence of Otter Brook	*555
		Otter Brook	Confluence with Branch River	*555
			Approximately 5,000' upstream of confluence with Branch River.	*604
			Approximately 100' upstream of Roxbury Road	*623
			Approximately 5,120' upstream of Roxbury Road	*669
		Minnewawa Brook	Confluence with Branch River	*555
			Approximately 100' upstream of Branch Road	*563
			Upstream corporate limits	*634

Maps available for inspection at the Planning Department, Keene City Hall, Keene, New Hampshire.
Send comments to the Honorable Richard Peloquin, Mayor of the City of Keene, City Hall, Keene, New Hampshire 03431.

New Jersey	North Bergen, township, Hudson County	Hudson River	Entire shoreline within North Bergen	*12
		Hackensack River	Along Conrail from 69th Street extended to Interstate Route No. 495.	*9
			Along Conrail from Interstate Route No. 495 to approximately 1,600 feet from intersection of Conrail and western corporate limits.	*5
			Along Conrail from eastern corporate limits to 86th Street (extended).	*9

Maps available for inspection at the Municipal Building, 4233 Kennedy Boulevard, North Bergen, New Jersey.
Send comments to Honorable Anthony DiVincent, Mayor of North Bergen, Municipal Building, 4233 Kennedy Boulevard, North Bergen, New Jersey 07047.

New Jersey	Ridgefield Park, village, Bergen County	Hackensack River	Entire shoreline	*9
		Overpeck Creek	Entire shoreline	*9

Maps available for inspection at the Municipal Building, 234 Main Street, Ridgefield Park, New Jersey.
Send comments to Honorable Fred J. Criscuolo, Mayor of Ridgefield Park, Municipal Building, 234 Main Street, Ridgefield Park, New Jersey 07660.

New Jersey	South Bound Brook, borough, Somerset County	Raritan River	Downstream corporate limits	*31
			Upstream of Conrail	*33
			Upstream corporate limits	*37

Maps available for inspection at the Municipal Building, 12 Main Street, South Bound Brook, New Jersey.
Send comments to Honorable Ron L. Wawrzyniak, Mayor of South Bound Brook, Municipal Building, 12 Main Street, South Bound Brook, New Jersey 08880.

New York	Cornwall, town, Orange County	Moodna Creek	Confluence with Hudson River	*8
			Approximately 1,500' upstream of confluence with Hudson River.	*10
			Approximately 4,650' downstream of dam	*79
			Upstream of dam	*127
			Upstream of Albany Turnpike	*169
			Approximately 5,000 feet upstream second dam	*199
			Approximately 1,660' downstream of Pleasant Hill Road.	*221
			Upstream of New York State Thruway	*236
			Approximately 1,740' downstream of Otterkill Road	*241
			Otterkill Road (downstream side)	*244
			Approximately 500 feet upstream Conrail	*252
			Approximately 5,800' upstream Conrail	*261
			Upstream corporate limits	*284
		Woodbury Creek	Confluence with Moodna Creek	*235
			Star Drive (upstream side)	*262
			Approximately 5,000' upstream Star Drive	*278
			Upstream Corporate Limits	*286
		Idlewild Creek	Confluence with Moodna Creek	*10
			Academy Avenue (upstream side)	*153
			Main Street (upstream side) (upstream crossing)	*252
			Approximately 3,020' upstream of Main Street (upstream crossing).	*287
		Hudson River	Entire shoreline within community	*8

Maps available for inspection at the Office of the Town Clerk and at the Public Library, Cornwall, New York.
Send comments to Honorable Charles F. Winchell, Deputy Supervisor of Cornwall, Town Hall, 183 Main Street, Cornwall, New York 12518.

New York	Crawford, town, Orange County	Shawangunk Kill	Downstream corporate limits	*292
			Upstream of Hardenburg Road	*316
			Upstream of dam	*331
			Upstream of dam at Crawford Road	*356
			Upstream of County Route 48	*380
			Upstream of Petticoate Lane	*404
			Upstream corporate limits	*420

Maps available for inspection at the Town Hall, Crawford, New York.
Send comments to Honorable Graham Jamison, Supervisor of Crawford, Box 7, Pine Bush, New York 12566.

New York	Gardiner, town, Ulster County	Wallkill River	Downstream corporate limits	*196
			Confluence of Shawangunk Kill	*204
			Upstream corporate limits	*213
		Shawangunk Kill	Confluence with Wallkill River	*204
			Downstream of Albany Post Road	*207
			Approximately 700' upsteam of Albany Post Road	*2113

Maps available for inspection at the Office of the Town Clerk, Gardiner, New York.
Send comments to Honorable William Keeping, Supervisor of Gardiner, Minnewaska Trail, Gardiner, New York 12525.

New York	Shawangunk, town, Ulster County	Shawangunk Kill	Confluence of Dwaar Kill West	*290

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream of Hardenburg Road	*316
			Upstream of Johns Estate Drive	*338
			Corporate limits	*362
		Verkeerder Kill	Confluence with Shawangunk Kill	*338
			Downstream of Ulsterville Road	*387
			Downstream of State Route 52	*413
			Approximately 6,300' upstream of State Route 52	*436
		Dwaar Kill West	Confluence with Shawargunk Kill	*290
			Upstream of Red Mills Road	*314
			Upstream of New Prospect Road/County Route 7	*348
			Upstream of Awosting Road	*400
		Wallkill River	Downstream corporate limits	*211
			Confluence of Dwaar Kill East	*234
			Upstream corporate limits	*262
		Dwaar Kill East	Confluence with Wallkill River	*234
			Upstream of Mud Tavern Road	*255
			Downstream of Bruyn Trunpike/County Route 18	*267
			Corporate limits	*312

Maps available for inspection at the Town Hall, Central Avenue, Wallkill, New York.
Send comments to Honorable Charles Flyn, Supervisor of Shawangunk, Town Hall, Central Avenue, Wallkill, New York 12589.

North Dakota	Spiritwood Lake City (city), Stutsman County	Spiritwood Lake	Along shoreline at East Lake County Road	*1450

Maps available for inspection at Fish & Game Headquarters, Spiritwood Lake City, North Dakota.
Send commendts to the Honorable Jean Brady, Route 1, Jamestown, North Dakota 58401.

Oklahoma	City of Seminole, Seminole County	Wewoka Creek	Just upstream of Harvey Road	*855
			Just upstream of Ideal Street	*865
		Carter Creek	Just upstream of Strotter Avenue	*861
			Just upstream of State Highway 9	*878
		Tributary No. 1 of Carter Creek	Just upstream of U.S. Highway 270	*860
		Tributary No. 2 of Carter Creek	Just approximately 100 feet from the corporate limits	*872
		Tributary No. 3 of Carter Creek	Just upstream of Harvey Road	*897
		Magnolia Creek	Just upstream of Strotter Avenue	*860
			Just upstream of State Highway 99	*868
		Tributary No. 1 of Magnolia Creek	Just upstream of State Highway 9	*875
			Just upstream of State Highway 99	*898
		Tributary No. 2 of Magnolia Creek	Just upstream of unnamed road	*877
		Tributary No. 3 of Magnolia Creek	Just upstream of Ideal Street	*888
		Tributary No. 1 of Tributary No. 3 of Magnolia Creek.	Just upstream of Good Hope	*907

Maps available for inspection at Department of Planning and Community Development, City Hall, Main and Evans Streets, Seminole, Oklahoma 74868.
Send comments to Mayor Gene Price or Mr. David Harris, City Manager, City Hall, P.O. Box 1218, Seminole, Oklahoma 74868.

Ohio	(C) Cincinnati, Hamilton County	Ohio River	Just upstream of confluence of Muddy Creek	*493
			About 2.0 miles upstream of confluence of Little Miami River.	*502
		Little Miami River	Within community	*502
		Muddy Creek	Within community	*493
		Mill Creek	Just upstream of confluence of Ohio River	*497
			Just downstream of Barrier Dam (near Eighth Street)	*497
			Just upstream of Barrier Dam (near Eighth Street)	*481
			Just downstream of Old Ludlow Avenue	*491
			At confluence of West Fork Mill Creek	*539
		East Fork Mill Creek	At upstream corporate limits	*540
		West Fork Mill Creek	At confluence of Mill Creek	*485
			About 450 feet upstream of Powers Street	*493
			Just upstream of Southbound Beekman Avenue (near Colerain Avenue).	*508
			Just downstream of West Fork Road	*522
			At confluence of McFarland Creek	*565
		Clough Creek	At confluence of Little Miami River	*501
			About 1.75 miles upstream of Beechmont Avenue	*553
		Duck Creek	At confluence of Little Miami River	*501
			Just upstream of Conrail (about 0.8 mile upstream of Wooster Road).	*505
			Just downstream of Red Bank Road	*517
			Just upstream of Chessie System	*537
			About 450 feet downstream of Duck Creek Road	*549
		Congress Run	At confluence of Mill Creek	*520
			About 100 feet upstream of Ridgeway Avenue	*533
			About 620 feet downstream of Ridgeview Drive	*587
			About 100 feet upstream of Ridgeview Drive (at corporate limits).	*622

Maps available for inspection at the Division of Engineering, City Hall, 801 Plum Street, Cincinnati, Ohio.
Send comments to Honorable David Mann, Mayor, City of Cincinnati, City Hall, 801 Plum Street, Cincinnati, Ohio 45202.

Pennsylvania	Lewis, township, Lycoming County	Lycoming Creek	Downstream corporate limits	*618
			Township Route 506 (upstream)	*631
			Confluence of Daugherty Run	*641
			Confluence of Wolf Run	*658
			Confluence of Trout Run	*672
			Approximately 5,000' upstream confluence of Trout Run.	*684
			Abandoned Railroad Bridge (upstream) first crossing	*691
			Township Route 840 (upstream)	*714

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Confluence of Grays Run	*717
			Star Route 943 (Township Route 467) (downstream)	*730
			Abandoned railroad Bridge (upstream) fourth crossing	*740
			Legislative Route 41051 (upstream)	*764
			Approximately 4,750' upstream Legislative Route 41050.	*772
			Upstream corporate limits	*786
		Daugherty Run	Confluence with Lycoming Creek	*641
			Township Route 506 bridge ruins (downstream)	*655
			Approximately 650' upstream Township Route 506 bridge ruins.	*682
		Wolf Run	Confluence with Lycoming Creek	*658
			U.S. Route 15 (upstream)	*679
			Approximately 950' upstream U.S. Route 15	*692
		Trout Run	Confluence with Lycoming Creek	*672
			Township Route 836 (upstream)	*688
			U.S. Route 15 (upstream)	*717
		Grays Run	Confluence with Lycoming Creek	*717
			State Route 14 (upstream)	*723
			Private Bridge (upstream)	*752
		Shoemaker Run	Confluence with Lycoming Creek	*737
			Township Route 856 (upstream)	*740
			Approximately 1,830' upstream Township Route 856 bridge.	*814
Maps available for inspection at the residence of Ms. Grace Wettlaufer, Chairperson of the Lewis Planning Commission, Bodines, Pennsylvania.				
Send comments to Honorable Indie Snyder, Chairman of the Lewis Board of Supervisors, Star Route, Trout Run, Pennsylvania 17771.				
Tennessee	Town of Jonesboro, Washington County	Little Limestone Creek	Just downstream of 3rd Avenue	*1680
			Just downstream of North Cherokee Street	*1685
			Just upstream of City Street	*1742
		Tributary to Little Limestone Creek	Approximately 485 feet upstream of Sabine Lane	*1694
			Just downstream of Bugabee Spring Road	*1719
Maps available for inspection at Town Hall, Boone Street, Jonesboro, Tennessee 37659.				
Send comments to Mayor Jimmy Neal Smith or Mr. Robert Browning, Town Administrator, Town Hall, Boone Street, Jonesboro, Tennessee 37659.				
Tennessee	Unincorporated areas of Sullivan County	Horse Creek	Just upstream of County Road	*1195
			Just upstream of State Highway 93	*1209
			Just upstream of County Road (Rock Springs)	*1229
		Kendrick Creek	Just downstream of Rock Springs Road	*1232
			Just downstream of Summerville Pike	*1309
			Just downstream of Moreland Drive	*1309
			Just upstream of Kendrick Creek Road	*1327
			Just upstream of Interstate Highway 81	*1461
		Reedy Creek	Just upstream of Anderson Bridge (Bancroft Chapel Road).	*1248
			Just upstream of U.S. Highway 11W (State Highway 1)	*1262
			Just downstream of County Road (Barger Hollow Road).	*1406
			Just upstream of State Highway 37	*1613
			Just downstream of U.S. Highway 11	*1664
		Fall Creek	Just upstream of Toy Holt Road	*1327
			Just downstream of County Road (Green Road)	*1449
		Beaver Creek	Just upstream of Mill Pace Dam	*1406
			Just downstream of U.S. Highway 11E, 19, and 411 (Andrew Johnson Highway).	*1442
			Just upstream of speedway entrance Road	*1447
		Back Creek	Just approximately .04 mile to the limit of detailed study.	*1448
		Whitetop Creek	Just approximately .02 mile to limit of detailed study	*1460
		North Fork Holston Creek	Just upstream of Carters Valley Road	*1204
		South Fork Holston River	Just upstream of State Highway 93 (John B. Dennis Bypass).	*1197
			Just upstream of U.S. Highway 13	*1207
		South Fork Holston River	Just upstream of Wilcox Drive	*1187
		Sluice	Just upstream of Eastman Drive	*1192
Maps available for inspection at Sullivan County Courthouse, Main Street, Blountville, Tennessee 37617.				
Send comments to Judge Lor V. Boyd or Mr. Ralph Harr, Judge Pro Tem, Sullivan County Courthouse, P.O. Box 96, Main Street, Blountville, Tennessee 37617.				
Tennessee	Unincorporated areas of Washington County	Cobb Creek	Just downstream of Austin Spring Road (MO. 23)	*1424
			Just upstream of Austin Spring Road (MO. 23)	*1425
			Just downstream of Austin Spring Road (MI. 14)	*1479
		Knob Creek	Just downstream of the sewage treatment plant	*1421
			Just downstream of city street	*1455
			Just upstream of city street	*1457
		Cedar Creek	Just downstream of U.S. Highway 23	*1360
			Just upstream of U.S. Highway 23	*1367
			Just downstream of County Road (MI. 61)	*1419
			Just upstream of County Road (MI. 61)	*1423
		Sinking Creek	Just downstream of David Miller Rd.	*1805
			Just upstream of David Miller Rd.	*1807
			Just upstream of Sinking Creek Rd.	*1810
		Brush Creek	Just downstream of Watauga Road	*1425
			Just upstream of Watauga Road	*1429
			Just downstream of Mill Dam	*1471
			Just upstream of Mill Dam	*1476
			Just downstream of Dalewood Drive	*1507

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Dalewood Drive	*1510
		Boones Creek	Just downstream of County Road	*1421
			Just downstream of U.S. Highway 23	*1454
			Just downstream of State Highway 137 Southbound Ramp.	*1520
		Little Limestone Creek	Just downstream of David Crockett School Road	*1625
			Just upstream of David Crockett School Road	*1627
			Just downstream of unnamed subdivision road	*1630
			Just upstream of unnamed subdivision road	*1632
			Just downstream of U.S. Highway 34	*1647
			Just upstream of U.S. Highway 34	*1651
Maps available for inspection at State Planning Office, Boone Street, Jonesboro, Tennessee 37601.				
Send comments to Mr. Robert Good, Washington County Executive, County Courthouse, P.O. Box 216, Jonesboro, Tennessee 37659.				
Texas	City of Canyon, Randall County	Palo Duro Creek	Just downstream of Hunsley Hills Boulevard	*3501
			Just upstream of Jynteewood Drive	*3506
		Prairie Dog Town Fork of Red River (Tierra Blanca Creek).	Just upstream of State Highway 217	*3494
Maps available for inspection at City Hall, 301 Sixteenth Street, Canyon, Texas 79015.				
Send comments to Mayor Philip R. Langen, or Glen R. Metcalf, City Manager, City Hall, 301 Sixteenth Street, Canyon, Texas 79015.				
Texas	City of Grapevine, Tarrant and Dallas Counties	Bear Creek	Just upstream of Euless Grapevine Road	*537
			Just upstream of West Frontage Road (Highway 121)	*549
			Just upstream of Pool Road	*568
		Tributary BB-1	Just upstream of Glade Road	*525
		Tributary BB-2	Just downstream of Trigg Road	*548
		Tributary BB-3	At stream distance 1,500 feet from mouth	*546
		Tributary BB-5	Just upstream of Creekwood Drive	*564
		Denton Creek	At unnamed road	*473
			Just downstream of Grapevine Dam	*475
		Cottonwood Creek	Just upstream of Bethel Road	*532
			Just downstream of Wall Street	*556
Maps available for inspection at City Hall, Grapevine, Texas 76051.				
Send comments to Mayor William D. Tate, or James L. Hancock, City Manager, City Hall, P.O. Drawer 1547, Grapevine, Texas 76051.				
Texas	City of Keller, Tarrant County	Little Bear Creek	Just upstream of East corporate limits	*661
		Tributary LB-3	Approximately 660 feet upstream of confluence with Little Bear Creek.	*669
		Bear Creek	Approximately 200 feet upstream of east corporate limits.	*608
			Approximately 300 feet upstream of Keller Smithfield Road.	*646
			Just upstream of Whitley Road	*679
			Just upstream of State Highway 377	*683
		Tributary BB-9	Approximately 300 feet upstream of FM 1938	*618
		Tributary BB-10	Just downstream of Dana Drive	*666
		Tributary BB-11	Just downstream of J. T. Ohinger Road	*660
		Tributary BB-12	Just downstream of Pate Orr Drive	*661
Maps available for inspection at City Hall, Keller, Texas 76248.				
Send comments to Mayor Bruce Lee, or John Barrett, City Administrator, City Hall, P.O. Box 770, Keller, Texas 76248.				
Texas	Village of Lake Tanglewood, Randall County	Prairie Dog Town Fork Red River	At county road	*3394
Maps available for inspection at Village Hall, Lake Tanglewood, Texas 79101.				
Send comments to Mayor Leo Forrest, or Mr. L. E. Vandoran, Chief Building Officer, Village Hall, Route 2, P.O. Box 44A12, Amarillo, Texas 79101.				
Texas	City of Point Comfort, Calhoun County	Lavaca Bay	Along the shore line	*18
Maps available for inspection at City Hall, 106 Jones Street, Point Comfort, Texas 77978.				
Send comments to the Mayor A. Rambikur or Mr. Rey Herrera, City Councilman, City Hall, P.O. Box 399, Point Comfort, Texas 77978.				
Texas	Unincorporated areas of Randall County	Prairie Dog Town Fork of Red River.	Just upstream of Wildwood Drive	*3417
			Just upstream of FM 1541	*3443
		Tierra Blanca Creek	Just upstream of Hunsly Road	*3484
			Just upstream of State Highway 217	*3494
			Just upstream of U.S. Highway 87	*3501
			Just upstream of FM 2590 (8th St.)	*3516
		Palo Doro Creek	Just downstream of Topeka & Santa Fe Railway	*3488
			Just upstream of U.S. Highways 60 and 87	*3495
		Spring Draw	Just upstream of U.S. Highways 60 and 87 and Interstate 27.	*3511
Maps available for inspection at Randall County Judge's Office, Randall County Courthouse, Canyon, Texas 79015.				
Send comments to the Judge Charles Purcell, Randall County Courthouse or Mr. Herb Hilliard, Randall County Road Superintendent, 100 Sixteenth Street, Canyon, Texas 79015.				
Virginia	Leesburg, town, Loundoun County	Tuscarora Creek	Downstream corporate limits	*273
			State Route 643 (Sycolin Road) (upstream)	*286
			Harrison Street (upstream)	*302
			State Route 621 (Evergreen Mill Road) (upstream)	*312
			U.S. Business Route 15 (King Street (upstream)	*324
		Town Branch	Confluence with Tuscarora Creek	*302
			Catoctin Circle (upstream)	*304
			U.S. Business Route 15 (King Street) (upstream)	*319

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1,950 feet upstream from U.S. Business Route 15 (King Street).	*337
Maps available for inspection at the Town Hall, Leesburg, Virginia. Send comments to the Honorable Kenneth Rollins, Mayor of Leesburg, P.O. Box 88, Leesburg, Virginia 22075.				
West Virginia	Follansbee, city, Brooke County	Ohio River	Downstream corporate limits	*668
			Upstream corporate limits	*669
Maps available for inspection at the City Building, Follansbee, West Virginia. Send comments to Honorable Adam Dallesio, Mayor of Follansbee, City Building, P.O. Box X, Follansbee, West Virginia 26037.				
Wisconsin	(Uninc.) Washington County	Cedar Creek	At downtown county boundary	*839
			Just upstream of Sherman Road (upstream of Chicago and North Western Railroad).	*849
			Just downstream of State Highway 60 (about 700 feet upstream of Mill Road.	*890
			Just upstream of State Highway 60 (about 700 feet upstream of Mill Road).	*899
			Just downstream of Cedar Creek Road (downstream of Schweitzer Dam).	*952
			Just upstream of Cedar Creek Road (downstream of Schweitzer Dam).	*960
			Just downstream of County Highway C	*983
			Just upstream of County Highway C	*1001
			Just downstream of Cedar Creek Road (upstream of Schweitzer Dam).	*1011
			Just upstream of Cedar Creek Road (upstream of Schweitzer Dam).	*1018
			Just downstream of Hillside Road	*1019
			Just upstream of Hillside Road	*1025
			Just downstream of outlet to Cedar Lake	*1033
		Milwaukee River	About 0.8 mile downstream of County Highway A (at county boundary).	*800
			About 1.4 miles upstream of County Highway A (at county boundary).	*807
			About 2.7 miles downstream of State Highway 33	*849
			Just downstream of Wooden Mill Dam	*876
			Just upstream of Wooden Mill Dam	*884
			About 0.6 mile upstream of Wooden Mill Dam	*884
			About 0.5 mile downstream of Woodford Drive	*913
			About 2.75 miles upstream of County Highway H	*936
			About 1,000 feet upstream of confluence of West Branch Milwaukee River.	*943
		West Branch Milwaukee River	At confluence with Milwaukee River	*942
			Just upsteam of U.S. Highway 45	*945
			About 0.25 miles upstream of U.S. Highway 45 (at county boundary).	*947
		Little Cedar Creek	At confluence with Cedar Creek	*847
			About 200 feet downstream of Old U.S. Highway 45	*860
			Just downstream of Mayfield Road	*908
		Bonniwell Creek	Just upstream of Old U.S. Highway 45	*860
			Just downstream of U.S. Highway 41	*863
		Springside Creek	About 0.2 mile upstream of confluence with Cedar Creek.	*860
			Just upstream of U.S. Highway 45 Northbound	*902
			Just downstream of U.S. Highway 45 Southbound	*913
		Hasmer Creek	At confluence with Cedar Creek	*850
			About 0.6 mile upstream of confluence with Cedar Creek.	*864
			Just downstream of U.S. Highway 45	*872
			Just upstream of U.S. Highway 45	*878
			About 0.3 mile upstream of U.S. Highway 45	*898
		Jackson Creek	At confluence with Cedar Creek	*844
			About 0.6 mile upstream of confluence with Cedar Creek.	*860
		Bark River	Just upstream of County Highway Q	*969
			About 0.67 mile upstream of Bark Lake Road	*978
			Just downstream of St. Hubertus Drive	*1007
			Just upstream of St. Hubertus Drive	*1015
			About 0.25 mile upstream of Scenic Road	*1018
		Marsh Creek	At confluence with Bark River	*970
			About 0.5 mile upstream of confluence with Bark River	*972
		Scenic Brook	At confluence with Bark River	*975
			About 1.15 miles upstream of confluence with Bark River.	*982
		Amy Bell Creek	At confluence with Bark River	*975
			About 0.6 mile upstream of confluence with Bark River	*975
		Hubertus Ditch No. 1	At confluence with Bark River	*976
			Just upstream of Hubertus Road	*983
		Hubertus Ditch No. 2	At confluence with Bark River	*976
			About 0.7 mile upstream of confluence with Bark River	*977
		Ashippun River	About 1.55 miles downstream of County Highway O (at county boundary).	*955
			About 0.9 mile upstream of County Highway E	*991
		Rubicon River	About 0.65 mile downstream of Treatment Plant Road	*952
			Just downstream of Wacker Drive	*960

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 1.4 miles downstream of Hilldale Drive (downstream of Pike Lake).	*988
			Just downstream of Hilldale Drive (upstream of Pike Lake).	*1024
		Oconomowoc River	Just upstream of County Line Road	*934
			About 1300 feet downstream of St. Augustine Road	*936
			Just upstream of St. Augustine Road	*948
			About 500 feet downstream of County Highway J	*963
			Just upstream of County Highway J	*968
		Stony Creek	Just upstream of State Highway 84	*830
			Just downstream of Bolton Drive	*864
			Just upstream of Boltonville Dam	*874
			Just downstream of North Paradise Road	*902
		Bolton Brook	At confluence with Stony Creek	*839
			Just downstream of Boltonville Road	*881
		Silver Creek	Just downstream of Pick Dam	*978
			Just upstream of Pick Dam	*984
			Just downstream of Lucas Lake Outlet Dam	*987
			Just upstream of Lucas Lake Outlet Dam	*996
			About 1.0 mile upstream of Paradise Road	*1000
		Washington Creek	At confluence with Silver Creek	*978
			About 0.44 mile upstream of confluence with Silver Creek.	*988
		East Branch Rock River	Just upstream of Soo Line Railroad	*947
			Just downstream of Hillcrest Drive	*953
		Quas Creek	At confluence with Milwaukee River	*871
			Just upstream of County Highway G	*893
			About 1.35 miles upstream of U.S. Highway 45	*981
		Myra Creek	Just downstream of County Highway I	*862
			Just upstream of County Highway I	*868
			Just downstream of Tuscola Lane	*873
			Just upstream of Tuscola Avenue	*878
			About 2000 feet upstream of Knollwood Drive	*901
		Wingate Creek	About 375 feet downstream of State Highway 33	*870
			Just downstream of Creek Drive	*890
		North Branch Milwaukee River	Just upstream of Riverside Drive (at county boundary)	*801
			About 1.57 miles upstream of Jay Drive (at county boundary).	*809
		Kohlsville River	Just upstream of Beechnut Drive	*954
			Just downstream of Main Street	*972
			About 100 feet upstream of Main Street	*981
			Just downstream of County Highway D	*993
		Kohlsville River (park route)	At confluence with Kohlsville River	*959
			Just downstream of Park Dam	*966
			Just upstream of Park Dam	*981
			At County Highway W	*982
		Kewaskum Creek	Just downstream of County Highway H	*937
			About 0.2 mile upstream of confluence of Kettleview Creek.	*941
		Kettleview Creek	At confluence with Kewaskum Creek	*939
			About 0.77 mile upstream of confluence with Kewaskum Creek.	*944
		Lake Five	At shoreline	*976
		Wallace Lake	At shoreline	*900
		Green Lake	At shoreline	*869
		Cedar Lake	At shoreline	*1034
		Gilbert Lake	At shoreline	*1034
		Coney River	At confluence with Oconomowoc River	*968
			Just downstream of Pleasant Hill Road	*992
			Just upstream of Pleasant Hill Road	*997
			Just downstream of County Highway J	*1012
			Just upstream of County Highway J	*1019
			Just downstream of County Highway E	*1037
		Putter Creek	At confluence with Coney River	*1006
			About 0.5 mile upstream of confluence with Coney River.	*1007
		Cedarburg Creek	At confluence with Cedar Creek	*842
			About 0.7 mile upstream of State Highway 60	*861
		Deer Creek	At confluence with North Branch Cedar Creek	*842
			Just downstream of South Church Street	*867
		North Branch Cedar Creek	At confluence with Cedar Creek	*842
			Just downstream of Washington Drive	*847
		North Branch Menomonee River	About 1,000 feet downstream of State Highway 145	*894
			About 0.6 mile upstream of State Highway 145	*901

Maps available for inspection at the County Zoning Administrator's Office, 515 East Washington, West Bend, Wisconsin.
Send comments to Honorable Rubin Schmahl, County Board Chairman, Washington County, 432 East Washington, West Bend, Wisconsin 53095.

(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 the Associate Director)

Issued: December 30, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1580 Filed 1-22-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-4; RM-3974]

FM Broadcast Station in Sisseton, S. Dak.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposed the assignment of Class C Channel 275, or in the alternative, Channel 257A, to Sisseton, South Dakota, in response to a petition filed by Lake Region News Corporation. The proposed assignment could provide for a first local FM broadcast service to Sisseton.

DATES: Comments must be filed on or before March 1, 1982, and reply comments on or before March 16, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: .

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Sisseton, South Dakota).

Notice of Proposed Rule Making

Adopted: January 11, 1982.

Released: January 14, 1982.[1]

1. The Commission herein considers a petition for rule making, filed by Lake Region News Corporation ("petitioner"), which seeks the assignment of Class C Channel 275 [2] to Sisseton, South Dakota. The proposed assignment could provide a first FM service to that community. Petitioner failed to state that it would apply for the channel, if assigned. It is requested to do so in comments to this proposal. No oppositions to the proposal were received.

2. Sisseton (population 2,789),[3] seat of Roberts County (population 10,911), is located in the northeast corner of South Dakota, approximately 240 kilometers (150 miles) north of Sioux Falls. It is without local broadcast service.

3. Petitioner states that Sisseton serves as the hub of commerce and recreation for the surrounding rural communities. Its economy is based primarily on agriculture, which includes agricultural support industries and agricultural machinery. The area is said to have an abundant supply of energy due to a large concentration of lignite coal. According to the petitioner, there is anticipation that these factors combined with the attractive lifestyle offered by the region, will attract new industry to the area. Petitioner suggests that adoption of the proposed assignment would be a positive step in the implementation of the Commission's current policy which is designed to encourage the development of communications systems in the rural areas.

4. The study submitted by the petitioner shows that preclusion will occur on Channels 265A, 266, 267, 268 and 269A, as a result of the proposed assignment. In comments to this proposal, petitioner is requested to submit a list of communities over 1,000 population without local aural service precluded by the assignment of Channel 275 to Sisseton. In addition it should indicate whether alternate channels are available for assignment to these communities.

5. Our established policy is to reserve Class C channels for larger urban areas. However, a departure from this policy is warranted when the Class C proposal could provide a significant amount of first and second service to surrounding area and population, or when the assignment of a Class C channel would enable a large sparsely populated area to be served. In consideration of this aspect of the proposal and our current policy, petitioner should submit a *Roanoke Rapids/Anamosa* study indicating first and second service to be provided by the Class C assignment. In the absence of such a showing we are proposing, as an alternative, assignment of Channel 257A to Sisseton, which we believe to be generally more appropriate for a community of its size.

6. Since Sisseton is located within 402 kilometers (250 miles) of the United States-Canadian border, the proposed assignment of Channel 257A or Channel 275 to Sisseton, South Dakota, requires coordination with the Canadian Government.

7. Accordingly, we propose the following alternate revisions in the FM Table of Assignments (§ 73.202(b) of the Rules) with respect to the community listed below.

City	Channel No.	
	Present	Proposed
ALTERNATE I		
Sisseton, South Dakota		257A
ALTERNATE II		
Sisseton, South Dakota		275

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before March 1, 1982, and reply comments on or before March 16, 1982.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Montrose H. Tyree, 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.

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

Federal Communications Commission.

Martin Blumenthal

Acting 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 Section 0.281(b)(6) of the Commission's Rules, It

[1] Public Notice of the petition was given on September 21, 1981, Report No. 1309.

[2] The petition as filed requested Channel 268. That proposal conflicted with the proposal to assign Channel 268 to Ortonville, Minnesota (RM-3882). Therefore petitioner agreed to amend its petition to specify Channel 275.

[3] Population figures are taken from the 1980 U.S. Census.

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 proponents 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 a 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 advaned 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's 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.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

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's 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, N.W., Washington, D.C.

[FR Doc. 82-1748 Filed 1-22-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-5; RM-3925]

FM Broadcast Station in Waipahu and Honolulu, Hawaii; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action solicits comments on the proposal to reassign FM Channel 222 from Waipahu, Oahu, Hawaii, to Honolulu, Oahu, Hawaii, and the modification of license of Station KULA(FM), Waipahu, to reflect that reassignment, in response to a petition filed by Heftel Broadcasting Corporation.

DATES: Comments must be filed on or before March 1, 1982, and reply comments on or before March 16, 1982.

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

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of 73.202(b), Table of Assignments, FM Broadcast Stations. (Waipahu and Honolulu, Hawaii).

Notice of Proposed Rule Making

Adopted: January 11, 1982.

Released: January 15, 1982.

1. Presently before the Commission is the petition [1] filed by Heftel Broadcasting Corporation ("Heftel"), licensee of KULA(FM), Channel 222, Waipahu, Hawaii, seeking the reallocation of Channel 222 to Honolulu and modification of the license of KULA(FM) to specify Honolulu rather than Waipahu.[2] Opposition to the petition was submitted by Island Communications, Inc. ("Island"), licensee of KMAI(FM) and KIKI(AM), Honolulu. Heftel has filed a reply to the opposition.

2. Heftel states that while Waipahu may have been "sociologically separate" from Honolulu when Channel 222 was allocated in 1963, "the dramatic changes in the Hawaiian Islands since 1963 have today made Waipahu an integral part of Honolulu." Thus, Heftel claims, Waipahu no longer has the characteristics of a community deserving of its own FM allocation. Heftel bases its conclusion on the holding in *Seven Locks Broadcasting Company*, 22 R.R. 967 (1962). In that case, the Commission stated, at 970, that for assignment purposes, a place must be a particular city, town, political subdivision or community, which we described as "an identifiable population grouping separate and distinct from all others," with geographic boundaries which do not "enclose or contain areas or populations more logically identified as, or associated with, some other location." [3]

3. Heftel states that for political and legal purposes, Waipahu is a part of the City and County of Honolulu. Additionally, Heftel asserts that although Waipahu contains cultural and social groupings, "it does not provide sufficient local services or contain a sufficient number of the other indicia of a community to be considered separate from Honolulu." Waipahu, Heftel asserts, has no hospital, no local newspaper, "only a half dozen community groups," and no "Welcome Wagons" or similar entities. Heftel claims that in the years since the Commission assigned Channel 222 to Waipahu, the area has changed from a sugar plantation town separate from Honolulu to a "bedroom" annex of downtown Honolulu. All governmental services are provided by the City and County of Honolulu.

4. Heftel notes that KULA(FM) currently provides city-grade coverage to the entire island of Oahu, which is conterminous with the City and County of Honolulu. Thus, should the Commission modify KULA(FM)'s license to specify Honolulu, the station would be in conformance with minimum

[1] Public Notice of the filing of the petition was given on July 6, 1981, Report No. 1296.

[2] Heftel is also the licensee of AM broadcast Station KSSK, Honolulu.

[3] The Commission later determined that this standard imposed "too stringent a burden of proof upon the applicants" in that case, particularly in view of the nature of the suburban areas being claimed as communities. *Seven Locks Broadcasting Co.*, 37 FCC 82, 83 (1964).

coverage requirements. Additionally, Heftel states, the station maintains an auxiliary studio in downtown Honolulu which could be upgraded to main studio status if the petition is granted.[4]

5. In response to Heftel's petition, Island argues that Honolulu is "one of the most 'over-radioed' markets in the United States," with "one reported home station for every 30,000 man, woman and child 12 years of age or older." Honolulu radio stations, Island states, "have regularly lost a great deal of money," and Honolulu cannot support additional stations. Island asserts that Heftel's argument that there are no separate cities on Oahu suggests that all of the Oahu stations licensed to other communities should be reassigned. Island states that such action would increase by 20 percent the number of stations assigned to "over-radioed" Honolulu.

6. Island claims that Waipahu is an area with its own heritage which retains its own identity and has its own economic base. Waipahu, Island states, "is recognized as an identifiable entity by the United States Postal Service and by this Commission, not only in the assignment to it of radio stations, but also by the placement there of a monitoring station." Further, Island asserts that "because of rough terrain, FM stations from Honolulu are not well received in Waipahu." Thus, reassignment of Channel 222 would deprive Waipahu residents of "the only FM station that is assigned to meet its local needs."

7. In reply, Heftel asserts that the claim that Honolulu is "over-radioed" does not respond to its argument that there are no governmental, cultural and geographic distinctions between Waipahu and Honolulu. Financial performance of stations in the market is not an allocation criterion, Heftel states, and further, the Commission has never defined any market as "over-radioed" or "under-radioed." In any case, Heftel observes, KULA(FM)'s signal presently covers all of Oahu and all Oahu stations seek revenues from the same sources. Thus, reallocation would not introduce additional competition into the market. The fact that Waipahu has its own zip code is, Heftel claims, of no moment, as there are "many zip codes and post offices for various locations throughout Honolulu." As to the FCC monitoring station, Heftel comments that this no more suggests that Waipahu is a distinct community than would a monitoring station in Manhattan suggest that it is a separate city of license from New York City.

Discussion

8. The test of whether a specific locality is a community for assignment purposes "is a liberal one and encompasses consideration of the totality of the circumstances." *Teche Broadcasting Corp.*, 52 FCC 2d 970, 973 (Rev. Bd., 1975). The question is generally whether the residents function and conceive of themselves as residents of a community around which their interests coalesce. *North Naples and Immokalee, Florida*, 41 R.R. 2d 1549 (Broadcast Bur., 1977). Thus, the word "community" refers to "a community of interests associated with an identifiable population grouping." *Yorktown, Virginia*, 38 FR 6695, released March 12, 1973 (*Notice*). There is no need for the community to be incorporated and boundaries need not be specifically known. *Holiday, Florida*, 40 FR 29393, released July 2, 1975 (*Notice*).[5]

9. Therefore, that Waipahu is not a politically or legally separate entity is not dispositive of whether it is a "community" within the meaning of the Commission's Rules. Heftel notes in its comments that the City and County of Honolulu was established by the Hawaii legislature in 1907. The entire island of Oahu is conterminous with this governmental entity. While it is indeed possible that Waipahu can, within this governmental structure, be viewed as having become a "neighborhood" of Honolulu rather than a community in its own right, it is also possible that the area might appropriately be viewed as being largely similar in character to an independent unincorporated community within a given county, with government-related services provided by the county.

10. In the ascertainment of community needs submitted as part of its 1979 application to obtain the assignment of license of KULA(FM), Heftel described Waipahu as "an adjacent suburb to Honolulu." Community leaders interviewed included members of the Waipahu Community Association, Waipahu Recreational Advisory Council, Waipahu Business Association, Waipahu Women's Association, Friends of Waipahu Cultural Park, Waipahu Health Center, Waipahu Ward of the L.D.S. Church, Waipahu Elementary School, Waipahu Intermediate School, Leeward Community College, Waipahu Baseball Club, and Waipahu Filipino Association. While, with the decline of the sugar industry, there may well now be no major industry in Waipahu, and its residents may work in all parts of Oahu, the ascertainment does suggest that the place was then a "community" for assignment purposes, with its own particular needs. We solicit comment from Heftel and any other interested parties on the significance which might appropriately be attached to the existence of the broad variety of Waipahu area organizations enumerated above, and the importance which attaches to the apparently particularized community needs identified in the ascertainment survey. Additionally, we request information as to whether the service boundaries of various schools and the community college, as well as the State of Hawaii planning boundaries, are so intertwined with the area in which the above-referenced organizations exist as to have significance for assignment purposes.

11. The Commission is of the view, however, that for assignment purposes no significance attaches to Island's claim that Honolulu is "overradioed," or that the Commission's reassignment of Channel 222 to Honolulu might ultimately lead to the similar reassignment of other Oahu stations. Economic impact is generally not a factor considered in assignment proceedings. Even assuming, however, that such data might appropriately be considered, it appears that there would be little or no economic impact from the requested reassignment. KULA(FM)'s signal already covers all of Oahu, no change in the transmitter site is proposed, and the entire area apparently serves as the station's revenue base. The existence of a post office at Waipahu is not, of itself, a determinative factor, and the fact that the Commission has a monitoring station at Waipahu has no importance in the instant matter.

12. While the Commission does not believe, based on the information at hand, that we are able to make a final determination as to Waipahu's community status, we believe it appropriate to further investigate the matter through the solicitation of comments. Thus, we shall propose to reassign Channel 222 from Waipahu to Honolulu.

13. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as to the following communities:

[4] Although Heftel requests that the Commission issue a "show cause" order directing it to state why the KULA(FM) license should not be modified to specify Honolulu, such a procedure is unnecessary where a consenting licensee, such as Heftel, is petitioning for the modification.

[5] See, also, *Holiday and Dunedin, Florida*, 37 R.R. 2d 329 (Broadcast Bur., 1976) (*Report and Order*); *Declaratory Ruling Concerning the Meaning and Effect of 73.642(a)(3)*, 55 FCC 2d 187, 189 (1975).

City	Channel No.	
	Present	Proposed
Honolulu, Oahu, Hawaii	226, 230, 234, 238, and 248	222, 226, 230, 234, 238 and 248
Waipahu, Oahu, Hawaii	222	

14. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

15. Interested parties may file comments on or before March 1, 1982, and reply comments on or before March 16, 1982.

16. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

17. For further information concerning this proceeding, contact Steven A. Bookshester, 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.

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

Federal Communications Commission.

Martin Blumenthal,

Acting 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 proponents 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 a 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 the Commission's 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.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

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's 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, N.W., Washington, D.C.

[FR Doc. 82-1752 Filed 1-22-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Parts 635, 650 and 658

[Docket Nos. 79-D, 80-G, and 80-M]

Maintenance of Effort, Project Management Guidelines and Section 5 Operating Assistance Requirements; Withdrawal of Notices of Proposed Rulemaking

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Withdrawal of notices of proposed rulemaking.

SUMMARY: This document withdraws three notices of proposed rulemaking (NPRM) that the Urban Mass Transportation Administration (UMTA) issued during the past three years. The statutory provision on which the Maintenance of Effort NPRM is based only applies to UMTA funds apportioned for use in fiscal years prior to October 1, 1981. Therefore, UMTA has determined that there is no need for a final rule for that provision. UMTA has reviewed the need for and burden of the other two NPRMs and has determined that the program material contained in the NPRMs can be more effectively provided in non-regulatory documents. Therefore, UMTA has decided to withdraw these two NPRMs and to issue non-regulatory policy guidance for each.

DATE: January 19, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas G. Gold, UCC-13, Urban Mass Transportation Administration, 400 7th Street, S.W., Washington, D.C. 20590; Telephone: (202) 426-1906.

SUPPLEMENTARY INFORMATION: During the past three years, UMTA published the following NPRMs: (1) Maintenance of Effort, Docket 79-D (August 27, 1979; 44 FR 50067); (2) Project Management Guidelines, Docket 80-G (September 11, 1980; 45 FR 60306); and (3) Section 5

Operating Assistance Requirements, Docket 80–M (August 25, 1980; 45 FR 56742).

Pursuant to President Reagan's policy of reducing regulatory burdens and red tape, UMTA has reviewed each fo these NPRMs to determine if we should proceed with the rulemakings and prepare final rules. In each case, UMTA has determined that a final rule is unnecessary.

The rulemaking on Maintenance of Effort was undertaken to implement section 5(f) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1604(f)). Section 5(f) requires that State and local support and mass transportation non-farebox revenues be maintained for the provision of mass transportation services. This provision, however, only applies to UMTA funds apportioned in fiscal years prior to October 1, 1981. Since this statutory provision will apply to a dwindling number of areas as pre-fiscal year 1982 funds are expended, UMTA has decided that a final rule on Maintenance of Effort is not needed.

UMTA detailed application procedures and provided program guidance in the NPRM on Section 5 Operating Assistance Requirements. In the NPRM on Project Management Procedures for Grantees, UMTA proposed guidelines for grantees that would promote effective project management and ensure the prudent use of Federal and local funds in mass transit projects.

UMTA has reviewed each of these NPRMs and has determined that a regulation is unnecessary because the program material and guidance in these NPRMs can be more effectively provided to grantees in non-regulatory documents. These documents will permit increased flexibility and less Federal intrusion in local affairs.

In this same volume of the **Federal Register**, UMTA provides notice that the non-regulatory guidance material for the Section 5 Operating Assistance Program is available to the public. A summary of that material and the address to which the public should write to obtain a copy are also provided in that notice. UMTA is currently drafting the other non-regulatory guidance on Project Management Procedures for grantees and will publish it in the "Notice" section of the **Federal Register**.

Therefore, UMTA is providing notice that the following NPRMs are withdrawn and that the docket for each is closed:

1. Maintenance of Effort, Docket 79–D (August 27, 1979; 44 FR 50067);

2. Project Management Guidelines, Docket 80–G (September 11, 1980; 45 FR 60306);

3. Section 5 Operating Assistance Requirements, Docket 80–M (August 25, 1980; 45 FR 56742).

Issued on: January 19, 1982.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 82–1736 Filed 1–22–82; 8:45 am]

BILLING CODE 4910–57–M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 417 and (Sub. 1)]

Costing Methodologies for the Northeast Corridor; Commuter Service and Conrail Freight Service

Cross Reference

For a notice announcing that proceedings originally issued as advance notices of proposed rulemaking (published at 46 FR 44999 and 45000, September 9, 1981) will now be continued as a notice of interim and proposed procedures, see FR Doc. 82–1730 in the Notices section of this issue. Refer to the table of contents for the appropriate page number.

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 47, No. 16
Monday, January 25, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

Canned Bartlett Pears From Australia; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on canned Bartlett pears from Australia. This review covers the four known exporters of this merchandise to the United States and the period October 3, 1978 through February 28, 1981. There were no shipments to the United States of this merchandise during the period and there are no known unliquidated entries.

As a result of the review, the Department preliminarily has decided to waive the requirement of a cash deposit of estimated dumping duties. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia H. McClenahan or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. (202–377–3986/2496).

SUPPLEMENTARY INFORMATION:

Background

On August 27, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 43223) the final results of its first administrative review of the antidumping finding on canned Bartlett pears from Australia (38 FR 7566, March 23, 1973) and announced its intent to conduct the next administrative review by the end of March, 1982.

As required by section 751 of the Tariff Act of 1930 ("the Tariff Act") the Department has now conducted the latter administrative review.

Scope of the Review

Imports covered by this review are canned Bartlett pears, currently classifiable under item 148.8600 of the Tariff Schedules of the United States Annotated (TSUSA). The review covered all known exporters of the merchandise and the period October 3, 1978 through February 28, 1981. There were no shipments to the United States during the review period and there are no known unliquidated entries.

Preliminary Results of the Review

Because there were no shipments during this period and there have been no shipments since September, 1973, the Department shall waive requirements for a cash deposit, as provided for in § 353.48(b) of the Commerce Regulations, on any shipments of Australian canned Bartlett pears entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results.

Interested parties may submit written comments on or before February 24, 1982 and may request disclosure and/or a hearing on or before February 9, 1982. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 12, 1982.

[FR Doc. 82–1692 Filed 1–22–82; 8:45 am]
BILLING CODE 3510–25–M

High Power Microwave Amplifiers and Components Thereof From Japan; Extension of Time for Final Determination; Hearing Postponed

AGENCY: United States Department of Commerce.

ACTION: Extension of time and postponement of hearing.

SUMMARY: We have received a timely request for an extension of time for the final determination in the above captioned case. The effect of this request is to extend the time in which the Department of Commerce must make its final determination in this case to a date not later than May 17, 1982. The date for a public hearing has been postponed to April 7, 1982 to allow for analysis and verification of additional data being submitted by the respondent.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, Telephone: (202) 377–1279.

SUPPLEMENTARY INFORMATION:

Extension of Time for Final Determination

On December 24, 1981, a preliminary affirmative determination of sales at less than fair value in the above captioned case was signed by the Deputy Assistant Secretary for Import Administration. Under section 735 of the Tariff Act of 1930 as amended ("the Act"), 19 USC 1673d, the Commerce Department's final determination would be due within 75 days from that date unless a request for extension of time were received from the exporter.

A timely request for extension of time and for postponement of the public hearing on the case was received on January 7, 1982. Under section 735 of the Act, the period for final determination is thereby extended until 135 days after the date of publication of the preliminary determination. The publication date was December 31, 1981 (46 FR 63364). Therefore, the final determination is postponed to not later than May 17, 1982.

Postponement of Hearing Date

A hearing was scheduled, as required by section 774 of the Act; the published date for the hearing was January 28, 1982. It is anticipated that responses to additional information that has been requested by this agency, as well additional verification data, will affect issues at the public hearing. Therefore, the hearing date will be postponed to April 7, 1982.

Public Comment

As described in 19 CFR 353.47, we will hold a public hearing to afford interested parties an opportunity to comment orally on this preliminary determination. This hearing is scheduled to begin on April 7, 1982 at 10:00 a.m. at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

All notices of appearance must be submitted, February 16, 1982, to the Deputy Assistant Secretary for Import Administration, Room 3099b, at the above address. They should contain: (1) The party's name, address, and telephone number, (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by March 31, 1982. Oral presentations will be limited to the issues raised in the briefs.

Any written views should be filed in accordance with 19 CFR 353.46 at the above address, in at least ten copies, and before March 17, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-1696 Filed 1-22-82; 8:45 am]

BILLING CODE 3510-25-M

Expanded Metal of Base Metal From Japan; Preliminary Results of Administrative Review of Antidumpting Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on expanded metal of base metal from Japan. The Department knows of twenty-five exporters of this merchandise to the United States. This review covers all exporters for the period January 1, 1980 through December 31, 1980. This review indicates the existance of dumping margins during the period for certain exporters.

As a result of this review, the Department has preliminarily determined to assess dumping duties for individual exporters equal to the calculated differences between United States price and foreign market value on each of their shipments during the period of review.

Where company-supplied information was inadequate or non-existent, the Department has used the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: J. Linnea Bucher or John Kugleman, Office of Compliance International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4273/5289).

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 29494-95) the final results of its first administrative review of the antidumping finding on expanded metal of base metal from Japan (39 FR 1979, January 16, 1974). The Department announced in that notice its intent to conduct the next administrative review by the end of January 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by this review are shipments of expanded metal of base metal manufactured in three types (standard, flattened, and grating) and various thicknesses. Expanded metal of base metal is currently classifiable under item 652.8000 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of 25 firms engaged in the export of Japanese expanded metal to the United States. This review covers those firms for the period January 1, 1980 through December 31, 1980. Fifteen firms had no exports for the period in question. The estimated deposit rates for these firms will be the most recent information for each firm. Eight exporters failed to respond or provided inadequate responses to our questionnaire. For these non-responsive exporters we used the best information available to determine the assessment and estimated deposit rates. The best information available is the most recent assessment rate for each firm or, if none exists, the highest current rate for responding firms with shipments.

Eight firms covered in the previous administrative review are not covered by this review because they no longer manufacture expanded metal, because they are bankrupt, or because we have subsequently learned that they never exported expanded metal to the United States.

United States Price

In calculating United States price the Department used purchase price as defined in section 772 of the Tariff Act. Purchase price was based on the packed price to an unrelated purchaser in the United States, or to an unrelated Japanese trading company for export to the United States as appropriate. Where applicable, deductions were made for ocean freight, insurance, U.S. and foreign inland freight, brokerage charges, trimming charges, storage, commissions to unrelated parties, and terminal, wharfage and handling charges in accordance with § 353.10 of the Commerce Regulations. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price as defined in section 773 of the Tariff Act. The foreign market values were adjusted, where applicable, for inland freight and differences in packing. Adjustments were also made for differences in credit costs in accordance with § 353.15 of the Commerce Regulations. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of the United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacture/Exporter	Margin (in percent)
Alton Trading Co	4.9
Daitoku Trading Co., Ltd	4
Eiko Co., Ltd	[1] 3.8
Hanwa Co., Ltd	[1] 0
Kanematsu-Gosho, Ltd	[1] 3.8
Kansai Tekko/Fuji Shoko Co., Ltd	0.3
Kansai Tekko/Mitsubishi Corp./Kawamoto & Co., Ltd	0.3
Kansai Tekko/Nichimen Co., Ltd	0.3
Kawamoto & Co., Ltd	0.3
Kawashige Kozai Co	[1] 4.9
Kawasho Corp	[1] 4.9
Kawatetsu Steel/Shibamoto	0
Kawatetsu Steel/Toyo Menka Kaisha	0
Kobayashi Metals Ltd	[1] 3.8
Marubeni Corp	[1] 0
Midorigaoka Co., Ltd	4.9
Mitsui & Co., Ltd	[1] 4.9
Nakaumi Kogyo, Ltd	[1] 4.9
Nippon Steel Products Co., Ltd	0.33
Nittetsu Shoji Co., Ltd	[1] 0
Ogawa & Co., Ltd	[1] 0.3
Okaya & Co., Ltd	[1] 0.33
Sumitomo Corp. (Sumitomo Shoji Kaisha)	[1] 3.8
Taisei International	[1] 4.9
Tomiyasu & Co., Ltd	[1] 4.9

[1] No shipments during period.

Interested parties may submit written comments on these preliminary results on or before February 24, 1982 and may request disclosure and/or a hearing on or before February 9, 1982. Any request for an administrative protective order must be made no later than February 1, 1982. The Department will publish the final results of the administrative review

including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties, where appropriate, on all entries made with purchase dates during the time period involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the margins calculated above shall be required on all shipments by these firms of expanded metal of base metal from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. Since the margins for Kansai Tekko, Ltd. (selling through Fuji Shoko Co., Nichimen Co., and Mitsubishi Corp.), Ogawa & Co., Ltd., Okaya & Co., Ltd., Kawamoto & Co., Ltd., and Nippon Steel Products Co., Ltd., are *de minimis*, the Department is waiving the deposit for these firms. These deposit requirements and waivers shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 18, 1982.

[FR Doc. 82-1693 Filed 1-22-82; 8:45 am]

BILLING CODE 3510-25-M

Steel Wire Rope From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On September 2, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on steel wire rope from Japan. The review covered the 116 known manufacturers and exporters. The review generally covered the period April 1, 1978 through September 30, 1980.

Interested parties were given the opportunity to submit oral or written comments, and a public hearing was conducted on October 1, 1981. Members of the domestic industry and several Japanese manufacturers and exporters provided comments at the public hearing and during the comment period. Based on these comments, and subsequent analysis by the Department, the Department has made adjustments to the margins for twenty-one companies. Margins for the remaining exporters are unchanged from the margins published in the preliminary results. The Department has decided to exclude Tokyo Rope Mfg. Co., Ltd. from this review in order to collect more information from Tokyo Rope and companies related to it at that time to determine if exporter's sales price rather than purchase price is the proper basis for comparison.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Fredi-Ellen Bove or Michael Cox, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3460/4033).

SUPPLEMENTARY INFORMATION:

Background

On October 15, 1973, a dumping finding with respect to steel wire rope from Japan was published in the **Federal Register** as Treasury Decision 73-296 (38 FR 28571). On September 2, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 44023-26). The Department has now completed that administrative review.

Scope of the Review

Imports covered by this review are shipments of steel wire rope, except brass electroplated steel truck tire cord of cable construction specially packaged for protection against moisture and atmosphere. The steel wire rope covered is currently classifiable under item numbers 642.1200, 642.1400, 642.1500, 642.1600, and 642.1700 of the Tariff Schedules of the United States Annotated (TSUSA). The Department's notice of preliminary results covered a total of 115 Japanese firms and 1 transshipper engaged in the manufacture and exportation of steel wire rope to the United States. The Department has decided to exclude Tokyo Rope Mfg. Co., Ltd. from the final review in order to collect more information from Tokyo Rope and companies related to it during the period of review, to determine if exporter's sales price rather than purchase price is the proper basis for comparison. Since the publication of the preliminary results, the Department has learned of two additional Japanese manufacturers, Mill Wire Industries and Oriental Corp. The Department will include entries by these two firms for this review period in a subsequent review. In general, this review covers the period April 1, 1978 through September 30, 1980. Interested parties were given an opportunity to submit oral or written comments and a public hearing was conducted on October 1, 1981. The Department has considered all of the written comments and oral views in determining these final results of administrative review

Analysis of Domestic Industry's Comments

(1) *Comment:* Commerce has failed in certain cases to determine properly U.S. price because it did not ascertain that related parties existed, which would require the use of exporter's sales price.

Position: The Department has verified that, as stated by the domestic industry, a relationship existed during the period of review among Tokyo Rope Mfg. Co., Ltd., its trading company customer, C. Itoh and Co., Ltd., and the U.S. distributor to whom C. Itoh sells, Alps Wire Rope Corp: C. Itoh owned 40 percent of Alps, and Tokyo Rope owned the remaining 60 percent of Alps. As mentioned above, the Department has decided to exclude Tokyo Rope Mfg. Co., Ltd. from the current review in order to collect more information on control from Tokyo Rope, C. Itoh, and Alps to determine if exporter's sales price rather than purchase price is the proper basis for comparison. The Department will publish the results of its review for Tokyo Rope for the period April 1, 1978 through September 30, 1980 in a subsequent notice.

After reconsideration of the relationship between Nippon Steel Wire Rope Co., Ltd., Mitsui and Co., and Weisner Steel Products, Inc., the Department has revised the calculation of margins for Nippon Steel Wire Rope to base U.S. price on exporter's sales price rather than purchase price.

The domestic industry alleges that there are relationships among other manufacturers and trading companies. The Department is unaware that any other relationships exist and the domestic industry has not given the Department any specific evidence of other such relationships. If any such information is furnished to us, we will consider it in the next annual review.

(2) *Comment:* The Department has failed to make an adjustment for warranty and products liability insurance, which is a cost in the U.S. market but not the Japanese market.

Position: With the exception of the Japanese manufacturer Nippon Steel Wire Rope, the Department used the price between the manufacturer and an unrelated trading company selling to the U.S. as the basis for U.S. purchase price and the price to trading companies selling in the home market as the basis for foreign market value. The Department has verified by contacting Japanese manufacturers that the trading companies, rather than the manufacturers, bear the product liability and warranty costs in the U.S. and domestic markets. Therefore, these costs are not included in the price between the manufacturer and the trading company in either market, and no adjustment is required.

(3) *Comment:* The Department failed to make an adjustment for differences in density (weight per length) between wire rope sold in the home market and wire rope sold in the U.S. market.

Position: The Department has always been aware of the fact that rope sold in the home market meet Japanese Industrial Standards ("JIS") and that rope sold in the U.S. market met Federal Specifications ("FS").

The Department was aware that the difference between the two sets of specifications lay in the fact that, for any given length (in feet or meters), JIS rope generally weighs a different amount than the similar type of FS rope. Thus, the Department faced the decision of whether to compare equal lengths of similar rope in the two markets or to compare equal weights of similar rope. The Department ultimately decided it was correct to compare equal lengths because: (1) Wire rope is sold on the basis of length in both markets, and (2) length was the basis of comparison in the fair value investigation.

Having chosen a length basis, the Department considered whether an adjustment should and could be made to take account of the weight difference. A detailed examination by the Department of the two sets of specifications revealed that the density difference is not systematically biased; that is, for a given length of a certain type of rope, JIS rope is not always heavier than FS rope or vice versa. JIS rope was compared with FS rope that had similar characteristics, including the same material for core. In a sample of 63 of some of the most common types of wire rope sold in both markets JIS rope was heavier than the comparable FS rope in half of the cases (49%), while FS rope was heavier in approximately the other half of the cases (51%). Furthermore, the direction of the difference is not correlated with the diameter, construction, core, or coating of rope.

The Department therefore decided that it was not necessary to make an adjustment because: (1) The density difference went in either direction in roughly the same number of cases, and (2) an adjustment would be administratively too complex because of the fact that the magnitude as well as direction of the weight difference varies for each of the 353 types of wire rope sold in the U.S.

(4) *Comment:* An adjustment should have been made between fiber core rope using synthetic fiber core and rope using natural fibers.

Position: The Department has learned by contacting Japanese and U.S. manufacturers that (1) synthetic fiber costs more per kilogram than natural fiber and (2) synthetic fiber weighs less per length than natural fiber. Therefore, for a given length of wire rope a producer needs fewer kilograms of synthetic fiber than natural fiber. The higher price per kilogram of the synthetic fiber is offset by the smaller quantity in kilograms that is included, with the result that there is no significant cost difference between natural and synthetic fiber core rope. Therefore, no adjustment is necessary.

(5) *Comment:* In calculating Japanese cost of production the Department of Commerce omitted a number of significant factors or took at face value factors that were prima facie suspect.

Position: The Department verified every component of the cost data submitted by the 5 largest Japanese producers (with the exception of wire rod prices as discussed above) in verification trips to Japan in February–March 1980 and June 1981. At those verifications, the unit prices for inputs and the input/output ratios given in the responses (except for wire rod) were confirmed through examination of financial and factory records.

The domestic industry asserts that certain general expenses and subsidiary materials were not included in the Japanese cost data.

The Department did not request that the manufacturers itemize their cost data into the detailed categories suggested by the domestic industry, but rather allowed the manufacturers to group certain costs together. The Department verified that the Japanese producers did not exclude factors of production in their cost responses by confirming that the responses were consistent with the company reports detailing all company costs that are submitted by law to the Japan Ministry of Finance. The MOF reports in fact itemized some of the elements the domestic industry believed were omitted in the responses.

(6) *Comment:* The Department should have calculated the weighted average for each company by dividing the total margin by the value of the U.S. sales with margins, rather than dividing by the value of all U.S. sales.

Position: The Department, and previously, the Customs Service, has traditionally calculated the weighted average dumping margin, which is now used as the basis for deposit of estimated duties, as the sum of the duties due divided by the sum of the value of *all* U.S. sales. The methodology described by the domestic industry would lead to an overdeposit of estimated dumping duties.

(7) *Comment:* Confidential information submitted without a non-confidential summary should be rejected.

Position: The Department has received non-confidential summaries of all confidential material submitted after January 1, 1980, the effective date of title VII of the Tariff Act of 1930 ("the Tariff Act"). Under the prior law and regulations the Customs Service requested non-confidential summaries only of confidential material submitted for the original fair value investigation and as part of the revocation process. When the 1979 amendments to the Tariff Act became effective, the Department made the decision not to request a non-confidential summary of *all* confidential material submitted prior to January 1, 1980, but rather to request non-confidential summaries in a particular case if sufficient need was demonstrated. At the request of the domestic industry in this case, the Department arranged to have submitted non-confidential summaries of data provided by the two largest Japanese firms (Tokyo Rope and Shinko), as they are represented by U.S. counsel. Due to the time delay and language difficulty in communicating with Japanese producers not represented by outside counsel, the Department decided not to request non-confidential summaries of pre-1980 material from such firms, and as stated above, has no legal obligation to do so.

(8) *Comment:* Inadequate Japanese submissions should be rejected and replaced by the information submitted by the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers as that is the best information available.

Position: All of the Japanese manufacturers responded to the Department's cost questionnaire for Japanese fiscal year 1978, but with the exception of the two largest manufacturers (Shinko and Tokyo Rope) the respondents used in part inadequate methodology to derive cost of

production for individual types of wire rope. The methodology included allocation and averaging methods that might disguise possible sales below cost and dumping margins for certain sizes. The Department decided that the best evidence for the inadequately responding firms was cost data from the two Japanese firms that had responded adequately, since this data reflected Japanese material costs, labor costs and labor productivity, and the amount of manufacturer overhead consistent with the Japanese trading company system of distribution. Cost of production data furnished by U.S. firms during the review for this period would not meet those criteria.

(9) *Comment:* Shinko's cost of production data is not the best evidence to use for inadequately responding firms because Shinko is more efficient than other Japanese firms.

Position: Shinko may or may not be more efficient than other companies. Some of the smaller companies may be more efficient because they specialize in in only one or a few types of wire rope. The Department does not know definitively which company is more efficient since the smaller companies did not provide data in a form from which efficiency rates could be derived.

The Department considers the data from Shinko and Tokyo Rope to be the best evidence available because these data reflected cost of production in Japan.

(10) *Comment:* Information supplied as to U.S. sales involving Mitsui should be disregarded.

Position: Mitsui is currently the subject of a Customs Service fraud investigation. It is inappropriate for the Department to presume Mitsui submitted fraudulent information to the Department in its response until such fraud is proven. Further, liquidation of Mitsui entries is suspended for the duration of the fraud investigation. Finally, if Mitsui is found guilty of fraud, Mitsui is liable for lost duties, including dumping duties.

(11) *Comment:* Commerce has refused to disclose its cost of production methodology on a non-confidential basis.

Position: All confidential material requested by attorneys for the domestic interested parties, including confidential Commerce staff memos on methodology, were disclosed to the attorneys under protective order. The attorneys summarized some of the confidential material and asked the Department to allow them to transmit this summary to their client. The affected Japanese companies were contacted and had no objections to release of the proposed summary. The Department subsequently allowed the document to be released to the client.

Analysis of Comments from Japanese Manufacturers

(12) *Comment:* The Department failed to use trigger price, which is the best evidence for wire rod prices, and instead used Japan Metal Bulletin prices.

Position: All of the Japanese producers that responded to our cost questionnaire refused to disclose the actual price each firm paid for wire rod, the major input in wire rope. It was therefore impossible to verify whether the actual price paid by Japanese producers for rod was at or below trigger price, as the producers were claiming. The Department therefore considered the wire rod price published in the Japanese trade magazine, Japan Metal Bulletin as the best evidence of the price for wire rod charged in Japan to Japanese wire rope producers.

(13) *Comment:* The Department was incorrect in examining below cost sales on a size-by-size basis rather than comparing total below cost sales to total sales of wire rope.

Position: The Department examined below cost sales on a size-by-size basis because that approach was consistent with past administrative practice. In the Mexican vegetables case, contrary to what the respondents suggest, below cost sales were examined on a vegetable by vegetable basis. If more than 50 percent of the sales of a *particular vegetable* were below cost of production, then these sales were disregarded. Likewise, in the 1981 adminstrative review of the finding on carbon steel plate from Japan, below cost sales were examined on a dimension-by-dimension basis, and in the 1981 administrative review of the finding on roller chain from Japan below cost sales were examined on a model-by-model basis. In the latter two cases, as in the administrative review for wire rope, all below cost home market sales for a particular dimension or model were disregarded, and if insufficient sales remained (less than 5 percent of total home market sales of that size or model), constructed value was used for that size, regardless of the proportion of total sales accounted for by that particular size.

(14) *Comment:* The Department failed to use extrapolations of Tokyo Rope's own data as best evidence for types of wire rope with missing cost data in the period April 1, 1979 through September 30, 1980, even though the Department used this methodology for the previous period.

Position: The methodology applied to Tokyo Rope in the later period was the same as that applied to all other companies in that period and in the prior period. For types of wire rope for which a manufacturer supplied inadequate or no cost data, the Department used the cost data supplied by adequately responding firms or used regression results based on adequately supplied data. The Department made an exception to this standard methodology for Tokyo Rope for the earlier period because Tokyo Rope had supplied complete cost data on types of wire rope comprising 80% of Tokyo Rope's U.S. sales. Due to the high coverage rate, the best evidence of the margins on the small proportion of sizes without cost data was the average margin on the covered sizes. For the period April 1, 1979 through September 30, 1980 the Department requested but did not receive any cost data from Tokyo Rope. The Department inflated Tokyo Rope's cost data from the previous period, but found that it only covered sizes accounting for 60% of U.S. sales in the later period. The Department therefore did not except Tokyo Rope for this period. Extrapolation from the covered sizes would have been unreliable because: (1) The coverage rate was too low, and (2) the cost data was not Tokyo Rope's actual cost data for the later period.

Final Results of the Review

In addition to the change for Nippon Steel Wire Rope Company, the Department revised the dumping margins for six companies in light of information the Department requested just before publication of the preliminary results but did not receive until after the publication. The new information was: (1) Cost data from Kiku Steel and Wire Rope Co. and from Chuo Seisakusho, and (2) clarification of sales data from J. Gerber and Co., Ltd., F. A. Industries, Corp., S. M. Industries, and Yutoko and Co., Ltd. The Department received information from the Customs Service that 14 companies that had reported to the Department no sales during the period did in fact have U.S. entries with contract dates during the period. The Department revised the margins for these companies, now considering them to be not responsive to our questionnaire. As a result of all adjustments made based on comments received and our subsequent analysis, we determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Ace Industrial Co., Ltd.	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	5.68
Ako Rope & Wire Mfg. Co., Ltd.	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Asahii Mini Rope Co., Ltd/Dia Enterprises Ltd	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	9.68
Chrysanthemum Nippon Wire Rope Co., Ltd./Watanabe Trading Co	4/1/78–3/31/79	.77
	4/1/79–9/30/80	1.08
Chrysanthemum Nippon Wire Rope Co., Ltd./Kent-Moore Japan Ltd.	4/1/78–3/31/79	0
	4/1/79–9/30/80	3.27
Chrysathemum Nippon Wire Rope Co., Ltd/C. Itoh & Co., Ltd.	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	0
Chuo Seisakusho Ltd./Kinyo Co., Ltd.	4/1/78–3/31/79	0
	4/1/79–9/30/80	1.30
Chuo Seisakusho Ltd./Kohshin Co	4/1/78–3/31/79	0
	4/1/79–9/30/80	1.30
Chuo Seisakusho Ltd./Other Trading Companies	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	1.30
Daido Corp	[1] 4/1/79–9/30/80	5.68
Daisen Kogyo	[1] 4/1/79–9/30/80	5.68
Daishin Shoji Co., Ltd	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	.43
Daishin Shoji Co., Ltd/Vanguard Steel Ltd. (transshipper)	4/1/78–3/31/79	0
Daiwa Steel Co., Ltd	[1] 4/1/79–9/30/80	11.88
	[1] 4/1/79–9/30/80	5.68
Daiwa Kogyo, K.K.	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Dia Enterprises, Ltd	4/1/78–3/31/79	11.88
	4/1/79–9/30/80	9.68
Godo Tessen Co., Ltd	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	9.68
Hakko Sangyo K.K./Mitsui and Co	[1] 4/1/79–9/30/80	0
Hannan Wire Rope Mfg. Co., Ltd./Far East Industrial Co., Ltd	4/1/78–3/31/79	9.68
Hannan Wire Rope Mfg. Ltd./Higashishiba & Co	[1] 4/1/79–9/30/80	11.88
	4/1/79–9/30/80	5.68
Igeta Wire Rope Co., Ltd./Mitsui & Co., Ltd	4/1/78–3/31/79	3.81
	[1] 4/1/79–9/30/80	3.81
Igeta Wire Rope Co., Ltd/Kimura Shorten, Ltd	[1] 4/1/78–3/31/79	3.81
	4/1/79–9/30/80	3.81
Ito-Ume and Co., Inc	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Iwata Wire Rope Mfg. Co., Ltd./Mitsui and Co., Ltd	4/1/78–3/31/79	.47
	[1] 4/1/79–9/30/80	.47
Kasuga Seiko Co., Ltd./Higashishiba & Co	4/1/78–3/31/79	0
	4/1/79–9/30/80	0
Kasuga Seiko Co., Ltd./Kohshin Co	4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
Kasuga Seiko Co., Ltd./Nissho-Iwai	4/1/78–3/31/79	.12
	[1] 4/1/79–9/30/80	.12
Kasuga Seiko Co., Ltd./Sumitomo Shoji Kaisha, Ltd	4/1/78–3/31/79	1.89
	4/1/79–9/30/80	3.42
Kawashma Trading Co., Ltd	4/1/78–3/31/79	11.88
	4/1/79–9/30/80	9.68
Kawatertsu Wire Products Co., Ltd./Mitsui and Co	4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
K-M International	[1] 4/1/78–3/31/79	11.88
Kinki Steel Wire Rope Mfg. Co. Ltd/S.M. Industries	4/1/78–3/31/79	0
	4/1/79–9/30/80	.20
Kinki Steel Wire Rope Mfg. Co., Ltd./Yutoko and Co	4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	11.88
Kobayashi Metals, Ltd	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Kokoku Steel Wire Ltd./Nichimen Co., Ltd	4/1/78–3/31/79	.26
	4/1/79–9/30/80	0
Kokoku Steel Wire Ltd./Nissho-Iwai	4/1/78–3/31/79	.33
	4/1/79–9/30/80	0
Kokoku Steel Wire Ltd/Itotaka International	4/1/78–3/31/79	.31
	[1] 4/1/79–9/30/80	.31
Kokoku Steel Wire Ltd./Shinko Shoji Kaisha	4/1/78–3/31/79	1.76
	[1] 4/1/79–9/30/80	1.76
Kokoku Steel Wire Ltd./Mitsui and Co	4/1/78–3/31/79	1.01
	4/1/79–9/30/80	2.55
Kokoku Steel Wire Ltd./Sumitomo Shoji Kaisha Ltd	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	0
Kokoku Steel Wire Ltd./Kanematsu-Gosho Ltd	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	0
Kokoku Steel Wire Ltd./Yutoko & Co., Ltd	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	0
Kondo Iron Works Co., Ltd	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	9.68
Koshihara Iron Works Co., Ltd	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Kyosei Industry Co., Ltd	[1] 4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
Kyowa Bussan, K.K.	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	9.68
Kyowa Wire Rope Mfg. Co., Ltd./Mitsui and Co	4/1/78–3/31/79	.07
	4/1/79–9/30/80	0
Maruka Machinery Co., Ltd	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.88
Marusen Wire Rope Mfg. Co., Ltd./S. M. Industries	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	3.39
Meiji Rope Mfg. Co., Ltd./Mitsui and Co	[1] 4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
Mill Wire Industries/F. A. Industries	4/1/79–9/30/80	0
Misawa Trading Co., Ltd./S. M. Industries	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	0
Naigai Rope Mfg. Co., Ltd./Mitani Kogyo Co	4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
Naniwa Wire Rope Mfg. Co. Ltd/Mitsui and Co.	4/1/78–3/31/79	0
	4/1/79–9/30/80	0
Naniwa Wire Rope Mfg. Co., Ltd./Higashishiba & Co	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	2.59
Naniwa Wire Rope Mfg. Co., Ltd./other than Mitsui or Higashishiba	[1] 4/1/78–3/31/79	11.88
	4/1/79–3/31/80	9.68
Nankai Senshu Steel Wire & Rope Co., Ltd./Sumitomo Shoji Kaisha	[1] 4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
Nanri Trading Co., Ltd	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Nihon Miniature Rope Mfg. Co., Ltd./ S. M. Industries	4/1/78–3/31/79	0
	4/1/79–9/30/80	0
Nihon Minature Rope Mfg. Co., Ltd./Yutoko and Co., Ltd	4/1/78–3/31/79	0
	4/1/79–9/30/80	0
Nikko Steel Wire Rope Mfg. Co., Ltd./Union Co	4/1/78–3/31/79	11.88
	4/1/79–9/30/80	9.68
Nippon Miniature Rope Co., Ltd./Kinyo Co., Ltd	4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
Nippon Steel Wire Rope Co., Ltd./Mitsui and Co	4/1/78–3/31/79	0
	4/1/79–9/30/80	0
Nishimura Wire Rope Mfg. Co., Ltd/Kinyo Co., Ltd	4/1/78–3/31/79	.35
	[1] 4/1/79–9/30/80	.35
Nishimura Wire Rope Mfg. Co., Ltd./K-M International	[1] 04/1/78–3/31/79	0
	[1] 04/1/79–9/30/80	0
Nisshi-Nippon Fujikara Co., Ltd	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Nishiya Wire Rope Co., Ltd./Mitsui and Co	4/1/78–3/31/79	.06
	4/1/79–9/30/80	.06
Nobuhara Mfg. & Supply Co	[1] 4/1/79–9/30/80	5.68
Oriental Corp./F.A. Industries Corp	4/1/79–9/30/80	0
Osaka Wire Rope Mfrs. Assn./Mitsui and Co	[1] 4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
Rope Service K.K.	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	9.68
Ryoei Shoji Co., Ltd	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Sakai & Co., Ltd	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Sanko Wire Rope Mfg. Co., Ltd./Tokyo Trading Co	[1] 4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
Sanwa Seiko Co., Ltd./J. Gerber & Co., Ltd	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	0
Sanyo Shokai K.K./J. Gerber & Co., Ltd	4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
Sasaki Kogyo Co., Ltd	[1] 4/1/79–9/30/80	9.68
Seiko Wire Rope Co., Ltd./Okura Trading Co., Ltd.	[1] 4/1/78–3/31/79	11.88
	4/1/79–8/ 3/79	0
Seiko Wire Rope Co., Ltd/Kinyo Co., Ltd	4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
Seiko Wire Rope Co., Ltd./Kohshin Co., Ltd	4/1/78–3/31/79	11.88
	4/1/79–9/30/80	9.68
Seiko Wire Rope Co., Ltd./Syuto Co., Ltd	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	9.68
Shibamoto & Co., Ltd	[1] 4/1/79–9/30/80	5.68
Shigeyama & Co., Ltd	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Shinko Wire Rope Co./Mitsui and Co	4/1/78–3/31/79	0
	4/1/79–9/30/80	0
Shinko Wire Rope Co./Shinko Shoji Kaisha	4/1/78–3/31/79	0
	4/1/79–9/30/80	0
Shinko Wire Rope Co./Nissho-Iwai	4/1/78–3/31/79	0
	4/1/79–9/30/80	0
Shinko Wire Rope Co./Kanematsu-Gosho Ltd	4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
Shinko Wire Rope Co., Ltd	4/1/78–3/31/79	0
	[1] 4/1/79–9/30/80	0
Shinyo Ropes Mfg. Co., Ltd./Higashishiba & Co	4/1/78–3/31/79	0
	4/1/79–8/ 7/80	0
Shinyo Ropes Mfg. Co., Ltd./Mitsui and Co	4/1/78–3/31/79	.08
	4/1/79–8/ 7/80	0
Shinyo Ropes Mfg. Co., Ltd./S. M. Industries, Inc	[1] 4/1/78–3/31/79	11.88
	4/1/79–8/ 7/80	0
Shinyo Ropes Mfg. Co., Ltd./Vanguard Steel Ltd. (transshipper)	4/1/79–9/30/80	0
Shinyo Ropes Mfg. Co., Ltd./Yutoko and Co., Ltd	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	0
Shinyo Ropes Mfg. Co., Ltd./Other Trading Companies	4/1/78–3/31/79	.80
	4/1/79–9/30/80	0
Showa Boeki Co., Ltd	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Sumiyoshi Kinzoku Kogyo	[1] 4/1/78–3/31/79	11.88
	4/1/79–9/30/80	9.68
Taiho Seiko/Kinyo Co	4/1/78–3/31/80	0
	[1] 4/1/79–9/30/80	0
Taisei International Corp	4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Y. Takeuchi and Co	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Tanaka Metals Corp	[1] 4/1/78–3/31/79	11.88
	[1] 4/1/79–9/30/80	5.68
Teikoku Sangyo Co., Ltd./Sumitomo-Shoji Kaisha, Ltd	4/1/78–3/31/79	0
	4/1/79–9/30/80	0
Teikoku Sangyo Co., Ltd./The Tosho Co., Ltd	4/1/78–3/31/79	0
	4/1/79–9/30/80	0
Teikoku Sangyo Co., Ltd./Mitsui and Co	4/1/78–3/31/79	0
	4/1/79–9/30/80	0
Teikoku Sangyo Co., Ltd./Nissho-Iwai	4/1/78–3/31/79	1.09

Manufacturer/exporter	Time period	Margin (percent)
	[1] 4/1/79-9/30/80	1.09
Teikoku Sangyo Co., Ltd./Watanabe Trading Co., Ltd	[1] 4/1/78-3/31/79	1.00
	4/1/79-9/30/80	0
Teikoku Sangyo Co., Ltd./Mitsubishi Corporation	[1] 4/1/78-3/31/79	0
	4/1/79-9/30/80	0
Toyo Sangyo Co., Ltd	[1] 4/1/78-3/31/79	11.88
	[1] 4/1/79-9/30/80	5.68
Union Wire Rope Mfg. Co./Sanyo Bussan Kaisha, Ltd	4/1/78-3/31/79	.04
	4/1/79-5/ 7/80	0
Nikko Steel Wire Rope Mfg. Co., Ltd./The Union Co., Ltd	4/1/78-3/31/79	11.88
	4/1/79-9/30/80	0
Yamasho Co., Ltd	4/1/79-9/30/80	9.68
Yamato Industries Co., Ltd	[1] 4/1/78-3/31/79	11.88
	[1] 4/1/79-9/30/80	5.68
Yuasa Sangyo K.K	[1] 4/1/79-9/30/80	5.68
C. T. Takahashi & Co	[1] 4/1/79-9/30/80	5.68
Daimyo Bussan	4/1/79-9/30/80	9.68
IBA Steel Rope Mfg. Co., Ltd./Hori Trading Co., Ltd	4/1/79-9/30/80	9.68
Izumi Trading Co., Ltd	4/1/79-9/30/80	9.68
Japan Steel Wire Rope/Kohshin Co., Ltd	4/1/79-9/30/80	9.68
Kanto Steel Wire Co., Ltd	[1] 4/1/79-9/30/80	5.68
Kiku Steel and Wire Rope Co./Watanabe Trading Co., Ltd	4/1/79-9/30/80	0
Liberty Shokai, Ltd	[1] 4/1/78-3/31/79	5.68
Nan Rope Co., Ltd	4/1/79-9/30/80	5.68
Nissei Sangyo Co	[1] 4/1/79-9/30/80	5.68
Seo Hardware Corp	4/1/79-9/30/80	9.68
Taiyo Seiki Iron Works	[1] 4/1/79-9/30/80	5.68
Taiyo Iron Works	4/1/79-9/30/80	9.68
Tokyo Special Wire Co., Mfg. Ltd	4/1/79-9/30/80	5.68
Yasada and Co	4/1/79-9/30/80	9.68
Taiyo Sunco Inc	[1] 4/1/79-9/30/80	5.68

[1] No sales during period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries made with purchase dates or export dates, as appropriate, during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments of steel wire rope by these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this administrative review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. The Department shall not require cash deposit on the shipments of any firm whose weighted average margin for the most current period is *de minimis* (less than 0.5%). These deposit requirements and waivers shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of October 1982. The bonding requirement for Tokyo Rope shall remain in effect until publication of the final results of the review of its April 1978 through September 1980 sales.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 18, 1982.

[FR Doc. 82-1695 Filed 1-22-82; 8:45 am]

BILLING CODE 3510-25-M

Sugar From France, Belgium, and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On November 16, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on sugar from France, Belgium, and the Federal Republic of Germany. The review covered the thirteen known exporters and third-country resellers of this merchandise to the United States for the period June 1, 1980 through May 31, 1981. Interested parties were given an opportunity to submit oral or written comments. We received no comments.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5345/5289).

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 56228-29) the preliminary results of its administrative review of the antidumping finding on sugar from France, Belgium, and the Federal Republic of Germany (44 FR 33878, June 13, 1979). The Department has now completed its administrative review of that finding.

Scope of the Review

The imports covered by this review are shipments of sugar, both raw and refined, currently classifiable under item numbers 155.2025, 155.2045, and 155.3000 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of thirteen exporters and third-country resellers of sugar to the United States from France, Belgium, and the Federal Republic of Germany. The review covers all thirteen for the period June 1, 1980 through May 31, 1981. There were no known shipments to the United States during the review period and there are no known unliquidated entries.

Final Results of the Review

Interested parties were afforded an opportunity to furnish oral or written comments. The Department received no such comments. Therefore, the final results of our review are the same as those presented in the preliminary results of review.

As provided by § 353.48(b) of the Commerce Regulations, a cash deposit of 102 percent, 103 percent, and 121 percent, shall be required on all shipments of sugar from France, Belgium, and the Federal Republic of Germany, respectively, entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. The cash deposit shall be reduced by the amount of any countervailing duty cash deposit, attributable to export subsidies, required at the time of entry. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next review by the end of June 1983.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 12, 1982.

[FR Doc. 82-1694 Filed 1-22-82; 8:45 am]

BILLING CODE 3510-25-M

President's Export Council; Subcommittee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a business meeting of the Export Promotion Subcommittee of the President's Export Council will be

held on Thursday, February 11, in room 4830 at the U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. from 1:30 p.m.–4:00 p.m. The President's Export Council was established by Executive Order 11753 of December 20, 1973. The Council was reconstituted by Executive Order 12131 of May 4, 1979 and continued by Executive Order 12258 of December 31, 1980. The Council's purpose is to advise the President on matters relating to United States export trade.

The agenda of the meeting is as follows:

Opening remarks and introduction of subcommittee members;
Overview of trade development activities;
Briefing on specific export promotion programs and impediments to exporting;
Briefing on Foreign Commercial Service;
Status report on export trading company legislation;
Discussion of issue areas and assignments.

The meeting is open to the public with a limited number of seats available on a first come, first served basis. The public may file written statements with the Subcommittee before and after the meeting. To the extent time permits, oral statements and comments by the public will be welcomed at the end of the meeting. Copies of the minutes of the meeting and further information concerning the President's Export Council may be obtained from Mr. Jeffery Jackson, Room 1215, U.S. Department of Commerce, Washington, D.C. 20230, Telephone number (202) 377–1125.

Date: January 19, 1982.

Donald V. Earnshaw,

Deputy Assistant Secretary for Export Development, U.S. Department of Commerce.

[FR Doc. 82–1689 Filed 1–22–82; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Marine Mammals; Receipt of Application for Permit; Alaska Department of Fish and Game

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Alaska Department of Fish and Game (P66F).

b. Address: P.O. Box 3–2000, Juneau, Alaska 99802

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Beluga whale *(Delphinapterus leucas)*, 2910.

4. Type of Take: With radio tags-200, with visual streamer tags-500, by harassment in the tagging process and underwater vocal palyback-2,200, accidentally killed in the tagging process-10.

5. Location of Activity: Bering, Chukchi, and Beaufort Seas.

6. Period of Activity: April 1, 1982 thru December 31, 1984 (3 years).

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before February 24, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this appliation are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Dated: January 19, 1982.

R. B. Brumsted,

Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82–1758 Filed 1–22–82; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Receipt of Application for General Permit; Republic of Korea

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the regulations thereunder.

The Embassy of the Republic of Korea has applied for a Category 1: "Towed or Dragged Gear" general permit to incidentally take 100 otariid seals, 100 phocid seals, and 50 cetaceans within the U.S. fishery conservation zone in 1982.

The application is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.

Interested parties may submit written views on the application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235.

Dated: January 15, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Services.

[FR Doc. 82–1757 Filed 1–22–82; 8:45 am]

BILLING CODE 3510–22–M

International Whaling Commission; Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of meetings.

SUMMARY: NOAA makes use of an Interagency committee to assist in preparing for meetings of the International Whaling Commission. This notice sets forth guidelines for participation on the Committee and a tentative schedule of meetings and other important dates. Date: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Dean Swanson, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235. Phone: (202) 634–1792.

SUPPLEMENTARY INFORMATION: Each year NOAA conducts a series of meetings and other actions to prepare for the Annual Meetings of the International Whaling Commission which are usually held during the summer. The Administrator of NOAA has the lead role for discharging the responsibility of the United States under the International Convention for the Regulation of Whaling. In that role, he is responsible for the preparation of U.S. positions on issues that will arise at the Commission meeting. He is assisted by the Departments of State and Interior,

the Marine Mammal Commission, and other interested agencies. The primary purpose of the preparatory meetings is to provide for participation in the development of policy by members of the public and non-governmental organizations interested in whale conservation. The government believes this participation is valuable and important for the effective development and implementation of U.S. whale policy.

Because the meetings discuss U.S. negotiating positions, the substance of the meetings must be kept strictly confidential. For example, proposed position papers that may be circulated at a meeting for discussion cannot be circulated outside of the meetings and must be collected at the close of each meeting.

Any person with an identifiable interest in U.S. whale conservation policy may participate, but NOAA reserves the authority to inquire about the interests of any person who appears at a meeting and to determine the appropriateness of that person's participation. Persons who represent foreign interests may not attend. These stringent measures are necessary to protect the confidentiality of U.S. negotiating positions. In spite of these restrictions, there is still more public participation during preparation for the International Whaling Commission meetings than there is during preparation for most other international negotiations.

The tentative schedule of meetings, including those of the IWC, and deadlines for preparation of position papers is as follows:

January 29—Interagency Committee Meeting to review the state of preparations for the March IWC meeting and initiate preparations for the July IWC meeting. A list of issues anticipated for July will be circulated in advance. Interested persons who are unable to attend are welcome to submit comments and recommendations on each issue to the Administrator of NOAA, John V. Byrne, by January 25. Responsibilities for drafting position papers will be assigned.

February 27–March 5—Special Scientific Committee Meeting, Cambridge, England.

March 19—Interagency Committee Meeting to approve the position paper(s) for the March IWC meeting and discuss arrangements for the Delegation's work.

March 23—Meeting of the U.S. Delegation, Metropole Hotel, Brighton, England.

March 24–25—Special IWC Meeting, Metropole Hotel, Brighton, England.

April 2—Nominations for the U.S. Delegation to the July IWC meetings are due to John V. Byrne.

April 2—Anticipated Interagency Committee Meeting following receipt of the preliminary agenda for the July IWC meetings (due to be circulated by the IWC Secretariat by April 11) to review proposed additions or annotations to this agenda. These proposals will be available at the meeting. The date of the meeting will be confirmed as soon as the preliminary agenda, which will be distributed at the same time, is available.

April 16—Draft position papers due to Dean Swanson, NMFS, for circulation to Agencies.

April 30—Comments on draft position papers due to Dean Swanson.

April 30—Forward U.S. agenda changes to IWC Secretariat.

May 10—Proposed prenegotiation plans and draft position papers due to John V. Byrne.

May 10–July 19—Prenegotiations.

May 21—Due date for circulation of the provisional agenda by the IWC Secretariat.

June 4—Revised position papers due to John V. Byrne.

June 23—Final Interagency Committee Meeting to approve position papers and discuss arrangements for the Delegation's work.

Week of June 26–July 9—Scientific Committee Meetings, Cambridge, England.

July 12–17—Technical Committee Working Group Meetings (on subsistence whaling by aboriginal people; additional working languages; non-IWC whaling; and the definitions of "local consumption," "factory ship," and "land station"), and preliminary meetings of the Finance and Administration Committee and the Infractions Subcommittee of the Technical Committee.

July 18—Meeting of the U.S. Delegation, Metropole Hotel, Brighton, England.

July 19–24—34th Annual Meeting of the IWC, Metropole Hotel, Brighton, England.

Persons who would like to be included in these meetings should contact Dean Swanson at the address or telephone number provided above. They will then be notified personally of subsequent meetings, including times and locations.

Dated: January 19, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-1763 Filed 1-22-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Manual for Courts-Martial Amendments; Amendment Policy

Notice is hereby given of the policy of the Department of Defense with respect to amendments to the Manual for Courts-Martial.

Notice that the Department of Defense intends to recommend changes to the Manual for Courts-Martial shall be published in the **Federal Register** before submission of such changes to the President unless the Secretary of Defense proposes that the President issue the change without such notice on the basis that notice and public procedure thereon is unnecessary or contrary to the sound administration of military justice. The notice shall include a brief description of the matters contained in the proposed change, the time and place where a copy of the proposed change may be examined, and the procedure for obtaining a copy of the proposed change. A period of not less than 75 days after publication of notice shall be allowed for public comment, but a shorter period may be prescribed when it is determined that a 75-day period is unnecessary or contrary to the sound administration of military justice. Comments shall be submitted to the Joint-Service Committee on Military Justice. This section is intended only to improve the internal management of the federal government, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officer, or any person.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 20, 1982.

[FR Doc. 82-1789 Filed 1-22-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Handicapped Children's Model Program Grants

AGENCY: Department of Education.

ACTION: Application Notice Establishing Closing Date for Transmittal of Applications for the Handicapped Children's Model Program—Continuation Demonstration Grants for Fiscal Year 1982.

Applications are invited for noncompeting continuation projects under the Handicapped Children's Model Program.

Authority for this program is contained in section 641, Part E of the Education for the Handicapped Act (20 U.S.C. 1441).

The purpose of this program is to develop and conduct model programs designed to meet the special educational needs of handicapped children.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by March 8, 1982.

If the application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.023D, 400 Maryland Avenue S.W., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand-delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW, Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

Available funds: During previous years of the program, funding for third year demonstration projects has averaged between $80,000 and $125,000 per project.

However, these estimates do not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Handicapped Children's Model Program, Special Education Programs, Department of Education, 400 Maryland Avenue SW, (Donohoe Building) Washington, D.C. 20202–4714.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed thirty (30) pages in length. The Secretary further urges that only the information required by the application form and instructions be submitted.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Model Program (34 CFR Part 324, formerly 45 CFR Part 121h). Amendments to these regulations were published on April 3, 1980 (45 FR 22533) and January 19, 1981 (46 FR 5380–5381) and June 18, 1981 (46 FR 31996–31998). The Department is currently reviewing the selection criteria contained in the January 19, 1981 amendment. If the Department proposes substantial changes in the selection criteria, the closing date will be extended; and

(b) The Education Department General Administrative Regulations (EDGAR), (34 CFR Parts 75 and 77, formerly 45 CFR Parts 100a and 100c).

FOR FURTHER INFORMATION CONTACT: Ms. Jane Williams, Handicapped Children's Model Program, Special Education Programs, Department of Education, 400 Maryland Avenue, SW, (Donohoe Building) Washington, D.C. 20202–4714, telephone (202) 245–9722.

(Catalog of Federal Assistance No. 84.023D, Handicapped Children's Model Program)

(20 U.S.C. 1441)

Dated: January 16, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-1743 Filed 1-22-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP81-301-001 and CP81-328-000]

American Natural Rocky Mountain Co. and Colorado Interstate Gas Co.; Intent to Prepare Draft Environmental Impact Statement and Request for Comments on Its Scope

January 20, 1982.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) has determined that approval of the projects proposed in Dockets No. CP81–301–001 and CP81–328–000 would constitute a major Federal action significantly affecting the quality of the human environment. Therefore, pursuant to § 2.82(b) of the Commission's Rules of Practice and Procedure (18 CFR 2.82(b)), a draft environmental impact statement (DEIS) will be prepared. The DEIS will analyze these applications as they relate to eastward transportation of natural gas from the Rocky Mountain area.

In Docket No. CP81–301–001, American Natural Rocky Mountain Company (ANRMC) has proposed to construct and operate 634 miles of 24- and 20-inch diameter pipeline extending from Fremont County, Wyoming, to Kiowa County, Kansas and two compressor stations, one in Carbon County, Wyoming, and one in Washington County, Colorado, for a total of 5,200 horsepower. The estimated cost of the project is $231,153,990; it is proposed to deliver 175,000 cubic feet of gas per day to the Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) main pipeline in Kansas.

The pipeline would begin in the Lysite area in Section 11 (T. 38N., R. 90W.) of Fremont County, Wyoming, extending 114 miles south from Michigan Wisconsin's Lost Cabin Meter Station to the proposed Cedar Ridge Compressor Station near Rawlins in Section 25 (T. 21N., R. 86W.) of Carbon County, Wyoming. This portion of the pipeline would be generally adjacent to the Colorado Interstate Gas Company (CIG) Wind River Lateral pipeline. From the Cedar Ridge Compressor Station, the pipeline would extend east 145 miles, generally adjacent to CIG's main line

and the proposed Trailblazer pipeline, to the vicinity of Rockport, Colorado (Section 5, T. 11N., R. 66W., Weld County). The remaining 375 miles of pipeline would follow a straightline route (bearing about S52°E) from Rockport to Michigan Wisconsin's Greensburg Compressor Station in Section 16, T. 28S., R. 19W. Kiowa County, Kansas.

The Cedar Ridge Compressor Station would be 3,200 horsepower. The only other compressor station proposed for this project would be 2,000 horsepower; it would be about 9 miles south of Akron, Washington County, Colorado.

In Docket No. CP81-328-000, CIG has proposed to construct and operate approximately 300 miles of 20-, 26-, and 30-inch diameter pipeline looping in seven segments in Wyoming, Colorado, Kansas, and Oklahoma and a new 5,000-horsepower compressor station in Beaver County, Kansas, and to add 11,220 horsepower of compression at existing stations. The estimated cost of the project is $144,900,000. It is proposed to deliver 125,000,000 cubic feet of gas per day to Michigan Wisconsin and 400,000,000 to Panhandle Eastern Pipe Line Company.

Both of these projects propose to transport significant quantities of Rocky Mountain area natural gas eastward. To the extent the proposed service overlaps, the projects must be treated as alternatives to one another. However, a question of potentially greater significance is whether these projects could be replaced by a single project creating significantly less environmental impact. Such a project was suggested by the FERC environmental staff in the environmental impact statement prepared for the Trans-Andarko Pipeline System in Docket No. CP80-17-002.[1] The Trailblazer Extension described in that docket would use an expanded Trailblazer System extended 450 miles eastward from Beatrice, Nebraska, to near Centralia, Illinois. Total facility requirements for this alternative were estimated at about 773 miles of pipeline and 34,100 horsepower of compression. Fewer facilities, as yet undetermined, would be required for a Trailblazer Extension Alternative to the two projects described in this notice. The EIS prepared in this proceeding will also discuss the Trailblazer Extension Alternative and other alternatives to the proposals.

A copy of this notice and additional technical information regarding the proposed projects have been distributed to Federal, state, and local agencies, parties to the proceedings, and the public. These groups are requested to comment on anticipated environmental problems associated with the projects and the relative potential advantages of each. These comments will be used by the FERC staff to identify the issues which require in-depth environmental analysis. The staff's current intent is to emphasize discussion of agricultural, water resource, and cultural resource impact, although right-of-way maintenance will also be considered in detail.

Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Each recommendation for a topic or issue to be discussed in the EIS should be supported by a showing of sufficient detail to allow a reasoned judgment of the importance of such topic or issue. Written comments should be provided by February 28, 1982.

Additional information about this EIS is available from Mr. John S. Leiss, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, at the above address (Room 7102) or by telephone at (202) 357-9038.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1688 Filed 1-22-82; 8:45 am]

BILLING CODE 6717-01-M

[1] Issued January 1982.

ENVIRONMENTAL PROTECTION AGENCY

[AD-FRL 1949-5]

Control Techniques Guideline Document; Equipment Leaks From Natural Gas/Gasoline Processing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Release of a draft control techniques guideline (CTG) document for public review.

SUMMARY: A draft CTG document for control of volatile organic compound emissions from equipment leaks from natural gas/gasoline processing plants is available for public review and comment. This informational document has been prepared to assist States in analyzing and determining reasonably available control technology for stationary sources of volatile organic compound emissions located within ozone national ambient air quality standard nonattainment areas with attainment dates after 1982

DATES: Comments should be submitted, in duplicate if possible, to the Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Fred Porter, on or before March 11, 1982. Comments will be available for public inspection and copying between 8:30 a.m. and 4:00 p.m., Monday through Friday, at the Office of the Director, Room 741, Emission Standards and Engineering Division, Environmental Protection Agency, 411 West Chapel Hill Street, Durham, North Carolina.

Control Techniques Guideline Document

Copies of the draft control techniques guideline document may be obtained by contacting Mrs. Marcia Piotrowski; (919) 541-5631; Emission Standards and Engineering Division (MD-13); Environmental Protection Agency; Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT:

Mr. Fred Porter; (919) 541-5631; Emission Standards and Engineering Division (MD-13); Environmental Protection Agency; Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 require each State in which there were areas exceeding the national ambient air quality standards (NAAQS) to adopt and submit revised State implementation plans (SIP) to EPA by January 1, 1979. States which were unable to demonstrate attainment with the NAAQS for ozone by the statutory deadline of December 31, 1982, could request extensions for attainment with the standard. States granted such extensions are required to submit a further revised SIP to EPA by July 1, 1982.

Sections 172 (a)(2) and (b) (2) and (3) of the Clean Air Act require that nonattainment area SIP's include reasonably available control technology (RACT) requirements for stationary sources.

The EPA is planning on publishing several control techniques guidelines (CTG) documents in 1981 to assist the States in determining RACT for various stationary sources.

CTG documents are informational in

nature and provide State and local air pollution control agencies with an initial information base for proceeding with their own analysis of RACT for specific stationary source categories of VOC emissions located within ozone NAAQS extension nonattainment areas. The CTG documents review existing information and data concerning the technology and cost of various control techniques to reduce emissions.

Under Executive Order 12291, EPA must judge whether a regulation is "major" or "minor." If "major," the regulation is subject to a Regulatory Impact Analysis. The draft CTG document for equipment leaks from natural gas/gasoline processing plants is considered "minor."

The CTG documents provide information to assist the States in analyzing and determining RACT to meet the statutory requirement of RACT on stationary sources. The CTG documents are not a regulation and do not impose any new requirements.

Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that the attached document will not have a significant economic impact on a substantial number of small entities.

This **Federal Register** notice and copies of the draft CTG document was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for public inspection between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, at the Office of the Director, Room 741, Emission Standards and Engineering Division, Environmental Protection Agency, 411 West Chapel Hill Street, Durham, North Carolina.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

September 29, 1981.

[FR Doc. 82-1733 Filed 1-22-82; 8:45 am]

BILLING CODE 6560-26-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 82-6, File No. 22507-CD-P-(2)-81; CC Docket No. 82-7, File No. 20023-CD-P-(1)-82]

Bryan Industrial Electronics, Inc. and Radio Paging, Inc.; Applications

In the matter of applications of Bryan Industrial Electronics, Inc. for a construction permit to add an additional location on frequency 152.24 MHz and an associated control station on frequency 72.68 MHz for Station KWU276 in the Domestic Public Land Mobile Radio Service near Brenham, Texas (CC Docket No. 82-6, File No. 22507-CD-P-(2)-81) and Radio Paging, Inc. for a construction permit to add an additional location on frequency 152.24 MHz for Station KWU485 in the Domestic Public Land Mobile Radio Service at Hockley, Texas (CC Docket No. 82-7, File No. 20023-CD-P-(1)-82); Order designating applications for hearing.

Adopted January 7, 1982.

Released: January 12, 1982.

By the Common Carrier Bureau:

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Bryan Industrial Electronics, Inc. (Bryan) and Radio Paging, Inc. (RPI). These applications are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. We find the applicants to be otherwise qualified.

2. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Bryan Industrial Electronics, Inc., File No. 22507-CD-P-(2)-81, and Radio Paging, Inc., File No. 20023-CD-P-(1)-82, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 43 dBu contours,[1] based upon the standards set forth in § 22.504(a) of the Commission's Rules,[2] and services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

3. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

4. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

5. It is further ordered, that the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Order.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

William F. Adler,

Acting Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-1739 Filed 1-22-82; 8:45 am]

BILLING CODE 6712-01-M

[1] For the purpose of this proceeding, the interference-free area is defined as the area within the 43 dBu contour as calculated from Section 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6404, equation 8.

[2] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 150 MHz band. Propagation data set forth in § 22.504(a) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

Canadian Standard Broadcast Stations; Notification List

List of new stations, proposed changes in existing stations, deletions and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

November 30, 1981

CANADIAN LIST NO. 409 (MILLIVOLTS PER 1,000 KILOWATTS)

Call letters	Location	Power (kilowatts)	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
				550 kHz					
CJOK	Fort McMurray, Alberta, N. 56° 41' 16", W. 111° 19' 55" (P.O. 1230 kHz).	10D/5N	DA-2	U	III				11-30-82
				630 kHz					
CHED	Edmonton, Alberta, N. 53° 23' 58", W. 113° 23' 46" (Change in Day pattern).	50	DA-2	U	III				11-30-82
				680 kHz					
CFTR	Toronto, Ontario, N. 43° 12' 50", W. 79° 36' 30" (Correction of geographical co-ordinates) (P.O. 25kW N. 43° 34' 48", W. 78° 38' 30") (^{D}Day = 3.79mV/m, ^{D}Night = 31.7mV/m).	50	DA-2	U	II				
				730 kHz					
CKGB	Timmins, Ontario, N. 48° 27' 15", W. 81° 21' 35" (P.O. 680 kHz) P.N. N. 48° 25' 42", W. 81° 20' 07", change of directional antenna radiation patterns).	25	DA-2	U	II				11-30-82
				900 kHz					
CKTS	Sherbrook, Quebec, N. 45° 26' 28", W. 72° 00' 35" (Withdrawal of pattern change proposed in Change List No. 406).	10	DA-2	U	II				
				920 kHz					
CFLS	Levis, Quebec, N. 46° 48' 26", W. 71° 08' 37" (P.O. 1kW) (Reduction of night pattern RMS).	10	DA-2	U	III				11-30-82
				970 kHz					
CKCH	Hull, Quebec, N. 45° 22' 59", W. 75° 48' 47" (Minor changes in day-time directional antenna radiation pattern).	10D/5N	DA-2	U	III				11-30-82
				1340 kHz					
New	Corner Brook, Newfoundland, N. 48° 59' 13", W. 57° 56' 04".	1D/0.25N	ND-190	U	IV	180	120	294	11-30-82
				1350 kHz					
CKEG	Nanaimo, British Columbia, N. 49° 09' 07", W. 123° 48' 40" (Correction of co-ordinates in Change List No. 406).	10	DA-1	U	III				
				1380 kHz					
New	Calgary, Alberta, N. 50° 54' 04", W. 114° 12' 40" (Delete).	50D/25N	DA-2	U	III				
				1400 kHz					
New	Moncton, New Brunswick, N. 46° 03' 05", W. 64° 53' 02" (Delete).	10	DA-2	U	IV				

Laurence E. Harris,

Chief, Broadcast Bureau, Federal Communications Commission.

[FR Doc. 82-1738 Filed 1-22-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80-286]

Industry Concerning Jurisdictional Separations; Meeting

Members of the Joint Board staff will meet with representatives of the telecommunications industry on February 2, 1982, from 9:30 AM until 5:00 PM at the Flagship Inn, 601 Avenue H East, Arlington, Texas, to discuss the issues concerning jurisdictional separations under study in this proceeding. The focus of the meeting will be on proposals to resolve the major issues in this docket and the relationship of data supplied in response to Information Requests issued by the Joint Board of these proposals. Members of the industry wishing to make presentations at this meeting or schedule particular issues for discussion should contact James W. McConnaughey of the Policy and Program Planning Division, Common Carrier Bureau, at (202) 632-9342 by Tuesday, January 19, 1982, with information about both the proposed topics of their presentations and the anticipated length of each. Public Notice of the schedule for the meeting will be released approximately a week later. Members of the public are welcome to attend this meeting as observers. (The telephone number at the Flagship Inn is (817) 640-1666.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

January 15, 1982.

[FR Doc. 82-1734 Filed 1-22-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit

comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within *20* days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos. T–2409–3 and T–2409–4.

Filing party: H. H. Wittren, Associate Director of Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–2409–3 between the Port of Seattle (Port) and North Star Forwarding Company (North Star) modifies the parties' basic agreement (North Star is a change of name from Alaska Rail Car Co. (ARC), which was the original signatory) which provides for the lease to North Star (formerly ARC) of premises to be used in the loading and unloading of railroad cars to and from barges via a rail loading ramp. The purpose of the modification is to delete North Star's option privilege to lease additional land.

Agreement No. T–2409–4 modifies the basic agreement between the parties to increase the monthly rental from $5,008.65 to $5,298.72 and to increase the amount of the lease bond to $63,585.

Agreement No. T–4011.

Filing party: Mr. Julio A. Nolla Amado, General Counsel, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, Puerto Rico 00936.

Summary: Agreement No. T–4011 is a month-to-month interim agreement form between the Puerto Rico Ports Authority (Authority) and maritime firms desiring to lease preferential and exclusive terminal facilities from the Authority. All steamship lines have equal access to such facilities subject to availability and to the Authority's responsibility to maximize terminal utilization and flexibility. Rates are as set forth in the Authority's Resolution No. 81–22.

Agreements Nos. T–4013 and T–4013–A.

Filing party: Mr. H. H. Wittren, Associate Director of Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–4013 between the Port of Seattle (Port) and Chemical Processors, Inc. (Lessee), provides for the lease of 4.0729 acres of land, buildings and storage tanks situated at Pier 91, Port of Seattle. The leased premises will be used for treatment of waste, oil/water separation, storage, receipt and distribution of petroleum products servicing vessels in the proximity of Puget Sound. The lease shall be for 6 years, commencing January 1, 1982 and ending December 31, 1987, with an option to renew the lease for an additional 6-year period. As compensation, the Port will receive a minimum of $174,916 per year in rental; and payment for concession rights consisting of (a) $.01 for each gallon of liquid waste received for processing; plus (b) 25 percent of the gross revenue received for the receipt, storage and distribution of all other petroleum products made from the premises each month, less (c) the amount of fixed rental for each lease month but not less than the basic minimum rental. Lessee will also pay dockage pursuant to Port Tariff No. 3.

Agreement No. T–4013–A provides for the sub-lease to Pacific Northern Oil Corporation (PNO) of a portion of the facility covered by Agreement No. T–4013. The portion is to be used in the blending and storage of residual fuel oil and diesel fuel. The term of the sub-lease is from May 1, 1981 through March 31, 1984, with an option to extend the term from up to 15 successive 3-year periods. PNO shall pay an annual rental of $300,000, with various adjustments as set forth in the agreement. The sub-lease is subject and subordinate to the master lease under Agreement No. T–4013.

Agreement No. 6400–20 and 8660–12.

Filing party: F. Conger Fawcett, Esquire, Graham & James, One Maritime Plaza, Suite 300, San Francisco, California 94111.

Summary: Agreements Nos. 6400–20 and 8660–12, amend the respective basic agreements of the Pacific Coast River Plate Brazil Conference and the Latin America/Pacific Coast Steamship Conference to expressly authorize designated persons to file future section 15 amendments with the Commission.

Agreement No. 10266–5.

Filing party: Edward Schmeltzer, Schmeltzer, Aptaker & Sheppard, P.C., 1800 Massachusetts Ave., N.W., Washington, D.C. 20036.

Summary: Agreement No. 10266–5 amends the Gulf Europe Express joint service agreement between Intercontinental Transport (ICT) B.V. and Compagnie Generale Maritime. Agreement No. 10266–5 modifies the basic agreement as follows: (1) Enlarges the service provided by including cargo transshipped between U.S. or Europe and any other port; (2) deletes the average weekly limitation of 800 TEU's; (3) deletes the provision for reporting requirements; (4) provides for a notice to the Commission proposing certain limitations on container carryings in the trade; and (5) enlarges the scope by providing for a new trade between ports on the east coast of Mexico and U.S. Gulf and South Atlantic coast ports.

Agreement No. 10266–5 was filed pursuant to, and for consideration in, Docket No. 77–7.

Agreement No. 10374–2.

Filing party: Edward Schmeltzer, Schmeltzer, Aptaker & Sheppard, P.C., 1800 Massachusetts Ave., N.W., Washington, D.C. 20036.

SUMMARY: Agreement No. 10374–2 amends the charter agreement among Hapag-Lloyd, A/S, Intercontinental Transport (ICT) B.V. and Compagnie Generale Maritime. Agreement No. 10374–2 amends the basic agreement as follows: (1) It adds Thos. & Jas. Harrison, Ltd. as a signatory to the agreement; (2) it enlarges the scope by the addition of a new trade between U.S. Gulf and South Atlantic coast ports and ports on the east coast of Mexico; (3) for 1982, it increases the average weekly vessel cargo carriage limitations from 800 TEU's to 950 TEU's in each direction, thereafter, the limitation will be 1,050 TEU's eastbound and 1,000 TEU's westbound; (4) it deletes the limitation on cargo in containers moving between the U.S. South Atlantic coast and Europe; (5) it increases the reefer cargo limitation to 50 TEU's eastbound and westbound; (6) it modifies article 3 by stating that each party will ship its containers on "* * * vessels it may operate and on the vessels operated by the other parties * * *" and clarifies that the parties shall charter to and/or from each other; and (7) it adds a new article in which the parties pledge to become members of conferences or rate agreements provided that major U.S.-flag carriers in the trade are likewise members, provided, however, when costs of membership for any party are prohibitive in relation to the amount of cargo it carries, the party need not obtain membership.

Agreement No. 10374–2 was filed pursuant to, and for consideration in, Docket No. 77–7.

Agreement No. 10286–1.

Filing party: Stanley O. Sher, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 10286–1 amends the Italy/U.S.A. North Atlantic Pool Agreement. The purpose of the amendment is to: (1) Revise member lines party to the agreement; (2) remove open rated cargo from list of excluded cargo; (3) redefine the term "pool freight," (4) extend the term of the agreement until April 30, 1986; (5) adjust minimum service obligations and pool shares; and (6) enlarge the list of cargo to be excluded from "pool cargo."

By Order of the Federal Maritime Commission.

Dated: January 20, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–1760 Filed 1–22–82; 8:45 am]

BILLING CODE 6730–01–M

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within *10* days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreement No.: T–4014.

Filing party: John C. Barnett, Deputy Chief, Leases & Operating Agreements Division, The Port Authority of New York & New Jersey, One World Trade Center, New York, New York 10048.

Summary: Agreement No. T–4014, between the Port Authority of New York and New Jersey (Port) and Scandinavian World Cruises (Bahamas) Limited, Inc. (Scandinavian), provides for (1) The consturction by Port of certain modifications and improvements to Pier 94 of the New York City Passenger Ship Terminal for use by Scandinavian in a proposed car cruise service; and (2) preferential berthing at Berth 6 for Scandinavian's cruise vessel.

As compensation, Scandinavian will pay Port a dockage fee of $1,050 per day of berthing time and wharfage fee of $5.25 per passenger, such fees subject to annual adjustment.

As payment for construction costs, Scandinavian will reimburse Port in eight quarterly installments, each such installment to be reduced by the amount of dockage and wharfage fees collected. Additionally, for the first three years of the agreement's five-year term (after completion of construction), Scandinavian may credit up to $200,000 of advertising costs incurred in connection with the car cruise service against the amounts due as dockage and wharfage fees.

By Order of the Federal Maritime Commission.

Dated: January 20, 1982

Francis C. Hurney,

Secretary.

[FR Doc. 82–1761 Filed 1–22–82; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Aktivbanken A/S.

Aktiv Bank Holding Co.; Formation of Bank Holding Company

Aktivbanken A/S, Vejle, Denmark and Aktiv Bank Holding Company, Long Beach, California, have 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 bank holding companies by acquiring 100 per cent of the voting shares of National Bank of Long Beach, Long Beach, California. 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 29, 1982. 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82–1769 Filed 1–22–82; 8:45 am]

BILLING CODE 6210–01–M

Commerce Bancshares, Inc.; Acquisition of Bank

Commerce Bancshares, Inc., Kansas City, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 60 per cent or more of the voting shares of Wentzville State Bank, Wentzville, 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 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 11, 1982. 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82–1770 Filed 1–22–82; 8:45 am]

BILLING CODE 6210–01–M

Fifth Third Bancorp; Acquisition of Bank

Fifth Third Bancorp, Cincinnati, Ohio, has applied for the Board's approval under section 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 Bank of Russellville Company, Russellville, Ohio. 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 at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 11, 1982. 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1771 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

First Bancshares, Inc.; Formation of Bank Holding Company

First Bancshares, Inc., Slidell, Louisiana, 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 100 per cent of the voting shares of First Bank, Slidell, Louisiana. 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 at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 11, 1982. 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, indentifying 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1772 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

First Bulloch Banking Corp.; Formation of Bank Holding Company

First Bulloch Banking Corporation, Statesboro Georgia, 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 acquire 100 of the voting shares of First Bulloch Bank & Trust Company, Statesboro, Georgia. 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 at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffices in lieu of a hearing, indentifying 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1773 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

First City Bancorporation of Texas, Inc.; Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of First City National Bank of Floresville, Floresville, Texas. 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 at the Federal Reserve Bank of Dallas. 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 11, 1982. 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1774 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

First Glen Bancorp, Inc.; Proposed Acquisition of Van Dyke Associates, Inc.

First Glen Bancorp, Inc., Glens Falls, New York, 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 Van Dyke Associates, Inc., Glens Falls, New York.

Applicant states that the proposed subsidiary would engage in the business of appraising real property, including residential and commercial properties, for individuals, businesses, and governmental units. These activities would be performed from offices of Applicant's subsidiary in Glen Falls, New York, and the geograhic areas to be served are Warren, Washington, and Saratoga Counties, New York. Such activities have been specified by the Board in § 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 § 225.4(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 New York.

Any person wishing to comment on the application should submit views in

writing to the Reserve Bank to be received no later than February 11, 1982.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1775 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

First State Holding Company, Inc.; Formation of Bank Holding Company

First State Holding Company, Inc., Mullinville, Kansas, 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 80 percent or more of the voting shares of First State Bank, Mullinville, Kansas. 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 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 11, 1981. 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 20, 1982.

Theodore E. Downing, Jr,

Assistant Secretary of the Board.

[FR Doc. 82-1776 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

Great Guaranty Bancshares, Inc.; Formation of Bank Holding Company

Great Guaranty Bancshares, Inc., New Roads, Louisiana, 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 80 per cent or more of the voting shares of Guaranty Bank and Trust Company, New Roads, Louisiana. 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 at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 11, 1982. Any comment on an application that requests a hearing must include a statement of why 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1777 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

Liberty National Bancshares, Inc.; Formation of Bank Holding Company

Liberty National Bancshares, Inc., Lovington, New Mexico, 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 80 per cent or more of the voting shares of Liberty National Bank, Lovington, New Mexico. 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 at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 11, 1982. 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1778 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

Mark Twain Bancshares, Inc.; Acquisition of Bank

Mark Twain Bancshares, Inc., St. Louis, has applied for the Board's approval under section 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 Hub State Bank, Independence, 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 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 11, 1982. 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1779 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

Minto Bancorporation; Formation of Bank Holding Company

Minto Bancorporation, Minto, North Dakota, 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 99.5 percent of the voting shares of Bank of Minto, Minto, North Dakota. 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 at the Federal Reserve Bank of Minneapolis. 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 11, 1982. 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1780 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

Security Bancshares, Inc.; Formation of Bank Holding Company

Security Bancshares, Inc., Dunseith, North Dakota, 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 100 percent of the voting shares of Security State Bank, Dunseith, North Dakota. 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 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 11, 1982. 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1781 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

Southwest National Corp., Formation of Bank Holding Company

Southwest National Corporation, Greensburg, Pennsylvania, 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 100 percent or more of the voting shares of Southwest National Bank of Pennsylvania, Greensburg, Pennsylvania. 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 at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 11, 1982. 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1782 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

UNB Bancshares, Inc.; Formation of Bank Holding Company

UNB Bancshares, Inc., Washington, D.C., 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 100 per cent of the voting shares of the successor by merger to United National Bank of Washington, Washington, D.C. 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 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 11, 1982. 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 dsipute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1783 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01

United Madison Bancshares, Inc.; Formation of Bank Holding Company

United Madison Bancshares, Inc., Houston, Texas, 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 80 per cent or more of the voting shares of United Madison Bank, N.A., Houston, Texas. 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 at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 11, 1982. 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1784 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

Woodriver Banco, Inc.; Formation of Bank Holding Company

Woodriver Banco, Inc., Oconto, Nebraska, 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 100 percent of the voting shares of The Farmers Bank, Oconto, Nebraska. 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 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 11, 1982. 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1785 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

Youell Sales Department, Inc.; Acquisition of Bank

Youell Sales Department, Inc., Manson, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire an additional 35.6 percent of the voting shares of the Manson State Bank, Manson, Iowa. 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 at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 11, 1982. 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 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-1786 Filed 1-22-82; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council; Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Wednesday, January 27, and Thursday, January 28. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The January 27 session is expected to begin at 1 p.m. and to continue until 5 p.m. The January 28 session is expected to begin at 9 a.m. and to conclude at 3 p.m., with a lunch break from 1 to 2 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer financial legislation and regulation. Time permitting, the Council will consider the following topics:

1. Regulatory Update

—*Regulation E: Exemption for Small Institutions.* A discussion of whether small institutions that participate in the federal government's direct deposit program but do not offer other electronic services subject to Regulation E should be exempted from the regulation's coverage.

—*Regulation B: Credit Scoring Proposals.* A discussion of the Board's proposals on two Regulation B rules concerning a creditor's consideration of applicant income and disclosure of reasons for adverse action, and how they should apply to various credit scoring practices.

2. Prime Rate Announcements by Commercial Banks

A discussion of prime rate lending practices by commercial banks, and the effect of these practices, if any, on consumer borrowing.

3. Variable Rate Transactions

A review of various variable-rate loan structurs and discussion about whether and how disclosures should be monitored, whether uniformity in disclosures should be adopted, and whether data concerning these transactions should be collected.

4. Policies Regarding Inactive Bank Accounts

A discussion of the bank practice of charging special service fees for maintaining inactive accounts from year to year (thus reducing the account balance prior to closing the account and turning the funds over to the state).

5. Legislative Briefing

Brief presentation by Board's staff on the legislative outlook for 1982.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Kay Oliver, Secretary, Consumer Advisory Council, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, January 22, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-1966 Filed 1-22-82; 11:12 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Brae Corp.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Brae Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Arthur I. Levy, Jr. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: December 24, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-1690 Filed 1-22-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Richco, N.V.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Richco, N.V. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of TCF Holdings, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: January 5, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section

7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-1691 Filed 1-22-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

Health Care Technology Study Section; Reestablishment

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 (5 U.S.C. Appendix I), the Office of the Assistant Secretary for Health announces the reestablishment by the Secretary, HHS, with concurrence BY THE General Services Administration, of the following advisory committee:

Designation: Health Care Technology Study Section.

Purpose: The Stucy Section shall advise the Secretary and make recommendations to the Director, National Center for Health Services Research, on research grant applications in the information sciences (computer science, communications technology), decision sciences (operations research, industrial engineering, health care administration), technology assessment, bioengineering, and related fields as applied to hospital-based, ambulatory, and community health care. The members of this Study Section shall survey, as scientific leaders, the status of research in their field.

Authority for this Committee will expire on June 30, 1982, unless the Secretary, HHS, with the concurrence of the General Services Administration, formally determines that continuance is in the public interest.

Dated: January 15, 1982.

Wayne C. Rickey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics and Technology.

[FR Doc. 82-1790 Filed 1-22-82; 8:45 am]

BILLING CODE 4160-17-M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee 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 1982.

Basic Behavioral Processes Research Review Committee

February 25-26; 9:00 a.m.

The Shoreham Hotel, 2500 Calvert Street, NW., Washington, D.C. 20008

OPEN—February 25, 9:00-10:00 a.m.

CLOSED—Otherwise

Contact: Anita Lipkin, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3936

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the fields of experimental and physiological psychology and comparative behavior, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9-10 a.m., February 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for 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 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

* * * * *

Basic Psychopharmacology and Neuropsychology Research Review Committee

February 25-27; 9:00 a.m.

Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland 20910

OPEN—February 25; 9:00-10:00 a.m.

CLOSED—Otherwise

Contact: Shirley Maltz, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3944

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the fields of basic psychopharmacology and neuropsychology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., February 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for 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 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

* * * * *

Life Course Review Committee

February 10-11; 9:00 a.m.

The Shoreham Hotel, Room E630, 2500 Calvert Street, N.W.

Washington, D.C. 20008

OPEN—February 10; 9:00-9:30 a.m.

CLOSED—Otherwise

Contact: Ms. Dee Herman, Room 9C-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1367

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the field of child, family, and aging, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-9:30 a.m., February 10, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for 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 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

* * * * *

Psychopathology and Clinical Biology Research Review Committee

February 22-24; 9:00 a.m.

Holiday Inn of Georgetown, 2101 Wisconsin Avenue, N.W.

Washington, D.C. 20007

OPEN—February 22; 9:00-10:00 a.m.

CLOSED—Otherwise

Contact: Christine Peers, Room 9C-24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1340

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of clinical psychopathology and clinical biology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9-11 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial

review of applications for 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 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained from Mrs. Helen Garrett, Committee Management Office, NIMH, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: January 19, 1982.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82–1698 Filed 1–22–82; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Open Meetings for Three Contracts to Investigate Reproductive Effects of Glycol Ethers, Niosh Diesel Exhaust/ Coal Dust Study, and Safety Recommendations for Manufacture of Precast Concrete Products

The following meetings will be convened by the National Institute for Occupational Safety and Health of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Open Meeting for Three Contracts to Investigate Reproductive Effects of Glycol Ethers

Date: January 26, 1982.
Time: 9:00 a.m. to 4:00 p.m.
Place: Robert A. Taft Laboratories, 4676 Columbia Parkway, Room B–38, Cincinnati, Ohio 45226.
Purpose: To review and discuss scientific validity of the following three draft requests for contract:
Teratogenic Assessment of Three Glycol Ethers Sex-Linked Recessive Lethal Tests of 15 Glycol Ethers
Assessment of 15 Glycol Ethers by Dominant Lethal and Sperm Head Morphology Tests.
Additional information may be obtained from: Mr. Bryan D. Hardin, Division of Biomedical and Behavioral Science (DBBS), National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: 513/684–8394.

NIOSH Diesel Exhaust/Coal Dust Study

Date: February 9, 1982.
Time: 8:30 a.m. to 4:00 p.m.
Place: NIOSH Ridge Facilities, 5555 Ridge Avenue, Conference Room C, Cincinnati, Ohio 45213.
Purpose: To present progress of the coal dust/diesel exhaust project since its onset in October 1977.
Additional information may be obtained from: Trent R. Lewis, Ph.D., DBBS, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: 513/684–8392.

Safety Recommendations for Manufacture of Precast Concrete Products

Date: February 24, 1982.
Time: 9:00 a.m. to 4:00 p.m.
Place: Dynamac Building, 11140 Rockville Pike, 6th Floor Conference Room, Rockville, Maryland.
Purpose: To discuss recommendations being developed to reduce worker exposure to safety hazards, as well as general industrial hazards associated with the manufacture of precast concrete products.
Additional information may be obtained from: Mr. Ronald L. Stanevich, Division of Safety Research, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, Telephone: 304/599–7574 or FTS/923–7574.

Dated: January 12, 1982.

Donald R. Hopkins,

Acting Director, Centers for Disease Control.

[FR Doc. 82–1697 Filed 1–22–82; 8:45 am]

BILLING CODE 4110–87–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Child Welfare Act; Grant Funds Distribution Formula

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.

Title II of the Indian Child Welfare Act of 1978 authorized the Secretary of the Interior to make grants to Indian tribes and Indian organizations for establishment and operation of Indian child and family service programs.

In order to ensure insofar as possible that all applicants approved for funding receive a proportionate share of available grant funds under the provisions of 25 CFR Part 23, "Application and selection criteria", established by the Bureau of Indian Affairs, the distribution of these funds will be accomplished in accordance with the following formula.

Grants will be awarded to individual tribes or organizations within the following categories:

A. A maximum of up to $50,000 for eligible applicants with a total service area population of less than 2,500;

B. A maximum of up to $150,000 for eligible applicants with a total service area population of more than 2,500 but less than 7,500;

C. A maximum of up to $300,000 for eligible applicants with a total service area population greater than 7,500.

Service area population means the total number of Indians eligible for service under 25 CFR 23.2(d) (2) or (3) in the geographical area to which the tribe or organization can realistically provide the services proposed in the application.

These population figures will be based on identifiable statistical resources and the tribe's or organization's prior service records. Applicants will not be funded for more than their demonstrated need.

A consortium, which is an agreement or association of two or more eligible applicants, may apply for one level of grant above the maximum level which the consortium would be eligible for due to its total service population.

However, at no time may any Indian tribe or organization which is either an eligible individual applicant in accordance with 25 CFR 25.21 or a member of a consortium receive Indian Child Welfare Act grant funds greater than a maximum grant of $300,000 through a direct grant or through subgranting procedures with approved applicants.

The appropriation for this program is 9.6 million dollars. The percentage of funds projected as preliminary allocations to each of the Bureau of Indian Affairs' Area Offices will be:

Aberdeen	7.0%
Albuquerque	6.0%
Anadarko	7.0%
Billings	4.0%
Eastern	10.0%
Juneau	11.5%
Minneapolis	12.5%
Muskogee	6.0%
Navajo	3.5%
Phoenix	7.0%
Portland	9.5%
Sacramento	15.0%

These preliminary allocations are meant for information purposes to the public. They were determined by averaging the following factors for each Area Office: The total Indian population based on the 1980 census figures and the 1979 estimates of Indian population and labor force statistics compiled by the Bureau of Indian Affairs. Adjustments were made considering historical data and the structure of the grant program.

Final allocations for funding applications will be made at the Central Office.

Theodore C. Krenzke,

Acting Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 82-1740 Filed 1-22-82; 8:45 am]

BILLING CODE 4310-02-M

Indian Child Welfare Act; Title II Grant Applications

January 19, 1982.

The period for submitting grant applications is effective upon the date of publication in the **Federal Register** and will end February 22, 1982. It is necessary that specific timeframes be established for submission of applications so that all applicants approved for funding under the provisions of 25 CFR Part 23 may be included in a competitive review and ranking process and can receive a proportionate share of available grant funds.

Application materials and related information may be obtained from Bureau of Indian Affairs offices nearest the applicant. Congress has appropriated 9.6 million dollars for Title II purposes. All grant application approvals will be subject to the availability of funds. Grant awards will be for a one-year period.

Grant applications will be accepted for the purpose of:

(a) Establishment and operations of Indian child and family service programs which promote the stability of Indian families; and

(b) Providing non-Federal matching shares for other Federal financial assistance programs for "on or near" reservation programs which contribute to the purpose stated in (a) above.

Applications must be received in the appropriate Bureau of Indian Affairs, Social Services Office, on or before 4:15 p.m. on the closing date of the application period. Applications sent by registered or certified mail, not later than the closing date, as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service, will be considered.

Theodore C. Krenzke,

Acting Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 82-1741 Filed 1-22-82; 8:45 am]

BILLING CODE 4310-02-M

Receipt and Approval of Petition for Reassumption of Jurisdiction Over Indian Child Custody Proceedings by th Passamaquoddy Tribe

January 11, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Receipt and approval of Petition for Reassumption of jurisdiction over Indian Child Custody Proceedings.

SUMMARY: The Indian Child Welfare Act of 1978 Provides that subject to certain specified conditions, Indian tribes may petition the Secretary of the Interior for reassumption of jurisdiction over Indian child custody proceedings.

The Passamaquoddy Tribe has filed a petition with the Department of the Interior to reassume exclusive jurisdiction over child custody proceedings involving Indian children who reside or are domiciled on the Passamaquoddy Indian Reservation in Maine. The Assistant Secretary—Indian Affairs has reviewed the petition and determined that tribal exercise of jurisdiction is feasible and that the tribe has a suitable plan for exercising such jurisdiction. This notice constitutes the official approval of the Passamaquoddy Tribe's petition by the Department of the Interior.

EFFECTIVE DATE: The Passamaquoddy Tribe reassumes exclusive jurisdiction March 26, 1982.

FOR FURTHER INFORMATION CONTACT: Bureau of Indian Affairs, Social Services, 18th and C Streets N.W. Washington, D.C. 20245, (202) 343-6434.

SUPPLEMENTARY INFORMATION: The authority for the Assistant Secretary—Indian Affairs to publish this notice is contained in 25 U.S.C. 1918(c), 25 CFR 13.14, and 209 DM 8.

The principal author of this document os Louise Zokan-Delos Reyes, Division of Social Services, Bureau of Indian Affairs, Department of the Interior, Washington, D.C.

Section 108 of the Indian Child Welfare Act of 1978, Public Law 95-608, 92 Stat. 3074, 25 U.S.C. 1918, authorizes Indian tribes that occupy a reservation, as defined in 25 U.S.C. 1903(10), over which a state asserts jurisdiction over Indian child custody proceedings, pursuant to Federal statute, to reassume jurisdiction over such proceedings.

To reassume such jurisdiction, a tribe must first file a petition in the manner prescribed in 25 CFR Part 13. The petition is then reviewed by the Department of the Interior using criteria set out in 25 CFR 13.12. If the Department finds that the tribe has submitted a suitable plan and that tribal exercise of jurisdiction is feasible, the petition is approved by pubication in the **Federal Register.**

The Passamaquoddy Tribe has requested that the requirement in 25 CFR 13.14(a)(1), that the Department of the Interior wait at least 45 days after receipt of a petition before taking final action, not be applied to its petition. This requirement was established so that local agencies involved in child custody matters would have some advance notice that a change in jurisdiction was likely. With respect to the Passamaquoddy Tribe, however, advance notice that such a change of jurisdiction was likely has been provided by section 8 of the Maine Indian Claims Settlement Act of 1980, Pub. L. 96-420, 94 Stat. 1795, 25 U.S.C. 1727, which authorizes the Passamaquoddy Tribe to assume exclusive jurisdiction over Indian child custody proceedings pursuant to the Indian Child Welfare Act. The Passamaquoddy Tribe was exercising jurisdiction over Indian child custody proceedings prior to the effective date of the Maine Indian Claims Settlement Act, which granted exclusive jurisdiction to the state pending approval of the Secretary of the Tribe's petition (25 U.S.C. 1727(f). Expedited action on the petition has been requested in order to reduce the gap in tribal jurisdiction.

For these reasons, the requirement under 25 CFR 13.14(a)(1), that the Department of the Interior wait at least 45 days after receipt of a petition before taking final action, is waived. This waiver is granted pursuant to the authority of the Secretary of the Interior to waive department regulations when such waiver is in the best interest of the Indians, 25 CFR 1.2, and pursuant to the delegation of the authority to the Assistant Secretary—Indian Affairs under 209DM 8.

Notice: This is notice that a petition for tribal reassumption of jurisdiction over Indian child custody proceedings filed by the Passamaquoddy Tribe is approved effective March 26, 1982.

The geographic area subject to the reassumption of jurisdiction is the Passamaquoddy Indian Reservation.

Theodore C. Krenzke,

Acting Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 82-1742 Filed 1-22-82; 8:45 am]

BILLLING CODE 4310-02-M

Bureau of Land Management

[Amdt. N-31788]

Realty Action Non-Competitive Sale of Public Lands in Lander County, Nev.

January 14, 1982.

The following described lands have been examined and identified as suitable for disposal by direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than fair market value:

Mount Diablo Meridian, Nevada

T. 18 N., R. 45 E.,
Sec. 20, SE¼NW¼SE¼NW¼SW¼, SE¼NE¼SE¼NW¼SW¼, W½NW¼SW¼NE¼SW¼.
Containing 2.5 acres.

The lands will be sold to Andrew P. Kaltenbach, owner of the Frontier Tavern and owner of the improvements on the tract for sale. The Frontier Tavern provides a variety of services to the public, including a cafe-tavern-store, service station, and motel. Because of its location, it is important that the business be self-sufficient. The 2.5 acre parcel is the smallest amount of land which contains the following improvements necessary to keep the Frontier Tavern operating as a self-sustained business: Trailer spaces for employees, a portion of a parking lot, a sewage system, and a garbage dump.

The proposed sale is consistent with the Bureau's planning system. Public interest will be served, as the sale will assist the economy of the area by satisfying local government and private needs for land identified for disposal.

The Board of Lander County Commissioners has been notified about this sale.

The following conditions will be applicable to the sale:

1. All minerals will be reserved to the United States.

2. A right-of-way for ditches and canals will be reserved to the United States.

The decision to conduct the sale is based on information contained in the environmental assessment and land report written for this case. These documents are available for inspection at the Bureau of Land Management, Battle Mountain District Office, Second and Scott Streets, P.O. Box 194, Battle Mountain, Nevada 89820.

For a period of 45 days from the date of first publication interested parties may submit comments to BLM-Nevada State Director, P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik,
Chief, Division of Technical Services.

[FR Doc. 82-1746 Filed 1-22-82; 8:45 am]
BILLING CODE 4310-84-M

Battle Mountain District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Grazing Advisory Board Meeting.

SUMMARY: In accordance with Pub. L. 94-579 that a meeting of the Battle Mountain District Grazing Advisory Board will be held.

DATE: February 11, 1982, begin at 10:00 a.m. in the Battle Mountain District Office conference room at North 2nd and Scott Streets, Battle Mountain, Nevada.

FOR FURTHER INFORMATION CONTACT: H. James Fox, District Manager, P.O. Box 194, Battle Mountain, Nevada 89820 or phone 702-635-5181.

SUPPLEMENTAL INFORMATION: The agenda for the meeting will include: (1) The expenditure of range betterment funds for range improvements, (2) discussion of the Tonopah Experimental Stewardship Program and Allotment Management Plans, (3) the new rangeland management and range improvement policies, (4) management of riparian areas, and (5) arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. on February 11, 1982 or file written statements for the Board's consideration. If you wish to make oral comments please contact H. James Fox by February 3, 1982.

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.

Dated: January 19, 1982.

Michael C. Mitchell,
Acting District Manager, Battle Mountain, Nevada.

[FR Doc. 82-1682 Filed 1-22-82; 8:45 am]
BILLING CODE 4310-84-M

[Serial No. OR 33845]

Oregon; Designation of Addition to Brewer Spruce Research Natural Area

January 15, 1982.

Pursuant to the authority in 43 CFR Subpart 2070, and authorization from the Director dated November 9, 1981, I hereby designate lands within the following described area and displayed on a map labeled "Proposed Addition to the Brewer Spruce Research Natural Area" as Brewer Spruce Research Natural Area:

Willamette Meridian

T. 39 S., R. 6 W.,
Sec. 6, SW¼NE¼SW¼; portions of lots 5, 6, and 7
T. 39 S., R. 7 W.,
Sec. 1, lot 5 and 6

The designated area aggregates approximately 186 acres in Josephine County.

In accordance with 43 CFR 2071.4(a), this designation action is only for the purpose of identifying the Bureau's current management objectives for the area, and, unto itself, has no effect upon established use or management of the lands and resources involved. The area is designated under the category of Natural Resources Experiment and Research Areas, which covers relatively small areas used for research or experimental purposes (43 CFR 2071.(b)(4)). The primary management objectives for the Brewer Spruce Addition are to maintain its quality as a significant example of natural diversity, and to facilitate its use by authorized persons and groups for nonmanipulative and nondestructive scientific research and education. The area has been determined to meet the criteria for BLM Research Natural Areas prescribed by 43 CFR 8223.0-5. It will be managed under regulations in 43 CFR 8223.1 and in accordance with applicable provisions in the Josephine Management Framework Plan approved September 30, 1979.

Paul M. Vetterick,
Associate State Director.

[FR Doc. 82-1699 Filed 1-27-82; 8:45 am]
BILLING CODE 4310-84-M

Office of the Secretary

List of Recordkeeping Requirements Imposed on the Public by the Department of the Interior

January 12, 1982.

In a memorandum dated November 23, 1981, addressed to Pub. L. 96-511 Senior Officials, the Office of

Management and Budget required all Federal agencies to publish a list of all recordkeeping requirements imposed on the public, together with CFR citations and OMB clearance numbers. The Department's list is published below. Questions or comments on the list may be directed to Vivian Keado, Office of Information Resources Management, telephone 343–6191.

Joseph E. Doddridge,

Acting Deputy Assistant Secretary—Policy, Budget and Administration.

BUREAU OF INDIAN AFFAIRS

Description of Requirement	CFR Citation	OMB Number
Net Harvest Log Sheet	25 CFR 258	1076–0001
Voter Registration Form	25 CFR 52.11	1076–0003
Application for Sioux Benefits.	25 CFR 115	1076–0004
Federal Assistance	25 CFR 23	1076–0006
Accounting and Operating records.	25 CFR 91.12	(1)
Cattle loan records	25 CFR 92.9	(1)
Oil production records	25 CFR 161.25	(1)
Mining Operations	25 CFR 171.18, 172.25.	(1)
Ore processing records	25 CFR 173.18	(1)
Restricted land leasing	25 CFR 174.34	(1)
Osage mining leases	25 CFR 175.13	(1)
Quapaw mining records	25 CFR 176.24	(1)
Osage oil and gas mining leases.	25 CFR 183.30	(1)
Wind River oil and gas mining.	25 CFR 184.25	(1)
Navajo, Hopi and Zuni Business transactions.	25 CFR 252.20, 252.34, 252.41, 252.44, 252.58.	(1)
Guaranteed and insured loans.	25 CFR 93.52	(1)
Dentention program	25 CFR 11.305	(1)
Grant records	25 CFR 276.5	(1)

[1] Submitted to OMB for clearance; clearance number not yet received.

OFFICE OF SURFACE MINING

Description of Requirement	CFR Citation	OMB Number
Underground Mining, General Performance Standards.	30 CFR 717	1029–0009
Adoption of State	30 CFR 718	1029–0010
State Enforcement Activities.	30 CFR 720	1029–0011
Initial Regulatory Program	30 CFR 710	1029–0006
General Performance Standards.	30 CFR 715	1029–0007
Special Performance Standards.	30 CFR 716	1029–0008
Submission of State Programs.	30 CFR 731	1029–0023
Procedures and Criteria for Approval or Disapproval of State Program Submission.	30 CFR 732	1029–0024
State Processing for Designating Areas Unsuitable for Surface Coal Mining Operations.	30 CFR 764	1029–0030
Surface Mining Permit Applications-Minimum Requirements for Legal, Financial Compliance and Related Information.	30 CFR 778	1029–0034
Surface Mining Permit Applications-Minimum Requirements for Information on Environmental Resources.	30 CFR 779	1029–0035

OFFICE OF SURFACE MINING—Continued

Description of Requirement	CFR Citation	OMB Number
Surface Mining Permit Application-Minimum Requirements for Reclamation and Operation Plan.	30 CFR 780	1029–0036
Underground Mining Permit-Minimum Requirements for Information of Environmental Resources in the Permit and Adjacent Areas.	30 CFR 783	1029–0038
Requirements for Permits for Special Categories of Mining.	30 CFR 785	1029–0040
Review, Public Participation and Approval of Disapproval of Permit Applications and Permit Terms and Conditions.	30 CFR 786	1029–0041
Permit Reviews, Revisions and Renewals and Transfer, Sale and Assignment Rights Granted Under Permits.	30 CFR 788	1029–0042
Procedures, Criteria and Schedule for Release of Performance Bond.	30 CFR 807	1029–0046
Permanent Program Performance Standards-Surface Mining.	30 CFR 816	1029–0047
Permanent Program Performance Standards-Underground Mining Activities.	30 CFR 817	1029–0048
Special Permanent Program Performance Standards Operations on Steep Slopes.	30 CFR 826	1029–0050
State Regulatory Authority Inspection and Enforcement.	30 CFR 840	1029–0051
Reimbursements to States	30 CFR 725	1029–0012
Grants Program Development and Administration and Enforcement.	30 CFR 735	1029–0013
Small Operator Assistance	30 CFR 795	1029–0014
Permits Federal Lands Program.	30 CFR 741	1029–0026
General Requirements for Permits and Permit Applications.	30 CFR 771	1029–0032
Underground Mining Permit Application-Minimum Requirements for Legal, Financial, Compliance and Related Activities.	30 CFR 782	1029–0037
Underground Mining Permit Applications-Minimum Requirements for Reclamation and Operation Plan.	30 CFR 784	1029–0039
General Requirements for Bonding Surface Coal Mining and Operations Under Regulatory Programs.	30 CFR 800	1029–0043
Forms Conditions and Terms of Performance Bonds and Liability Insurance.	30 CFR 806	1029–0045
Special Permanent Program Performance Standards-Operations in Alluvial Valley Floors.	30 CFR 822	1029–0049
Federal Enforcement	30 CFR 843	1029–0052
Civil Penalties	30 CFR 845	1029–0053
Abandoned Mine Reclamation Funds.	30 CFR 872	1029–0054
Rights of Entry	30 CFR 877	1029–0055
Acquisition Management and Disposition of Lands and Water.	30 CFR 879	1029–0056
Reclamation on Private Land.	30 CFR 882	1029–0057

NATIONAL PARK SERVICE

Description of Requirement	CFR Citation	OMB Number
Concessioners	36 CFR 8.8	(2)
Concessioners and Subconcessioners operating under concession contracts in areas administered by National Park Service.	16 U.S.C. 20g	(2)

[2] Not yet submitted to OMB for clearance.

GEOLOGICAL SURVEY

Description of Requirement	CFR Citation	OMB Number
Quantity and quality of coal mined, its disposition, and prices received.	30 CFR 211.66	(2)
Records of all well operations, casing used, and formations penetrated with the character of oil, gas, or water in each formation.	30 CFR 221.23	(2)
Records of water use and disposal.	30 CFR 231.4	(2)
Detailed books on ore and rock mined; ore milled; and mineral products sold, recovered, and lost.	30 CFR 231.60	(2)
Records of each well operation including geologic and hydrologic conditions encountered.	30 CFR 270.37	(2)
Logs of all well operations including geologic and hydrologic conditions encountered.	30 CFR 270.73	(2)
Records of each geophysical survey, all seismic data, process geophysical information from seismic data, and other relevant data and information.	30 CFR 251.12	(2)
Well records and production records, and information obtained in the course of well operations.	30 CFR 250.38	(2)
State Reclamation Plans	30 CFR 884	1029–0058
State Reclamation Grants	30 CFR 886	1029–0059
Abandoned Mine Reclamation Fund Fee Collection and Coal Production Reporting.	30 CFR 870	1029–0015
General	30 CFR 700	1029–0020
General Requirements	30 CFR 730	1029–0022
Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction.	30 CFR 707	1029–0021
Maintenance of State Programs and Procedures for Substituting Federal Enforcement of State Programs and Withdrawing Approval of State Programs.	30 CFR 733	1029–0025
Bonds and Liability Insurance on Federal Lands.	30 CFR 742	1029–0027
State-Federal Cooperative Agreements.	30 CFR 745	1029–0028
Areas Designated by Act of Congress.	30 CFR 761	1029–0029
Petition Process for Designation of Federal Lands as Unsuitable for all or Certain Types of Surface Coal Mining Operations and for Termination of Previous Designate.	30 CFR 769	1029–0031

GEOLOGICAL SURVEY—Continued

Description of Requirement	CFR Citation	OMB Number
General Requirements for Coal Exploration.	30 CFR 776	1029-0033
Amount and Duration of Performance Bond.	30 CFR 805	1029-0044

[2] Not yet submitted to OMB for clearance.

BUREAU OF MINES

Description of Requirement	CFR Citation	OMB Number
Private helium distributors selling to Federal agencies.	30 CFR 602.4 Section VI.	1032-0113

U.S. FISH AND WILDLIFE SERVICE

Description of Requirement	CFR Citation	OMB Number
Migratory Bird commercial perservation facilities; recordkeeping requirements..	50 CFR 20.82	[2]
Federal aid in fish and wildlife restoration; recordkeeping requirements of Office of Management and Budget (OMB) Circular A-102.	50 CFR 80.28	[2]
Fish and wildlife permit recordkeeping requirements.	50 CFR 13.46	1018-0022
Federal aid in andromous fish conservation projects; recordkeeping requirements of OMB Circular A-102.	50 CFR 401.15	[2]
Federal aid in marine mammal conservation projects; recordkeeping requirements of OMB Circular A-102.	50 CFR 82.15	[2]
Buyers and tanners of American Alligator hides recordkeeping requirements.	50 CFR 17.42	1018-0022
Records of furs, hides, and skins shipped in interstate or foreign commerce.	50 CFR 14.83	1018-0022
Buyers of captive-reared migratory waterfowl.	50 CFR 21.14	1018-0020
Holders of permits to mark or band migratory birds.	50 CFR 21.22	1018-0017
Holders of permits to perform taxidermy services on migratory birds.	50 CFR 21.24	1018-0020;1018-0022
Holders of permits to sell migratory waterfowl.	50 CFR 21.25	1018-0020
Killing of certain depredating migratory birds in California.	50 CFR 21.44	Not subject to OMB clearance
Killings of certain depredating migratory birds in Louisiana.	50 CFR 21.45	Not subject to OMB clearance
Killing of certain depredating migratory birds in Washington and Oregon.	50 CFR 21.46	Not subject to OMB clearance
Persons engaged in business as importers or exporters of wildlife.	50 CFR 14.93	1018-0022

[2] Not yet submitted to OMB for clearance.

[FR Doc. 82-1700 Filed 1-22-82; 8:45 am]

BILLING CODE 4310-10-M

Commission on Fiscal Accountability of the Nation's Energy Resources; Availability of Report

Notice is given that the Report of the Commission on Fiscal Accountability of the Nation's Energy Resources is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The stock number is 024-000-00875-4. The Commission was established on July 8, 1981 to (1) examine the allegations of massive irregularities in royalties on the Nation's energy resources which are owed to the Federal government, Indian tribes, and states; (2) investigate the allegations of theft of oil from Federal and Indian lands; and (3) make recommendations for improving the fiscal accountability of the Nation's energy resources. The Commission's findings and 60 recommendations are set forth in the report. The Commission's summary of its report, excerpted verbatim, follows:

Summary

Management of royalties for the Nation's energy resources has been a failure for more than 20 years. Because the Federal government has not adequately managed this multibillion dollar enterprise, the oil and gas industry is not paying all the royalties it rightly owes.

The government's royalty recordkeeping for Federal and Indian oil and gas leases is in disarray. For this reason, the exact amount of underpayment is unknown. The results of individual audits, which have often uncovered large underpayments, suggest that hundreds of millions of dollars due the U.S. Treasury, the States, and Indian tribes are going uncollected every year.

In addition, oil thefts are occurring on Federal and Indian leases. The extent of theft and the amount of royalty losses from theft are unknown, but it is well-documented that security at many Federal and Indian lease sites is lax and is an open invitation to theft.

The Nation can no longer afford mismanagement of royalties for its energy resources. The stakes are too high. With the rapid escalation of energy prices, oil and gas royalties have risen from less than $500 million in 1971 to more than $4 billion in 1981.

The government's royalty management system needs a thorough overhaul. This report of the Commission on Fiscal Accountability of the Nation's Energy Resources details 60 specific recommendations (listed in Chapter Nine of the report) for revising and rebuilding the system. Underlying these recommendations are some fundamental conclusions the Commission reached in the course of its intensive inquiry:

• *The government's royalty management system must have qualified managers.* The scientifically oriented Geological Survey, which now manages royalties, has never been able to supply the active, sophisticated management that is needed. It is largely for this reason that the Commission recommends removing the royalty management function from the Geological Survey. In a separate office with a clearly defined mission, royalty management could attract managers with the training and experience required.

• *The Federal government should work more closely with States and Indian tribes.* In fulfilling its royalty management responsibilities, it should cooperate much more than it has in the past with States and Indian tribes, sharing both information and specific tasks, such as auditing and site inspection.

• *The Federal government should perform an oversight role.* It must not waste its limited resources on tasks that are industry's responsibility. In managing royalty collection, it should not remain mired in bookkeeping details that rightly belong to the lessee. Instead, it should develop systematic, independent cross checks of royalties paid and reports submitted by companies, and it should impose meaningful penalties for false statements or gross errors. In helping to prevent theft, the government should not issue detailed, rigid regulations for security of lease sites. Rather, it should monitor the companies' performances in carrying out their own their site security plans and should penalize violations.

• *The oil and gas industry should carry out its obligation, as lessee, to pay royalties in full and on time.* The industry, not the government, has primary responsibility for the detailed recordkeeping needed to assure that all royalties are paid. The industry also has the obligation to assure the security of lease sites. The industry, not the government, is best suited to develop effective site security plans, subject to the government's minimum standards.

If there is one concept that sums up the Commission's overall approach, it is accountability. Oil and gas companies must be held accountable for the obligations they undertake when they lease Federal and Indian lands for minerals production. The Federal government must be held accountable for fulfilling a public trust, that is, assuring that royalties for the Nation's energy resources are fully and fairly collected on behalf of the people of the United States.

The Federal government has not fulfilled this trust in the past 20 years. It is now taking steps to better its performance. Complex and demanding as the task may be, it is achievable if the internal controls, site security

standards, and sanctions recommended here are made part of an improved royalty management system.

Dated: January 20, 1982.

William L. Kendig,

Director, Office of Financial Management.

[FR Doc. 82-1788 Filed 1-22-82; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 417 and Ex Parte No. 417 (Sub-No. 1)]

Costing Methodologies for the Northeast Corridor; Commuter Service and Conrail Freight Service

AGENCY: Interstate Commerce Commission.

ACTION: Adoption of Interim Procedures and Notice of Proposed Procedures.

SUMMARY: Section 1163(a) of the Northeast Rail Service Act (Rail Act) requires that the Commission determine an appropriate costing methodology for compensating Amtrak for the use of its trackage in the Northeast Corridor and other areas by commuter rail passenger and freight services. The Commission has determined that an avoidable costing methodology is the most appropriate one for determining the compensation to be paid to Amtrak for the use of its properties. Also, for purposes of assigning costs, Amtrak should be treated as the dominant user and the other users of its properties as the minority users. The proposed procedures are being adopted as interim procedures.

COMMENT DATE: Comments are due on or before March 1, 1982, after publication of these interim procedures in the **Federal Register.**

EFFECTIVE DATE: These interim procedures are effective upon publication in the **Federal Register** on January 25, 1982.

ADDRESS: An original and 15 copies of the comments should be submitted to: Section of Rail Services Planning, Room 5355, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Stephen Grimm, (202) 275-0839 or Elaine Kaiser, (202) 275-0907.

SUPPLEMENTARY INFORMATION: On September 4, 1981, we issued two separate advanced notices of proposed rulemakings (Ex Parte No. 417, 46 FR 44999, and Ex Parte No. 417 (Sub-No. 1), 46 FR 45000, September 9, 1981) seeking comments on appropriate methodologies for determining the compensation to be paid to Amtrak for the use of its properties by commuter rail passenger service and freight service, respectively. Under section 1163(a) of the Rail Act, the Commission is to determine, within 120 days of the effective date of the Rail Act, an appropriate costing methodology for compensating Amtrak for the right-of-way related costs associated with the operation of commuter rail passenger and freight services over the Northeast Corridor (NEC) and other properties owned by Amtrak. Because of the stringent statutory time frame for developing a costing methodology, we are adopting the proposed procedures as interim procedures, effective upon **Federal Register** publication, pursuant to 5 U.S.C. 553. Further delay in implementing these procedures would impede the timely execution of our functions under section 1163(a) of the Rail Act.

Public comments are invited on the interim procedures as a basis for the final procedures. We shall act as quickly as possible to formulate final procedures and make any changes that appear necessary based on the comments.

For purposes of background information, we should note that there has been an on-going dispute between Amtrak, the commuter services, and freight services with regard to those costs the commuter and freight services should pay to Amtrak for the use of its properties. The allocation of costs between intercity passenger, commuter and freight services, as in the case of the NEC, has always been an issue where the various services operate over the same track. Although the Commission has always had jurisdiction to decide this dispute, none of the parties have approached the Commission for a final settlement. In order to resolve this issue, Congress gave the Commission authority under section 1163(a) to determine the procedures by which a final determination can be made. In the absence of an agreement between the parties, the Commission's cost methodology applies.

Although we originally believed that two proceedings were necessary to resolve this dispute, we now find that a single proceeding, incorporating both commuter rail passenger and freight services, will best serve the interests of the parties. Consequently, we have combined Ex Parte 417 and 417 (Sub-No. 1) into one proceeding. Also, these proceedings were originally issued as advance notices of proposed rulemaking. Since no changes to Title 49 of the Code of Federal Regulations will result from this proceeding we will now refer to it as a notice of interim and proposed procedures.

The Appropriate Standard

The parties generally agree that the primary decision to be made by the Commission is whether the selected costing methodology should be predicated on an avoidable or fully allocated costing methodology. Conrail and the commuter authorities submit that an avoidable costing methodology (using the Rail Services Planning Office's (RSPO) commuter subsidy regulations, 49 CFR 1127, as currently written) is the most appropriate choice. Amtrak maintains that the RSPO regulations adjusted to a fully allocated level is the most reasonable choice. The Commission has reviewed and evaluated the views of all the parties and after careful deliberation concludes that an avoidable cost methodology based on the RSPO regulations fulfills all statutory requirements and is also best suited to the unique configuration and operation of Amtrak's Northeast Corridor property.

The selection of an avoidable costing methodology has not been a simple one and we recognize that not all of the parties are likely to be totally satisfied with our decision. However, we believe that there are compelling reasons for selecting an avoidable rather than a fully allocated costing methodology.

Specifically, an avoidable costing methodology complies with all relevant statutory requirements. Section 1163(a) of the Rail Act requires that the Commission consider all relevant factors including those contained in certain statutory references as summarized below. These factors, some of which appear in more than one reference, are:

1. Avoidance of cross subsidization among commuter, intercity and freight services. (Section 205(d) of the Regional Rail Reorganization Act of 1973 (3R Act), section 701(a)(6) of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) and section 402(a) of the Rail Passenger Service Act (Amtrak Act));

2. The Final System Plan (FSP) compensation principles (Section 205(d) of the 3R Act);

3. Equitable and fair compensation principles (Section 701(a)(6) of the 4R Act and section 402(a) of the Amtrak Act);

4. The avoidable costs of providing service. (Section 304(c) of the 3R Act);

5. RSPO Subsidy Standards. (Section 205(d) of the 3R Act);

6. Industry-wide compensation for freight trackage rights (Section 1163(a) of the Rail Act); and

7. Any additional costs associated with the high-speed service provided over the Northeast Corridor, (Section 1163(a) of the Rail Act).

The following discussion states our preliminary reasons as to how each of these factors relates to the concept of an avoidable costing methodology.

Avoidance of Cross Subsidization

All of the parties agree that every service must bear at least its avoidable costs in order to avoid cross subsidization among services. However, although Amtrak states that there is universal agreement with this position, it also argues that some parties have viewed the prohibition against cross subsidization as also requiring each service to bear a portion of the fixed base costs as well (*i.e.* the use of a fully allocated costing methodology).

Generally, we agree with the parties that cross subsidization is present when a service pays less than its avoidable costs of operation. However, we find no basis for holding that a user must pay more than its avoidable costs in order to prevent cross subsidization. Accordingly, we find that an avoidable costing methodology fulfills the statutory mandate of avoidance of cross subsidization among users.

Final System Plan Compensation Principles

The Final System Plan (FSP) published by the United States Railway Association (USRA) contained a statement of four "principles" regarding ownership of railroad properties and allocation of costs incurred by freight and passenger services.

The four principles are:

First, Conrail has the responsibility to provide satisfactory passenger service on all lines in its system.

Second, the provision of those services should not be subsidized by freight services and Conrail should not be burdened with any passenger deficit.

Third, passenger operations should have priority over freight operations.

Fourth, the exclusive or dominant user of a facility or in some special cases a state or public agency should be its owner.

USRA also indicated that five policies regarding ownership and allocation of costs flow from these basic principles.

The five policies are:

Where facilities exist or are built for the exclusive use of the type of service, i.e., passenger or freight, that entity should bear the full cost of those facilities.

In instances where two or more passenger entities jointly use an exclusive passenger facility, the responsibility for allocating costs on an equitable basis should lie with the users.

Where freight and passenger operations both use a facility, the dominant user should own the facility and bear all the costs of that facility except those which could be avoided if the minority user were not present. To determine the dominant user, all passenger services, both intercity and commuter, should be considered as one entity and all freight services, regardless of carrier, should be considered as one entity.[1]

The minority user should bear exclusively the cost of any additional facilities it requires both existing and proposed.

Where passenger and freight operations both use a facility on an equal basis, the costs of owning and using the facility should be shared equitably.

Taken together, we believe that these nine statements support the use of an avoidable costing methodology. In particular, the FSP's use of the terms "dominant" and "minority" users is specifically related to an avoidable costing approach, because it specifies that the minority user should bear only those costs which would be "avoided" absent the minority user's service.

Furthermore, as New Jersey Transit notes, the USRA staff, in an attempt to settle the dispute between the various users, presented a draft set of cost allocation principles to Conrail and Amtrak which specified that fully allocated costs were inappropriate and that an avoidable costing methodology should be employed between the parties. As a result, we further find that no conflict exists between the use of an avoidable costing methodology and the FSP's compensation principles.

It should be noted that Conrail and the commuter authorities generally agree that the FSP compensation principles support the selection of an avoidable costing methodology. However, Amtrak believes that the FSP compensation principles are irrelevant to this proceeding. Amtrak maintains that the FSP cost-sharing principles were rejected by Congress in favor of applying a standard of fairness and equity in all situations on the Corridor. In support of its position, Amtrak cites the language changes that occurred between the initial Senate version of the 4R Act and the 4R Act as it was ultimately reported by the Conference Committee. In Section 706(a) of the original Senate bill the Commission was ordered to resolve any compensation disputes as follows:

> The Commission * * * shall, consistent with compensation principles described in the final system plan, decide, within 180 days of the submission of a dispute to the Commission the proper amount of compensation for the provision of such services. The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization among intercity, commuter, and rail freight services."(Sen. Rep. No. 499, 94th Congress. 1st Session at 285.)

However, the Conference Committee deleted the phrase "* * * consistent with compensation principles described in the final system plan * * *" and substituted the phrase "* * * consistent with equitable and fair compensation principles * * *". The Conferee's explained that:

> "* * * the compensation principles for operations in the Corridor were clarified to make clear that the various users are to be treated fairly and equitably. It is contemplated that in determining compensation, appropriate consideration will be given to the actual magnitude and impact of operations conducted for intercity passenger, freight, and commuter users * * * (Sen. Report No. 595, 94th Congress, 1st Session at 217.)

While Amtrak suggests that this change in the language and explanation constitutes a rejection of the FSP compensation principles, we disagree. We note that a discussion of section 706(a) of the original Senate Bill (Sen. Rep. No. 499, 94th Congress, 1st Session at 103) set out a specific methodology for the Commission to follow in resolving compensation disputes on the Northeast Corridor. This methodology would have assigned long-term avoidable costs to the minority user(s). The determination of a dominant user would have required a segment-by-segment evaluation of the use of the particular corridor facilities. As such, the dominant user of any particular segment could have been intercity passenger, commuter, or freight service. Apparently, the conferees believed that this narrow prescription on a segment-by-segment basis might have resulted in an unfair and inequitable application of NEC costs. Consequently, they modified the original Senate language in a way that broadened the statutory basis upon which the Commission would resolve any NEC compensation dispute. However, nowhere do the conferees reject or otherwise discredit the FSP cost sharing principles. Also, we would like to remind Amtrak that Congress in

[1] We believe that although the FSP contemplated treating intercity passenger and commuter services as one when determining the dominant user, the language of the 4R Act prohibiting cross subsidization among services indicates that they are to be treated separately.

directing the Commission to develop a methodology specifically referred to section 205(d) which calls for consideration of the FSP principles. As a result, we cannot agree with Amtrak that the FSP cost sharing principles are irrelevant to this proceeding.

Equitable and Fair Compensation Principles

The definition of the phrase "equitable and fair compensation principles" referred to in two of the statutory references is a source of disagreement among the parties. New Jersey Transit submits that:

> The relevant statutory provisions requiring equitable and fair compensation principles * * * contain no definition of the terms equitable and fair. Furthermore, there is no pre-existing economic definition which applies in this proceeding, wherein the Commission is charged with determining an appropriate costing methodology for various federally and locally supported services. The statutory history also sheds little light on the meaning of the term. (NJ Transit pg. 12)

Amtrak, however, maintains that the phrase fair and equitable embraces the term just and reasonable. As support for this position, Amtrak states that Congress appears to have used the two phrases interchangeably. Amtrak goes on to argue that just and reasonable compensation for the joint use of rail facilities entails the sharing of base costs (i.e., a fully allocated costing methodology), absent explicit legislative direction to apply a different standard. As a result, Amtrak maintains that the Northeast Corridor methodology should embrace the sharing of base costs because of the interrelationship of the terms fair and equitable and just and reasonable.

The threshold issue is whether the term fair and equitable as provided for under section 1163(a) of the Rail Act does in fact embrace the term just and reasonable.[2] As support for its position, Amtrak argues that the two terms were interchanged in section 1137 of the Rail Act which amended Title 5 of the Amtrak Act. Specifically, Amtrak notes that the House version of the Rail Act (which amended section 504(g) of the Amtrak Act, now renumbered as section 504(f) of the Amtrak Act), originally contained the term "fair and equitable." However, the final language of section 1137 of the Rail Act amending section 504(f) contains the term just and reasonable rather than fair and equitable. Section 504(f) addresses, in part, the compensation to be paid by Amtrak to commuter authorities for the use of their property.

We have a number of concerns with Amtrak's argument. First, the fact that the term just and reasonable is used in another section of the Rail Act, a section which we might add addresses a different compensation problem, does not establish a basis for using that same term in developing a methodology under section 1163(a). Second, in the actual language of 1163(a) Congress makes no reference to the term just and reasonable. Quite simply, section 1163(a), which is the governing section, does not equate the phrase fair and equitable with just and reasonable.

Clearly, the fundamental rule in construing statutes is to ascertain legislative intent and this intent is gleaned from the language as contained in the statute and its supporting legislative history. As discussed above, the statutory language contains no basis for equating the two terms. As to the legislative history pertaining to section 1163, there is also no support for interchanging the terms. Moreover, with respect to section 504(f) Amtrak admits that the Conference Committee did not explain the specific reason for the cited language change in section 504(f). It appears to us that the change from "fair and equitable" to "just and reasonable" in section 504(f) may well have been made only to dovetail section 504(f) with section 402(a) of the Amtrak Act.

Section 402(a) provides the basis for settling compensation disputes arising from Amtrak's use of another carrier's property. We suggest this explanation is more plausible than Amtrak's since section 504(f) deals, in part, with the compensation to be received by a commuter authority when Amtrak exercises trackage rights over commuter authority property. Therefore, we do not believe that there is evidence of legislative intent to equate the two phrases for purposes of developing a costing methodology under section 1163(a).

In addition, we should point out that the original House version of the Rail Act included a discussion of the NEC costing dispute. In this discussion the House stated:

> This section is designed to settle the outstanding dispute among Conrail, Amtrak, and the commuter authorities over cost allocation for use of the Northeast Corridor for commuter service. It is also designed to settle the dispute between Conrail and Amtrak over appropriate compensation for freight operations by Conrail over the Corridor.
>
> Conrail and the commuter agencies contend that standards promulgated by the Rail Services Planning Office (RSPO), which are based on avoidable cost, should apply for allocating Northeast Corridor commuter costs. Amtrak, in contrast, believes the proper standard is fully allocated costs. House Rep. No. 153, 97th Congress, 1st Session at 38.

We believe that this discussion clearly reveals that the House was aware of the disparate costing positions of Amtrak on one hand and Conrail and the commuter authorities on the other. Rather than make a decision on its own, the House directed the Commission to determine the most appropriate methodology. We also find significant the fact that although the House could have used the phrase "just and reasonable" in describing the costing methodology to be determined by the Commission, the House instead used the terms "appropriate" and "fair and equitable" in the Rail Act.

In conclusion, we believe that the language of the Rail Act clearly indicates that the Commission was to settle this dispute after considering the views of all the parties. As such, we find that our adoption of an avoidable costing methodology is clearly an option contemplated by Congress and is one which we believe treats the parties fairly and equitably.

Finally, one other of Amtrak's arguments in favor of a fully allocated costing methodology warrants discussion. As further support for its position, Amtrak cites a Third Circuit Court decision that affected the RSPO Commuter Subsidy Standards, *Southeastern Pennsylvania Transportation Authority v. Interstate Commerce Commission,* 644 F.2d 238 (3rd Cir. 1981). The suit involved a ruling by the RSPO which assigned the base costs of a facility to the dominant user. The base costs were defined by the RSPO as being all costs that are specifically related to a rail property and/or facility, except those costs which could be avoided if the minority user's services were not present. In this suit, SEPTA alleged that the assignment of the base costs of a property to the owner based on an *irrebuttable* presumption that the owner is the dominant user, constituted an abuse of discretion. The Court agreed and remanded the matter to RSPO for reconsideration. Amtrak maintains that the court suggested that some apportionment of base costs among the users will be most consistent with Congressional intent. What the Court actually stated was:

> We therefore hold that the irrebuttable presumption that the owner is the dominant user cannot be maintained. We specifically

[2] Because of our determination that these terms are not interchangeable we need not resolve the question of whether the term just and reasonable embraces the sharing of base costs as Amtrak argues.

do not decide whether the RSPO may, if it deems it appropriate, impose the entire amount of base costs on one user. The RSPO may determine that such imposition is the only feasible method of allocating such costs. We only decide that if it decides to do so, it may not do so on the basis of an irrebuttable presumption of usage unrelated to any supporting evidence. Furthermore, *the RSPO will be free to reconsider whether some apportionment of base costs among the users will be most consistent with the congressional intent.* 644 F. 2d at 252 (emphasis added).

The court also noted that:

Nothing in this opinion is intended to suggest that its adoption of a rebuttable presumption based on ownership would be invalid. We believe it is appropriate to leave to the agency, in the first instance, the decision whether to establish such a presumption and, if so, to decide on the appropriate procedure for rebuttal. 644 F. 2d at 252

Therefore, while the Court found that the RSPO could consider allocating the base cost among the users, we find that the court decision does not require such an allocation. Consequently, this court decision does not preclude our requiring the dominant user to bear the base cost.

Avoidable Costs and the RSPO Subsidy Standards

Our selection of an avoidable costing methology is of course harmonious with the statutory requirement that we consider sections 304(c) and 205(d) of the Regional Rail Reorganization Act of 1973. In essence, Section 304(c) establishes that avoidable costs form the basis for certain freight and commuter subsidy payments, and section 205(d) directs the RSPO to develop standards for the computation of these subsidy payments based on an avoidable cost approach.

Industry-wide Average Compensation for Freight Trackage Rights

The mandated consideration of industry-wide average compensation for freight trackage rights has presented some difficulty in the instant proceeding. This difficulty stems primarily from a lack of information from which to determine the industry average. As Conrail's Witness Orr explains:

I wanted to select a "sample" of trackage right agreements and then analyze them in depth. My inquiries were not fruitful for I found that I.C.C. maintains no such list or respository and the American Association of Railroads does not keep such information * * *. Further, I found that some railroads have little central information as to the terms of their trackage right agreements and their determination of average compensation for freight trackage rights. * * * such an average, even if it could be struck, would be meaningless in the absence of a careful analysis of the different kinds of agreements utilized to develop that average. (Orr, pg. 2)

Witness Orr has succintly expressed the basic problems inherent in generalized comparisons between trackage rights agreements; *i.e.* a lack of specific compensation information and lack of uniformity in the agreements themselves. These problems, when coupled with a lack of specific cost information for the Corridor itself, significantly reduce our ability to incorporate the consideration of the average of industry-wide compensation into our decision.

We note that Amtrak believes that the dollar amounts paid for freight trackage rights are meaningless and that the Commission should consider only the methodology used in determining the compensation for freight trackage rights payments. However, even if we were to accept Amtrak's position that the actual compensation paid is irrelevant, the fact remains that trackage rights agreements cover a wide variety of circumstances and conditions. In other words, each agreement tends to be unique to the parties and designed to accommodate their particular needs. Therefore, given the lack of uniformity in either compensation or underlying methodology, we believe that the intent of Congress in requiring our consideration of trackage rights compensation is best served through the use of a costing methodology that can be tailored to fit the unique facilities and operations that characterize the Northeast Corridor. As will be discussed further on, we believe that an avoidable costing methodology best fulfills this role.

Additional Costs Associated With High Speed Service

Amtrak and Conrail agree that the statutory mandate to consider the additional costs associated with high speed service refers to the additional wear and maintenance requirements that result when heavy freight trains are operated over very high speed passenger tracks. The parties also agree that these additional maintenance requirements should be borne by Conrail on an avoidable basis. The Commission agrees with both parties and our adoption of an avoidable costing methodology will facilitate the assignment of these costs.

Other Considerations

As noted previously, we believe that not only is an avoidable costing methodology consistent with all statutory requirements, but it is also one that is best suited to assigning the costs associated with the unique configuration and function of the Corridor. However, before proceeding further it is necessary to understand the purpose behind any costing methodology. Simply stated, the basic purpose of a costing methodology is to provide information upon which to base economic decisions. Therefore, as Conrail's witness Spychalski notes, if the costing methodology selected

* * * is to serve properly—i.e., yield correct managerial decisions in business firms, and efficient allocations of resources within and between the various sectors of the economy * * * [it] * * * must be designed so as to minimize the possibility of error in the form of either understatement or overstatement. (Spychalski pg. 8)

We believe that the best way to minimize the possiblity of error is to employ a costing methodology that captures costs on a causal basis. In other words, if it can be established that an activity or group of activities "caused" a cost to be incurred, then the costing methodology should assign that cost to that activity. However, before a causal relationship can be established, one needs to define the different types of cost categories.

Definitions of Cost-Categories

The first cost category is termed "solely related" costs. These are costs that can readily be shown to have been caused by a given activity. For example, the costs of operating and maintaining a passenger station which only serves rail commuters may be readily identified as having been entirely caused by the operation of the commuter service. Therefore, it can be said that all these costs are solely related to the commuter service.

A second cost catergory is termed "directly attributable" and is also readily assignable. For example, an electrician may work on both freight and intercity passenger locomotives. However, his wages may be readily shown to have been caused by a particular service based on the number of hours that he works repairing the locomotives of each service. Therefore, although his wages are not solely related to either service, they are directly assignable to each of the particular services for which work was performed.

The assignment of solely related and directly attributable costs is normally not difficult and any costing methodology which is designed to capture them will suffice. However, a costing methodology must also be capable of assigning a third category of costs termed "common" costs. Common costs are those that result from collective activities and as such they cannot be readily traced to or shown to

be caused by a particular activity or group of activities. For example, it is relatively simple to determine the *total* costs associated with building and maintaining a track segment used by several sevices. However, the determination as to which train or group of trains of a particular service operating over the segment actually caused the costs to accrue is a difficult task.

In part, the difficulty in assigning common costs stems from the fact that these costs contain both "fixed" and "variable" elements. A fixed cost is one that remains constant over a given range of activities. For example, a rail will deteriorate from rust regardless of the number of trains that pass over it. Therefore, the cost of this deterioration may be said to be fixed. A variable cost on the other hand changes proportionately with the range of activities. For example, each train that passes over a rail segment wears away a fractional portion of the rail head. Therefore, the cost of this wear increases or decreases with the change in the number of trains that pass over a given rail length. Consequently, the cost of this wear may be said to be variable. However, it must be noted that the amount of the rail that is worn away is influenced by the number of axles and the speed and weight of the trains.

Furthermore, when considering the assignment of common costs one must deal with the situation that occurs whenever different activities require different physical conditions. For example, there may be several rail services operated over a track segment and one of those services operates at a relatively high speed. This high speed operation may require the installation of heavier rail than would be necessary if all users operated at the same lower speed. Since rail has been shown to be a common cost item there is a question as to how the additional costs of this heavier rail should be assigned.

As one may perceive from the above discussion, a costing methodology must be capable of resolving questions involving the need to assign costs on a causal basis and the difficulty in determining a causal relationship for certain common cost items. However, an avoidable costing methodology provides a rational solution to these problems.

Discussion of an Avoidable Costing Methodology

An avoidable costing methodology is premised on the idea that a change in the level of activities will result in a change in the level of the costs incurred. For example, if we assume that commuter service is terminated we can reasonably expect that a commuter service station could be eliminated and consequently no costs for the station would be incurred. Therefore these costs may be termed as avoidable costs. Similarly, if the number of trains operating over a track segment is reduced by the termination of commuter service we would anticipate a decrease in the amount of rail wear. The reduction of the wear can be estimated by using engineering studies and therefore it would be possible to estimate the change in the variable common costs of rail wear. Additionally, the termination of the commuter service may permit a decrease in the number of tracks on the line which would result in a decrease in the common fixed costs as well. For example, if we assume that a triple tracked rail segment is required to accommodate the services of three users and we know that only two tracks are required absent the commuter service then we can say that one track is avoidable. The reduction in the number of tracks would reduce the level of the fixed common costs by roughly one-third.

In effect, we have determined that if commuter service is terminated we can "avoid" incurring certain cost items. In other words, we have deduced that the difference between the total costs with all services and the costs with a reduced level of service is "caused" by the presence of the commuter service. It is this establishment of a causal relationship that permits the assignment of these costs to the commuter service.

However, before an avoidable costing methodology can be applied one additional factor is required. This additional factor involves the determination of a "dominant" user or service. In essence, the determination of a dominant user involves an analysis of the significance of each user or service which when taken together produce the total of all the cost categories. If the analysis establishes that one activity or group of activities is more significant than any of the others it may be said that this activity or group of activities is dominant. For example, if we assume that two services operate over the same track facilities and one service operates 100 trains per day while the other operates 10, the former service may be said to be the "dominant" user and the latter is the "minority user." However, it must also be recognized that other factors may need to be considered in determining a dominant user. These include ownership of the facilities, the operating and management control of the facilities and the degree to which the properties have been modified to serve the needs of each service.

Once an analysis of all these factors establishes that one user or service is dominant, the assignment of the common costs becomes relatively simple. A review of all cost elements is made to determine which elements would be required if *only* the dominant user's service were to be operated. All other cost elements would of course be considered avoidable and therefore assigned to the minority user.

One should recognize that when more than one minority user is present, a further separation must be undertaken to assign the avoidable costs to the proper minority user. Of course, the assignment of the solely related and directly attributable should be readily evident. However, the assignment of the avoidable common costs requires further analysis which is also predicated on an avoidable cost approach. For example, assume that for a triple tracked facility there is one avoidable track and that there are two minority users. Under an avoidable cost concept the resultant impact from the termination of either of the minority users should then be determined. The avoidable variable common costs may be determined on the basis of an engineering study and there should be little disagreement among the minority users on the proper assignment of these costs. However, the assignment of avoidable fixed common costs requires more analysis.

For example, the analysis may indicate that the loss of either minority user would have no impact upon the retention of the avoidable track. In other words, the avoidable track would remain as long as either minority service operated. In such a case the avoidable common costs of that track should be shared by the minority users on a reasonable basis, such as on a ratio of each user's variable common costs. However, if the analysis indicates that the loss of one of the minority users would permit the elimination of the avoidable track, then that user should bear the full avoidable fixed common cost associated with that track.

One should also recognize that an avoidable costing methodology differentiates and assigns the costs related to the physical specifications of each type of service, be it intercity passenger, commuter, or freight. Under this approach, the dominant user pays the costs specifically related to the physical specifications needed to accommodate its needs. The minority user would pay only the costs of those physical characteristics needed to accommodate its presence or, put another way, the costs of those

specifications that would be eliminated it the minority user were no longer present.

It is important to note that the application of an avoidable costing methodology does not place the dominant user in a poorer financial condition than if it operated alone. In addition, all other users are required collectively to bear their avoidable expenses. However, the avoidable users are not required to pay for facilities or personnel that they have not "caused" to occur by the presence of their operations. As a result, no user can claim that it has been disadvantaged by the presence of the other users.

Determination of the Corridor's Dominant User

We have examined the submissions of the parties and we find that they contain a considerable amount of information detailing operation, control, use, and condition of Amtrak's Corridor properties. This information, when combined with the statutory requirements for the operation and use of the Corridor, leads us to conclude that intercity passenger service is the dominant service and user of the Corridor.

First of all it is obvious from a review of the legislation applicable to the Corridor that Congress has intended that the Corridor function primarily as a high speed intercity passenger route. As Conrail's Witness Spychalski notes:

> Legislative action to make intercity passenger service preeminent in the Northeast began with Section 106(a)(3) of the Regional Rail Reorganization Act of 1973, which directed that the final plan for a reorganized north-eastern rail network should provide for "improved high-speed rail passenger service" in the Corridor. This directive was met in Chapter 2 of the United States Railway Association's *Final System Plan*, which recommended (*inter alia*) that (1) the physical plant of the Northeast Corridor be upgraded to standards commensurate with high speed passenger train operation, (2) full operational control of Northeast Corridor traffic be vested with Amtrak, and (3) Conrail freight traffic on Corridor trackage be minimized by the shifting of through freight trains to alternate parallel routes. The general thrust of these recommendations was placed in statutory form by the Railroad Revitalization and Regulatory Reform Act of 1976. Title VII of the Act mandated a high speed intercity passenger improvement program for the Corridor. As part of the program, Section 703 of the Act subordinated both commuter passenger service and freight service to intercity passenger service. (Spychalski pg. 10)

We would also note that the Passenger Railroad Rebuilding Act of 1980 further indicates that Congress intended the Corridor to be a high speed intercity route. This Act amended section 703 of the 4R Act and provided that the Secretary of Transportation develop plans for alternate off-corridor routings of freight traffic. In addition, this Act prioritized the items to be considered in the selection and scheduling of specific improvement projects and we note that the optimization of on-time performance for commuter and freight operations falls sixth on a list of seven items.

Second, we find that these Congressional mandates either have been achieved or are in the process of being fulfilled. Ownership and control of operations on the Corridor were transferred from Conrail to Amtrak in 1976. Millions of dollars have been spent since that time physically to upgrade many Corridor properties to accommodate a high speed intercity passenger service and Amtrak is in the process of improving intercity passenger schedules, services and equipment. At the same time commuter service has remained essentially unchanged while freight service over the Corridor has declined substantially. In fact Conrail's Witness Wieter indicates that freight car-miles on the Corridor have dropped by 35 percent between 1978 and 1981.

Third, only intercity passenger service makes a substantial and continuous use of Corridor properties. For example, as shown in Table 1, between Baltimore, MD and Wilmington, DE, only intercity passenger and freight services use the Corridor, while between Lane Hunter, NJ and New York City only intercity passenger and commuter service are found. Furthermore, we also find that even where the three services operate over the same track segments of the Corridor, the amount of usage varies greatly. For example, between Bowie, MD and Baltimore, MD the use that each service makes of the Corridor properties varies significantly as shown below:

Service	Number of trains per week	Percentage of total
Intercity passenger	412	68
Freight	171	29
Commuter	20	3
Total	603	100

TABLE 1.—NUMBER OF TRAIN MOVEMENTS DURING THE 1-WEEK PERIOD MAR. 23-29, 1980

Corridor segment	Approximate length (miles)	Intercity passenger	Commuter (contract)	Freight	Total
Washington-Landover	6	412	20		432
Landover-Bowie	8	412	20	144	576
Bowie-Baltimore	25	412	20	171	603
Baltimore-Perryville	36	412		229	641
Perryville-Davis-Ragan	21	412		159	571
Davis-Ragan-Wilmington	12	412		102	514
Wilmington-Hook	10	412	239	102	753
Hook-Arsenal-Brill	13	412	347	115	874
Arsenal-Bill-Philadelphia	3	412			412
Philadelphia-Zoo	2	528	682	78	1,288
Zoo-N. Philadelphia	3	528	682	78	1,288
N. Philadelphia-Shore	3	528	231	122	881
Shore-Morris	24	528	231	69	828
Morris-Trenton	2	528	234	211	973
Trenton-County	24	528	234	191	953
County-Union	13	528	447	171	1,146
Union-Lane-Hunter	7	528	810	178	1,516
Lane-Hunter-Newardk	4	528	1,127		1,655
Newark-Penn Station	9	528	689		1,217
Total	225				

Source: Amtrak Exhibit F and D.

One should also recognize from the information detailed in Table 1 that, except for relatively short stretches of track around Philadelphia and New York City, Amtrak operates considerably more service than either commuter or freight services, even on a combined basis. However, it should be noted that train movements are only one

of several physical measurements that can be employed. Even so, of the physical use measurements available, train movements *is* the measurement that *is* most representative of all the operations of the users.

Overall then, it appears clear that Amtrak is the Corridor's dominant user since it fulfills all the requirements of a dominant user. Amtrak owns the Corridor, maintains and controls the operations of all users, has spent millions to configure the properties to meet its service needs and operates more service than any other user. Therefore, we believe that the use of an avoidable costing methodology is the most appropriate one for the Corridor.

Procedures for the Assignment of Right-of-Way Related Costs

Our procedures provide a basis for assigning the right-of-way related costs to the respective users of Amtrak's properties. These procedures apply in the event affected parties are unable to agree on an allocation method. In effect, we assign the avoidable costs to the minority users and the residual costs to Amtrak, the dominant user. The right-of-way related costs assigned to the minority users include operating expenses and a return on the value of the avoidable properties. Our procedures involve three basic steps. The first step is to develop Facilities Utilization Plans and Employee Utilization Plans (Utilization Plans). These plans are basically a listing of the facilities and personnel associated with the operation of Amtrak's properties. The Commission will resolve any dispute involving the content of the Utilization Plans if the parties are unable to agree.

The second step is to use the Utilization Plans to identify the solely related, directly attributable, and common right-of-way related costs. The utilization plans will employ Amtrak's accounting system and all accounts will be separated between labor and other-than-labor charges. If the parties cannot agree upon either the classification of a cost item or the separation between labor and other-than-labor costs, the Commission will resolve the dispute.

The third step is the actual assignment to the various users of the costs that are developed from the Utilization Plans. These costs are assigned as follows:

The costs that are solely related or directly attributable to a user shall be assigned directly to the user causing these costs.

Those costs that are common to both Amtrak and the minority user(s) shall be apportioned between Amtrak and the minority user(s). This assignment may be accomplished by using historical data, special studies, apportionment formulas or any combination of these methods. If special studies are employed, the party or parties requesting these studies must obtain the approval of the study design from the other users. The results of such a study shall be binding unless all the users agree to disregard the results. When two or more users request a particular study, they shall equally share the expense. If the parties cannot agree on a way to apportion the common costs, the allocation procedure contained in Appendix A will apply. If there is only one minority user, the common costs shall be assigned according to the methodology shown in Column 3 of Appendix A. If there are two or more minority users, the common costs shall be apportioned among these services according to the methodology shown in Column 4 of Appendix A.

We have also included a return on the value of Amtrak's properties as a right-of-way related expense. The reason is that Amtrak should be compensated for the capital investment that is required to accommodate the operation of the minority service(s).

The Amtrak Northeast Corridor properties on which a reasonable return shall be allowed shall consist of:

1. The book value of any equipment furnished by Amtrak, as identified in the various Utilization Plans for minority service less accumulated depreciation.

2. The net book value of those roadway and structure properties, as identified in the various Utilization Plans, which could be disposed of if minority service(s) were discontinued. The net book value shall include the net liquidation value of the properties as of April 1, 1976, (the date of transfer of the NEC to Amtrak) determined for their highest and best use, plus the value of additions and betterments completed after that date for the minority service(s). From this amount, any depreciation accruing from that date and also any costs of modifying the remaining properties so that Amtrak's operations can be continued should be subtracted. The return shall be determined by the average rate paid on United States Treasury Bills for the twelve-month period immediately preceding the service date of this decision. This average rate shall be paid for a period of one year following the service of this decision. For each succeeding twelve-month period, the rate shall be the average rate paid on United States Treasury Bills for the preceding twelve-month period. This average rate shall be paid on the value of Amtrak's properties as determined above.

The return on the value of Amtrak's properties should be directly assigned to the minority user(s). However, if there are two or more minority users, the return on the value properties must be apportioned between the minority users as follows:

Where two or more minority users share in the use of equipment, each user's share of the return on that equipment shall be determined on the basis of a percentage distribution of the minority user equipment miles (locomotive unit, car, etc). Where two or more minority user services share in the use of rail properties, each minority user's share shall be determined on the basis of a percentage distribution of the minority user's variable costs assigned within a designated area.

To facilitate the process, we are including definitions of terms which we believe are necessary to develop the Utilization Plans and to assign the costs. These definitions are as follows:

Definition of Terms

"Account" means an account in the ICC's Uniform System of Accounts as prescribed for the National Railroad Passenger Corporation. (Commission Order No. 36765, *Exemption of Amtrak From Uniform System of Accounts for Railroads,* served December 7, 1977)).

"Amtrak" means the National Railroad Passenger Corporation.

"ICC" means the Interstate Commerce Commission.

"Actual" means charges for railway facilities properties and services which are directly identified with a minority user in either a Facilities Utilization Plan or an Employee Utilization Plan.

"Minority User" means a user, other than Amtrak, which uses a portion of Amtrak's Northeast Corridor properties on an incremental basis.

"Amtrak's Northeast Corridor" means those portions of its railroad lines extending from Hartford, CT and Boston, MA on the North to Harrisburg, PA on the West and Washington, DC on the South, which are owned and operated by Amtrak. Amtrak's Northeast Corridor is not a contiguous line of railway. The term "Amtrak's Northeast Corridor" specifically excludes certain line segments within the above-defined geographic area, such as the segment between New Haven, CT and New Rochelle, NY.

"Right-of-way Related Costs" means those costs which are related to the

maintenance and operation of Amtrak's right-of-way and are developed through the various Employee Utilization Plans and Facility Utilization Plans, either adopted by Amtrak and the minority users or prescribed by the Commission.

"Common Costs" means those charges shown in Amtrak's accounts, identified by the various Facilities Utilization Plans and Employee Utilization Plans, which are incurred by Amtrak for the benefit of Amtrak and the minority users and which are not for the sole benefit of a single party.

"Designated Area" means a portion of Amtrak's Northeast Corridor facilities, such as track segments, shops, buildings, yards, etc., for which costs are collected for apportionment between Amtrak and minority user(s) and among minority user(s).

"Facilities Utilization Plan" means a document identifying and itemizing the road property and equipment used in providing minority user service(s). This plan shall identify the equipment which would be avoidable upon the discontinuance of minority user service(s). This plan shall also identify those road properties which would be avoidable upon the discontinuance of minority user service(s) for the purpose of determining depreciation, dismantling charges, and value of road properties. The roadway properties should be divided into areas or segments consisting of portions of property where operations are similar and pinpointing those locations where operations or usage changes (e.g., number of tracks change, minority user services begin or end, branch lines enter, or other similar changes). Properties normally included in a Facilities Utilization Plan include trackage, signal systems, electrification systems, interlocking plants, bridges and drawbridges, stations and platforms, highway grade crossings, grade crossing protection systems, yards, powerplants, shops, enginehouses, locomotive and car servicing facilities, land, rolling stock and other facilities, and equipment.

Source data normally include equipment rosters, track charts or maps of properties in the above classifications, and usage measurements for each class of facility and equipment by specific facility or segment (*e.g.*, track density charts, train sheets, operating timetables, blocking records, yard programs, station workload programs, etc.). They are needed to determine the minority user(s) percentage of use of facilities and equipment used in providing minority service.

"Employee Utilization Plan" means a list of all persons employed by Amtrak in providing right-of-way related minority user services. The plan shall list these persons according to job title, work location, account, and percentage of time devoted to various minority user services.

Access to Records and Facilities for Audit and Inspection

The various minority users and the ICC shall have reasonable access to Amtrak's records, accounts, working papers and other documents used in determining the charges to minority users for right-of-way related costs. The various minority users and the ICC shall have reasonable access to Amtrak's properties and equipment used in providing minority user service(s).

Access shall be granted for the following purposes:

1. To verify the accuracy and completeness of the various Facilities Utilization Plans and Employee Utilization Plans.

2. To verify the actual costs and expenses incurred and the service units and other statistics maintained in the provision of minority user service(s).

3. To inspect the equipment and properties used in providing minority user service(s).

4. To confirm facts and representations made or to be made by Amtrak in its provision of minority user service(s).

The properties and records described above shall be made available for inspection and examination by the various minority users and the ICC during regular business hours in either the offices of Amtrak in which such records are maintained or at a time and place agreeable to the parties. Amtrak shall reproduce such records provided the requesting party pays the reasonable cost thereof.

This action will not significantly affect the quality of the human environment or the conservation of energy resources. Comments, however, are invited.

This action will not have a significant economic impact on a substantial number of small entities and therefore we certify that a regulatory flexibility analysis is not required. Our procedures are not expected to impact small entities significantly since the dollar amounts involved are small when compared to the total operating budget of the entities that are directly affected. More importantly, the entities that are directly affected by this action are larger than the definitions established for small entities in the Regulatory Flexibility Act, Pub. L. 96–354, (5 U.S.C. 601, *et seq.*).

Dated: January 18, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

APPENDIX A.—BASIS FOR THE APPORTIONMENT OF COMMON COSTS BETWEEN AMTRAK AND MINORITY USER SERVICE(S) AND BETWEEN/AMONG MINORITY USER SERVICES

Amtrak account No.	Amtrak account name	Basis of apportionment between Amtrak (dominant user) and minority user(s)	Basis of apportionment between/among minority user(s)
(1)	(2)	(3)	(4)
		Maintenance of Way and Structures	
201	Superintendence	Actual	Percentage Distribution of Minority User Amounts Assigned to Accounts 202–279.
		Maintenance of Way and Structures—Yard and Way Switching Tracks	
202	Road Maintenance	Ratio of Minority User Car Miles to Total Car Miles—Designed Areas	Percentage Distribution of Minority User Car Miles—Designated Area
206	Tunnels and Subways	do	Do.
208	Bridges Trestles and Culverts	do	Do.
210	Elevated Structures	do	Do.
212	Ties	do	Do.
216	Other Track Material	do	Do.
218	Ballast	do	Do.
220	Track Laying and Surfacing	do	Do.

APPENDIX A.—BASIS FOR THE APPORTIONMENT OF COMMON COSTS BETWEEN AMTRAK AND MINORITY USER SERVICE(S) AND BETWEEN/AMONG MINORITY USER SERVICES—Continued

Amtrak account No.	Amtrak account name	Basis of apportionment between Amtrak (dominant user) and minority user(s)	Basis of apportionment between/among minority user(s)
(1)	(2)	(3)	(4)
		Maintenance of Way and Structures—Running Tracks	
202	Road Maintenance	SFGT [1]	Special Study.
206	Tunnels and Subways	....do	Do.
208	Bridges Trestles and Culverts	....do	Do.
210	Elevated Structures	....do	Do.
212	Ties	....do	Do.
216	Other Track Material	....do	Do.
218	Ballast	....do	Do.
220	Track Laying and Surfacing	....do	Do.
227	Station and Office Building	Special Study	Special Study.
229	Roadway	Ratio of Minority User Amounts Assigned to Accounts 202-220 to Total Amounts Assigned to Accounts 202-220—Designated Area.	Percentage Distribution of Minority User Amounts Assigned to Accounts 202-220—Designated Area.
231	Water Stations	Ratio of Minority User Locomotive Unit and Motor Car Unit Miles to Total—Designated Area.	Percentage Distribution of Minority User Locomotive and Motor Car Unit Miles—Designated Area.
233	Fuel Stations	Ratio of Amtrak/Minority User Fuel Consumed to Total Fuel Consumed—Designated Area.	Percentage Distribution of Minority User Fuel Consumed—Designated Area.
235	Shops and Engine Houses	Ratio of Minority User Direct Labor Charges to Total—Designated Area	Percentage Distribution of Minority User Direct Labor Charges—Designated Area.
247	Communication Systems	Ratio of Minority User Train Hours to Total Train Hours—Designated Area	Percentage Distribution of Minority User Train Hours—Designated Area.
249	Signals and Interlockers	Ratio of Minority User Train Movements To Total Train Movements—Designated Area.	Percentage Distribution of Minority User Train Movements—Designated Area.
253	Power Plants	Ratio of Minority User Killowatt Hours Consumed To Total Killowatt Hours Consumed—Designated Area.	Percentage Distribution of Minority User Killowatt Hours Consumed—Designated Area.
257	Power Transmission Systems	....do	Do.
265	Miscellaneous Structures	Ratio of Minority User Amounts Assigned to Accounts 202-220 to Total Amounts Assigned to Accounts 202-220—Designated Area.	Percentage Distribution of Minority User Amounts Assigned to Accounts 202-220—Designated Area.
267	Retirements	Actual	Percentage Distribution of Minority User Amounts Assigned to Accounts 206-210, 227-265—Designated Area.
269	Roadway Machines	Ratio Minority User Amounts Assigned to Accounts 202-220 to Total Assigned to accounts 202-220—Designated Area.	Percentage Distribution of Minoirty User Amounts Assigned to Accounts 202-220—Designated Area.
270	Dismantling Retired Road Property	Actual	Percentage Distribution of Minority User Amounts Assigned to Accounts 202-220—Designated Area.
271	Small Tools and Supplies	Ratio Minority User Amounts Assigned to Accounts 202-220 to Total Amounts Assigned to Accounts 202-220—Designated Area.	Percentage Distribution of Minorty User Amounts Assigned Accounts 202-220—Designated Area.
272	Removing Snow, Ice and Sand	....do	Do.
273	Public Imporvements—Maintenance	....do	Do.
274	Injuries to Persons	Ratio of Minority User Amounts Assigned to Accounts 202-265 (except account 247) 260-273, 278, 279, 281 to Total Amounts Assigned to Accounts 202-265 (Except Account 247) 260-273, 278, 279, 281—Designated Area.	Percentage Distribution of Minority User Amounts Assigned to Accounts 202-265 (except account 247) 269-273, 278-279—Designated Area.
276	Stationery and Printing	....do	Do.
277	Employee's Health and Welfare Benefits.	Separate pension expense and other than pension expense. Assign pension expense on an actual basis. Apportion other than pension expense on the ratio of minority user wages assigned to Maintenance of Way and Structures Accounts to Amtrak Northeast Corridor total Wages Assigned to Maintenance of Way and Structures Accounts.	Percentage Distribution of Minority user wages assigned to Maintenance of Way and Structures accounts—Designated Area.
281	Right of Way Expenses	Ratio Minority User Amounts Assigned to Accounts 202-265 (except Account 249) 269-273, 275, 279 to Total Amounts Assigned to Accounts 202-265 (except Account 249) 269-273, 275, 279.	Percentage Distribution of Minority User Amounts Assigned to Accounts 202-265 (except account 247) 269-273, 278, 279—Designated Area.
278	Maintaining Joint Tracks, Yards and Other Facilities Dr.	Special Study	Special Study.
279	Maintaining Joint Tracks, Yards and Other Facilities Cr.	....do	Do.
xxx	All Other Maintenance of Way and Structures Accounts.	Actual	Actual.
		Transportation—Rail Line	
371	Superintendence	Actual	Percentage Distribution of Minority User Amounts Assigned to Accounts 372-392—Designated Area.
372	Dispatching	Ratio Minority User Train Hours to Total Train Hours—Designated Area	Percentage Distribution of Minorty User Train Hours—Designated Area.
373	Station Employees	Special Study	Special Study.
376	Stations Supplies and Expenses	....do	Do.
377	Yardmasters and Yard Clerks	Ratio of Minority User Yard Locomotive Hours to Total—Designated Area	Percentage Distribution of Minoirty User Yard Locomotive Unit Hours—Designated Area.
378	Yard Conductors and Brakeman	....do	Do.
379	Yard Switch and Signal Tenders	....do	Do.
380	Yard Enginemen	....do	Do.
382	Yard Switching Fuel	....do	Do.
383	Yard Switching Power Produced	....do	Do.
384	Yard Switching Power Purchased	....do	Do.
388	Servicing Yard Locomotives	....do	Do.
389	Yard Supplies and Expenses	....do	Do.
392	Train Enginemen	Actual	Actual.
394	Train Fuel	....do	Do.
396	Train Power Produced	Ratio of Minority User Killowatt Hours Consumed to Total Killowatt Hours Consumed—Designated Area.	Percentage Distribution of Minority User Killowatt Hours Consumed—Designated Area.
396	Train Power Purchased	....do	Do.
400	Servicing Train Locomotives	Ratio of Minority User Locomotive Units Dispatched to Total Locomotive Units Dispatched—Designated Area.	Percentage Distribution of Minority User Locomotive Units Dispatched—Designated Area.
402	Train Supplies and Expenses	Ratio of Minority User Train Miles to Total Train Miles—Designated Area	Percentage Distribution of Minority User Train Miles—Designated Area.
404	Signal and Interlocker Operation	Ratio of Minority User Train Movements to Total Train Movements—Designated Area.	Percentage Distribution of Minority User Train Movements—Designated Area.

APPENDIX A.—BASIS FOR THE APPORTIONMENT OF COMMON COSTS BETWEEN AMTRAK AND MINORITY USER SERVICE(S) AND BETWEEN/AMONG MINORITY USER SERVICES—Continued

Amtrak account No.	Amtrak account name	Basis of apportionment between Amtrak (dominant user) and minority user(s)	Basis of apportionment between/among minority user(s)
(1)	(2)	(3)	(4)
405	Crossing Protection	Ratio Minority User Train Movements to Total Train Movements—Designated Area.	Percentage Distribution of Minority User Train Movements—Designated Area.
406	Drawbridge Operation	Ratio of Minority User Train Movements to Total Train Movements—Designated Area.	Percentage Distribution of Minority User Train Movements—Designated Area.
407	Communication System Operation	Ratio Minority User Train Hours to Total Train Hours—Designated Area	Percentage Distribution of Minority User Train Hours—Designated Area.
409	Employee's Health and Welfare Benefits.	Separate Pension and other than pension expenses. Assign Pensions on actual basis. Assign Other than Pensions on the Ratio of Minority User Wages in the Transportation Accounts to Amtrak Northeast Corridor Wages in the Transportation Accounts.	Percentage Distribution of Minority User wages assigned to Transportation Accounts.
410	Stationery and Printing	Ratio of Minority User Amounts in all Transportation Accounts except Account 409 to Total Amounts in all Transportation Accounts except Account 409.	Percentage Distribution of Minority User Amounts Charged to all Transportation Accounts except Account 409.
411	Other Expenses	Actual	Actual.
414	Insurance	Estimate from Insurance Underwriter of Avoidable Portion of Insurance Premium Absent Minority Service.	Percentage Distribution of (Based on Minority User Train Miles) of Minority User Insurance Costs.
415	Clearing Wrecks	Actual	Actual.
416	Damage to Property	Actual	Actual.
390	Operating Joint Yards and Terminals Dr.	Special Study	Special Study.
391	Operating Joint Yards and Terminals Cr.	....do	Do.
xxx	All Other Transportation Accounts	Actual	Actual.
		Maintenance of Equipment	
301	Superintendence	Actual	Percentage Distribution of Minority User Amounts Assigned to Accounts 301-337.
302	Shop Machinery	Ratio Minority User Amounts Assigned to in Accounts 311-329, 336, 337 to Total Amounts Assigned to Accounts 311-329, 336, 337.	Percentage Distribution of Minority User Amounts Assigned To Accounts 311-329, 336, 337—Designated Area.
304	Power Plant Machinery	....do	Do.
305	Shop and Power Plant Machinery—Depreciation.	....do	Do.
306	Dismantling Retired Shop And Power Plant Machinery.	....do	Do.
311	Locomotive Repairs	Road Locomotives—Actual; Yard Locomotives—Special Study	Road Locomotives—Actual; Yard Locomotives—Special Study.
317	Passenger Train Car Repairs	Actual	Actual.
326	Work Equipment Repairs	Ratio Minority User Charges to Accounts—202-220 to Total Charges to Accounts 202-220—Designated Area.	Percentage Distribution of Minority User charges To Accounts 202-220—Designated Area.
328	Miscellaneous Equipment Repairs	Ratio Minority User Misc. Equipment Hours to Total Misc. Equipment Hours—Designated Area.	Percentage Distribution Misc. Minority User Equipment Hours—Designated Area.
329	Dismantling Retired Equipment	Actual	Actual.
330	Retirements Equipment	....do	Do.
331	Equipment, Depreciation	....do	Do.
332	Injuries to Persons	Ratio Minority User Amounts Charged to Accounts 311-329 336, 337—Designated Area.	Percentage Distribution of Minority User Amounts Charged to Accounts 311-329, 336, 337—Designated Area.
333	Insurance	Estimate from Amtrak's Insurance Underwriter of Amount of Avoidable Portion of Insurance Premium Absent Minority User Service.	Percentage Distribution of Minority User Amounts Assisgned to Accounts 301-337.
334	Stationery and Printing	Ratio of Minority User Amounts Assigned to Accounts 311-329, 336, 337 to Total—Designated Area.	Percentage Distribution of Minority User Amounts Assigned to Accounts 311-329, 336, 337—Designated Area.
335	Employee's Health and Welfare Benefits.	Separate Pension and other than pension expense. Assign Pensions on an actual basis. Assign other than Pension Expense on the Ratio of Minority User Wages in the Maintenance of Equipment Accounts to Total Amtrak Northeast Corridor Maintenance of Equipment Wages.	Percentage Distribution of Minority User Wages Assigned to Maintenance of Way and Structures Accounts—Designated Area.
339	Other Expenses	Ratio of Minority User Amounts Assigned to Accounts 311, 324, 336, 337 to Total—Designated Area.	Percentage Distribution of Minority User Amounts Assigned to Accounts 311, 329, 336, 337—Designated Area.
336	Joint Maintenance of Equipment Expenses Dr.	Actual	Actual.
337	Joint Maintenance of Equipment Cr	....do	Do.
xxx	All Other Maintenance of Equipment Accounts.	....do	Do.
		Traffic	
351-360	All Traffic Expenses	Actual	Actual.
441-448	All Miscellaneous Operations Accounts.	....do	Do.
		General Expense	
451-463	All General Expenses	Actual	Actual.

[1] SFGT means the Speed Factored Gross Tons formula set forth in 49 CFR 1127, *Standards For Determining Commuter Rail Service Continuation Subsidies.*

[FR Doc. 82-1730 Filed 1-22-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules*

Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: January 18, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14773, filed December 29, 1981. ACE DORAN HAULING & RIGGING CO. (ACE) (1601 Blue Rock St., Cincinnati, OH 45223)—Purchase (Portion)—BOWLING GREEN EXPRESS, INC. (BGE) (Route 14, Box 66, Bowling Green, KY 42101). Representatives: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215 and Henry E. Seaton, 929 Pennsylvania Bldg., 13th and Pennsylvania Ave., NW., Washington, DC 20004. Ace seeks to purchase a portion of the interstate rights of BGE. Richard E. Doran and Robert J. Doran, the sole shareholders of Ace seek to acquire control of said rights through the transaction. The rights to be transferred are contained in Certificate No. MC–97394 (Sub-No. 18F) and authorize the transportation of general commodities, with exceptions, over a *regular route* between Louisville, KY and Cincinnati, OH over Interstate Highway 71, serving no intermediate points. Transferee is a common carrier operating in all States pursuant to certificates issued in No. MC–112304. Application for temporary transfer has *not* been filed.

MC–F–14772, filed December 30, 1981. CSI SIX, INC (CSI Six) (2000 Market Street, Philadelphia, PA 19103)—Purchase—SCHEDULED TRUCKWAYS, INC. (Truckways) (Rogers, AR 72756). Representative: Harry J. Jordan, Suite 502, Solar Building, 1000—16th Street, NW Washington, DC 20036. CSI Six seeks authority to purchase the interstate operating rights and property of Truckways. Carrier Systems, Inc., which owns 100% of the outstanding stock of CSI Six, Sun Carriers, Inc., which owns all the stock of Carrier Systems, Inc., and Sun Company, Inc., which owns all the stock of Sun Carriers, Inc., seek authority in the same application to acquire control of the operating rights and property of Truckways. CSI Six is purchasing the interstate operating rights held by Truckways in Docket No. MC–150783 (Sub-Nos. 1 through 17) which authorize service as a motor common carrier, over irregular routes, of (1) general commodities, with exceptions, and specified commodities between various radial bases, ranging from individual plant sites, one or more counties, and complete states, and generally points throughout the United States. Sun Company, Inc., and Sun Carriers, Inc., commonly control the following carriers: Milne Truck Lines, Inc. ("Milne"), Jones Truck Lines, Inc. ("Jones"), Standard Trucking Company ("Standard", and Carrier Systems International Motor Freight, Inc. ("International"), and through ownership of Trucking Merger and Reorganization ("TMRI"), a non-operating carrier, owns St. Johnsbury Trucking Company, Inc. ("St. Johnsbury"). Authority is also sought by Sun Carriers, Inc., and Sun Company, Inc., to continue in control of Milne, Jones, Standard, International, TMRI, and St. Johnsbury. Milne holds authority under Docket No. MC–44605, and sub-numbers thereof; Jones holds authority form this Commission under Docket No. MC–111231, and sub-numbers thereof; Standard holds authority under Docket No. MC–39973, and sub-numbers thereof; International holds authority under Docket No MC–154050; and St. Johnsbury holds authority under Docket No. MC–108473 and various sub-numbers thereof. Condition: Sun company, Inc., a non-carrier holding company shall be considered a carrier within the meaning of 49 U.S.C. 11348 and is subjected to the requirements of 49 U.S.C. 11302 only for those issuances of securities and assumptions of obligations which may relate to or affect the activities of its carrier subsidiaries. Regarding the reporting requirements of 49 U.S.C. 11145, Sun Company, Inc., need only file such special reports as the Commission may from time to time require. Sun company, Inc., is not made subject to the accounting requirements of 49 U.S.C. 11142.

MC–F–14760, filed December 18, 1981. LIBERTY TRANSPORT, INC. (Liberty) (2501 Nicholson Road, P.O. Box 9182, Kansas City, MO 64168)—Purchase (Portion)—T.F.S., INC., (TFS) (Route 2, Box 126, Grand Island, NE 68801. Representative: Arthur J. Gerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141. Liberty seeks authority to purchase a portion of the interstate operating rights of TFS. George M. and Judith L. Butler, the sole stockholders of Liberty, seek authority to acquire control of said rights through the transaction. Liberty is seeking to purchase that portion of transferor's operating rights which were granted to transferor in MC–F–13943 as described in Certificate No. MC–119547 (Sub 27) as follows: *glassware,* from Columbus, OH,

to New Orleans, LA, and points in that part of WV on and east of a line beginning at the WV–VA State line near Bluefield, WV, and extending along WV Hwy 20 to junction WV Hwy 4 near Rock Cave, WV, then north along WV Hwy 4 to junction US Hwy 219 near Elkins, WV, then north along US Hwy 219 to the WV–MD State line, and to points in AL, AZ, CA, CO, GA, ID, MS, MT, NM, NV, ND, OR, SC, SD, TN, TX, UT, WA, and WY, restricted to the transportation of shipments originating at the named origins. Liberty is authority authorized to operate as a motor carrier under MC–145557.

MC–F–14767, filed December 28, 1981. GOLD LINE, INC. (Gold Line) (5500 Tuxedo Road, Tuxedo, MD 20781)—Purchase—DAWSON'S CHARTER SERVICE, INC. (Dawson's) (Box 144, Sandy Spring, MD 20860). Representative: L. C. Major, Jr., P.O. Box 11278, Alexandria, VA 22312. Gold Line seeks authority to purchase the interstate operating rights of Dawson's. Frank Martz Coach Company, the sole stockholder of Gold Line, seeks authority to acquire control of said rights through the transaction. Frank M. Henry is the sole stockholder of Frank Martz Coach Company and will therefore be required to join in this application. Gold Line is seeking to purchase Dawson's authority in Certificate No. MC–125156 (Sub-No. 2) which authorizes the transportation as of *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Howard and Montgomery Counties, MD, and extending to points in DE, FL, GA, MD, NC, NJ, NY, PA, SC, TN, VA, WV, and DC, restricted against service being performed between points solely within the Washington Metropolitan Area Transit District. Condition: Prior to approval and authorization of this transaction, Frank M. Henry must submit an affadavit that he joins in this application as person in control of Frank Martz Coach Company.

Note.—Gold Line holds authority in MC–108452 and MC–130614. Frank Martz Coach Company holds authority in MC–3600.

MC–F–14765, filed December 22, 1981. BOOTHEEL TRANSPORTATION COMPANY, INC. (Bootheel) (P.O. Box 511, Highway 60 West, Sikeston, MO 63801)—Control and Merger—SOUTHERN EXPRESS, INC. (Southern) (P.O. Box 1088, Cape Girardeau, MO 63701). Applicant's Representative: Frank D. Hall, Suite 202, 1750 Old Springhouse Lane, Atlanta, GA 30338. Bootheel seeks authority to acquire control of Souther and to merge the operating rights and property of Southern into Bootheel for ownership, management and operation. Stephen E. Henry and Harvey Henry, who control Bootheel also seek authority to control the merged rights through the transaction. Bootheel is authorized to operate as a motor common carrier, over irregular routes, pursuant to authority issued in MC–75281 and sub numbers thereunder, which authorize the transportation of specified commodities between points in the U.S. Southern is authorized to operate as a motor contract carrier, over irregular routes, pursuant to authority issued in MC–151364 and sub number 1 thereunder, which authorize the transportation, over irregular routes, of transportation equipment between points in the U.S. under continuing contracts with Disney Tire Company of Louisville, KY; and the transportation, over irregular routes, of materials, equipment and supplies used, sold or dealt in by a manufacturer of carpets, rugs, padding and cushioning between all points in the U.S. under continuing contracts with Recticel Foam Corporation of Buffalo, NY. Application has been filed for temporary control under 49 U.S.C. 11349.

MC–F–14777, filed January 4, 1982. BARNES FREIGHT LINE, INC. (Barnes) (P.O. Box 800, Carrollton, GA 30117)—Purchase—MAGNOLIA TRUCK LINE, INC. (Magnolia) (P.O. Box 16587, Memphis, TN 38116). Representative: Frank D. Hall, Suite 202, 1750 Old Springhouse Lane, Atlanta, GA 30338. Barnes seeks authority to purchase the interstate operating rights and property of Magnolia. J. M. Barnes and Barbara Barnes, majority stockholders of Barnes, seek authority to acquire control of said rights and property through the transcation. Barnes is seeking to purchase the rights issued to Magnolia in MC–64832 (Sub-No. 12X) which authorize the transportation, over regular routes, of *general commodities* (except classes A and B explosives), as summarized as follows: (1) Between Memphis, TN, and Jena, LA, serving all intermediate points, (2) between Natchez, and Meadville, MS, serving all intermediate points and off-route points in Franklin County, MS, (3) between junction MS Hwy 33 and U.S. Hwy 98, and Natchez, MS, serving all intermediate points, (4) serving points in Clairborne County, MS, as off-route points in connection with carrier's authorized regular-route operations, (5) between Jena and Alexandria LA, serving all intermediate points, (6) between Alexandria and Marksville LA, serving all intermediate points, (7) between junction LA Hwy 28 and LA Hwy 115, and Alexandria, LA, serving no intermediate points, and serving junction LA Hwy 28 and LA Hwy 115 for purposes of joinder only and for operating convenience only, (8) between junction LA Hwy 28 and LA Hwy 115 and Marksville, LA, serving no intermediate points and for operating convenience only, (9) between Memphis, TN, and Baton Rouge, LA, serving all intermediate points, (10) between Woodville, MS, and Baton Rouge, LA, serving all intermediate points, (11) serving points in Avoyelles and Vernon Parishes, LA, as off-route points in connection with carrier's regular-route authority, (12) between Alexandria and New Iberia, LA, serving all intermediate points and off-route points in Acadia and Landry Parishes, LA, and (13) between Lafayette and Crowley, LA, serving all intermediate points. Barnes is a general commodity carrier, over regular routes, pursuant to certificates issued in MC–108633 and subs thereunder between points in GA, AL, MS, and Memphis, TN.

Note.—TA has been filed.

[FR Doc. 82–1731 Filed 1–22–82; 8:45 am]
BILLING CODE 7035–01–M

[Permanent Decision Volume No. OP3–014]

Motor Carriers; Permanent Authority Applications; Republications of Grants of Operating Rights; Authority Prior To Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broader grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 145095 (Sub-4) (Republication), filed February 27, 1981, published in the **Federal Register** issue of March 24, 1981, and republished this issue. Applicant:

POWER FUELS, INC., P.O. Box 1369, Minot, ND 58701. Representative: F. J. Smith, Suite 307, 420 North 4th St., Bismarck, ND 58501, (701) 255–3071. A Decision of the Commission, Review Board Number 1, decided June 16, 1981 and served July 1, 1981, a Decision of the Commission, Review Board Number 1, decided September 23, 1981, served October 7, 1981, and a Decision of the Commission, Division 2, Acting as an Appellate Division, finds on further consideration finds that the performance by applicant of the service described herein will serve a useful public purpose, responsive to a public demand or need to operate as a *common carrier*, by a motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *liquid molten sulfur*, between points in ND, SD, MT, MN, and WI; (2) *chemicals and related products*, between points in ND, SD, MT, MN and WI; and (3) *petroleum, natural gas, and their products*, between points in MT, on the one hand, and, on the other, points in ND; that applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–1732 Filed 1–22–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–184

The following applications were filed in region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 159809 (Sub-1–1TA), filed January 6, 1982. Applicant: ATLANTIC HORIZON TRANS TOURS, INC., 2100 E. Verona Blvd., W. Atlantic City, NJ 08232. Representative: Dean N. Wolfe, Suite 145, 4 Professional Drive, Gaithersburg, MD 20879. *Contract Carrier:* irregular routes: *Passengers and their baggage, in charter operations*, beginning and ending at points in CT, NY, NJ, PA, MD, and DE, and extending to Atlantic City, NJ, under continuing contract(s) with Playboy Hotel & Casino, Tropicana Hotel & Casino, and Sands Hotel & Casino, all of Atlantic City, NJ. Supporting shipper(s): Playboy Hotel & Casino, 2500 Boardwalk, Atlantic City, NJ; The Tropicana Hotel & Casino, P.O. Box 59, Atlantic City, NJ 08404; Sands Hotel & Casino, Indiana Ave., at Brighton Park, Atlantic City, NJ 08401.

MC 134806 (Sub-1–24TA), filed January 12, 1982. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Vernon Drive, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Plastic products, in cartons*, from Tyngsboro, MA and Nashua, NH to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY under continuing contract(s) with Family Products, Inc., Lowell, MA. Supporting shipper: Family Products, Inc., P.O. Box 1600, Lowell, MA 01853.

MC 140950 (Sub-1–5TA), filed January 6, 1982. Applicant: BROOKVILLE TRANSPORT, LIMITED, 1170 Old Rothesay, P.O. Box 2332, Station C, St. John, New Brunswick, CD. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *Fruit sections and fruit juice* from Auburndale, FL to points in the US on the US/CD border at ME, MI, and NY under continuing contract(s) with Willett Foods, Limited, St. John, New Brunswick, CD. Supporting shipper: Willett Foods, Limited, Willet Avenue, St. John, New Brunswick, CD.

MC 142603 (Sub-1–31TA), filed January 11, 1982. Applicant: CONTRACT CARRIERS OF AMERICA, INC., 1071 Dwight Street, P.O. Box 179, Springfield, MA 01101. Representative: Barbara J. Withers (same as applicant). *Contract carrier:* Irregular routes: *Paper products, school and stationery papers* between points in Stockton, CA, Auburn, WA, Denver, CO, Kansas City, MO, Fort Worth, TX, Duluth, GA, Garden City, GA, Norfolk, VA, Franconia, VA, Belle Mead, NJ, Boston, MA, Springfield, MA, Bennington, VT, Albany, New York, Rochester, and Buffalo, NY, Detroit, MI, Indianapolis, IN, Tampa, FL and Chicago, IL, under continuing contract(s) with Clinton Paper Co., Inc. of Castanea, PA. Supporting shipper: Clinton Paper Co., Inc., Brown Street, Castanea, PA 17726.

MC 159000 (Sub-1–1TA), filed January 12, 1982. Applicant: FLEETWOOD FORWARDING LTD., 175 Underhill Boulevard, Syosset, NY 11791. Representative: Piken & Piken, P.C., Queens Office Tower, 95–25 Queens Boulevard, Rego Park, NY 11374–4565. *Alcoholic Beverages*, between all points in the States of NJ and NY. Supporting shipper(s): BNP Distributing Co., Inc., 919 Third Avenue, New York, NY 10022; Castleton Imports, Inc., 380 North Broadway, Jericho, NY 11753; McKesson Wine & Spirits, 114 Monarch Road, Liverpool, NY 13088; Monarch Liquor Corporation, Crossroads Park Drive, Liverpool, NY 13088.

MC 159975 (Sub-1–1TA), filed January 7, 1982. Applicant: GEORGE KYER & SON, INC., 341 Maple Avenue, Oradel NJ 07649. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. *Malt beverages*, from the facilities of Miller Brewing at South Volney, NY, to the facilities of Merrimack Valley Distributors, Danvers, MA and Burke Distributing Corp., Randolph, MA. Supporting shipper(s): Merrimack Valley Distributors, 50 Prince Street., Danvers, MA 01923; Burke Distributing Corporation, 89 Teed Drive, Randolph, MA.

MC 143214 (Sub-1–2TA), filed January 8, 1982. Applicant: MATUSZKO

TRUCKING, INC., 19 Ball Lane, North Amherst, MA 01059. Representative: David M. Marshall, Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. *Contract carrier:* Irregular routes: *Food and related products,* between South Deerfield and Ayer, MA on the one hand, and, on the other, points in ME, NH, VT, CT, RI, NY, NJ, PA, DE, MD, WV, VA and DC, under continuing contract(s) with Oxford Pickle Company, a division of John E. Cain Company, South Deerfield, MA. Supporting shipper: Oxford Pickle Company, a division of John E. Cain Company, 15 Jewett Avenue, South Deerfield, MA 01373.

MC 159955 (Sub-1–1TA), filed January 6, 1982. Applicant: D. C. SWIFTLINE, INC., 200 Newfield Avenue, Edison, NJ 08837. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666. *Contract carrier:* Irregular routes: *General commodities, (except Classes A and B explosives, household goods, hazardous waste, and commodities in bulk),* between points in CT, ME, MA, RI, VT, NH, PA, NY, NJ, and MD under continuing contract with Service Merchandise Co., Inc., Nashville, TN. Supporting shipper: Service Merchandise Company, Incorporated, 2968 Foster Creighton Drive, Nashville, TN 37204.

MC 149579 (Sub-1–6TA), filed January 7, 1982. Applicant: TRANSPORT SERVICE, INC., 216 Amaral Street, P.O. Box 4167, East Providence, RI 02914. Representative: Jeffrey A. Vogelman, Suite 304, Overlook Bldg., 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312. *Metal products, and materials, equipment, and supplies used in the manufacture, distribution, and sale of metal products,* between New Bedford, MA, on the one hand, and, on the other, points in the U.S. in and east of the western borders of MN, IA, MO, AK and LA. Supporting shipper: Continental Screw Co., Unit of AMCA International, 459 Mount Pleasant Street, New Bedford, MA 02742.

The following applications were filed, in region 2. Send Protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 158621 (Sub-II–1TA), filed January 6, 1982. Applicant: BACHMAN TRANSPORT CORPORATION, 50 N. Fourth St., P.O. Box 898, Reading, PA 19603. Representative: James F. Rehr, 1 Washington Tower Plaza, P.O. Box 898, Reading, PA 19603. *Contract: Irregular: Food and related products,* between Reading, PA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI and DC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: B.S.P. Soft Pretzels, Inc., 5 Spring Valley Road, Reading, PA 19605.

MC 145242 (Sub-II–2TA), filed January 5, 1982. Applicant: CASE HEAVY HAULING, INC., P.O. Box 267, Warren, OH 44482. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *General commodities (except classes A and B explosives),* between points in the United States in and east of ND, SD, NE, KS, OK, and TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: ITOFCA, Inc., 1001 West 31st St., Downers Grove, IL 60515.

MC 123887 (Sub-II–5TA), filed January 6, 1982. Applicant: L. J. NAVY TRUCKING CO., 2300 Eighth Ave., Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526. *Such commodities as are dealt in by wholesale, retail, grocery and discount houses,* between points in Cabell and Wayne Cos. WV, on the one hand, and, on the other, points in the US in and east of MN, NE, KS, OK and TX for 270 days. Supporting shipper(s): Associated Grocers, Inc., 1900 Ohio River Rd., Lesage, WV 25537. Allied Warehousing Services, Inc., 20 26th St., Huntington, WV 25702.

MC 159940 (Sub-II–1TA), filed January 5, 1982. Applicant: D. L. PHILLIPS TRUCKING, 14840 Morris St., Damascus, OH 44619. Representative: James W. Moore, 4700 Treetop Dr., Akron, OH 44321. *Metal products; stone, clay, glass and concrete products,* between Trumbull County, OH, on the one hand, and, on the other, pts. in NY, NJ, PA, WV, KY, IN, MI and IL, for 270 days. Supporting shipper: Ironics, Inc., 2 South Main, Nile, OH 44446.

MC 119531 (Sub-II–2TA), filed January 5, 1982. Applicant: SUN EXPRESS, INC., P.O. Box 1031, Warren, OH 44482. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *General Commodities* (except classses A and B explosives) between points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: ITOFCA, Inc., 1001 West 31st St., P.O. Box 1518, Downers Grove, IL 60515.

MC 111956 (Sub-II–2TA), filed January 5, 1982. Applicant: SUWAK TRUCKING COMPANY, 1105 Fayette Street, Washington, PA 15301. Representative: Donald J. Balsley, Jr., Esquire, 2310 Grant Building, Pittsburgh, PA 15219. *General commodities* (except Classes A and B explosives, household goods and commodities in bulk) between the facilities of PPG Industries, Inc., located at the intersection of County Routes 92 and 152, approximately one mile north of Cheswold, DE, on the one hand, and, on the other, Hartford, CT for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222.

MC 159780 (Sub-II–1TA), filed January 5, 1982. Applicant: R. W. TINNEY, INC., Box 151, Perrysburg, OH 43551. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43212. *Steel coils,* between the facilities of Miami Industries, Div. of MSL Industries, Inc., at or near Piqua, OH, on the one hand, and, on the other, McLouth Steel Corp. at or near Gibraltar, Trenton and Taylor, MI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Miami Industries Div. of MSL Industries, Inc., P.O. Box 912, North Dixie Hwy., Piqua, OH 45356.

MC 159858 (Sub-II–1TA), filed January 11, 1982. Applicant: MAURER TRUCKING SERVICE, INC., d.b.a. BLUE MOUNTAIN LINES, R.D. 2, Box 15, Pine Grove, PA 17963. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. *Contract:* Irregular: *Metal Products and Machinery* between Deer Lake, PA, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MD, MA, MI, NJ, NY and OH under continuing contract with Hetran Inc./ Shalmet Corp., Orwigsburg, PA for 270 days. An underlying ETA seeks 120 days. Supporting shipper: Hetran Inc./ Shalmet Corp., P.O. Box 202, Deer Lake, PA 17961.

MC 147850 (Sub-II–2TA), filed January 11, 1982. Applicant: BURGESS TRUCKING CO., INC., P.O. Box 96, Sedley, VA 23878. Representative: Gilbert W. Francis, P.O. Box 266, Boykins, VA 23827. *(1) Fabrics and woven products; and (2) equipment, materials and supplies used in the manufacture, processing, sales and distribution of the commodities in (1) above,* between Boykins, VA and Philadelphia, PA on the one hand, and on the other, points in the U.S., for 270 days. Supporting shipper(s): Boykins Narrow Fabric Corp., Serbin St., Boykins, VA 23827.

MC 43165 (Sub-II–1TA), filed January 11, 1982. Applicant: LOUDOUN TRANSFER, INC., P.O. Box 703, Leesburg, VA 22075. Representative: Dean N. Wolfe, Suite 145, 4 Professional Dr., Gaithersburg, MD 20879. *Computer components and materials and supplies*

used in the manufacture thereof, between the facilities of Scope Technology, Inc., at Reston, VA, on the one hand, and, on the other, the facilities of IBM Corp. at Research Triangle Park, NC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Scope Technology, Inc., 1860 Michael Faraday Dr., Reston, VA 22090.

MC 150339 (Sub-2–53TA), filed January 11, 1982. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Stephen J. Hammer (same as applicant). *Contract; irregular: Pneumatic tires, inner tubes, and automotive products, and equipment and materials used in the manufacture, distribution and repair of the commodities named above,* between Albany, GA; Decatur, IL; Des Moines, IA; Memphis and Nashville, TN; Oklahoma City, OK; Chicago, IL; Dallas and Houston, TX; Denver, CO; Lenexa, KS; Minneapolis, MN; Portland, OR; Shelby, OH; Wilson, NC; Cranbury, NJ; and City of Commerce, CA, on the one hand, and on the other, points in the U.S. under continuing contract(s) with The Firestone Tire & Rubber Co., Akron, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): The Firestone Tire & Rubber Co., 1200 Firestone Parkway, Akron, OH 44317.

MC 160017 (Sub-II–1TA), filed January 11, 1982. Applicant: QUALITY SUPPLIER TRUCKING, INC., Keyser Industrial Park, Keyser, WV 26726. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract; irregular: Recyclable materials, paper and paper products, including materials, equipment and supplies,* between points in MD, DE, NY, PA, OH, VA, WV, NC, MA and DC, for 270 days, under a continuing contract(s) with Allied Energy Business Systems of Petersburg, WV and Quality Supplier of Keyser, WV. An underlying ETA seeks 120 days authority. Supporting shippers: Allied Energy Business Systems, P.O. Box 606, Petersburg, WV 26849 and Quality Supplier, Keyser, WV 26726.

MC 160016 (Sub-II–1TA), filed January 11, 1982. Applicant: RONALD G. SCHOLLER AND MARIA L. SCHOLLER d.b.a. ROMA TRANSPORT SERVICE, 2201 Baker Drive, Allentown, PA 18103. Representative: Ronald G. Scholler (same as applicant). *Cement, dry bulk,* from Lehigh and Northampton Counties, PA to Fairlawn, Patterson, Edison, Trenton, Riverdale, Newark, Sussex and Freehold, NJ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Joel Tanis & Sons, Inc., River and Range Roads, Fair Lawn, NJ 07410.

MC 35706 (Sub-II–2–TA), filed January 11, 1982. Applicant: ATSL, Inc., 10 East Oregon Avenue, Philadelphia, PA 19148. Representative: H. Kirk House, 135 North Fourth Street, Philadelphia, PA 19106. *General Commodities* between points in the New York, NY and DC commercial zones and points in the states of PA, NJ and MD on the one hand, and, on the other, points in the states of PA, DE, MD, MI, NJ, NY, OH, VA, WV, DC, CT, MA, RI, ME, MS, IL, KY, WI, NC, AZ, TN, MN, CA, NM, OK, FL, GA, IN, LA, AL, MO, TX, CO, SC, NV, AR and OR. An underlying ETA seeks 120 days authority. Supporting shippers: There are 18 supporting shippers. Their statements may be examined at the Phila. ICC office.

MC 86690 (Sub-II–5TA), filed January 12, 1982. Applicant: BOND TRANSFER CO., INC., 1301 Towson St., Baltimore, MD 21230. Representative: Leonard W. Smith (same as applicant). *Contract; irregular: Containers: plastic, steel and tin,* between pts. in the US, under continuing contract(s) with The McClayton Co., Inc., Baltimore, MD, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: the McClayton Co., Inc., 1440 DeSoto Rd., Baltimore, MD 21230.

MC 145242 (Sub-II–3TA), filed January 11, 1982. Applicant: CASE HEAVY HAULING, INC., P.O. Box 267, Warren, OH 44482. Representative: Stephen L. Oliver, 275 E. State St., Columbus, OH 43215. (1) *metal products, coal and coal products and materials and supplies used in the distribution of above commodities,* between facilities of or used by Marc Rich & Co., Inc., on the one hand, and, on the other, points in the U.S. (except AK & HI); and (2) *such commodities as are manufactured, distributed or sold by food and drug manufacturers or distributors,* between facilities of or used by Beecham Products Co. located in the Counties of Allegheny, Cumberland, Bucks, Fayette and Washington, PA; Passaic County, NY; Wayne Co., MI; Aiken Co., SC; Chatham Co., GA; Davidson Co., TN; Cook Co., IL; Jackson Co., MO; Dallas Co., TX; Denver Co., CO; Los Angeles and San Francisco Counties, CA; Multnomah Co., OR; Milwaukee Co., WI; and Hennepin Co., MN, on the one hand, and, on the other, points in the U.S. (except AK & HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Marc Rich & Co., Inc., 501 Holiday Dr., Pittsburgh, PA 15220 and Beecham Products Co., P.O.B. 1467, Pittsburgh, PA 15230.

MC 142427 (Sub-II–13TA), filed January 13, 1982. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Rd., Columbus, OH 43227. Representative: William C. Buckham (same as applicant). Contract, irregular: *General Commodities (except Classes A and B explosives, those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between points in the U.S., under continuing contract(s) with J. C. Penney Co. Supporting shipper: J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019.

MC 159683 (Sub-II–2TA), filed January 13, 1982. Applicant: CLINTON R. DEAN, Rt. 1, Box 402, Rowlesburg, WV 26425. Representative: Clinton R. Dean (same as applicant). *Contract; irregular: Lumber products,* between the facilities of Coastal Lumber Mills, located in WV and the facilities of Coastal Lumber Mills located in PA, under continuing contract(s) with Coastal Lumber Co., Dailey, WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Coastal Lumber Co., P.O. Box 8, Dailey, WV 26259.

MC 140889 (Sub-II–24TA), filed January 14, 1982. Applicant: Five Star Trucking, Inc., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, One Public Square, Suite 1001, Cleveland, OH 44113. Contract, irregular: *General commodities (except Classes A & B explosives)* from points in CA to points in WI, IL, IN, OH and PA, under continuing contract(s) with Action Shippers Co-op, Inc. Supporting shipper: Action Shippers Co-op, Inc., P.O. Box 1268, Upland, CA 91786.

MC 152104 (Sub-II–2TA), filed January 12, 1982. Applicant: Home Run, Inc., 1299 Lavelle Dr., Xenia, OH 45385. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers and distributors of building materials,* between Monroe County, IN, on the one hand, and, on the other, points in IL, MI, OH and KY, for 270 days. An underlying ETA seeks authority for 120 days. Supporting shipper: Mayhill Homes Corporation, P.O. Box 2269, Bloomington, IN 47402.

MC 160032 (Sub-II–1TA), filed January 11, 1982. Applicant: TRANS-MOTOR LEASING, INC., Carpenter Road, PO Box 462, Defiance, OH 43512. Representative: A. Charles Tell, Baker & Hostetler, 100 E. Broad St., Columbus, OH 43215. *Contract: Irregular, such commodities as are dealt in or used by breweries,* between Milwaukee, WI;

Peoria and Belleville, IL; Frankenmuth, MI; Newport, KY; St. Paul, MN and Eden, NC, on the one hand, and, on the other, Defiance, OH, for 270 days. Supporting shippers: River Valley Distributing, Inc., 2100 Baltimore, Defiance, OH 43512 and ABC Distributing Co., Inc., Rt. 66 North, Defiance, OH 43512.

MC 138126 (Sub-II–5TA), filed January 14, 1982. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., Rte. 313, P.O. Box 477, Federalsburg, MD 21643. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., NW., Washington, DC 20005. *Such merchandise as is dealt in and distributed by wholesale, retail and chain grocery stores and food business houses,* from points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, to Syracuse, NY, and points in its commercial zone, for 270 days. Supporting shipper: Empire Freezers, Inc., P.O. Box 4892, Syracuse, NY 32114.

MC 159901 (Sub-II–1TA), filed January 12, 1982. Applicant: WOODY DISTRIBUTORS, INC., 1122 Rockland Ave., NW., Roanoke, VA 24012. Representative: J. Bernard Young (same as applicant. *Synthetic yarn,* between pts. in VA, NC, TN, and GA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Fred Whitaker, Inc., 941 Industry Ave., Roanoke, VA 24013.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 48221 (Sub-5–6TA), filed January 11, 1982. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Meat and meat products,* from Englewood, CO to Dallas, San Antonio and Abilene, TX. Supporting shipper: Mountview Packing Co., 2520 South Raritan Street, Englewood, CO 80150.

MC 97642 (Sub-5–1TA), filed January 11, 1982. Applicant: YOUNG TRUCKING, INC., P.O. Box 9197, Corpus Christi, TX 78408. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459. (1) *Agricultural machinery, implements and parts including farm machinery, implements and parts including farm tractors, road construction machinery and equipment, industrial machinery including power plants, equipment and parts, earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in or in connection with (a) the transporration, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injunction or removal of commodities into and from holes and/or wells. Roy L. Jones, Inc. Extension—Earth Drilling equipment, 103 M.C.C. 447 (1966),* from Elba, AL, Los Angeles and San Francisco, CA, Atlanta and Cedartown, GA, Chicago, Mattoon, Decatur, Mossville, Joliet, Peoria, Springfield, Kewanee and Carroll Springs, IL, Cedar Rapids, Cedartown and Des Moines, IA, Kansas City, KS, Bowling Green, KY, Escanaba and Detroit, MI, Minneapolis, MN, Kansas City and Southwest City, MO, Gwinner, ND, Galion and Lima, OH, Eugene, OR, Shady Grove, PA, Columbia, SC, Memphis, TN, Newport News, VA, and Milwaukee, WI, to Corpus Chiristi, San Antonio, Edinburg, McAllen, Beaumont and Houston, TX (2) *Oilfield equipment, machinery, materials and supplies (Mercer Description)* from Corpus Christi, TX to points in CA, LA, MS and ND. Shipper Witnesses: 20.

MC 117275 (Sub-5–1TA), filed January 11, 1982. Applicant: MAURICE FRIEDMAN, P.O. Box 43, Templeton, IA 51463. Representative: Richard D. Howe, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *(1) Beer and (2) materials, supplies, and equipment used in the manufacture and distribution of the commodities described in (1),* between Carroll County, IA, on the one hand, and, on the other, Peoria, IL; St. Paul, MN; and Milwaukee, WI. Supporting Shipper: Farner-Bocken Beverages Co., Highway 30 East, Carroll, IA 51401.

MC 144678 (Sub-5–7TA), filed January 11, 1982. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th Street, Overland Park, KS 66210. Representative: Harold H. Clokey, 9393 West 110th Street, Overland Park, KS 66210. Contract; Irregular. *General Commodities, (except household goods as defined by the Commission, Classes A and B explosives, and commodities in bulk),* between points in the U.S. except AK and HI, under a continuing contract(s) with J. C. Penney Company, Incorporated. Supporting shipper: J. C. Penney Company, Incorporated, 1301 Avenue of the Americas, New York, NY 10019.

MC 147910 (Sub-5–1TA), filed January 11, 1982. Applicant: SHAIN TRUCKING, INC., 8130 Upriver Road, Corpus Christi, TX 78410. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459. (1) *Agricultural machinery, implements and parts including farm machinery, implements and parts including farm tractors, road construction machinery and equipment, industrial machinery including power plants, equipment and parts, earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injunction or removal of commodities into and from holes and/or wells. Roy L. Jones, Inc. Extension—Earth Drilling equipment, 103 M.C.C. 447 (1966),* from Elba, AL, Los Angeles and San Francisco, CA, Atlanta and Cedartown, GA, Chicago, Mattoon, Decatur, Mossville, Joliet, Peoria, Springfield, Kewanee and Carroll Springs, IL, Cedar Rapids, Cedartown and Des Moines, IA, Kansas City, KS, Bowling Green, KY, Escanaba and Detroit, MI, Minneapolis, MN, Kansas City and Southwest City, MO, Gwinner, ND, Galion and Lima, OH, Eugene, OR, Shady Grove, PA, Columbia, SC, Memphis, TN, Newport News, VA, and Milwaukee, WI to Corpus Christi, San Antonio, Edinburg, McAllen, Beaumont and Houston, TX. (2) *Oilfield equipment, machinery, materials and supplies (Mercer Description)* from Corpus Christi, TX to points in CA, LA, MS and ND. Shipper Witnesses: 19.

MC 148103 (Sub-5–1TA), filed January 11, 1982. Applicant: BIG JOHN TRANSPORTATION CO., P.O. Box 35018, Houston, TX 77035. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459. (1) *Agricultural machinery, implements and parts including farm machinery, implements and parts including farm tractors, road construction machinery and equipment, industrial machinery including power plants, equipment and parts, earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting*

from drilling operations at well or hole sites and (d) the injunction or removal of commodities into and from holes and/or wells. Roy L. Jones, Inc. Extension—Earth Drilling equipment, 103 M.C.C. 447 (1966), from Elba, AL, Los Angeles and San Francisco, CA, Atlanta and Cedartown, GA, Chicago, Mattoon, Decatur, Mossville, Joliet, Perioa, Springfield, Kewanee and Carroll Springs, IL, Cedar Rapids, Cedartown and Des Moines, IA, Kansas City, KS, Bowling Green, KY, Escanaba and Detroit, MI, Minneapolis, MN, Kansas City and Southwest City, MO, Gwinner, ND, Galion and Lima, OH, Eugene, OR, Shady Grove, PA, Columbia, SC, Memphis, TN, Newport News, VA, and Milwaukee, WI, to Corpus Christi, San Antonio, Edinburg, McAllen, Beaumont and Houston, TX. (2) *Oilfield equipment, machinery, materials and supplies (Mercer Description)* from Corpus Christi, Texas to points in CA, LA, MS, and ND. Surrporting shippers: 19.

MC 149157 (Sub-5–7TA), filed January 11, 1982. Applicant: STYLE CRAFT TRANSPORT, INC., Highway 71 South, Milford, IA 51351. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502–285. Contract; Irregular. *Such merchandise as is dealt in, or used by, home furnishings outlets,* between Los Angeles and Petaluma, CA, Denver and Peublo, CO, Bloomington, IL, Des Moines and Waterloo, IA, Waite Park, MN and Findlay, OH. Supporting shipper: Midwest Waterbed Distributors, Inc., 620 Sundial Drive, Waite Park, MN 56387.

MC 152406 (Sub-5–4TA), filed January 11, 1982. Applicant: TEXAS WESTERN EXPRESS, INC., Suite 502, 301 NE Loop 820, Hurst, TX 76053. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract, Irregular; *Petroleum products, lubricants, oils, greases and related products,* except in bulk in tank vehicles, between points in the U.S., under continuing contract(s) with Pennzoil Products Company, of Maryland Heights, MO. Supporting shipper: Pennzoil Products Company, 2625 Wagner Place, Maryland Heights, MO 63043.

MC 155873 (Sub-5–2TA), filed January 11, 1982. Applicant: RICHARD LEJEUNE d.b.a. RICHARD LEJEUNE TRUCKING, Route 2, Box 164, Halfway, MO 65663. Representative: Bruce McCurry, Dickey, Allemann & McCurry, 910 Plaza Towers, Springfield, MO 65804. Contract; Irregular. *Artificial flowers and related products* between points in the U.S. under continuing contract with Universal Flowers, Inc., Springfield, MO. Supporting shipper: Universal Flowers, Inc., 1320 W. Poplar, Springfield, MO 65804.

MC 159137 (Sub-5–1TA), filed January 11, 1982. Applicant: PELLA/LINCOLN CONTRACT CARRIER, INC., Box 4588, Lincoln, NE 68504. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506. Contract; Irregular. *Building materials,* from Fredericksburg, VA to points in IA, NE, AR, CO, KS, MO, TX, LA, OK, TN, KY, MN, IL, IN and MS. Supporting shipper: General Products Company, Inc., P.O. Box 7387, Fredericksburg, VA 22401.

MC 159331 (Sub-5–1TA), filed January 11, 1982. Applicant: J.T.I. TRANSPORTATION CO., P.O. Box 78, Fairmont, NE 68354. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Meats, meat products, meat by-products, articles distributed by meat packinghouses and such commodities as used by meat packers in the conduct of their business,* between the facilities of Monfort of Colorado, Inc. at or near Grand Island, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Monfort of Colorado, Inc., P.O. Box 2137, Grand Island, NE 68801.

MC 159514 (Sub-5–1TA), filed January 11, 1982. Applicant: AMERICAN TRANSPORT, INC., P.O. Box 2897, Morgan City, LA 70381. Representative: C. W. Ferebee, 3910 FM 1960 West, Houston, TX 77068. *Pipe, pipe fittings, and accessories and machinery, equipment, materials and supplies used in the testing and repair of pipe* between the facilities of O.T.I., Inc. located in Plaquimine Paris LA, on the one hand, and points in LA, TX, CO, and GA on the other hand. Supporting shipper: O.T.I., Inc., 6565 West Loop South, Suite 240, Bellaire, TX, 77401.

MC 159514 (Sub-5–2TA), filed January 11, 1982. Applicant: AMERICAN TRANSPORT, INC., P.O. Box 2897, Morgan City, LA 70381. Representative: C. W. Ferebee, 3910 FM 1960 West, Houston, TX 77068. *Pipe, pipe fittings, and accessories and machinery, equipment, materials and supplies used in the testing and repair of pipe* between the facilities of Pipe Technology, Inc., located in St. Mary Parish, LA, on the one hand, and points in LA, and TX on the other hand. Supporting shipper: Pipe Technology, Inc., 137 Dove Circle, Lafayette, LA, 70508.

MC 160018 (Sub-5–1TA), filed January 11, 1982. Applicant: CIRCLE J FREIGHT LINES, INC., 5840 South Memorial, Suite 319, Tulsa, OK 74145. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Oil field commodities,* between points in Ellis, Roger Mills, Beckham, Custer, Washita, Blaine, Caddo, Canadian, Grady and Oklahoma Counties, OK on the one hand and, on the other, points in AR, CO, KS, LA, NM, TX, and WY. Supporting shippers: There are 11 supporting shippers.

MC 160031 (Sub-5–1TA), filed January 11, 1982. Applicant: TIDE TRANSPORTATION, INC., P.O. Box 475, Edmond, OK 73083. Representative: Cody B. Waddell, 4400 N. Lincoln, Suite 22, Oklahoma City, OK 73105. *Rubber, plastic and metal products and machinery and equipment, materials and supplies used in the manufacture of rubber, plastic and metal articles,* between points in Canadian and Oklahoma Counties, OK on the one hand, and, on the other, points in AL, AR, CO, KS, LA, NM, TX and WY. Supporting shippers. There are 2 supporting shippers.

MC 160064 (Sub-5–1TA), filed January 12, 1982. Applicant: BILLY MUNDS TRUCKING COMPANY, 6326 Border Lane, Shreveport, LA 71119. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *Malt Liquors and Materials, Equipment and Supplies used in the manufacture, sale and distribution of malt liquors.* Between Longview, TX or Memphis, TN on the one hand, and, on the other, points in LA. Restricted to shipments originating at or destined to the Facilities of Shreveport Beverage Agency, Inc. Supporting shipper: Shreveport Beverage Agency, Inc., 6310 Sippel St., Shreveport, LA 71108.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 158818 (Sub-6–1TA), filed January 8, 1982. Applicant: BOB BOYD, d.b.a. BOB BOYD TRUCKING, 417 North M, Livingston, MT 59047. Representative: Charles A. Murray, Jr., 2822 Third Ave., N, Billings, MT 59101. *Lumber and wood products* from Livingston, MT to points in TX and OK, for 270 days. Supporting shipper: Brand S Lumber Co., Inc., P.O. Box 1022, Livingston, MT 59047.

MC 160007 (Sub-6–1TA), filed January 7, 1982. Applicant: DeJONG TRANSPORT, 33651 Arcadian Wy Rt. 3, Abbotsford, B.C., CD V2S 4N3. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421. *Contract Carrier,* Irregular routes: *(1) Malt beverages and (2) empty bottles in cases,* between Ports of entry on the U.S.-Canadian International Boundary Line on the one hand, and, points in the

U.S., on the other hand for 270 days. Supporting shipper: Bel-Air Imports, Inc., d.b.a. Berman Imports, 1436 So. LaCienega Blvd., Los Angeles, CA 90035.

MC 113059 (Sub-6–5TA), filed January 8, 1982. Applicant: KELLER TRANSPORT, INC., Route 9 Katy Lane, Billings, MT 59101. Representative: F. E. Keller (same as applicant). *Petroleum and Petroleum Products* between points in MT on the one hand, and points in ND and WY on the other for 270 days. Supporting shippers: There are twelve (12) supporting shippers to this application. Their statements may be examined at the regional office listed.

MC 159846 (Sub-6–1TA), filed January 5, 1982. Applicant: JACOB H. MOBERLY, d.b.a. MOBERLY MOVING & STORAGE, P.O. Box 192, Clovis, NM 88101. Representative: Terry L. Moberly (same as applicant). *Used Household Goods,* between points in Curry, Roosevelt, Quay, DeBaca, and Guadalupe Counties, NM; for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Base Contracting Division, 27TFW/LGCV, Cannon AFB, NM 88101.

MC 138151 filed January 8, 1982. Applicant: OREGON RUBBER CO., 390 W. 11th Ave., Eugene, OR 97401. Representative: J. W. McCracken, Jr., 975 Oak St., Suite 620, Eugene, OR 97401. (1) *Lumber,* from points in Douglas, Klamath, Lane, Linn, Jackson and Josephine Counties, OR, to points in Rio Arriba and San Juan Counties, NM. From points in OR, other than points in Douglas, Klamath, Lane, Linn, Jackson and Josephine Counties, to points in NM. From points in OR to points in Andrews, Armstrong, Bailey, Borden, Carson, Castro, Cochran, Crane, Culberson, Dallam, Dawson, Deaf Smith, Ector, El Paso, Gaines, Hale, Hartley, Hockley, Howard, Hudspeth, Hutchinson, Lamb, Loving, Lubbock, Lynn, Martin, Midland, Moore, Oldhan, Parmer, Potter, Randall, Reeves, Sherman, Swisher, Terry, Ward, Winkler and Yoakum Counties, TX, for 270 days. Supporting Shippers: Snow Mountain Lumber Co., Inc., P.O. Box 25485, Albuquerque, NM 87125; White Sands Forest Products, P.O. Box 204, Alamogordo, NM 88310.

MC 159832 (Sub-6–2TA), filed January 6, 1982. Applicant: PAR TRUCKING, INC., 1008 E. Morven, Lancaster, CA 93535. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. (1) *cement, chemicals, oilwell cementing equipment and supplies,* from points in CA and NV to points in AZ, CA, NM, NV, TX and UT, (2) *cement, fly ash in bulk, plant machinery and equipment,* from points in AZ, CO and NV to points in CA, and (3) *magnesite and diatomaceous earth and other related chemicals, plant machinery and equipment,* from points in NV to Cucamonga, CA, for 270 days. Supporting shippers: Halliburton Services, 12320 Bloomfield St., Santa Fe Springs, CA 90670; Pre-Mixed Concrete Company, P.O. Box 64, San Diego, CA 92112; and Foseco, Inc., P.O. Box 219, Cucamonga, CA 91730.

MC 138624 (Sub-6–5TA), filed January 7, 1982. Applicant: CLIFFORD REED, INC., Rt. 1, Box 510, Corvallis, MT 59828. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. *Salt and salt products,* from points in UT to points in ND and SD, for 270 days. Supporting shipper: Morton Salt Division, Morton-Norwich Products, Inc., 110 North Wacher Drive, Chicago, IL 60606.

MC 159998 (Sub-6–/TA), filed December 31, 1981. Applicant: SERUNTINE TRANSPORTATION CO., INC., d.b.a. ACCLAIM TANK TRANSPORT, 9920 Hayward Way, S. El Monte, CA 91733. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. *Alcoholic Beverages, Liquors and Wine, Juice and Juice Concentrates, Tallow and Yellow greases, and, Alcohol and distilled spirits used in the manufacture, production or distillation of the above named commodities, in Bulk,* Between the Ports of Entry on the International Boundary Line between the U.S. and the Republic of MX located in CA and points in CA on the one hand, and, on the other, points in CA, OR, WA, AZ and NM, and, from points in NM to points in AZ and TX; for 270 days. Supporting shippers: There are seven supporting shippers. Their statements may be examined at the Regional office listed.

MC 143821 (Sub-6–1TA), filed December 30, 1981. Applicant: KRIS'S TRUCK TRANSPORT, INC., 37521 Willow St., Newark, CA 94560. Representative: Bertha Kristiansen (same as above). *Heavy duty trucks* in the driveaway and/or truck away methods between Newark, CA on the one hand, and on the other Montogomery, AL and points in KS, MN, NE, NM, WI; between Madison, TN on the one hand, and on the other, points in CA, NM; between Denton, TX on the one hand, and on the other, points in CA and NM for 270 days. An underlying ETA seeks 120 days authority. There are seven (7) supporting shippers whose statements may be reviewed at the Regional Office listed above.

MC 151418 (Sub-6–3TA), filed December 16, 1981. Applicant: ROY L.T. TRUCKING, INC., 7117 E. Firestone Blvd., Downey, CA 90241. Representative: Roy Tyra (same as applicant). *Contract carrier:* Irregular routes: *Fireplaces, grills and ventilators and parts and accessories* thereto from Fullerton, CA to Phoenix and Tucson, AZ, Denver, CO, San Francisco and San Deigo, CA, Boise and Pocatello, ID, Missoula, MT, Las Vegas, NV, Albuquerque, NM, Portland, OR, Seattle and Tacoma, WA, Salt Lake City, UT, Casper, WY and El Paso, TX for 270 days. Supporting shipper: Superior Fireplace Co., 4235 Artesia Ave., Fullerton, CA.

MC 160006 (Sub-6–1TA), filed January 7, 1982. Applicant: NATHANIEL C. WILLIS, JR., d.b.a. WILLIS TRUCKING, P.O. Box 103, Idaho City, ID 83631. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. *Contract carrier:* Irregular routes: *Such commodities as are dealt in by grocery and food business houses,* between the facilities utilized by Ore-Ida Foods, Inc., in ID, OR and WI on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, OR, UT, WA and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707.

W–303 (Sub-4), filed January 4, 1982. Applicant: WESTERN TRANSPORTATION CO., P.O. Box 3869, Portland, OR 97208. Representative: C. P. Blaskowsky (same as applicant). *Common carrier by water: general commodities,* by non-self propelled vessels with the use of separate towing vessels and by towing vessels in the performance of general towage between all ports and points in WA on Puget Sound, The Strait of Juan de Fuca, Georgia Strait, Washington Sound, Admiralty Inlet, Saratoga Passage, Possession Sound, Hood Canal, Lake Union, Lake Washington and tributary waters for 180 days. Supporting shippers: ITT Rayonier Inc., Suite 900, Sea-Tac Office Center, Seattle, WA 98188; Crown-Zellerbach Corporation, One Bush St., San Francisco, CA 94104.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–1729 Filed 1–22–82; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Attorney General

United States v. Acorn Engineering Co.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act,

15 U.S.C. Sections 16(b)–(h), that a proposed final judgment and a competitive impact statement, as set forth below, have been filed with the United States District Court for the Northern District of California in *United States* v. *Acorn Engineering Company*, Civil No. C–80–3388 TEH.

The complaint in this case alleged that the Acorn Engineering Company acquisition in 1979 of Aluminum Plumbing Fixture Corporation (APFC), which also did business under the "Super Secur" trade name, substantially lessened competition in the manufacture and sale of vandal-resistant plumbing fixtures used in prisons, other institutions, and park and recreation areas, in violation of Section 7 of the Clayton Act (15 U.S.C. 18).

The proposed judgment requires the defendant to divest itself completely of all Super Secur tooling and component parts; all engineering drawings associated with same; and all letters patent relating to vandal-resistant pumbing fixtures obtained in its acquisition of APFC and in its prior acquistion of certain assets of Kelsey Hayes. Defendant Acorn Engineering Co. must also divest itself of the trade marks or trade names "Super Secur," "Super Secur Ware," "Super Secur Manufacturing Company," and others associated with APFC.

Divestiture shall be to a single purchaser, other than Waltec, Inc., which can demonstrate its purpose and capability to compete effectively with Acorn in the vandal-resistant plumbing fixture market.

Acorn is enjoined for a period of ten years from acquiring capital stock or any part of the assets of any person engaged in the vandal-resistant plumbing fixture business. Acorn is also enjoined from transferring any of its capital stock or assets to a person engaged in the vandal-resistant plumbing fixture business.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Anthony E. Desmond, Chief, San Francisco Field Office, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

U.S. District Court, for the Northern District of California

United States of America, Plaintiff, v. *Acorn Engineering Company,* Defendant.

Civil No. C 80–3388 TEH.

Filed: December 23, 1981.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties hereto consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act [15 U.S.C. 16], and without further notice to any party or any other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of the Stipulation shall be without prejudice to plaintiff or defendant in this or any other proceeding. Dated:

For the Plaintiff United States of America: William F. Baxter, *Assistant Attorney General;* Mark Leddy; Anthony E. Desmond, *Attorneys, Department of Justice;* Howard J. Parker, *Attorney, Department of Justice;* Polly L. Frenkel, *Attorney, Department of Justice.*

For the Defendant Acorn Engineering Company: Gibson, Dunn & Crutcher, 515 South Flower Street, Los Angeles, California 90071.

By John J. Hanson, *Attorney for Acorn Engineering Company.*

U.S. District Court, Northern District of California

United States of America, Plaintiff, v. *Acorn Engineering Company,* Defendant.

Civil No. C 80–3388 TEH.

Filed: December 23, 1981.

Final Judgment

Plaintiff, United States of America, having filed its complaint on August 19, 1980, defendant having filed its answer thereto, plaintiff's motion for preliminary relief having been heard and granted by the Court, and plaintiff and defendant by their respective attorneys having consented to the entry of this Final Judgment, and without this Final Judgment constituting evidence or an admission by any party with respect to any issue consented to:

Now, therefore, and upon a determination by this Court that entry of this Judgment will be in the public interest, it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties consenting hereto. The complaint states a claim upon which relief may be granted against defendant under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II

As used in this Final Judgment:

A. "Acorn" shall mean defendant Acorn Engineering Company.

B. "APFC" shall mean Aluminum Plumbing Fixture Corporation, all the stock of which Acorn acquired on March 19, 1979.

C. "Vandal-resistant plumbing fixtures" shall mean aluminum and stainless steel urinals, lavatory wash basins, water closets, and combination water closet/wash basins of a configuration and with characteristics designed to be break-resistant, tamper-resistant, and to be used in an environment where there is a significant potential for fixture abuse, such as in a jail.

D. "Super Secur tooling and component parts" shall mean the tooling (dies and patterns) and component parts identified in Appendix A hereto.

E. "Person" shall mean any individual, partnership, firm, corporation, association, or any other business or legal entity.

III

The provisions of this Final Judgment shall apply to Acorn and its officers, directors, agents, employees, sudsidiary companies, affiliates, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

A. Acorn is ordered and directed to use its best efforts to divest itself completely, within 180 days of the date of this Final Judgment, as hereinafter provided, of all of its rights, title, interest and obligations in the following: the Super Secur tooling and component parts; all engineering drawings associated with such tooling and component parts as listed in Appendix B; all letters patent relating to vandal-resistant plumbing fixtures, accessories, or fittings obtained by Acorn in its acquisition of APFC and in its prior acquisition of certain assets of Kelsey Hayes, which patents are listed in Appendix C.

B. Acorn is ordered and directed to use its best efforts to divest itself completely, within 180 days of the date of this Final Judgment, as hereinafter provided, of all of its right, title, and interest, except as expressly provided below, in the trademarks or trade names "Super Secur," "Super Secur Ware," and "Super Secur Manufacturing Co." and in all other trade names, trademarks, symbols and distinctive logos associated with APFC's vandal-resistant plumbing fixture line, all of which are identified in Appendix D. For a period of eighteen months from the date of entry of this Final Judgment, Acorn may use, in marketing, its prefabricated metal building catalogs printed before November 1, 1981, provided that after the divestiture ordered herein closes, each such catalog reveals on the cover in a conspicuous way that Acorn has divested its rights to use the "Super Secur" name, but printed the catalog before such divestiture.

C. The divestiture described in the two immediately preceding paragraphs shall be made to a single purchaser who shall reasonably demonstrate to the plaintiff and/or the Court, as hereinafter provided, that (1) the purchase is for the purpose of competing with Acorn in the United States in the vandal-resistant plumbing fixtures market, and (2) the purchaser has the management,

operational and financial capability to compete effectively with Acorn. The purchaser shall not be Waltec, Inc. or any of its subsidiaries or affiliates, or any subsidiary or affiliate of Acorn.

V

A. Acorn shall utilize its best efforts to make the divestiture herein ordered and to make known promptly the availability of the assets by all ordinary and usual means. Acorn shall permit prospective purchasers to make such inspection of the assets as may be helpful in promoting the divestiture. In the event that the divestiture has not been completed within seventy-five (75) days from the entry of this Final Judgment, Acorn shall augment its best efforts by causing an advertisement offering the assets for sale to be published for a reasonable period in at least two trade or business publications of national circulation, including one circulated to the plumbing fixtures industry.

B. Acorn shall furnish to prospective purchasers all revenue and cost data for the operation formerly carried on by APFC, in the form prepared by APFC for calendar years 1976, 1977 and 1978; information concerning sources of supply for raw materials and parts for APFC vandal-resistant plumbing fixtures, specifically including the name and address of all such vendors indicating the item supplied; a list of all persons, and the address of each, who were sales representatives in 1978 or 1979 for vandal-resistant plumbing fixtures produced by APFC; and the name and address of major purchasers who placed orders, in 1978 and 1979, with APFC for the purchase of any vandal-resistant plumbing fixtures. Acorn shall not be required to submit any such information or materials to anyone unless the recipient thereof executes an affidavit requiring recipient to keep such information and/or materials confidential, not to reproduce the same, and to return the same to Acorn in the event a sale to such recipient is not consummated.

VI

The divestiture ordered and directed by this Final Judgment shall be made in good faith and shall be absolute and unqualified. Except upon written approval by the plaintiff or the Court, Acorn shall not reacquire any of the assets divested, nor accept any lien, mortgage, deed of trust or other form of security on or interest in any portion of the assets sold. Acorn shall take no action which will impair or impede the divestiture ordered by this Final Judgment.

VII

Each sixty (60) days following the entry of this Final Judgment until divestiture has been completed, or until the end of six (6) months from the date of entry of this Final Judgment, whichever first occurs, Acorn shall file with this Court and serve upon plaintiff an affidavit describing in detail the fact and manner of its efforts to accomplish the divestiture ordered by this Final Judgment. Such reports shall be supplemented by such additional information as the plaintiff may request.

VIII

At least thirty (30) days in advance of the anticipated closing date of the contract of divestiture pursuant to this Final Judgment, Acorn shall submit to plaintiff the name of the proposed purchaser and all pertinent information respecting the proposed divestiture together with such additional information as plaintiff may request in writing. Within fourteen (14) days after Acorn has supplied the name of the proposed purchaser, the pertinent information regarding the proposed divestiture, and any requested additional information, plaintiff will advise Acorn in writing of plaintiff's approval or objections to the proposed divestiture. If plaintiff objects to the proposed divestiture, then such contract of divestiture shall not be consummated unless (1) plaintiff notifies Acorn in writing of any subsequent approval or unless (2) the Court approves after a hearing at which Acorn shall have the burden of proving that the proposed divestiture is to a person (1) who has the purpose of competing with Acorn in the vandal-resistant plumbing fixtures market, and (2) who has the management, financial and operational capability to compete effectively with Acorn.

IX

If Acorn has not notified the plaintiff within one hundred twenty (120) days following the date of entry of this Final Judgment that it has entered into a contract of divestiture, each party shall notify the other in writing of the name and description of not more than two persons it wishes to nominate as a trustee to conduct a sale of the assets to be divested upon sealed or public bids. The parties shall seek to agree upon one of the nominees to serve. If they are unable to agree, the Court may select from said nominees after hearing the parties as to the qualifications of the candidates.

X

If Acorn is unable to complete the divestiture required by this Final Judgment within the period prescribed in Section IV above, the Court shall appoint a trustee to serve for a maximum period of six (6) months except as hereinafter provided. The trustee's main endeavor shall be effectively to advertise the prospective sale of the assets to be divested and to conduct a sale to a single purchaser of such assets upon sealed or public bids, in order to accomplish a prompt and full divestiture of such assets for the purpose of effectively promoting competition in the vandal-resistant plumbing fixture market in the United States. The purchaser shall not be Waltec, Inc. or any of its subsidiaries or affiliates or any subsidiary or affiliate of Acorn.

XI

The trustee, who may be an investment banker or broker, a person engaged in the business of selling industrial plants or equipment, or a similarly qualified person, shall perform at the expense of Acorn under a schedule of court-approved fees, incentive compensation and costs to be fixed at the time of the trustee's appointment. The compensation shall be based at least in significant part on a commission arrangement which shall be contingent on the trustee causing the sale of the assets.

XII

A. The trustee shall have all such powers as are necessary and proper to accomplish divestiture in accordance with the provisions of this Final Judgment. The trustee may require Acorn to convey all rights, titles, interests and obligations in the assets to be divested to any purchaser. Such conveyance shall be absolute and unqualified. The trustee shall have the right to assemble and permit inspection by prospective purchasers of the assets to be divested and to furnish to prospective purchasers the information furnished to prospective purchasers by Acorn, as described in paragraph B of Section V of this Final Judgment, and such other information pertaining to the assets to be divested as is reasonably necessary to accomplish the main endeavor of the trustee, as described in Section X of this Final Judgment.

B. Acorn shall also provide the trustee the revenue and cost data kept by Acorn in accord with paragraph 12 of the Preliminary Relief Order entered in this case on June 18, 1981 who shall have the right to furnish such data to prospective purchasers, provided however, Acorn may petition the Court to limit the disclosure permitted by this paragraph upon a showing that such disclosure would not aid the trustee in accomplishing his main endeavor, as described by Section X of this Final Judgment.

C. The trustee shall advise the parties of all significant matters arising in his efforts to make the divestiture ordered herein.

D. Acorn shall provide such reasonable assistance as the trustee may request to enable him to sell the assets to be divested.

XIII

In the event the trustee is unable to accomplish or complete the divestiture required by this Final Judgment during the term of the trust, such term shall be extended pending further orders of the Court. Plaintiff may apply to the Court for further instructions for the trustee in order to accomplish prompt and complete divestiture.

XIV

For two years following the date of closing of the contract of divestiture ordered herein, any person inquiring of Acorn, Elmco Sales, Inc., or Mechanical Sales, Inc., orally or in writing, about the possible purchase of any "Super Secur" vandal-resistant plumbing fixtures, including Super Secur replacement parts, promptly shall be informed of Acorn's divestiture of the Super Secur assets, and of the name and address of the person to whom Acorn divested such assets.

XVI

At any time during the period of ten (10) years from the date of entry of this Final Judgment, without prior written approval of the plaintiff, Acorn in enjoined and restrained from acquiring:

A. Any capital stock of any person engaged in the vandal-resistant plumbing fixture business in the United States;

B. All or any part of the assets (except for the purchase of products, inventory, or equipment in the normal course of business) of a person engaged in the vandal-resistant plumbing fixture business in the United States.

At any time during the period of ten (10) years from the date of entry of this Final Judgment, without prior written approval of the plaintiff, Acorn is enjoined and restrained from transferring, except as expressly provided in Section IV herein:

A. Any of its capital stock to any person engaged in the vandal-resistant plumbing fixture business in the United States;

B. All or any part of its assets (except for the transfer of products, inventory, or equipment in the normal course of business) to a person engaged in the vandal-resistant plumbing fixture business in the United States.

XVII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Acorn made to its principal offices, be permitted:

1. Access during regular office hours of Acorn to inspect and copy all relevant books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control or Acorn and without restrain or interference from Acorn, who may have counsel present; and

2. Subject to the reasonable convenience of Acorn and without restraint or interference from Acorn, to interview officers, employees, and agents of Acorn, who may have counsel present;

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to Acorn's principal offices, Acorn shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested;

C. No information or documents obtained by the means provided in this Section XVII shall be divulged by a representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with the Final Judgment, or as otherwise required by law; and

D. If at the time information or documents are furnished by Acorn to plaintiff in accordance with this Section XVII, Acorn represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Acorn marks each pertinent page of such material "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to Acorn prior to divulging such material in any legal proceedings (other than a grand jury proceeding) to which Acorn is not a party.

XVIII

Acorn shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets of its vandal-resistant plumbing fixtures business that the acquiring party agrees to be bound by the provisions of this Final Judgment. An acquiring party subject to this provision shall file with the Court, and serve upon the plaintiff, its consent to be bound by this Final Judgment.

XIX

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith and for the punishment of any violation hereof.

XX

Entry of this Final Judgment is in the public interest.

Dated:

U.S. District Judge.

U.S. District Court for the Northern District of California

United States of America, Plaintiff, v. *Acorn Engineering Company*, Defendants.

Civil No. C 80–3388 TEH.

Filed: December 23, 1981.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)], the United States hereby submits this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On August 19, 1980, the United States filed a civil complaint under Section 15 of the Clayton Act [15 U.S.C. § 25], alleging that Acorn Engineering Company, Pott Industries Inc., and Houston Natural Gas Corporation had violated Section 7 of the Clayton Act [15 U.S.C. § 18]. The complaint charged that the March 19, 1979 acquisition of all the issued and outstanding common stock of Aluminum Plumbing Fixture Corporation by Acorn Engineering Company from Houston Natural Gas Corporation and its wholly-owned subsidiary, Pott Industries Inc., threatened to substantially lessen competition and create a monopoly in the manufacture and sale of vandal-resistant plumbing fixtures for use in prisons, other institutions, and park and recreation areas. On January 5, 1981, the complaint against Houston Natural Gas Corporation and Pott Industries Inc. was dismissed because of improper venue.

II. Description of Practices and Events Involved in the Alleged Violation

Prior to the acquisition, Aluminum Plumbing Fixture Corporation, under the "Super Secur" trade name, and Acorn Engineering Company, under the "Acorn" trade name, each manufactured and sold vandal-resistant plumbing fixtures. These fixtures (toilets, wash basins, combination units, etc.), which both companies distributed throughout the United States, were made of stainless steel and aluminum and designed to be used in detention institutions and recreation facilities where vandal resistance is required. In the year before the March 1979 acquisition, Acorn Engineering Company and Aluminum Plumbing Fixture Corporation were the only two competitors in the United States who manufactured and sold these vandal-resistant fixtures. The Government contends that the acquistion substantially lessened competition and gave Acorn Engineering Company monopoly power in the market for vandal-resistant plumbing fixtures for use in prisons, other institutions, and park and recreation areas.

III. Explanation of the Proposed Consent Judgment

The Government and the defendant have stipulated that the proposed consent judgment, which is in a form negotiated by the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation between the parties provides that there has been no admission by any party with respect to any issue of fact of law. Under the provision of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed judgment by the Court is conditioned upon a determination by the Court that the judgment is in the public interest.

The proposed judgment requires the defendant to divest those assets obtained in the acquisition which the Government considers important in the manufacture and marketing of vandal-resistant plumbing fixtures. The proposed judgment requires the defendant to divest itself completely of all Super Secur tooling and component parts; all engineering drawings associated with same; and all letters patent relating to vandal-resistant plumbing fixtures obtained in its acquisition of APFC and in its prior acquisition of certain assets of Kelsey Hayes. Defendant Acorn Engineering Co. Must also divest itself of the trademarks or trade names "Super Secur," "Super Secur Ware," "Super Secur Manufacturing Company," and others associated with APFC.

The proposed judgment requires divestiture of these assets to a single purchaser approved by the Government. The purchaser must have the capability and intent to use the assets to compete in the vandal-resistant plumbing fixture market in the United States. If the divestiture is not completed by the defendant within 180 days, the proposed consent judgment requires the naming of a trustee whose main endeavor shall be the

prompt and complete divestiture of the assets.

IV. Alternatives to the Proposed Consent Judgment

The proposed judgment is the result of negotiation with the defendant. From the date of the filing of the complaint, the Government has sought divestiture of the acquired assets in order to restore competition in the vandal-resistant plumbing fixture market in the United States. The Government is not requiring divestiture of all assets acquired by the defendant since some of these assets are not involved in the vandal-resistant plumbing fixture market. The Government believes the assets selected for divestiture constitute the best package available to promptly attract a purchaser who will operate the assets and compete effectively with defendant Acorn. The Government believes divestiture of assets unrelated to the vandal-resistant plumbing fixture market would not aid in restoring competition in that market. Royalty-free licensing of certain Acorn patents was also considered and rejected in favor of a divestiture of certain patents acquired from Kelsey-Hayes. The Government believes the patent divestiture to be equally effective in restoring competition.

V. Remedies Available to Potential Private Plaintiffs

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies that they would have had were the proposed consent judgment not entered. However, pursuant to Section 5(a) of the Clayton Act [15 U.S.C. § 16(a)], as amended, this judgment may not be used as *prima facie* evidence in private litigation.

VI. Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Anthony E. Desmond, Department of Justice, Antitrust Division, 450 Golden Gate Avenue, San Francisco, California 94102, within the 60-day period provided by the Act. The comments and the Government's responses to them will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of the judgment is necessary in the public interest. The proposed judgment itself provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification or enforcement of the judgment.

VII. Determinative Documents

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)] were considered in formulating this proposed judgment.

Dated: December 23, 1981.

Howard J. Parker.

Attorney, U.S. Department of Justice.

[FR Doc. 82-475 Filed 1-22-82; 8:45 am]

BILLLING CODE 4410-01-M

METRIC BOARD

Metric Board Action on American National Metric Council Chemicals and Allied Products Sector Conversion Plan

AGENCY: Metric Board.

ACTION: Notice.

SUMMARY: On November 18, 1981 at 46 FR 56768, the United States Metric Board (USMB) announced plans for review of an industry-wide metric conversion plan submitted by the Chemical and Allied Products Sector Committee of the American National Metric Council. Accompanying that notice was an abstract of the Plan. Public hearings were held on the Plan in Washington, DC, on December 17, 1981, and written and oral comments were received from the public. At its meeting in San Diego, CA, on January 7, 1982, the USMB considered the Plan and the comments received thereon, and adopted the following resolution:

Having reviewed the ANMC Chemicals and Allied Products Sector Conversion Plan and finding the Plan to be in compliance with the Board's Planning Guidelines, the Board endorses the Plan. This endorsement is not a mandate to proceed, since the USMB does not have such powers, but only a recognition by the USMB that the Plan has had adequate exposure, that affected individuals and groups have had an opportunity for comment, and that the USMB believes significant differences have been properly considered and resolved. The implementation of the Plan is now a matter for decision by individual companies, organizations and persons, but with the recognition that substantial coordination has been achieved.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles Danner, Private Sector Coordinator, USMB, 1600 Wilson Blvd., Suite 400, Arlington, VA 22209, (703) 235-2583.

Theodore S. Farfaglia,

Executive Director.

January 19, 1982.

[FR Doc. 82-1701 Filed 1-22-82; 8:45 am]

BILLING CODE 8260-01-M

Metric Board Action on American National Metric Council Instrument Sector Conversion Plan

AGENCY: Metric Board.

ACTION: Notice.

SUMMARY: On November 18, 1981 at 46 FR 56771, the United States Metric Board (USMB) announced plans for review of an industry-wide metric conversion plan submitted by the Instrument Sector Committee of the American National Metric Council. Accompanying that notice was an abstract of the Plan. Public hearings were held on the Plan in Washington, D.C., on December 18, 1981, and written and oral comments were received from the public. At its meeting in San Diego, CA, on January 7, 1982, the USMB considered the Plan and the comments received thereon, and adopted the following resolution:

Having reviewed the ANMC Instruments Sector Conversion Plan, and finding the Plan to be in compliance with the Board's Planning Guidelines, the Board endorses the Plan. This endorsement is not a mandate to proceed, since the USMB does not have such powers, but only a recognition by the USMB that the Plan has had adequate exposure, that affected individuals and groups have had an opportunity for comment, and that the USMB believes significant differences have been properly considered and resolved. The implementation of the Plan is now a matter for decision by individual companies, organizations, and persons, but with the recognition that substantial coordination has been achieved.

FOR FURTHER INFORMATION CONTACT:

Mr. Stephen A. Vastagh, Private Sector Coordinator, USMB, 1600 Wilson Blvd., Suite 400, Arlington, VA 22209, (703) 235-2593.

Theodore S. Farfaglia,

Executive Director.

January 19, 1982.

[FR Doc. 82-1702 Filed 1-22-82; 8:45 am]

BILLING CODE 8260-01-M

NATIONAL SCIENCE FOUNDATION

Behavioral and Neural Sciences Advisory Committee; Subcommittee for Anthropology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Behavioral and Neural Sciences—Subcommittee for Anthropology.
Date and time: February 10–11–12, 1982, 9:00–5:00 p.m.
Meeting place: National Science Foundation, 1800 G Street, NW., Room 642.
Type meeting: Closed.
Contact person: Dr. John E. Yellen, Program Director for Anthropology, Anthropology Program, Room 320, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357–7804.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in anthropology.
Agenda: To review and evaluate proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial (salary) data, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

Dated: January 20, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82–1715 Filed 1–22–82; 8:45 am]

BILLING CODE 7555–01–M

Behavioral and Neural Sciences Advisory Committee; Subcommittee on Neurobiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Neurobiology of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: February 11, 12, and February 23, 24, 1982: 9:00 a.m. to 5:00 p.m. each day.
Place: Room 1224 February 11 and 12, and Room 540 February 23 and 24, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Steven E. Kornguth, Program Director, Neurobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202/357–7471.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Neurobiology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 20, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82–1718 Filed 1–22–82; 8:45 am]

BILLING CODE 7555–01–M

Behavioral and Neural Sciences Advisory Committee; Subcommittee for Sensory Physiology and Perception; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Behavioral and Neural Sciences Subcommittee for Sensory Physiology and Perception.
Date and time: February 11 & 12, 1982, 9:00 A.M. to 5:00 P.M.
Place: Room 540 at The National Science Foundation, 1800 "G" Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Terrence R. Dolan, Program Director, Sensory Physiology and Perception, Room 320, National Science Foundation, Washington, D.C. 20550; telephone: 202/357–7428.
Summary minutes: May be obtained from the Contact Person, Dr. Terrence R. Dolan at the address listed above.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in sensory physiology and perception.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(C), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

Dated: January 20, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82–1716 Filed 1–22–82; 8:45 am]

BILLING CODE 7555–01–M

Engineering Advisory Committee; Subcommittee of Earthquake Hazards Mitigation; Meeting

In accordance with the Federal Advisory Committe Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Earthquake Hazards Mitigation of the Advisory Committee for Engineering.
Date and time: February 10, 1982—9:00 a.m. to 5:00 p.m.; February 11, 1982—9:00 a.m. to 12:00 Noon.
Place: National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550, Room 523.
Type of meeting: Open.
Contact person: Ms. Ramona Lauda, Program Analyst for Communication, Program and Resources, National Science Foundation, Room 1110, Washington, D.C. 20550. Telephone (202) 357–9774.
Summary minutes: May be obtained from the Contact Person.
Agenda:

Wednesday, February 10, 1982

9:00–10:00—Welcome and Discussion of Division Activities
10:00–11:00—Review of Budgets and Reports of Sub-programs
11:00–12:00—Status Reports on Special Projects
12:00–1:30—Lunch
1:30–2:30—Continuation of Status Reports
2:30–5:00—Interagency Coordination and International Activities

Thursday, February 11, 1982

9:00–12:00—Discussion of General Issues for Long Range Planning
12:00—Adjournment

Dated: January 20, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82–1713 Filed 1–22–82; 8:45 am]

BILLING CODE 7555–01–M

Physiology, Cellular and Molecular Biology; Subcommittee on Celluar Physiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463 The National Science Foundation announces the following meeting:

Name: Subcommittee on Cellular Physiology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: February 10, 11, 12, 1982—starting at 8:30 a.m. to 5: p.m.

Place: Room 643, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Joseph Albright, Director, Cellular Physiology Program, Room 332 National Science Foundation, Washington, DC 20550; Tel. (202) 357–7377.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Cellular Physiology.
Agenda: To review and evaluate research proposals as part of the selection process of awards.
Reasoning for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information: Financial data, such as salaries; and personal information concerning individuals assocated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c). Government in the Sunshine act.
Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of the Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 20, 1982.

M. R. Winkler,

Committee Management Coordinator.

[FR Doc. 82–1714 Filed 1–22–82; 8:45 am]

BILLING CODE 7555–01–M

Physiology, Cellular and Molecular Biology; Subcommittee on Genetic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Genetic Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: February 11–13, 1982, 9:00 AM–5:30 PM each day.
Place: Room 421, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Delill Nasser, Program Director, Genetic Biology Program, Room 329, National Science Foundation, Washington, D.C. 20550, telephone (202) 357–9687.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Genetic Biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: January 20, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82–1717 Filed 1–22–82; 8:45 am]

BILLING CODE 7555–01–M

Physiology, Cellular and Molecular Biology Advisory Committee; Subcommittee on Molecular Biology, Group A; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Molecular Biology Group A, of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: February 11 and 12, 1982; 9:00 a.m. to 5:00 p.m. each day.
Place: Room 543, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Arthur Kowalsky, Program Director, Biophysics Program, Room 329, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Molecular Biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NFS on July 6, 1979.

Dated: January 20, 1982.

M. R. Winkler,

Committee Management Coordinator.

[FR Doc. 82–1719 Filed 1–22–82; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public, methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.49, "Design of an Independent Spent Fuel Storage Installation (Water-Basin Type)," provides guidance acceptable to the NRC staff for use in the design of an independent spent fuel storage installation of the water-basin type. This guide endorses ANSI/ANS 57.7–1981, "Design Criteria for an Independent Spent Fuel Storage Installation (Water-Pool Type)," with certain exceptions.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Md., this 18th day of January 1982.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 82–1768 Filed 1–22–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-361 OL and 50-362 OL]

Southern California Edison Co., et al. (San Onofre Nuclear Generating Station, Units 2 and 3); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding:

Stephen F. Eilperin, Chairman
Dr. W. Reed Johnson
Dr. Reginald L. Gotchy

Dated: January 15, 1982.

C. Jean Shoemaker,
Secretary to the Appeal Board.

[FR Doc. 82-1764 Filed 1-22-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-223]

University of Lowell; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. R-125, which consists of revised Technical Specifications to the operating license for a research reactor located in the University of Lowell in Lowell, Massachusetts.

The amendment is effective as of its date of issuance.

The amendment permits receipt, possession, use and transfer of Cobalt-60 sources.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 20, 1981 and supplemental information dated November 2, 1981, (2) Amendment No. 5 to License No. R-125, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, located at 1717 H Street NW., Washington, D.C. 20555. A copy of items 2 and 3 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Division of Technical Information Document Control.

Dated at Bethesda, Md., this 15th day of January 1982.

For the Nuclear Regulatory Commission.

James R. Miller,
Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 82-1765 Filed 1-22-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp. and Vermont Yankee Nuclear Power Plant; Modification of Jan. 13, 1981 and Nov. 25, 1981 Orders

I

The Vermont Yankee Nuclear Power Corporation (the licensee) is the holder of Facility Operating License No. DPR-28 which authorizes the licensee to operate the Vermont Yankee Nuclear Power Plant (the facility) at power levels not in excess of 1593 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Windham County, Vermont.

II

On January 13, 1981 the Commission isued an Order modifying the license requiring: (1) The licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NEDO-21888 and NEDO-24583-1 and the Acceptance Criteria contained in Appendix A to NUREG-0661 and (2) design and install any plant modifications needed to assure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG-0661. The Order, published in the Federal Register on January 28, 1981 (46 FR-9323), required installation of any plant modifications needed to provide compliance with the Acceptance Criteria in Appendix A to NUREG-0661 be completed not later than November 30, 1981, or, if the plant is shutdown on that date, before the resumption of power operation thereafter.

On November 25, 1981 a 45-day extension of this January 13, 1981 Order, published in the Federal Register on December 3, 1981 (46 FR-58760), was granted by the Director of the Division of Licensing pending Commission approval of a staff generic proposal to extend the completion dates for the Mark I long-term program containment modification for all affected licenses.

III

On October 31, 1979 the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this program. Throughout the development of these acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage partial plant-unique assessments and modifications to be undertaken.

Since the development of these acceptance criteria, significant progress has been made by the licensee in meeting the Order requirements. However, by letter dated February 23, 1981 the licensee stated that unforeseen difficulties and delays have been encountered primarily related to one or more of the following: (1) Torus and torus attached piping analyses; (2) equipment delivery; (3) the use of interpretations and/or alternate approaches to the NUREG-0661 Acceptance Criteria; (4) plant-unique design and modification problems; and (5) slippages in refueling outages that have necessitated revision of the Order date.

The major modifications, which are those associated with the torus, vent system, internal structures and safety relief valve piping, which comprise approximately 75 percent of the total program effort, have been completed. The remaining items to be completed are primarily associated with the torus attached piping modifications.

The Commission believes that substantial improvements have already been made in the margins of safety of the containment systems and expects improvements will continue to be made during the period until all the modifications required for compliance with this Order are completed. The Commission further believes an acceptable balance has been achieved between completion of the major modifications, which provide significant improvement in the safety margin, and the granting of additional time for completion of the remaining

modifications which fully restore the originally intended safety margin. In consideration of the range of completion dates submitted by all of the affected licensees and an assessment of the nature of the remaining effort involved in the analysis, design and installation of the needed plant modifications, the Commission has concluded that the licensee's proposed completion schedule is both responsive and practicable.

The Commission has, therefore, determined to modify the January 13, 1981 Order, as modified by the Order of November 25, 1981, to extend the previously imposed completion date for needed plant modifications. This Order continues in effect the exemption to General Design Criterion 50 of Appendix A to 10 CFR Part 50 granted on January 13, 1981.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, including Sections 103 and 161i, and the Commission's rules and regulations in 10 CFR Parts 2 and 50. *It is ordered,* That the completion date specified in Section V of the January 13, 1981, "Order for Modification of License," as modified by the Order of November 25, 1981, is hereby changed to read as follows: "prior to the start of Cycle 10." The Order of January 13, 1981, except as modified herein, remains in effect in accordance with its terms.

V

The licensee may request a hearing on this Order on or before February 24, 1982. A request for hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether the completion date specified in Section V of the January 13, 1981, "Order for Modification of License," should be changed prior to start of Cycle 10.

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

Dated at Bethesda, Md., this 14th day of January 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-1767 Filed 1-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280, 50-281]

Virginia Electric and Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Facility Operating License No. DPR-32 and Amendment No. 74 to Facility Operating License No. DPR-37 issued to Virginia Electric and Power Company (the licensee), which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2, respectively (the facilities), located in Surry County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to allow an increase in enrichment for new and spent fuel from 3.7 weight percent of U-235 to 4.1 weight percent of U-235.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 15, 1980, as supplemented September 15 and December 4, 1980, and March 26 and August 18, 1981, (2) Amendment Nos. 73 and 74 to License Nos. DPR-32 and DPR-37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 19th day of January, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-1766 Filed 1-22-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

January 18, 1982.

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 paperwork reduction act (44 U.S.C., 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 (burden change), extensions (no change), or reinstatements. 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 whom 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;

The Standard Industrial Classification (SIC) Codes, referring to specific respondent groups that are affected;

Whether small business or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public;

The number of forms in the request for approval;

An indication of whether section 3504(h) of Pub. L. 96-511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

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 difficulty 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 anticipate 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 suggesting for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202-377-3627

New

• Economic and Statistical Analysis
Chromium, Manganese and Silicon Ferroalloys and Related Materials
BIE-1981
Nonrecurring
Business or other institutions
Producers of ferroalloys and related materials
SIC: 331
Other advancement and regulation of commerce: 21 responses; 336 hours; $21,250 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202-395-7313

The information is required for the investigation of imports of ferroalloys and related materials under section 232 of the Trade Expansion Act of 1962, as amended, safeguarding national security (effects of imported articles on national security).

Revisions

• International Trade Administration
Proposed Revision of 15 CFR Part 369, Restrictive Trade Practices or Boycotts
EAR 369; ITA 621P, and 6051P-A
Quarterly
Businesses or other institutions
U.S. Industry or Individual
SIC: Multiple
Small Businesses or organizations
Other advancement and regulation of commerce: 36,000 responses; 36,000 hours; $0 Federal cost; 4 forms; NPRM under 3504(h)
William T. Adams, 202-395-4814

The proposal establishes the prohibited nature of certain boycott terms in banking and financial transactions and reduces unnecessary and burdensome aspects of the antiboycott reporting requirements. The proposals will reduce by a factor of nearly one-half the required reporting of boycott requests. Eliminating these reporting requirements will have a beneficial effects on the business community.

Reinstatements

• National Oceanic and Atmospheric Administration
Foreign Fishing Regulations
On occasion/weekly/quarterly/annually
Businesses or other institutions
Foreign fishing vessels in the fishery conserv. zone, etc.
SIC: 951
Other advancement and regulation of commerce: 100,000 responses; 50,000 hours; $105 Federal cost; 9 forms; not applicable under 3504(h)
William T. Adams, 202-395-4814

These logs are used by the National Marine Fisheries Service in day-to-day fisheries management, to determine fees that must be paid by each Nation every three months, and to determine when a nation has its allocations.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Larry E. Miesse—202-633-4312

Extensions (No Change)

• Immigration and Naturalization Service
Request for cancellation of Public Charge Bond
I-356
Nonrecurring
Individuals or households
Aliens with an outstanding bond
Federal Law enforcement activities: 1,000 responses; 250 hours; $5,000 Federal cost; $2,500 public cost; 1 form; not applicable under 3504(h)
Andy Uscher, 202-395-4814

Required in order to determine whether bond posted on behalf of alien in the U.S. should be cancelled.

GENERAL SERVICES ADMINISTRATION

Agency Clearance Officer—John F. Gilmore—202-566-1164

New

• Certificate of Release of a Motor Vehicle
On occasion
Individuals or households
Motor vehicles
General property and records management; 1 responses; 1 hour; $0 Federal cost; 2 forms; not applicable under 3504(h)
Franklin S. Reeder, 202-395-3785

These are used by agencies that sell or release Government Motor Vehicle Data and provide data regarding the odometer mileage and accuracy.

PANAMA CANAL COMMISSION

Agency Clearance Officer—Hazel M. Murdock—202-724-0104

New

• Authorization for Disclosure of Medical Information
PC 8200
On occasion/weekly/monthly/other—see SF83
Individuals or households
Persons making or filing claims against the former, etc.

Water transportation: 50 responses; 9 hours; $100 Federal cost; 7 forms; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

For release of medical information to attorneys, interested third parties, employees and individuals and physicians. The information may be used in settlement of third party claims, medical treatment or settlement of court cases. Also for purposes of compensation, awards.

• Personnel Administration Forms
Other—See SF83
Individuals or households
Applicants for employment
Water transportation: 14,200 responses; 51,900 hours; $180,000 Federal cost; 61 forms; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

The information is needed to determine the qualifications, suitability and availability of applicants for Federal Employment in the Canal Area so that U.S. Government agencies can be supplied with eligibles to fill vacant positions.

Arnold Strasser,

Acting Deputy Chief, Reports Management.

[FR Doc. 82–1514 Filed 1–22–82; 8:45 am]

BILLING CODE 3110–01–M

Agency Forms Under Review

Background

January 13, 1982.

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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
The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected
Whether small businesses or organizations are affected
A description of the Federal budget functional category that covers the information collection
An estimate of the number of responses
An estimate of the total number of hours needed to fill out the form
An estimate of the cost to the Federal Government
An estimate of the cost to the public
The number of forms in the request for approval
An indication of whether section 3504(h) of Pub. L. 96–511 applies
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DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

New

• Agricultural Marketing Service
Irish Potatoes Grown in Colorado (Marketing Order No. 948)
On occasion
Farms/businesses or other institutions
Potato handlers in the production area.
SIC: 515
Small businesses or organizations
Agricultural research and services: 426 responses; 13 hours; $435 Federal cost; 2 forms; $179 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395

The Colorado potato committees forms are used as a safeguard for handlers who wish to be exempted from grade, size, quality, or maturity requirements of the order.

• Department of Agriculture
Cable Television Borrower Annual Financial Reporting Form
FCC 326
Annually
Businesses or other institutions
Cable TV systems receiving loans or loan gurantees, etc.
SIC: 481
Small businesses or organizations
Energy supply: 45 responses; 90 hours; $654 Federal cost; 1 form; $1,012 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

This is a year end financial reporting form containing a balance sheet and income statement. It enables REA to monitor use of loan funds and helps ensure loan security.

Extensions (Burden Change)

• Agricultural Marketing Service
Federal Seed Act and Rules and Regulations
On occasion
State or local governments/businesses or other institutions
State seed certification agencies, seed retailers, etc.

SIC: 011, 013, 018, 019, 072
Small businesses or organizations
Agricultural research and services: 775 responses; 2,104 hours; $17,000 Federal cost; 1 form; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The information is gathered to determine culpability for seed that is found to be improperly labeled. The records are used to support penalty actions and for court actions when prosecution is necessary.

• Animal and Plant Health Inspection Service
7 CFR Parts 319, 321, 352—Foreign Quarantine Notices
PPQ 533, 546, 564, 587
On occasion
Individuals or households/State or local governments/farms/businesses or other institutions
Farms, nurseries, wholesalers, botanical and zoological, etc.
SIC: Multiple
Small businesses or organizations
Agricultural research and services: 5,685 responses; 846 hours; $109,461 Federal cost; 4 forms; $4,230 public cost; not applicable under 3505(h)
Nell Minow, 202–395–7340

Regulations implementing the Plant Quarantine Act relative to the importation into the U.S. of nursery stock plants, fruits, vegetables, roots, bulbs, etc. The regs identify articles which are restricted and specify procedures for obtaining permits required by the act to import plants and plant products.

• Agricultural Marketing Service
Regulations governing the inspection and grading of manufactured or processes dairy products—recordkeeping
On occasion
Businesses or other institutions
Manufacturers and distributors of dairy products.
SIC: 202, 964
Agricultural research and services: 7,600 responses; 7,100 hours; $0 Federal cost; 1 form; $35,500 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The regulation explains the basis of the inspection or grading service performed in accordance with the provisions of the regulation, the instructions and procedures issued or approved by the administrator, U.S. standards for grades, Federal specifications and other specifications as defined in a specific purchase contract.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

Extensions (Burden Change)

• Bureau of the Census
Shipper's Summary Export Declaration
7525M
Monthly
Businesses or other institutions
Exporters.
SIC: All
Small businesses or organizations
Other advancement and regulation of commerce:
948 responses; 1,896 hours; $4,476,000 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Form 7525–M is designed for use, if desired, by exporters who make numerous shipments of essentially the same commodities from one port of export to one country of destination where its use would result in a substantial reduction in the number of shipper's export declarations required under regular reporting procedures.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

New

• Departmental and Others
ASVAB Validation Against Benchmark Industrial Business Occupations
Nonrecurring
Individuals or households/businesses or other institutions
Individs in various trades and skills, including: etc.
SIC: 120, 760
Small Businesses or organizations
Department of Defense—Military: 4,000 responses; 1,000 hours; $100,000 Federal cost; 1 form; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

This contract is designed to validate the test performance of individuals who take the Armed Services Vocational Aptitude Battery by comparing that performance on the test to their work performance. This validation is necessary in order to provide pertinent job validity information to high school counselors who will be counseling students going into the world of work. Without this validity information, the credibility of the program will suffer greatly.

• Department of the Army
Civilian Markmanship Program Enrollment
On occasion
Businesses or other institutions
Civilian markmanship clubs
SIC: 999
Small businesses or organizations
Department of Defense—Military: 100 responses; 100 hours; $16,500 Federal cost; 6 forms; not applicable under 3504(h)
Andy Uscher, 202–395–4814

The enrollment forms are used to screen applications and provide a record that the requirements of Section 4307, Title 10 U.S. Code are met.

Extensions (Burden Change)

• Departmental and Others
School Officials Evaluation of Candidate
DD 1869
On occasion
Individuals or households
Local school officials
Department of Defense—Military: 60,000 responses; 15,000 hours; $12,000 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Candidates to U.S. Military and Naval Academies are required to provide an academic evaluation. The average applicant requests four school officials to complete the form.

Extensions (No Change)

• Departmental and Others
Claim for Exemption From Submission of Certified Cost or Pricing Data
DD 633–7
On occasion
Businesses or other institutions
Buss organ seeking negotiated defense contracts, etc.
SIC: 999
Small businesses or organizations
Department of Defense—Military: 4,000 responses; 2,000 hours; $50,000 Federal cost; 1 form; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

This form was designed to provide the prospective contractor a basis for claiming exemption from submission of certified cost or pricing data, based on established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. This form is needed because it requires the minimum amount of sales data necessary for the contracting officer to determine that the contractor satisfies the exemption criteria.

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—202–633–9770

New

• Conservation and Solar Energy
Applicant Profile Data
WAPA–743R
On occasion
State or local governments/businesses or other institutions
Entities involved in the production, purchase, sales, etc.
SIC: Multiple
Small businesses or organizations
Energy information, policy, and regulation: 125 responses; 1,000 hours; $13,500 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

Data will be used to determine electric power allocations to preference entities in accordance with reclamation law.

• Departmental and Others
Health Effects of Low-Dose Radiation Exposure Among Nuclear Shipyard Workers
ER–487A, 487B, 487C
Nonrecurring
Individuals or households
Current and former nuclear shipyard workers, etc.
General science and basic research: 70,000 responses; 7,000 hours; $369,000 Federal cost; 3 forms; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

The objectives are to determine the leukemogenic, carcinogenic and other health hazards associated with repeated exposures to low levels of radiation and to evaluate current safety standards on the basis of any detectable risks associated with such exposures. Data collection will begin in earyl 1982 and be published in epidemiological journals.

• Economic Requlatory Administration
Amendments to Title III of the Powerplant and Industrial Fuel Use Act
ERA–328R
Nonrecurring
Businesses or other institutions
Existing powerplants
SIC: Multiple
Energy information, policy, and regulation: 45 responses; 45 hours; $7,200 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

The information requirements for which clearance is sought are part of the regulations which establish the procedures and requirements for obtaining prohibition orders against the use of natural gas or petroleum in existing powerplants.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Social Security Administration
Reconciliation Statement
SSA–4792 (10–81)
Other—See SF83
State or local governments
Reporting officials for public employers
SIC: 944
Small businesses or organizations
General retirement and disability insurance: 75 responses; 38 hours; $500 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

The payroll records of the sample public employers are examined to determine if those employees who are covered for Social Security purposes under their contract with the Secretary of Health and Human Services are correctly being reported and conversely those employees who are not covered for Social Security purposes are not being reported.

• Social Security Administration
April 1982 Current Population Survey (CPS), Alimony and Child Support Supplement
CPS–1
Nonrecurring
Individuals or households
Eligible interviewed housholds ¾ of April 82 sample
Other income security: 27,000 responses; 1,125 hours; $200,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

This supplement provides data on never married women with children at home and on ever divorced or separated women with children at home from a previous husband. Survey questions will elicit information on whether child support or alimony was agreed to, how much of the agreed annual amount was actually received in 1981 and whether local child support enforcement offices were instrumental in helping mothers obtain child support.

• National Institutes of Health
An Epidemiologic Investigation of Cancer Risk in Radiologic Technologists
Nonrecurring
Individuals or households
American Registry of Radiologic Technologists Members Health: 75,000 responses; 25,000 hours; $270,000 Federal cost; 1 form; $247,500 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

Studies of low-dose, fractionated radiation exposures are of particular importance. This study provides a unique opportunity to evaluate the risk of radiation induced cancer in a large well-defined, occupationally exposed population.

• Human Development Services
Three Year State Plan for Vocational Rehabilitation Services
ED (RSA) spur
Annually, biannually
State or local governments
State VA Agencies
SIC: 944
Social services: 82 responses; 1,640 hours; $16,400 Federal cost; 1 form; $16,400 public cost; not applicable under 3504(h)
Federal education data acquisition council, 202–426–5030

This form fulfills the requirements for a State plan as stipulated in Rehab Act. The plan serves as the basis for flowing monies to the States under title I of P.L. 93–112. This plan covers the period fiscal year 1983 through 1985.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—Vivian A. Keado—202–343–6191

New

• Bureau of Indian Affairs
Forestry—Subchapter M 25 CFR [1]
On occasion, monthly, quarterly, annually
Other—See SF83
Individuals or households/State or local governments/businesses or other institutions
Loggers, sawmills and other forest prod. comp. near Ind. lands
SIC: 085, 951, 241, 242, 243, 249, 913, 922
Conservation and land management: 98,342 responses; 98,342 hours; $1,784,351 Federal cost; 28 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Most of these forms, letters, etc. are involved with the sale of Indian timber and are needed to protect the Indians from loss. D.I. 1210 is needed to provide

[1] Section 3512 of the Paperwork Reduction Act precludes Federal agencies from penalizing any person failing to maintain or provide information to the agencies if the information collection request was made after December 31, 1981 and does not display a current OMB control number, or fails to state that the request is not subject to the Paperwork Reduction Act. Due to resource constraints, the Department of the Interior was unable to submit complete clearance packages for OMB review for many information collection requests before the December 31 deadline. OMB has agreed to approve the above information collection requests on a provisional basis. In exchange, Interior developed a schedule for submitting complete justification packages for these items. This schedule is available from the Agency Clearance Officer, Vivian A. Keado, at 202–343–6191.

information to Congress on Forest fire protection.
• Bureau of Indian Affairs
Subchapter N—Grazing 25 CFR 151, 152, and 153 [1]
On occasion, annually, other—see SF83
Individuals or households/farms/businesses or other institutions
Livestock owners, lending agencies, trust Indian landowners
SIC: Multiple
Small businesses or organizations
Conservation and land management: 75,376 responses; 75,376 hours; $1,386,304 Federal cost; 16 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The attached list is used to advertise award and administer grazing permit contracts with Indian land.
• Bureau of Indian Affairs
Subchapter O, 25 CFR, Rights-of-Way Roads [1]
Annually
Individuals or households/State or local governments/businesses or other institutions
Indians on or near reservations, abstractors, public util.
SIC: 065–651–654
Area and regional development: 117,775 responses; 117,775 hours; $2,166,100 Federal cost; 25 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Most of these forms involve Indian lands, issuance of patents, sale or lease, rights-of-way, obtaining title information, etc.

• Bureau of Indian Affairs
Subchapter P—Mining [1]
On occasion
Businesses or other institutions
Businesses on Indian lands
SIC: Multiple
Small businesses or organizations
Area and regional development: 117,775 responses; 117,775 hours; $2,166,100 Federal cost; 25 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Not available.

• Bureau of Indian Affairs
Oil and gas, Subchapter Q [1]
On occasion
Businesses or other institutions
Mining, oil and gas doing business on Indian lands.
SIC: Multiple
Small businesses or organizations
Area and regional development: 122,486 responses; 122,486 hours; $2,252,744 Federal cost; 26 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Not available.

• Bureau of Indian Affairs
Subchapter R, 25 CFR [1]
Other—see SF83
Individuals or households
Individuals, tribal business enterprises and other contractors
Area and regional development: 3,475 responses; 3,475 hours; $433,220 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The granting of concessions, business, agricultural and grazing leases on permits on reservoir sites, reserves for canals or flowage areas, and other lands withdrawn or acquired in connection with Indian irrigation projects and managed for the benefit of Indian programs.

• Bureau of Indian Affairs
Subchapter S, 25 CFR [1]
BIA 50 5459
Other—see SF83
Farms
Owners or leases of irrigable land on Indian irrigation project
SIC: Multiple
Area and regional development: 9,422 responses; 9,422 hours; $173,288 Federal cost; 2 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Execution of contracts for partial payment of construction costs required for administration of Indian irrigation projects.

• Bureau of Indian Affairs
Water Delivery Record 25 CFR 221.69I Application for Water [1]
Service 25 CFR 221.114 Subchapter T
Other—see SF83
Farms
Recipients of agricultural water of Indian irrigation project
SIC: Multiple
Small businesses or organizations
Area and regional development: 1,390 responses; 1,390 hours; $43,322 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Required information for the officer-in-charge to priority adminster the operation and maintenance of Indian irrigation projects.

• Bureau of Indian Affairs
Subchapter U—Electric Power System—25 CFR 231.4, 232.4 [1] and 233.4
Other—see SF83
Individuals or households/farms/businesses or other institutions
Individuals, farms and businesses
SIC: Multiple
Small businesses or organizations
Area and regional development: 2,085 responses; 2,085 hours; $64,983 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Administration and management of electric power system operated in conjunction with Indian irrigation projects.

DEPARTMENT OF STATE

Agency Clearance Officer—Gail J. Cook—202–632–3538

Reinstatements

• Administration of Foreign Affairs
Application for Dependent Care/Training Grant
JF–53
On occasion
Individuals or households
U.S. Government workers and dependents
Conduct of foreign affairs: 60 responses; 30 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The information collection is necessary to determine: (a) Eligibility of applicant (b) fund availability of classroom space (d) type of training requested (e) identification of day-care service, locality and estimated costs.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

• Federal Railroad Administration
Filing of Dedicated Cars
On occasion
Businesses or other institutions
Common carriers by rail engaged in interstate commerce
SIC: 401
Ground transportation: 1 response; 8 hours; $350 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

49 CFR 215, promulgated under 45 U.S.C. 431 and 438 requires railroads to notify FRA when cars are to be operated in dedicated service.

• Federal Railroad Administration
Designation of Qualified Persons
On occasion
Businesses or other institutions
Common carriers by rail engaged in interstate commerce
SIC: 401
Ground transportation: 8,280 responses; 1,380 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

49 CFR 215.11 promulgated under 45 U.S.C. 431 shows railroad personnel

who are used to inspect equipment and make decisions relative to safe movement of defective equipment.

• Urban Mass Transportation Administration
Title VI as it applies to section 18
Other—See SF83
Businesses or other institutions
Public and private transit operators
SIC: 411
Ground transportation: 700 responses; 2,100 hours; $832,000 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Each UMTA grantee must include in its application for section 18 benefits a statement assuring that it is in compliance with title VI of the Civil Rights Act of 1964.

• Urban Mass Transportation Administration
Financial Management Records
Other—See SF83
State or local governments
State and local publication transportation agencies
SIC: 411
Ground transportation: 1,000 responses; 3,600,000 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

The financial management records requirement for grantees is necessary to assist the Urban Mass Transportation Administration (UMTA) in monitoring the performance of a grantee and the use of Federal grant funds in accordance with the terms and conditions of the grant agreement/contract. Financial management records are used by the grantee to report financial information to UMTA.

Revisions

• Federal Railroad Administration
Track Safety Standards Reporting and Recordkeeping Requirements
Weekly, monthly, annually, other—See SF83
Businesses or other institutions
Common carriers by rail engaged in interstate commerce
SIC: 401
Ground transportation: 372,361 responses; 99,296 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Pub. L. 91–458—Federal track safety standards require railroads to conduct and record examination of tracks. Records are reviewed by Federal/State inspectors to ascertain degree of railroad complicance with frequency and extent of inspections.

Extensions (Burden Change)

• Federal Highway Administration
Annual Interstate Maintenance Program
Annually
State or local governments
State highway agency
SIC: 999
Ground transportation: 52 responses; 520 hours; $2,250 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Description of expected efforts to maintain the interstate highway system routes, to be used for evaluation of effectiveness and compliance with 23 U.S.C. 109(M).

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202–634–5394

Revisions

• Internal Revenue Service
Worksheet To Determine Withholding Allowances
6355
On occasion
Individuals or households
Taxpayers who file nonexempt forms W–4
Central fiscal operations: 80,000 responses; 100,000 hours; $189,476 Federal cost; 1 form; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

Form 6355 is used in conjunction with letter 1380 (SC/DO) to contact employees who filed non-exempt forms W–4. The IRS uses this information to determine the number of withholding allowances the employee is entitled to claim.

Extensions (No Change)

• Internal Revenue Service
Employment—Reference Inquiry
2163
Nonrecurring
Individuals or households/State or local governments/farms/businesses or other institutions
Employers listed as references on employment applcations
SIC: All
Small businesses or organizations
Central fiscal operations: 20,000 responses; 4,000 hours; $26,385 Federal cost; 1 form; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

This form is used to verify past employment history and to question listed and developed references as to the character and integrity of current or potential IRS employees. The information received is incorporated into a report on which a security determination is based.

CONSUMER PRODUCT SAFETY COMMISSION

Agency Clearance Officer—Charles Casper—301–634–7770

New

• Survey to Determine Consumer Exposure to Chain Saw Hazard
Nonrecurring
Individuals or households
Non-inner city households
Consumer and occupational health and safety: 1,100 responses; 451 hours; $85,756 Federal cost; 2 forms; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

The Commission is preparing to evaluate a volutary standard for chain saws. Responses to the telephone inquiries and the follow-up mail-out questionnaire will provide information on the prevalence and usage of chain saws, their safety features and their accessories.

• Baby Bouncer, Walker-Jumper, Baby Walker
16 CFR 1500.86 (A)(4)
Nonrecurring
Businesses or other institutions
Manufacturers of baby walkers, jumpers and bouncers.
SIC: 251
Small businesses or organizations
Consumer and occupational health and safety: 25 responses; 50 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

Requires manufacturer or importer to make, keep records of sales and testing, if performed, for a period of three years.

• Matchbooks—16 CFR 1202.2
On occasion
Businesses or other institutions
Matchbook manufacturers
SIC: 399
Small businesses or organizations
Consumer and occupational health and safety: 250 responses; 292 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

Requires the maintaining of test results to support the certification of the matchbook as meeting the CPSA requirements.

• Unvented Gas Space Heaters—16 CFR 1212
Other—see SF83
Businesses or other institutions
Manufacturers of unvented gas space heaters
SIC: 343
Small businesses or organizations
Consumer and occupational health and safety: 13 responses; 329 hours; $0

Federal cost; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

Evaluate industry's use and incorporation of the oxygen depletion device as it relates to the standard effective 12/81.

• Standard for Cellulose Insulation—16 CFR 1209.38
Other—see SF83
Businesses or other institutions
Manufacturers of cellulose insulation
SIC: 521
Small businesses or organizations
Consumer and occupational health and safety: 2,000 responses; 42,000 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

CSPA Standards require that manufacturers of cellulose insulation certify that their product meets the standard. Manufacturers, therefore, perform quality control tests and maintain their records as proof of their claim for certification.

• Product Certification Swimming Pool Slide Standard
16 CFR 1207.9(A)
Other—see SF83
Businesses or other institutions
Swimming pool manufacturer
SIC: 999
Small businesses or organizations
Consumer and occupational health and safety: 1 response; 1 hour; $0 Federal cost; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

The standard requires that certification on the part of the manufacturer be substantiated with records covering any tests performed to evaluate the swimming pool slide for certification.

• Clothing Textiles, Vinyl Plastic Film—16 CFR 1610.38 and 16 CFR 1610.31
On occasion
Businesses or other institutions
Textile and garment manufacturers
SIC: Multiple
Small businesses or organizations
Consumer and occupational health and safety: 83,325 response; 13,887 hours; $37,000 Federal cost; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

These requirements permit firms to file a guarantee with the commission. In order to file such a guarantee the firm must perform certain tests and maintain the records on these tests. The guarantee provides purchasers certain legal protections.

• Toy Caps—Submission of Intentions to Reduce Sound Level of Caps, 16 CFR 1500.86(A)(6)
Quarterly
Businesses or other institutions
Manufacturers of toy caps
SIC: 209
Small businesses or organizations
Consumer and occupational health and safety: 16 response; 64 hours; $4,000 Federal cost; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

CFR requires that firms distributing toy caps which produce sound levels between 138 and 158 decibles advise the commission of how they intend to lower the sound level of caps in future production.

• Records Requirements for Children's Sleepwear
On occasion
Businesses or other institutions
Children's sleepwear manufacturers
SIC: 234
Small businesses or organizations
Consumer and occupational health and safety: 35,000 responses; 8,750 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

The children's sleepwear standard requires that records be maintained to establish a line of continuity through the process of manufacture of each production unit. For test results on prototype and production units and disposition of all failing or rejected items.

• Certification and Labeling Requirements—Architectural Glazing Standard, 16 CFR S.1201.5(A)
Nonrecurring
Businesses or other institutions
Architectural glazing manufacturers
SIC: 321
Small businesses or organizations
Consumer and occupational health and safety: 4,500 responses; 6,000 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

Regulations require that architectural manufacturers certify that their product meets the standard. The manufacturers therefore perform tests according to their quality control program and maintain these records as required to verify their certification.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Christine Scoby—202–382–2742

New

• Compliance Requirement for the Child Resistant Packaging Act
Nonrecurring, other—see SF83
Businesses or other institutions
Pesticide chemical production and marketing industry
SIC: 286
Small Businesses or organizations
Pollution control and abatement: 7,500 responses; 12,000 hours; $115,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

The regulation for the child-resistant packaging of pesticide authorizes standards for the packaging of pesticides or devices to protect children and adults from serious illness or injury from accidental ingestion or contact with these pesticides or devices. The information collected allows the agency to identify which products are used residentially and which are not.

• Trade Secret Clearance Justification (0613)
Nonrecurring
Businesses or other institutions
Pesticide product registrants which have submitted, etc.
SIC: 287, 286
Pollution control and abatement: 250 responses; 500 hours; $40,000 Federal cost; 4 forms; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

To determine the public release status of test data, pesticide registrants must be contacted and asked to make and substantiate claims of confidentiality.

• Biological Survey of the Nation's Flowing Waters (378)
Other—see SF83
State or local governments
State fish and game agencies
SIC: 951
Pollution control and abatement: 1,300 responses; 2,600 hours; $440,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

EPA will obtain an evaluation of the biological status of the Nation's flowing waters based on currently available information known to State fish and game agencies. The U.S. FWS will assist EPA in obtaining this information for a probability sample of the river reaches. This is being done as part of the OWRS water monitoring strategy and is needed to provide support to policy decisions related to the effectiveness of the agency abatement program.

• State Hazardous Waste Management Application
5700–33
Annually
State or local governments
States that voluntarily apply for Federal financial assistance.
SIC: 951

Pollution control and abatement: 54 responses; 12,960 hours; $176,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Section 3011 of RCRA requires States that voluntarily seek financial assistance in support of their State hazardous waste management programs to fill out and submit a grant application to EPA. The grant form and "narrative summary" are reviewed by EPA to evaluate the proposed grant program. The application is also used as a management tool by EPA and the State.

Reinstatements

• Guidelines for CO and NO_x Waiver Applications
On occasion
Businesses or other institutions
Auto manufacturers producing light-duty vehicles for, etc.
SIC: 371
Small businesses or organizations
Pollution control and abatement: 6 responses; 2,400 hours; $26,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Information submitted by vehicle manufacturers in their waiver applications is analyzed to determine whether the manufacturers established that their models have met the criteria to receive waivers. The guidelines specify the information EPA needs to make that determination.

• Report of Pollution-Caused Fish Kill
EPA–7500–8
On occasion
State or local governments
State fish and wildlife and conservation agencies
SIC: 951
Pollution control and abatement: 683 responses; 170 hours; $12.000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Establishes a uniform system of voluntary reporting needed for local, State and national assessment of the biological health of ambient waters. These reports are used by the EPA to confirm adequacy of State monitoring required for grants under section 106 and aid to the EPA in identifying causes and locations of water quality problem areas often missed by conventional monitoring networks.

FEDERAL COMMUNICATIONS COMMISSION

Agency Clearance Officer—Richard D. Goodfriend—202–632–7513

New

FCC Rules and Regulations Section 90.145—Special Temporary Authority
On occasion
Individuals or households/State or local governments/businesses or other institutions
Rescue organ., disaster relief organ., police, highway, etc.
SIC: 483, 922
Small businesses or organizations
Other advancement and regulation of commerce: 6,000 responses; 3,000 hours; $25,000 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

Applicants may receive special temporary authority to use the radio facility in the private land mobile radio services by submitting in writing, or by telephone or telegraph in emergency cases, the information requested in § 90.145 of the FCC rules and regulations.

Revisions

• Application for Ship Radio Inspection or Survey
FCC 801
Annually, biennially
Businesses or other institutions
Shipboard radio service licensees
SIC: 441, 442, 443
Other advancement and regulation of commerce: 3,800 responses; 319 hours; $5,780 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

Submitted by licensee to request inspection of shipboard radio service as required by FCC rules and regulations, the Communications Act, and Great Lakes Agreement. This form provides necessary information to inspecting office.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shiley—202–287–9900

Reinstatements

• State and Local Emergency Management Annual Program Paper
FEMA 19–1; FEMA 19–2
Annually
State or local governments
State and local civil preparedness coordinators
SIC: 919
Defense-related activities: 4,656 responses; 33,040 hours; $12,200 Federal cost; 2 forms; not applicable under 3504(h)
Robert Veeder, 202–395–4814

The purpose of these forms is to state the status of civil preparedness capabilities in State and local jurisdictions and show those activities designed to improve their capability to cope with both natural and man-made disasters.

• Fair Plan Quarterly Report
HUD 1603
Quarterly
Businesses or other institutions
State insurance authorities
SIC: 999
Community development: 112 responses; 1,120 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Part A of Title XII of the National Housing Act (as enacted by Title XI of the Housing and Urban Development Act of 1968) provides for the development and carrying out of statewide plans to assure fair access to insurance requirements in urban areas (usually known as fair plans).

• Insurance Commitment
90–44 SIC 919
On occasion
State or local governments
Local governments in disaster areas
SIC: All
Disaster relief and insurance: 5,000 responses; 10,000 hours; $200,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

The basic requirement for this form stems from the Disaster Relief Act of 1974, Pub. L. 93–288, and Federal disaster assistance regulations (44 CFR Part 205). FEMA policies and guidelines (Pub. L. 93–288 and Pub. L. 93–234) require under certain conditions the applicant must obtain and maintain hazard insurance as a condition for receiving disaster assistance. This form documents the insurance commitment and can be used for flood insurance as well as other types.

• Estimate/Adjuster's Short Form Report/Worksheet Contents/Personal Property/Statement Replacement Cost Coverage/Proof of Loss/Notice of Loss
On occasion
Individvals or households/farms/businesses or other institutions
Residences and businesses in flood-prone areas, etc.
SIC: 999
Small businesses or organizations
Disaster relief and insurance: 200,000 responses; 50,000 hours; $25,000

Federal cost; 7 forms; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Forms used for the continued processing of claims for flood damages under the national flood insurance program.

• Recertification Questionnaire and Recommendation
HUD 99014
Quarterly—other—see SF83
Individuals or households
Disaster victims
Disaster relief and insurance: 20,000 responses; 10,000 hours; $137,600 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

This form is used as a tool to determine continuing elegibility for temporary housing, based on the applicant's progress toward obtaining permanent housing or adequate alternate housing.

• Change of Application Information
HUD 9962
On occasion
Individuals or households
Disaster victims
Disaster relief and insurance: 6,000 responses; 3,000 hours; $41,280 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Needed to keep all application information and applicant's status current in separate sections of the temporary housing field offices.

• Financial Statement
On occasion
Individuals or Households
Disaster victims
Disaster relief and insurance: 10,000 responses; 2,500 hours; $68,800 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

The financial statement is used to determine a temporary housing occupant's ability to obtain affordable alternate housing, to determine rent to be charged on a government-provided temporary housing unit, and to determine a sales price for a fema-owned mobile home.

• Pre-Placement Questionnaire
HUD 9961
On occasion
Individuals or households
Disaster victims
Disaster relief and insurance: 3,000 responses; 1,500 hours; $30,960 Federal cost; 1 form; not applicable under 3504(h)

Robert Veeder, 202–395–4814

The Pre-placement interview is held with each temporary housing applicant prior to formal eligibility decision. The form aids the decision-maker to determine the applicant's needs.

• Verification of income
HUD 99016
Quarterly
State or local governments
Disaster victims and their employers
SIC: Multiple
Disaster relief and insurance: 4,000 responses; 1,000 hours; $20,640 Federal cost; 1 form; not applicable under 3504(h)

Robert Veeder, 202–395–4814

This is needed to verify one portion (income) of temporary housing occupant's financial status, upon which certain forms of temporary housing assistance are based (obtaining adequate alternate housing, rent on housing after rent-free period, and cost for a mobile home).

• Disaster assistance registration form (English and Spanish)
FEMA 90–46A, FEMA 90–46B
On occasion
Individuals or households/farms/businesses or other institutions
Disaster victims
SIC: Multiple
Small businesses or organizations
Disaster relief and insurance: 100,000 responses; 50,000 hours; $71,000 Federal cost; 2 forms; not applicable under 3504(h)

Robert Veeder, 202–395–4814

Used to record disaster victims' visit to a disaster assistance center and to route the victim to various agency representative in the center.

FEDERAL MARITIME COMMISSION

Agency Clearance Officer—Ronald D. Murphy—202–523–5326

New

• 46 CFR 536—Publishing and filing ot tariffs by common carriers by water in the foreign commerce of the U.S.—Time/Volume Rates
GO 13
On occasion
Businesses or other institutions
Waterborne common carriers in U.S. foreign commerce
SIC: 441
Water transportation: 30 responses; 40 hours; $8,200 Federal cost; 1 form; not applicable under 3504(h)

Wayne Leiss, 202–395–7340

Prescribes uniform rules and regulations governing the filing of time/volume rates. It will eliminate the present confusion and imprecision surrounding existing time/volume rates and their related tariff provisions. It will also permit the commission to monitor the use of time/volume rates to ensure that they comply with the terms of their related contracts and the Shipping Act, 1916.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202–426–7304

New

• Computer Generated "Recipient Cash Advance Request"
ED 874
Weekly/Monthly
State or local governments/businesses or other institutions
State education agencies
SIC: 821, 822, 823, 824, 829, 841, 941
Education, training, employment, and social services: 84,000 responses; 84,000 hours; $34,400 Federal cost; 1 form; $840,000 public cost; not applicable under 3504(h)

Federal education data acquisition council, 202–426–5030

The recipient cash advance request form will be used by ED recipients to obtain funds for grants received from ED. The form will be used by those ED recipients who do not qualify for letter of credit. The recipients will request advances so that the Federal funds are available only immediately prior to their actual disbursement by the recipient for award activity in accordance with the General Accounting Office and Treasury regulations.

• Summary Date Sheet Listing Form (National Direct Student Loan)
ED 1269 1269–1
Annually
Businesses or other institutions
State education agencies
SIC: 941
Higher education: 57 responses; 1,140 hours; $149,000 Federal cost; 2 forms; $20,000 public cost; not applicable under 3504(h)
Federal Education Data Acquisition council, 202–426–5030

This form was designed to provide pertinent information to ed for compliance and statutory provisions governing both the national direct (defense) student loan program.

• Guarantee Agency Reserve Fund Analysis and Projections
ED 878
On occasion
State or local governments
State guarantee agencies
SIC: 821, 822

Higher education: 23 responses; 46 hours; $4,700 Federal cost; 1 form; $460 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The form is to be used to collect the data needed to decide if the agency should be allowed to retain the 422(a) Federal advance funds or if the Secretary should request the return of the funds.

- Performance and Financial Status Reports for Pub. L. 94–142 and Pub. L. 89–313

ED 873–1; 873–2
Annually
State or local governments
State education agencies
SIC: 941
Elementary, secondary, and vocational education: 116 responses; 522 hours; $5,000 Federal cost; 2 forms; $5,220 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Financial and performance reports are required annually as a condition of funding. SEP uses the data and information in program monitoring/compliance activities and in the annual congressional report. ED 873 collects information on the Pub. L. 94–142 State grant and incentive grant programs, as well as Pub. L. 89–313.

Revisions

- Application for Certification for Participation in Programs Under Title IV of the Higher Education Act of 1965, as Amended

ED 633
Annually
State or local governments
Institutions of postsecondary education
SIC: 822
Higher education: 1,900 responses; 3,800 hours; $400 Federal cost; 1 form; $190 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Form used by colleges and universities to apply to ed to participate in title IV programs.

- Education for the Handicapped Incentive Grant, FY 1984–86; Application for Federal Assistance

9055–1
Other—see SF83
State or local governments
State education agencies
SIC: 941
Elementary, secondary, and vocational education: 58 responses; 348 hours; $4,000 Federal cost; 1 form; $3,480 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Any State which has met the eligibility and program plan requirements of Pub. L. 94–142 may apply for an incentive grant to provide special education and related services to handicapped children aged 3 to 5.

GENERAL SERVICES ADMINISTRATION

Agency Clearance Officer—John F. Gilmore—202–566–1164

Reinstatements

- Solicitation Application for Service Contracts

GSA 3325
Nonrecurring, on occasion
Businesses or other institutions
Individuals, firms and organizations interested in bidding, etc
SIC: 734, 739, 762
Small Businesses or organizations
General property and records management: 1,500 responses; 375 hours; $2,505 Federal cost; 1 form; $2,557 public cost; not applicable under 3504(h)
Franklin S. Reeder, 202–395–3785

The GSA form 3325 is used to collect information to establish a bidders mailing list to be used by the PBS procuring activities responsible for procuring the building maintenance services. Bidders mailing lists are maintained in order to assume access to adequate sources of supply and to obtain meaningful competition.

INTERSTATE COMMERCE COMMISSION

Agency Clearance Officer—Carroll Stearns—202–633–0204

New

- Notice of Cancellation Motor Carrier Policies of Insurance Under Section 215 Interstate Commerce Act

BMC–35
On occasion
Businesses or other institutions
Motor carriers operating under author granted by the ICC
SIC: 413, 421
Ground transportation: 9,650 responses; 2,413 hours; $158,800 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This report notifies the ICC that an ICC regulated motor carrier of property or passengers has cancelled their required personal and property liability or cargo liability insurance policies (49 U.S.C. 10927). The ICC uses this information to publicize that the regulated motor carrier is no longer allowed to operate.

- Notice of Cancellation Motor Carrier and Broker's Surety Bonds Under Section 215 Interstate Commerce Act

BMC–36
On occasion
Businesses or other institutions
Motor carr and brokers oper under author granted by ICC
SIC: 413, 421
Ground transportation: 30 responses; 8 hours; $500 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This report informs the ICC that an ICC regulated motor carrier or broker has cancelled their required insurance policy or surety bond (49 U.S.C. 10927). The ICC uses this information to cancel operating authority.

- Notice of Cancellation of Freight Forwarder Policy of Insurance Under Part IV of the Interstate Commerce Act

FF–35
On occasion
Businesses or other institutions
Freight forwarders oper under author granted by the ICC
SIC: 421, 413
Ground transportation: 11 responses; 3 hours; $200 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This report notifies the ICC that an ICC regulated freight forwarder or passenger has cancelled their required personal and property liability or cargo liability insurance policies. The ICC uses this information to publicize that the regulated freight forwarder is no longer allowed to operate.

- Notice of Cancellation of Freight Forwarder Surety Bond Under Part IV of the Interstate Commerce Act

FF–36
On occasion
Businesses or other institutions
Freight forwarders oper under author granted by the ICC
SIC: 421, 413
Ground transportation: 38 responses; 10 hours; $600 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This report informs the ICC that an ICC regulated freight forwarder or broker has cancelled their required insurance policy or surety bond. The ICC uses this information to cancel operating authority.

- Endorsement for Freight Forwarder Policy of Insurance for Cargo Liability Under Section 403(c) of the Interstate Commerce Act

FF–32

On occasion
Businesses or other institutions
Freight forwarders oper under author granted by the ICC
SIC: 421, 413
Ground transportation: 247 responses; 62 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This record attached to existing insurance policies ensures that an ICC regulated freight forwarder of property has the minimum required amount of cargo liability insurance. The insurance company uses this record to establish the contractual agreements the ICC requires.

- Endorsement for Motor Carrier Policies of Insurance for Automobile Bodily Injury and Property Damage Liability Under Section 10927 Title 49 of the United States Code

BMC–90
On occasion
Businesses or other institutions
Motor carriers oper under author granted by the ICC
SIC: 421, 413
Ground transportation: 27,500 responses; 6,875 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This record attached to existing insurance policies ensures that an ICC regulated motor carrier of property or passengers has the minimum required amount of personal and property liability insurance (49 CFR Part 1043). The insurance companies use this record to establish the contractural agreements the ICC requires.

- Endorsement for Motor Common Carrier Policies of Insurance for Cargo Liability Under Section 215, Interstate Commerce Act

BMC–32
On occasion
Businesses or other institutions
Motor common carriers of property open under authority, etc.
SIC: 421, 413
Ground transportation: 18,500 responses; 4,500 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This record attached to existing insurance policies ensures that an ICC regulated motor carrier of property has the minimum required amount of cargo liability insurance. (49 CFR Part 1043). The insurance companies use this record to establish the contractual agreements the ICC requires.

- Endorsement for Freight Forwarder Policies of Insurance for Automobile Bodily Injury and Property Damage Liability Under Section 403 of the Interstate Commerce Act

FF–50
On occasion
Businesses or other institutions
Freight forwarders open under author granted by the ICC
SIC: 421, 413
Ground transportation: 247 responses; 62 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This record attached to existing insurance policies ensures that an ICC regulated freight forwarder of property and passengers has the minimum required amount of personal and property liability insurance. The insurance companies use this record to establish the contractual agreements the ICC requires.

- Motor Carrier Policy Injury Liability and Property Damage Liability Surety Bond Under Section 215 Interstate Commerce Act

BMC–82
On occasion
Businesses or other institutions
Motor carriers open under author granted by the ICC
SIC: 413, 421
Ground transportation: 320 responses; 80 hours; $5,220 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This record ensures that ICC regulated motor carriers of property or passengers adequately maintain the required minimum levels of financial responsibility required (49 U.S.C. 10927 and 49 CFR 1043). The ICC uses this information to ensure compliance in liability cases.

- Motor Common Carrier Cargo Liability Surety Bond Under Section 215 Interstate Commerce Act

BMC–83
On occasion
Businesses or other institutions
Motor common carriers of property operating under, etc.
SIC: 421, 413
Ground transportation: 150 responses; 38 hours; $2,450 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This record ensures that an ICC regulated motor carrier of property has the minimum required level of financial responsibility for reimbursing shippers for cargo damages (49 U.S.C. 10927(a)(3) and 49 CFR Part 1043). The ICC uses this record in cargo damage disputes.

- Broker's Surety Bond Under Section 211(c) of the Interstate Commerce Act

BMC–84
On occasion
Businesses or other institutions
Property brokers licensed by the ICC
SIC: 421
Ground transportation: 125 responses; 31 hours; $2,050 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This record ensures that a transportation broker has the required minimum level financial responsibility (49 U.S.C. 10927(b) and 49 CFR 1043.4). The ICC uses this information to decide broker applications.

- Passenger Broker's Surety Bond Under Section 10927 of the Interstate Commerce Act

BMC–84A
On occasion
Businesses or other institutions
Passenger brokers licensed by the ICC
SIC: 413
Ground transportation: 270 responses; 68 hours; $4,400 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This record ensures a broker of motor carriers of passengers has the required minimum level of financial responsibility (49 U.S.C. 10927(b)). The ICC uses this information to decide broker applications.

- Freight Forwarder Bodily Injury Liability and Property Damage Liability Surety Bonds Under Section 403(d) of the Interstate Commerce Act

FF–52
On occasion
Businesses or other institutions
Freight forwarders oper under author granted by the I.C.C.
SIC: 421 413
Ground transportation: 11 responses; 3 hours; $190 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This record ensures that ICC regulated freight forwarders of property or passengers adequately maintain the required minimum levels of financial responsibility required. The ICC uses this information to ensure compliance in liability cases.

- Freight Forwarder Cargo Liability Surety Bond Section 403(c) of the Interstate Commerce Act.

FF–43
On occasion
Businesses or other institutions
Freight forwarders oper under author granted by the I.C.C.
SIC: 421 413
Ground transporation: 11 responses; 3 hours; $190 Federal cost; 1 form; not applicable under 3504(h)

Donald Arbuckle, 202–395–7340

This record ensures that an ICC regulated freight forwarder of property has the minimum required level of financial responsibility for reimbursing shippers for cargo damages. The ICC uses this record in cargo damage disputes.

• Motor Carrier Cargo Liability Certificate of Insurance
BMC–34
On occasion
Businesses or other institutions
Motor common carriers of property oper under authority, etc.
SIC: 421 413
Ground transporation: 5,850 responses; 1,463 hours; $96,300 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This report notifies the ICC that an ICC regulated motor carrier of property has established the required amount of cargo liabilities insurance (49 U.S.C. 10927 (A)(3) and 49 CFR Part 1043). The ICC uses this certificate to ensure that regulated motor carriers of property are in compliance.

• Motor Carrier Automobile Bodily Injury Liability and Property Damage Liability Certificate of Insurance
BMC–91
On occasion
Businesses or other institutions
Motor carriers of property and passengers operating, etc.
SIC: 421 413
Ground transporation: 11,000 responses; 2,750 hours; $181,300 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This report notifies the ICC that an ICC regulated motor carrier of property has established the required minimum amount of personal and property liabilities insurance (49 U.S.C. 10927 (A)(1) and (2) established and 49 CFR Part 1043). The ICC uses this certificate to ensure that regulated motor carriers are in compliance.

• Freight forwarder Cargo Liability Certificate of Insurance
FF–34
On occasion
Businesses or other institutions
Freight forwarders oper under author granted by the I.C.C.
SIC: 421 413
Ground transporation: 42 responses; 11 hours; $700 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This report notifies the ICC that an ICC regulated freight forwarder of property has established the required minimum amount of cargo liabilities insurance. The ICC uses this certificate to ensure that regulated freight forwarders of property are in compliance.

• Freight forwarders Automobile Bodily Injury Liability and Propoerty Damage Liability Certificate of Insurance
FF–51
On occasion
Businesses or other institutions
Freight forwarders oper under authority granted by the ICC
SIC: 421 413
Ground transporation: 40 responses; 10 hours; $700 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This report notifies the ICC that an ICC regulated freight forwarder of property has established the required minimum amount of personal and property liabilities insurance. The ICC uses this certificate to ensure that regulated freight forwarders are in compliance.

PANAMA CANAL COMMISSION

Agency Clearance Officer—Hazel M. Murdock—202–724–0104

New

• Additional Information Form
Annually
Individuals or Households
Applicants for employment as apprentices
Water transportation: 150 responses; 75 hours; $100 Federal cost; 2 forms; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

Provides apprentice selection committee information on which to base selection of new apprentices.

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4602

Revisions

• Application for Survivor Insurance Annuties AA–17, AA–17B, AA–18, AA–19, AA–19A, AA–19S, AA–20, G–476C
On occasion
Individuals or households
Individuals applying for survivor annuties
General retirement and disability insurance: 24,450 responses; 7,356 hours; $1,509,400 Federal cost; 8 forms; not applicable under 3504 (h)
Robert Neal, 202–395–6880

The applications obtain information from widow(er)s, children and parents of deceased railroad workers to support claims for survivor benefits. The information will be used for determining entitlement to and amount of annuity applied for.

SECURITIES AND EXCHANGE COMMISSION

Agency Clearance Officer—George G. Kundahl—202–272–2142

Reinstatements

• Form 8–K, Current Report Form Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
SEC 873
On occasion
Businesses or other institutions
Issuers with sec. regis. under sec. 12 (b) or (g), etc.
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 6,381 responses; 41,476 hours; $158,307 Federal cost; 1 form; $2,775,735 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Form 8–K elicts material information from issuers of publicly traded securities promptly after the occurrence of certain specified or other important corporate events in order that investors and the marketplace may have the benefit of current information when making investment decisions. The Commission is proposing technical amendments to coordinate the form with other forms in the integrated disclosure system.

• Deposits of Securities in Securities Depositories—Rule 17F–4 Under the Investment Company Act of 1940
On occasion
Businesses or other institutions
Registered management investment companies & their custod.
SIC: multiple
Small businesses or organizations
Other advancement and regulation of commerce: 200 responses; 100 hours; $0 Federal cost; 1 form; $2,000 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814.

The reports regarding internal accounting controls provide the investment company and its auditors access to information that may be necessary for them to evaluate a depository arrangement or to verify the investment company's holdings. The confirmation requirements provides the investment company objective evidence for transactions effected on its behalf.

• Regulation 12B: Registration and Reporting (17 CFR 240.12B–1 Through 240.12B–36)
On occasion
Businesses or other institutions
Persons filing regist. statements or reports pursuant, etc.
SIC: multiple

Small businesses or organizations
Other advancement and regulation of commerce: 1 responses; 1 hour; $3,290 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Regulations 12B (17 CFR 240.12B–1 through 240.12B–36) Provides instructions and the procedures to be followed by persons filing registration statements and reports under the Securties Exchange Act of 1934. The proposed amendments are designed to implement the intregrated disclosure program and to eliminate or revise outmoded or unnecessary regulations.

VETERANS' ADMINISTRATION

Agency Clearance Officer—R. C. Whitt (004A2)—202–389–2146

Extensions (Burden Change)

- Nonsupervised Lender's Nomination and Recommendatioin of Credit Underwriter

26–8736A
On occasion
Businesses or other institutions
Nonsupervised lenders and credit underwriters
SIC: 601 602 612 616
Small businesses or organizations
Veterans housing: 100 responses; 33 hours; $1,106 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Nonsupervised lender's nomination of credit underwriter to evaluate automatic loans proposed for guaranteed financing under 38 U.S.C. 1810. Form supplements lender's application for automatic lending authority pursuant to 38 U.S.C. 1802(d)(3). Information collected aids VA determinations and final action on lenders application.

- Application for authority to close loans on an automatic basis—Nonsupervised lenders

26–8736
On occasion
Businesses or other institutions
Nonsupervised lenders
SIC: 616
Small businesses or organizations
Veterans housing: 20 responses; 10 hours; $1,026 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Application submitted by nonsupervised lenders desiring authority to process loans under 38 U.S.C. 1810 on automatic basis. Information collected is essential to VA application of standards required by 38 U.S.C. 1802(d)(3).

Extensions (No Change)

- Application for designation as management broker

26–6685
On occasion
Individuals or households
Indiv. applying for designation as management broker
Veterans housing: 5,000 responses; 2,500 hours; $25,990 Federal cost; 1 form; not applicable under 3504 (h)
Robert Neal, 202–395–6880

Form solicits qualifications and business experience information from applicants for management broker positions which are utilized on a fee basis, as authorized by 38 U.S.C. 1820 (a)(6), to manage properties acquired by VA through operations of the guaranteed and direct loan programs (38 U.S.C. 1810 and 1811). Information is evaluated by a panel for purposes of designating VA management brokers.

Nathaniel Scurry,

Chief, Reports Management.

[FR Doc. 82–1515 Filed 1–22–82; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12163; (812–4966)]

Principal World Fund, Inc.; Application

January 15, 1982.

Notice is hereby given that Principal World Fund, Inc. ("World Fund"), Principal Equity Fund, Inc., ("Equity Fund"), Principal Cash Management Fund, Inc. ("Cash Management Fund") (hereinafter collectively referred to as "the Funds") and Principal Investors Corporation (collectively referred to with the Funds as the "Applicants"), 411 West Seneca Street, Seattle, Washington 98101, filed an application on September 1, 1981, and an amendment thereto on November 12, 1981, requesting an order, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicants from section 22(d) of the Act and Rule 22d–1 thereunder and permitting certain proposed offers of exchange pursuant to section 11(a) of the Act.

All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants represent that each of the Funds, via its principal underwriter, Principal Investors Corporation, maintains a continuous public offering at the current offering price mentioned in the prospectus. Since Cash Management Fund is a no-load fund, that current offering price equals the net asset value of the offering. However, the current offering price of World Fund or of Equity Fund includes a sales load and, consequently, differs from the net asset value of the offering by the amount of such sales load. The sales load structure for Equity Fund and World Fund are the same; both vary from a maximum sales load of 8.5% of the offering price per share on purchases of less than $10,000 to a minimum of 1% of the offering price per share on purchases of $700,000 or more, as set forth in the following table:

Amount invested	Offering price (percent)	Net amount invested (percent)
Less than $10,000	8.5	9.29
$10,000 but less than $25,000	7.75	8.40
$25,000 but less than $50,000	6.25	6.66
$50,000 but less than $100,000	4.0	4.17
$100,000 but less than $200,000	2.5	2.56
$200,000 but less than $400,000	2.0	2.04
$400,000 but less than $700,000	1.5	1.52
$700,000 and over	1.0	1.01

The shares of Cash Management Fund may be acquired through reinvestment of dividends or capital gains distributions at net asset value, i.e. without a sales load. Shares of World Fund or Equity fund may be acquired through reinvestment of capital gains distributions at net asset value or through reinvestment of dividends at net asset value *plus* the sales load mentioned in the prospectus.

Each of the Funds requests permission to offer its shares to shareholders of the other Funds in exchange for shares of the other Funds, on the following basis:

(i) Shares that were acquired through an exchange of shares from one of the other Funds will be exchanged for shares of the Fund from which they were originally exchanged, on the basis of their relative net asset value per share at the time of the exchange; (ii) shares that were acquired through reinvestment of capital gains distributions will be exchanged for shares of any of the Funds at their relative net asset value per share; (iii) shares that were otherwise acquired will be exchange for shares of any of the Funds on the basis of their relative net asset value per share at the time of the exchange, plus the sales load described in the prospectus of each of the Funds whose shares will be acquired in the exchange, less an amount equal to any sales load previously paid on the shares being exchanged. Consequently, shareholders who effect such exchanges will pay approximately the same *overall*

sales load that they would have paid had they directly purchased the same amount of shares of the other Fund.

If Fund shareholders desire to exchange only a portion of their shares, the shares that may be exchanged without sales load will be exchanged first. The remaining shares to be exchanged will be selected from those shares that require payment of the least additional sales load. No refunds of sales load will be made on any of the permitted exchanges. Shareholders who exchange shares more than five times in any one year may be assessed a special service charge of $10.00 per exchange or may be prohibited from or restricted in exchanging shares in the future.

Section 11(a) of the Act provides, in pertinent part, that "it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with such rules and regulations as the Commission may have prescribed in respect of such offers which are in effect at the time such offer is made."

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus, and if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus. Under certain circumstances Rule 22d–1 permits reductions in, or elimination of, the sales load charged upon the sale of shares.

Applicants submit that the sales load assessed upon certain of the proposed exchanges differs from the sales load described in the prospectus, resulting in a different offering price than that described in the prospectus. Therefore the proposed exchange offers may conflict with section 22(d) of the Act. Further, certain of the proposed exchange offers involve reductions in or elimination of sales load and may conflict with the provisions of Rule 22d–1.

Applicants submit that the purpose of the proposed exchange offers is to permit a shareholder whose investment objective changes to switch his/her investment to a different investment company within the fund complex. The exchange offer to shareholders of Cash Management Fund must include a sales load in order to avoid an inequitable result; shareholders of Cash Management Fund would have paid no sales load on their investments whereas shareholders of World Fund or Equity Fund who purchased their shares directly would have paid a sales load. Accordingly, Applicants submit that if a shareholder of Cash Management Fund could acquire shares of World Fund or Equity Fund without payment of a sales load the exchange permitting such acquisition would violate section 22(d) of the Act because investors would be able to purchase shares of World Fund or Equity Fund at other than the current offering price described in the prospectus.

Applicants submit that, although certain of the described transfers may involve payment of additional sales load to the sales representatives, there is not sufficient financial incentive for the sales representatives to initiate such transfers for their own benefit. Applicants represent that Principal Investors Corporation will establish sufficient internal monitoring and review procedures to ensure that such transfers are made at the request of the customer and not for a sales representative's personal gain.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 9, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Wshington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in the matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–1745 Filed 1–22–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2022; Amdt. No. 1]

California; Declaration of Disaster Loan Area

The above numbered Declaration (See 46 FR 2447) is amended in accordance with the President's Declaration of January 7, 1982, to include Solano County and the adjacent counties of Alameda, Lake, Mendocino, Monterey, Napa, Sacramento, San Benito, San Francisco, San Joaquin, Santa Clara and Yolo. The Small Business Administration will accept applications for disaster relief loans from disaster victims in Solano County and counties adjacent to Santa Cruz, San Mateo, Contra Costa, Marin, Solano and Sonoma Counties. All other information remains the same; i.e., the termination dates for filing application for physical damage is close of business on March 8, 1982, and for economic injury until the close of business on October 7, 1982.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 15, 1982.

Michael Cardenas,

Administrator.

[FR Doc. 82–1756 Filed 1–22–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) Special Committee 146—Airborne Automatic Direction Finding Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 146 on Airborne Automatic Direction Finding (ADF) Equipment to be held on February 23–24, 1982 in Conference Rooms 6A–B, Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C. commencing at 9:00 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Fifth Meeting Held on December 1–2, 1981; (3) Review of European Organization for Civil Aviation Electronics (EUROCAE) Cmments on Receiver Selectivity; (4) Review of Federal Aviation Administration Comments on ADF Warning Systems; (5) Review of Comments to Third Draft Report on Minimum Operational Peformance Standards for Airborne Automatic Direction Finding (ADF) Equipment; (6) Review of ADF Transition Plan; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on January 18, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82–1678 Filed 1–22–82; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 147—Traffic Alert and Collision Avoidance Systems; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 147 on Traffic Alert and Collision Avoidance Systems to be held on February 23–25, 1982 in Conference Rooms 8A–B–C, Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Fifth Meeting Held on January 13–15, 1982; (3) Review of Draft Traffic Alert and Collision Avoidance System (TCAS) National Standard; (4) Report on TCAS–I Working Group Activity and Progress; (5) Briefing and Discussion on Outline for TCAS–II Minimum Operational Performance Standard; (6) Review of Requirements for Performance and Failure Monitoring; (7) Working Groups Meet in Separate Sessions; (8) Review of Draft Minimum Operational Performance Standards for TCAS; and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on January 18, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82–1677 Filed 1–22–82; 8:45 am]

BILLING CODE 4910–13–M

Vertical Separation Standards and Measurements Program; Public Meeting

The FAA will convene a meeting to present to the public its approach to a program to investigate the feasibility of safety reducing vertical separation standards above Flight Level (FL) 290 to 1000 feet and to gather height-keeping performance data in support of the TCAS Program. Inputs, comments, and recommendations will be solicited on possible improvements or modifications of FAA's plan, or alternative ways that would accomplish the program objectives in a shorter, more cost-efficient manner. It is anticipated that DOD and NASA, and other government agencies, will be active participants in a joint effort with FAA. Aviation community support and participation will be essential to accomplish the program objectives.

The meeting is scheduled for up to two days, if necessary, beginning on February 11, 1982, at 9 am in Conference Room 9ABC at FAA Headquarters at 800 Independence Avenue, Southwest, Washington, D.C. The FAA point of contact for this meeting is Victor E. Foose of FAA/AEM–100 (x426–8828, Area Code 202).

Issued in Washington, D.C. on January 19, 1982.

S. B. Poritzky,

Director, Office of Systems Engineering Management, AEM–1.

[FR Doc. 82–1679 Filed 1–22–82; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions for the Department of Transportation's Hazardous Materials Regulation (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes February 9, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

Application No.	Applicant	Renewal of exemption
2708-X	Union Carbide Corporation, Tarrytown, NY, Footnote 1.	2708
3121-X	U.S. Department of Defense, Washington, D.C., Footnote 2.	3121
3992-X	Stauffer Chemical Company, Westport, CT.	3992
3992-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	3992
3992-X	Dow Chemical Company, Plaquemine, LA.	3992
4291-X	Pacific Engineering & Production Company of Nevada, Henderson, NV.	4291
4291-X	Kerr-McGee Chemical Corporation, Oklahoma City, OK.	4291
4453-X	Strawn Explosives, Inc., Dallas, TX.	4453
4453-X	Maynes Explosives Company, Lee's Summit, MO.	4453
5122-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	5122
5243-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	5243
5243-X	Hercules Incorporated, Wilmington, DE.	5243
5736-X	Northern Petrochemical Company, Des Plaines, IL.	5736
5736-X	Phillips Petroleum Company, Bartlesville, OK.	5736
5948-X	U.S. Department of Energy, Washington, DC.	5948
6113-X	South Jersey Gas Company, Folsom, NJ.	6113
6113-X	San Diego Gas & Electric Company, San Diego, CA.	6113
6113-X	The Southern Connecticut Gas Company, Bridgeport, CT.	6113
6113-X	New Jersey Natural Gas Company, Asbury Park, NJ.	6113
6113-X	UGI Corporation, Reading, PA	6113
6113-X	L.P. Transportation, Inc., Chester, NY.	6113
6113-X	Public Service Electric and Gas Company, Newark, NJ.	6113
6397-X	Harstan Chemical Corporation, Brooklyn, NY.	6397
6464-X	L.P. Transportation, Inc., Chester, NY.	6464
6464-X	New Jersey Natural Gas Company, Asbury Park, NJ.	6464
6464-X	Public Service Electric and Gas Company, Newark, NJ.	6464
6464-X	South Jersey Gas Company, Folsom, NJ.	6464
6607-X	Bio-Lab, Inc., Conyers, GA	6607
6691-X	Union Carbide Corporation, Danbury, CT.	6691
6765-X	Bureau of Mines, Amarillo, TX	6765
6765-X	Phillips Petroleum Company, Bartlesville, OK.	6765
6765-X	Air Products and Chemicals, Inc., Allentown, PA.	6765
6765-X	Airco Industrial Gases, Murray Hill, NJ.	6765
6768-X	PPG Industries, Inc., Pittsburgh, PA.	6768
6801-X	Phillips Petroleum Company, Bartlesville, OK.	6801
6816-X	U.S. Department of Defense, Washington, DC.	6816
6824-X	Bio-Lab, Inc., Conyers, GA	6824
6883-X	Hedwin Corporation, Baltimore, MD, Footnote 3.	6883
6908-X	Garrett Corporation, Phoenix, AZ.	6908
7060-X	Aerotransit, Inc., Danvers, MA	7060
7060-X	Federal Express Corporation, Memphis, TN.	7060
7062-X	Bennett Industries, Pacoima, CA.	7062
7087-X	Unitex Corporation, Monrovia, CA.	7087
7205-X	U.S. Department of Defense, Washington, DC.	7205
7208-X	National Aeronautics and Space Administration, Greenbelt, MD.	7208
7255-X	U.S. Department of Defense, Washington, DC.	7255
7257-X	Brewer Chemical Corporation, Honolulu, HI.	7257
7482-X	Monsanto Company, St. Louis, MO.	7482
7536-X	U.S. Department of Defense, Washington, DC.	7536
7541-X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	7541
7542-X	US Cylinders, Inc., Citronelle, AL.	7542
7549-X	Stauffer Chemical Company, Westport, CT.	7549
7607-X	U.S. Department of Health & Human Services, Cincinnati, OH.	7607
7641-X	American President Lines, LTD., Seattle, WA.	7641
7648-X	Intermountain Aerial Sightseeing, Salt Lake City, UT.	7648
7793-X	Hooker Chemical Company, Houston, TX.	7793
7883-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	7883
7948-X	Clark Tank & Manufacturing Company, Inc., Long Beach, CA.	7948
8081-X	National Aeronautics and Space Administration, Greenbelt, MD.	8081
8206-X	Copps Industries, Inc., Menomonee Falls, WI.	8206
8206-X	Copps Industries, Inc., Menomonee Falls, WI.	8207
8285-X	Radian Corporation, Austin, TX Footnote 4.	8285
8299-X	HTL Industries, Inc., Duarte, CA, Footnote 5.	8299
8303-X	Martin Marietta Corporation, Charlotte, NC.	8303
8308-X	SkyCab, Inc., East Brunswick, NJ.	8308
8309-X	Carrier Corporation, Syracuse, NY.	8309
8318-X	Texas Alkyls, Inc., Deer Park, TX.	8318
8324-X	Copps Industries, Inc., Menomonee Falls, WI.	8324
8329-X	Texas Instruments Incorporated, Dallas, TX.	8329
8468-X	Hedwin Corporation, Baltimore, MD, Footnote 6.	8468
8499-X	Hedwin Corporation, Baltimore, MD, Footnote 7.	8499
8556-X	L'Air Liquide Corporation, Paris, France.	8556
8644-X	Richmond Lox Equipment Company, Livermore, CA, Footnote 8.	8644
8704-X	Thiokol Corporation, Elkton, MD.	8704
8705-X	General Electric Company, San Jose, CA.	8705
8745-X	GOEX, Inc., Moosic, PA, Footnote 9.	8745

[1] To add a new design cargo tank for shipment of liquefied hydrogen.

[2] To authorize use of another cargo tank, of different design, for shipment of nitrogen tetroxide; to require special training for vehicle drivers.

[3] To provide for an oxidizer solution containing more than 52% hydrogen peroxide.

[4] To renew and to add iso-octane, flammable liquid, as an additional commodity.

[5] To renew and to revise various technical data pertaining to percentage of carbon dioxide, wall thickness calculations, retest period, etc.

[6] To provide for an oxidizer solution containing more than 52% hydrogen peroxide.

[7] To authorize shipment of hydrogen peroxide exceeding 52% strength classes as an oxidizer.

[8] To provide for another cargo tank design, almost identical to that presently authorized, for shipment of liquid oxygen and liquid nitrogen.

[9] To authorize water as an additional mode of transportation.

Application No.	Applicant	Party to exemption
6801-P	Phillips Chemical Company, Bartlesville, OK.	6801
6874-P	Twain Incorporated, Denver, CO.	6874
6919-P	Northern States Power Company, Minneapolis, MN.	6919
7066-P	Compagnie Generale Maritime, Paris, France.	7066
8129-P	Applied Technology, Inc., Toms River, NJ.	8129
8129-P	Allied Chemical Company, Morristown, NJ.	8129
8284-P	PVS Chemicals, Inc. (NY), Buffalo, NY.	8284
8441-P	Jet Propulsion Laboratory, Pasadena, CA.	8441
8445-P	Ace Service Corporation, Philadelphia, PA.	8445
8445-P	Rohm and Haas Company, Philadelphia, PA.	8445
8732-P	Dow Chemical Company, Midland, MI.[1].	8732

[1] Request party status and to authorize MC-303 cargo tanks as additional container.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on January 11, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-1664 Filed 1-22-82; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants 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 that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes February 24, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8750-N	Applied Environments Corp., Van Nuys, CA	49 CFR 173.302(a), 175.3	To manufacture, mark and sell non-DOT Specification girth welded steel cylinders for shipment of air or nitrogen, classed as nonflammable gases. (Modes 1, 2, 4).
8761-N	The Heil Co., Milwaukee, WI	49 CFR 173.119(a)(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT specification cargo tanks complying generally with DOT Specification MC-307/312 except for bottom outlet valve variations for transportation of flammable, corrosive or poison B waste liquids or semi-solids. (Mode 1).
8762-N	O. I. Corp., College Station, TX	49 CFR 173.245, 173.287	To authorize shipment of chromic acid solution, containing less than 35% chromic acid by weight, classed as corrosive liquid, n.o.s. contained in glass ampules packed in styrofoam containers overpacked in a fiberboard box. (Mode 1).
8763-N	Liquid Air Corp., San Francisco, CA	49 CFR 173.316	To authorize shipment of liquid hydrogen in non-DOT specification cargo tank. (Mode 1).
8764-N	Applied Technology Transportation, Friedensburg, PA.	49 CFR 173.21, 173.242, 175.85	To authorize the transportation of an identification kit containing a propane torch and small quantities of a corrosive liquid, flammable liquid and an oxidizer aboard cago-only aircraft (helicopter). (Mode 4).
8765-N	Petro Jet Aviation, Inc., Midland, TX	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4).
8766-N	Thiokol/Wasatch Division, Brigham City, UT	49 CFR 173.88(e)(2)(ii), 173.92(a), 177.834(1)	To authorize shipment of rocket motors, class B explosive in a propulsive state with temperature control in specially designed outside packaging. (Mode 1).
8767-N	Hydraulic Research-Textron, Pacoima, CA	49 CFR 173.302(a), 175.3	To manufacture, mark and sell non-DOT specification cylinders complying with DOT Specification 39 with certain exceptions for shipment of helium, classed as nonflammable gas. (Modes 1, 2, 4).
8768-N	Evans Tank Co., Lubbock, TX	49 CFR 173.315	To manufacture, mark and sell cargo tanks built to the proposed Specification MC-338 for shipment of various flammable and nonflammable gases, prepared and offered for transportation in accordance with Notice 79-3, Docket HM-115. (Mode 1).
8769-N	Rockwell International Corp., Canoga Park, CA.	49 CFR 173.134	To authorize shipment of triethyl borane (a pyrophoric liquid, n.o.s.), classed as a flammable liquid in non-DOT specification cylinder charged with nitrogen. (Mode 1).
8770-N	Eastman Kodak Co., Rochester, NY	49 CFR 173.242(c)	To authorize shipment of photographic kits containing a glass or plastic bottle of corrosive liquids, a plastic bottle of flammable solid/poisonous, and other non-hazardous materials overpacked in a DOT Specification 12A, 12B or 15A. (Modes 1, 2, 3).
8771-N	Spencer Kellogg, Buffalo, NY	49 CFR 172.336(c)	To authorize shipment of a flammable liquid and a combustible liquid contained in a compartmented cargo tank to use only one identification number "1866" associated with the product having the lowest flash point. (Mode 1).
8772-N	Armak Co., Chicago, IL	49 CFR 172.101(6)(b), 175.30	To authorize increased quantity, not exceeding 5 gallon capacity, in packages of certain corrosive liquids and flammable liquids that are corrosive, when shipped via cargo-only aircraft. (Mode 4).
8773-N	Applied Technology, Inc., Barnwell, SC	49 CFR 173.389(o), 173.392(c)(4), 173.392(c)(9), 173.393(j)(4), 177.842(a), 177.842(b).	To authorize the transportation of radioactive materials aboard motor vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met; to extend the operation of "exclusive use vehicle" to more than one consignor, and to allow more latitude in the instructional constraints therefore; and to allow relief from the radiation dose rate limit of 2 millirems/hour in any normal occupied position in the motor vehicle. (Mode 1).

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on January 13, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-1663 Filed 1-22-82; 8:45 am]

BILLING CODE 4910-60-M

Office of the Secretary

Minority Business Resource Center Advisory Committee; Cancellation of Meeting

Notice is hereby given of the cancellation of the Minority Business Resource Center Advisory Committee meeting for January 18, 1982, at 10:00 a.m. until 1:00 p.m. in Room 9230-9232 at the Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590. (Originally announced at 46 FR 59690, Dec. 7, 1981.)

Issued in Washington, D.C., on January 13, 1982.

Melvin Humphrey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 82-1609 Filed 1-22-82; 8:45 am]

BILLING CODE 4910-62-M

Urban Mass Transportation Administration

Availability of UMTA Revised Circular 9050.1A; Application Instructions for Section 5 Operating Assistance

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of the availability of UMTA revised circular 9050.1A;

application instructions for Section 5 operating assistance.

SUMMARY: By this Notice, the Urban Mass Transportation Administration (UMTA) announces that UMTA Circular 9050.1A, "Application Instructions for Section 5 Operating Assistance" is available to the public. This Circular provides guidelines for the preparation of streamlined applications for operating assistance and provides related program guidance for UMTA's Section 5 Program. Although UMTA had intended to issue this material as a regulation, UMTA determined that the necessary program material could be more effectively provided in a non-regulatory document. A Notice announcing that decision is provided in a separate issuance published elsewhere in this issue of the Federal Register.

EFFECTIVE DATE: December 21, 1981.

FOR FURTHER INFORMATION CONTACT: Robert W. Stout, Urban Mass Transportation Administration, Office of Transit Assistance, 400 7th Street SW., Washington, D.C. 20590; Telephone: (202) 472–7037. For a copy of UMTA Circular 9050.1A, contact: David C. Johnston, Office of Administration, Room 6421 at the above address; Telephone: (202) 426–4865.

SUPPLEMENTARY INFORMATION: On June 20, 1979, UMTA issued UMTA Circular 9050.1 to provide the public with application instructions for Section 5 Operating Assistance projects. UMTA intended subsequently to issue this material as a regulation and published a notice of proposed rulemaking (NPRM) on this subject on August 25, 1980 (45 FR 56742).

Pursuant to President Reagan's policy of reducing regulatory burden and red tape, however, UMTA reviewed the need for this regulation and decided that a final rule was not necessary. Instead, UMTA determined that the program material for the Section 5 program can more effectively be provided to grantees in a non-regulatory document. Therefore, UMTA has withdrawn further action on the NPRM and has published a Notice to this effect elsewhere in today's Federal Register. Comments received on the NPRM, however, were taken into consideration while developing the non-regulatory guidance.

UMTA has completed work on the non-regulatory guidance for the Section 5 Operating Assistance Program. This guidance is contained in UMTA Circular 9050.1A, "Application Instructions for Section 5 Operating Assistance." This Circular supersedes information contained in the previous UMTA Circular (9050.1), the NPRM on this subject, and the NPRM titled "Maintenance of Effort Requirements", published on August 27, 1980 (44 FR 50067).

The Circular eliminates several submissions, requires only one-time or annual submission of certain documents that previously were provided with each project application, and, wherever possible, relies on applicant assurances of compliance with statutory requirements rather than requiring extensive documentation of compliance. UMTA is also encouraging the programming of more than one year of operating assistance projects in the Annual Element of the Transportation Improvement Program in order to accelerate the approval of operating assistance grants in subsequent years. In addition, the Circular provides a mechanism for requesting 13(c) certification by the Department of Labor of general purpose operating assistance projects based on project information included in the TIP/AE. These changes are intended to streamline both the preparation of operating assistance applications and also the UMTA review of these applications.

Among the specific provisions and changes incorporated into this Circular are the following:

1. The Opinion of Counsel, the Authorizing Resolution, the Designation of Recipients, the Standard Assurances, the Private Enterprise description, and information on transit labor unions for 13(c) certification will be one-time submissions, to be updated as necessary;

2. The signed Standard Assurance document will certify continuing compliance with specific statutory requirements and regulations, including pertinent nondiscrimination requirements, Charter Bus and School Bus regulations, public hearing requirements, protection and private mass transportation company requirements, and half-fare requirements for the elderly and handicapped;

3. Section 15 Reports, the Governor's report on the allocation of funds to urbanized areas under 200,000 population, when required, the TIP/AE, and any required updates regarding nondiscrimination will be annual submissions;

4. A Standard Form 424, an UMTA Project Budget Form, a 13(c) certification, a statement that specific one-time submissions submitted previously remain valid, and, under certain circumstances, a certification of compliance with Maintenance of Effort (MOE) requirements will be required for each project; a Supplemental Agreement, when required, will be executed with each grant contract; and

5. Requirements for the submission of MOE calculations, LOE schedules, OMB Form 80–RO–186, Part III, audited financial statements for the two preceding fiscal years, the Transit System Overview, the Description of Half-Fare Procedures, certified copies of public hearing notices, and public hearing transcripts have been eliminated.

This Circular is effective immediately and UMTA is sending copies to all current Section 5 recipients. Any interested member of the public can obtain a copy by contacting: David C. Johnston, Urban Mass Transportation Administration, Office of Administrator, Room 6421, 400 7th Street SW., Washington, D.C. 20590: Telephone: (202) 426–4865.

Issued on: January 19, 1982.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 82–1735 Filed 1–22–82; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 82–1]

Listing of Public Use Forms and Control Numbers Required by the Paperwork Reduction Act of 1980

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: General notice regarding compliance with the Paperwork Reduction Act of 1980.

SUMMARY: This action provides general notice to the public that the Bureau of Alcohol, Tobacco and Firearms has, in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35, identified all ATF information collection requests utilizing public use forms and that such requests have been assigned a current control number by the Office of Management and Budget. The following notice lists the control numbers appearing on the public use forms. These requests are in compliance with the requirements of 44 U.S.C. 3507, that a control number be obtained from the Office of Management and Budget for each information collection request. Also listed within this general notice are those forms which were submitted to OMB for review but were not approved by OMB. Some forms were not approved by OMB because they were deemed to

be a certification (rather than an information collection request) or involved less than ten respondents.

FOR FURTHER INFORMATION CONTACT: Howard Hood, Paperwork Management Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202–566–7077).

Drafting Information

The principal author of this document is Daniel J. Hiland, Procedures Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau participated in the preparation of this document, both in matters of substance and style.

SUPPLEMENTARY INFORMATION: The following listing constitutes those forms which are subject to OMB review. The form names, agency form numbers and OMB control numbers are listed as follows:

Name	Agency No.	Control No.
Requisition for Forms or Publications	AFT F 1600.1	1512-0001
AFT Distribution Center Survey	AFT F 1600.7	1512-0002
Requisition for Firearms and Explosives Forms	AFT F 1600.8	1512-0003
Reference Check	AFT F 2330.3	1512-0004
Application for Relief from Disabilities	AFT F 3210.1	1512-0005
Report of Multiple Sale or Other Disposition of Pistols and Revolvers	AFT F 3310.4	1512-0006
Report of Theft or Loss of Firearms	AFT F 3310.6	1512-0007
Return of Articles, Containers, or Substances	AFT F 169 (3330.3)	1512-0008
Reference Inquiry	AFT F 8600.2	1512-0010
Neighborhood Investigation	AFT F 8600.14	1512-0011
Police and Criminal Records	ATF F 8600.16	1512-0012
References	AFT F 8600.17	1512-0013
Credit Record	AFT F 8600.18	1512-0014
Education/Personal History	AFT F 8600.25	1512-0015
Application and Permit for Importation of Firearms, Ammunition and Implements of War	AFT F 6 (7570.3A) Part I	1512-0017
Application and Permit for Importation of Firearms, Ammunition and Implements of War	ATF F 6 (7570.3B) Part II	1512-0018
Release and Receipt of Imported Firearms, Ammunition and Implements of War	AFT F 6A (7570.3C)	1512-0019
Application and Permit for Permanent Exportation of Firearms	AFT F 9 (7560.9)	1512-0020
Application to Register as an Importer of U.S. Munitions Import List Articles	AFT F 4587 (7570.4)	1512-0021
Application to Transport Interstate or to Temporarily Export Certain National Firearms Act (NFA) Firearms	AFT F 7560.8	1512-0022
Certification of Tax Payment	AFT F 7590.3	1512-0023
Application to Make and Register Firearms	AFT F 1 (7560.1)	1512-0024
Notice of Firearms Manufactured or Imported	AFT F 2 (7560.2)	1512-0025
Application for Tax-Exempt Transfer of Firearm and Registration of Special Occupational Taxpayer	AFT F 3 (7560.3)	1512-0026
Application for Tax-Paid Transfer and Registration of Firearm	AFT F 4 (7560.4)	1512-0027
Application for Tax-Exempt Transfer and Registration of Firearms	AFT F 5 (7560.5)	1512-0028
Application for Registration of Firearms Acquired by Certain Government Entities	AFT F 10 (7560.10)	1512-0029
Quarterly Firearms Manufacturing and Exportation Report	AFT F 4483-A (5300.11)	1512-0030
Statement of Financial Condition and Other Information	AFT F 433 (5640.4)	1512-0032
Tax Information Authorization	AFT F 1534-A	1512-0033
Personnel Questionnaire—Alcohol and Tobacco Products	AFT F 5000.9	1512-0034
Referral of Information	AFT F 5000.21	1512-0035
From Letter—personnel Inquiry RE: Applicant for Federal Permit	AFT F 5020.20	1512-0036
Form Letter—Request for Arrest Record Check	AFT F 5020.21	1512-0037
Authorization to Furnish Financial Information (Rights to Financial Privacy Act of 1978)	ATF F 5030.6	1512-0038
Questionnaire Pertaining to Published Firearms Ordinances	ATF F 5300.8	1512-0039
Form Letter—Taxpayer Delinquency Investigation Program	ATF F 5630.2	1512-0040
Form Letter—Statement of Liability	ATF F 5630.3	1512-0041
Application for License	ATF F 7 (5310.12)	1512-0042
Renewal of Firearms License	ATF F 8 Pt 3 (5310.11)	1512-0043
Registration of Still	ATF F 26 (5100.19)	1512-0044
Brewers Notice	ATF F 27-C (5130.10)	1512-0045
Registration of Volatile Fruit Flavor Concentrate Plant	ATF F 27-G (5520.3)	1512-0046
Application for Production of High Proof Concentrate	ATF F 27-G Supplemental (5520.4)	1512-0047
Wholesale Liquor Dealers Report of Receipts/Wholesale Liquor Dealer's Report of Disposals	ATF F 52A/52B (5170.9)	1512-0048
Importer's Report of Red Strip Stamps	ATF F 96 (5100.6)	1512-0049
Brewers Monthly Report of Operations	ATF F 103 (5130.9)	1512-0052
Notice of Intention to Remove Distilling Apparatus	ATF F 110 (5000.13)	1512-0053
Brewers Report of Meter Test	ATF F 138 (5130.18)	1512-0054
Wholesale Liquor Dealer's Semi-Annual Report	ATF F 338 (5110.48)	1512-0055
Requisition for Stamps (26 U.S.C. 5205)	ATF F 428 (5100.7)	1512-0056
Application and Permit to Ship Liquors and Articles of Puerto Rican Manufacture Taxpaid to the U.S.	ATF F 487-B (5170.7)	1512-0057
Application by Proprietor of Bonded Winery or Bonded Wine Cellar	ATF F 698 (5120.25)	1512-0058
Formula and Process for Wine	ATF F 698 (Supplemental (5120.29))	1512-0059
Transfer of Wine in Bond	ATF F 703 (5120.23)	1512-0061
Tax-Free Spirits or Specially Denatured Spirits for Use of U.S.	ATF F 1444/1486 (5150.33)	1512-0063
Application and Withdrawal Permit to Procure Spirits Free of Tax	ATF F 1450 (5150.13)	1512-0065
Report of Tax-Free Alcohol User	ATF F 1451 (5150.28)	1512-0066
Shipment and Receipt Specially Denatured, Tax-Free, or Recovered Spirits	ATF F 1473 (5110.16)	1512-0067
Application for Permit to Deal in Specially Denatured Spirits	ATF F 1474 (5150.30)	1512-0068
Application and Withdrawal Permit of Bonded Dealer to Procure Specially Denatured Spirits	ATF F 1477 (5150.15)	1512-0070
Bonded Dealer's Report of Specially Denatured Alcohol or Rum	ATF F 1478 (5150.10)	1512-0071
Application for Permit to Use Specially Denatured Alcohol	ATF F 1479 (5150.23)	1512-0072
Formula for Article Made With Specially Denatured Alcohol and Rum	ATF F 1479-A (5150.19)	1512-0073
User's Report of Denatured Alcohol or Rum	ATF F 1482 (5150.18)	1512-0075
Application and Withdrawal Permit of User to Procure Specially Denatured Spirits	ATF F 1485 (5150.12)	1512-0076
Application and Permit to Procure Samples of Specially Denatured Spirits	ATF F 1512 (5150.14)	1512-0077
Consent of Surety	ATF F 1533 (5000.18)	1512-0078
Power of Attorney	ATF F 1534 (5000.8)	1512-0079
Brewer's Bond Continuation Certificate	ATF F 1586-A (5130.23)	1512-0081
Drawback on Wine Exported	ATF F 1582-A (5120.24)	1512-0082
Drawback on Beer Exported	ATF F 1582-B (5130.6)	1512-0083
Application and Permit to Set Up Distilling Apparatus	ATF F 1609 (5110.24)	1512-0084
Claim to Internal Revenue Drawback on Distilling Apparatus Exported and Entry for Exportation Thereof	ATF F 1610	1512-0085
Report of Use or Other Disposition of Red Strip Stamps	ATF F 1627 (5100.15)	1512-0087
Drawback on Distilled Spirits Exported in Packages Filled in Internal Revenue Bond	ATF F 1629 (5110.55)	1512-0088
Application for Basic Permit Under Federal Alcohol Administration Act (FAA)	ATF F 1637	1512-0089
Application for Amended Basic Permit Under FAA Act	ATF F 1643 (5100.18)	1512-0090
Application for Certificate of Exemption From Label Approval—Under the FAA Act	ATF F 1648 (5100.26)	1512-0091
Application for and Certification of Label Approval Under Federal FAA Act	ATF F 1649 (5100.14)	1512-0092
Application for and Approval of Ingredient Information	ATF F 1649 Supplemental (5100-14A)	1512-0093

Name	Agency No.	Control No.
Formula and Process for Nonbeverage Product	ATF F 1678 (5530.5)	1512-0095
Beer For Exportation	ATF F 1689 (5130.12)	1512-0096
Monthly Report of Concentrate Manufacturer	ATF F 1695 (5520.2)	1512-0098
Environmental Information	ATF F 1740.1	1512-0100
Supplemental Information Water Quality Considerations—Under 33 U.S.C. 1341(a)	ATF F 1740.2	1512-0101
Beer Tax Return	ATF F 2034 (5130.7)	1512-0102
Notice of Transfer of Untaxpaid Beer	ATF F 2035 (5130.14)	1512-0103
Wine Tax Return	ATF F 2050 (5120.27)	1512-0104
Pre-Payment Return-Wine Tax	ATF F 2052 (5120.37)	1512-0105
Application for Permit Under 26 U.S.C. Chapter 52 Manufacturer of Tobacco Products or Proprietor of Export Warehouse.	ATF F 2093 (5200.3)	1512-0107
Application for Amended Permit Under 26 U.S.C. 5712 Manufacturer of Tobacco Products or Proprietor of Export Warehouse.	ATF F 2098 (5200.16)	1512-0108
Extension of Coverage of Bond	ATF F 2105 (5000.7)	1512-0112
Monthly Report-Export Warehouse Proprietor	ATF F 2140	1512-0115
Notice of Release of Cigars, Cigarettes, Cigarette Papers or Cigarette Tubes	ATF F 2145 (5200.11)	1512-0116
Claim for Drawback of Tax on Cigars, Cigarettes, Cigarette Papers or Cigarette Tubes	ATF F 2147 (5620.7)	1512-0117
Bond-Drawback of Tax on Cigars, Cigarettes or Cigarette Papers or Tubes	ATF F 2148	1512-0118
Notice of Removal of Cigars, Cigarettes, Cigarette Papers, or Cigarette Tubes, from Export Warehouse	ATF F 2149/ (5200.14) 2150	1512-0119
Certificate of Age and Origin of Distilled Spirits	ATF F 2177 (5110.58)	1512-0120
Electronic Fund Transfer	ATF P 5000.8	1512-0121
Manufacturing Record of Products Containing Specially Denatured Alcohol	ATF F 133 (5150.29)	1512-0122
Details of Packages Filled With Denatured Spirits	ATF F 1467 (5110.15)	1512-0123
Record of Brewery Operations	ATF F 2051 Sheet 1 (5130.5)	1512-0124
Record of Brewery Operations	ATF F 2051 Sheet 2 (5130.5)	1512-0125
Inventory—Manufacturer of Cigarette Papers and Tubes	ATF F 2132	1512-0126
Record of Large Cigars	ATF F 3065 (5210.4)	1512-0127
Record of Small Cigars and Large and Small Cigarettes	ATF F 3066 (5210.10)	1512-0128
Firearms Transaction Record Part I—Intra-State Over-the-Counter	ATF F 4473 (5300.9)	1512-0129
Firearms Transaction Record Part II—Contiguous State or Non-Over-the-Counter	ATF F 4473 Part II (5300.9)	1512-0130
License (18 U.S.C. Chapter 40, Explosives)	ATF F 4706 (5400.14)	1512-0131
Permit (18 U.S.C. Chapter 40, Explosives)	ATF F 4708 (5400.15)	1512-0132
Explosives Delivery Record	ATF F 4721 (5400.8)	1512-0133
Tank Record of Spirits in Storage	ATF F 5110.29	1512-0134
Storage Summary Account	ATF F 5110.37	1512-0135
Application for Permit to Use Alcohol Free of Tax	ATF F 2600 (5150.22)	1512-0137
Certificate of Tax Determination—Wine	ATF F 2605 (5120.20)	1512-0138
Application to Procure, Reprocess, Bottle, Repackage, or Resell Products Containing Specially Denatured Alcohol	ATF F 2622	1512-0140
Claim—Alcohol and Tobacco Taxes	ATF F 2635 (5620.8)	1512-0141
Specific Export Bond—Distilled Spirits or Wine	ATF F 2734 (5100.25)	1512-0142
Specific Transportation Bond-Distilled Spirits or Wines Withdrawn for Transportation to Manufacturing Bonded Warehouses—Class Six.	ATF F 2736 (5110.12)	1512-0144
Continuing Transportation Bond—Distilled Spirits and Wines Withdrawn for Transportation to Manufacturing Bonded Warehouses—Class Six.	ATF F 2737	1512-0145
Application, Permit and Report—Beer and Wine (Puerto Rico)	ATF F 2900 (5100.21)	1512-0149
Application by Proprietor of Tax paid Wine Bottling House	ATF F 2975 (5140.2)	1512-0154
Computation of Tax and Agreement to Pay Tax on Puerto Rican Cigars or Cigarettes	ATF F 2987 (5210.8)	1512-0156
Process for Concentration or Reconstitution of Beer	ATF F 3019 (5130.13)	1512-0158
Concentrate, Produced from Beer, for Exportation	ATF F 3021 (5130.19)	1512-0159
Transfer of Concentrate Produced from Beer	ATF F 3020 (5130.20)	1512-0160
Application for Distilled Spirits Stamps (Puerto Rico)	ATF F 3039 (5100.13)	1512-0161
Inventory—Manufacturer of Tobacco products	ATF F 3067 (5210.9)	1512-0162
Monthly Report—Manufacturer of Tobacco Products	ATF F 3068 (5210.5)	1512-0163
Schedule of Cigars, Cigarettes, Cigarette Papers or Tubes Withdrawn from Market	ATF F 3069 (5200.7)	1512-0164
Tax Return—Manufacturer of Tobacco Products	ATF F 3071 (5210.7)	1512-0166
Transportation in Bond and Notice of Release of Puerto Rican Cigars, Cigarettes, Cigarette Papers, or Cigarette Tubes.	ATF F 3072 (5210.14)	1512-0167
Notice of Transfer of Fruit Flavor concentrate	ATF F 3874 (5520.5)	1512-0169
Inventory—Export Warehouse Proprietor	ATF F 3373 (5220.3)	1512-0171
Application for Fruit-Flavor Concentrate	ATF F 3873 (5520.1)	1512-0173
Application for Limited Industrial Use and Withdrawal Permit	ATF F 4326 (5150.21)	1512-0174
Limited Withdrawal Permit to Procure SDA or Tax-Free Alcohol	ATF F 4327 (5150.11)	1512-0175
Notice of Intent to Manufacture Liquor Bottles, and Assignment of Manufacturer's Number	ATF F 4328 (5540.1)	1512-0176
Catering Locations	ATF F 4440 (5100.29)	1512-0177
Report of Firearms Transactions	ATF F 4483 (5300.5)	1512-0178
Bourbon Whisky Certificate of Authenticity	ATF F 4547 (5110.42)	1512-0179
Remittance Transmittal (Alcohol, Tobacco and Firearms)	ATF F 4640 (5600.5)	1512-0180
Contractor's Accounting of Tax-Exempt Cigarettes and Cigars	ATF F 4643 (5200.12)	1512-0181
Application for License Under 18 U.S.C. Chapter 40, Explosives	ATF F 4705 (5400.13)	1512-0182
Application for Permit Under 18 U.S.C. Chapter 40, Explosives	ATF F 4707 (5400.16)	1512-0183
Explosives Transaction Record (Nonlicensee or Nonpermittee)	ATF F 4710 (5400.4)	1512-0184
Report of Theft or Loss of Explosive Materials	ATF F 4712 (5400.5)	1512-0185
Application for Enrollment to Practice Before Bureau of Alcohol, Tobacco and Firearms	ATF F 5000.12	1512-0186
Report of Violations	ATF F 5030.5	1512-0187
Signing Authority for Corporate Officials	ATF F 5100.1	1512-0188
Report of Bottle Strip Stamps, Distilled Spirits Stamps, and Alternative Devices	ATF F 5100.8 (2260)	1512-0189
Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation	ATF F 5100.11	1512-0190
Application for Transfer of Spirits and/or Denatured Spirits in Bond	ATF F 5100.16 (2609)	1512-0191
Monthly Report of Bonded Storage Operations	ATF F 5110.11	1512-0192
Statement of Losses at Bottling Premises	ATF F 5110.13	1512-0193
Tax Paid Spirits Returned to Bonded Premises	ATF F 5110.17	1512-0194
Application for Operating Permit Under 26 U.S.C. 5171(d)	ATF F 5110.25	1512-0195
Gauge Report or Record	ATF F 5110.26	1512-0196
Transfer of Spirits, Denatured Spirits, or Wines in Bond	ATF F 5110.27	1512-0197
Monthly Report of Processing Operations	ATF F 5110.28	1512-0198
Drawback on Distilled Spirits Exported	ATF F 5110.30	1512-0199
Application and Permit to Ship Puerto Rican Spirits to U.S. Without Payment of Tax	ATF F 5110.31	1512-0200
Notice of Change in Status of Plant	ATF F 5110.34	1512-0202
Distilled Spirits Tax Return-Deferred Payment	ATF F 5110.35	1512-0203
Formula for Distilled Spirits Under the Federal Alcohol Administration Act	ATF F 5110.38	1512-0204
Monthly Report of Production Operations	ATF F 5110.40	1512-0205
Registration of Distilled Spirits Plants	ATF F 5110.41	1512-0206
Monthly Report of Processing (Denaturing) Operations	ATF F 5110.43	1512-0207
Package Gauge Report	ATF F 5110.45	1512-0208

Name	Agency No.	Control No.
Tax Deferral Bond-Distilled Spirits (Puerto Rico)	ATF F 5110.50	1512-0209
Application and Permit for Alcohol fuel Producer Permit Under 26 U.S.C. 5181	ATF F 5110.74	1512-0214
Alcohol Fuel Plant Report	ATF F 5110.75	1512-0215
Monthly Report of Wine Cellar Operations	ATF F 5120.17 (702)	1512-0216
Report of Wine Spirits Added to Wines	ATF F 5120.28	1512-0217
Withdrawal of Wine Spirits to Bonded wine Cellar	ATF F 5120.38	1512-0218
Redenaturation of Recovered Denatured Spirits	ATF F 5150.34	1512-0219
Application for Importer's and/or Wholesaler's Basic Permit Under Federal Alcohol Administration Act	ATF F 5170.4	1512-0220
Offer in Compromise of Liability Incurred under Chapters 51, 52, 53 or 78 of Internal Revenue Code	ATF F 5640.1	1512-0221
Offer in Compromise of Liability Incurred Under the Federal Alcohol Administration Act, as Amended	ATF F 5640.2	1512-0222
User-Limited Permit (18 U.S.C. Chapter 40, Explosives)	ATF F 4709. (5400.6)	1512-0242

OMB indicated that the following forms did not call for information beyond that necessary to identify the parties and amount of the bond involved. Accordingly they are deemed to be certifications and not information collection requests. They are not subject to OMB review and approval under 44 U.S.C. Chapter 35. The form names and agency numbers are listed as follows:

Name	Agency No.
Bond for Spirits or Denatured Spirits or Rum Brought into the U.S. Free of Tax.	ATF F ACB-VI 101 (5150.35).
Bond for Articles Brought into the U.S. Free of Tax.	ATF F ACB-V1 102 (5150.36).
Bond for Bonded Wine Cellar or Bonded Winery.	ATF F 700 (5120.36).
Tax-Free Alcohol User's Bond	ATF F 1448 (5150.25).
Bond of Dealer in Specially Denatured Alcohol and/or Rum.	ATF F 1475 (5150.22).
Bond of User of Specially Denatured Alcohol or Rum.	ATF F 1480 (5150.20).
Brewer's Bond (5130.22)080	ATF F 1566.
Bond Covering Revoval to and Use of Wine at Vinegar Plant.	ATF F 1676.
Concentrate Manufacturer's Bond	ATF F 1694 (5110.70).
Bond for Drawback Under 26 U.S.C. 5131.	ATF F 1730 (5530.3)
Bond Covering Deferred Payment of Wine Tax.	ATF F 2053 (5120.26).
Bond—Manufacturer of Cigarette Papers and Tubes.	ATF F 2102 (5210.1).
Bond—Export Warehouse Proprietor.	ATF F 2103 (5220.5).
Export Bond—Customs Bonded Cigar Manufacturing Warehouse.	ATF F 2104 (5200.15).
Bond Under 26 U.S.C. 6423	ATF F 2490.
Continuing Export Bond—Distilled Spirits and Wine.	ATF F 2735.
Drawback Bond—Distilled Spirits and Wine.	ATF F 2738 (5100.32).
Tax Deferral Bond—Wine (Puerto Rico).	ATF F 2897 (5120.32).
Tax Deferral Bond—Beer (Puerto Rico).	ATF F 2898 (5130.16).
Deferral Bond—Cigars and Cigarettes (Puerto Rico).	ATF F 2986 (5210.12).
Bond—Manufacturer of Tobacco Products.	ATF F 3070 (5210.13).
Fruit—Flavor Concentrate Bond	ATF F 3872 (5120.30).
Distilled Spirits Bond	ATF F 5110.56.

The following forms have nine or fewer reporting respondents. Therefore these forms are not subject to the requirements of 44 U.S.C. Chapter 35. The form names and agency numbers are listed as follows:

Name	Agency No.
Monthly Report—Vinegar Plant	ATF F 1623 (5510.3).
Monthly Tax Return—Manufacturer of Cigarette Papers and Tubes.	ATF F 2137.
Monthly Report—Manufacturer of Cigarette Papers and Tubes.	ATF F 2138.
Prepayment Tax Return—Manufacturer of Tobacco Products.	ATF F 2617 (5210.11).
Deferred Tax Return—Wine (Puerto Rico).	ATF F 2927 (5120.33).
Prepayment Tax Return—Wine (Puerto Rico).	ATF F 2928 (5120.34).
Deferred Tax Return—Beer (Puerto Rico).	ATF F 2929 (5130.17).
Prepayment Tax Return—Beer (Puerto Rico).	ATF F 2930 (5130.21).
Deferred Tax Return—Puerto Rican Cigars and Cigarettes.	ATF F 2988 (5200.5).
Prepayment Tax Return—Puerto Rican Cigars, cigarettes, Cigarette Papers and Cigarette Tubes.	ATF F 3073 (5200.8).
Certificate of Prepayment of Tax on PR Cigars, Cigarettes, Cigarette Papers or Cigarette Tubes.	ATF F 3075 (5200.9).
Prepayment Return—Distilled Spirits Tax.	ATF F 5110.32.
Application, Permit, and Report—Distilled Spirits Products (Puerto Rico).	ATF F 5110.51.
Deferred Tax Return—Distilled Spirits (Puerto Rico).	ATF F 5110.52.
Prepayment Tax Return—Distilled Spirits (Puerto Rico).	ATF F 5110.53.

Dated: January 18, 1982.

G. R. Dickerson,

Director.

[FR Doc. 82-1796 Filed 1-22-82; 8:45 am]

BILLING CODE 4810-31

Office of the Secretary

[Number: 150-95]

Reorganization of Internal Revenue Service National Office, Assignment of Functions to Chief Counsel, Internal Revenue Service

January 11, 1982.

By Virtue of the authority vested in me as Secretary of the Treasury, including the authority vested in me by Reorganization Plan No. 26 of 1950 and Reorganization Plan No. 1 of 1952, the Internal Revenue Service National Office is reorganized as specified in this Order. The offices and positions of Associate Commissioner (Operations), Associate Commissioner (Policy and Management), Associate Commissioner (Data Processing), and Assistant to the Commissioner (Congressional Affairs) are established in the Internal Revenue Service. The Associate Commissioners will report to the Commissioner through the Deputy Commissioner. The Deputy Commissioner will provide overall coordination and direction and will continue in the role of advising the Commissioner and providing line supervision to the Regional Commissioners.

1. *Office of the Associate Commissioner (Operations)*

The Associate Commissioner (Operations) is the principal advisor to the Commissioner on policy matters affecting operations.

The Associate Commissioner (Operations) is responsible for the following activities:

a. Serves as the spokesperson for the operating functions, which are: Collection of delinquent accounts and securing of delinquent returns; investigation of criminal fraud involving any internal revenue laws (except those concerning alcohol, tobacco, or firearms); examination of tax returns; approval and subsequent examination of Employee Plans and Exempt Organizations; and the Tax Information program.

b. Provides policy guidance and direction to the Assistant Commissioner (Collection), Assistant Commissioner (Examination), Assistant Commissioner (Criminal Investigation), and the Assistant Commissioner (EP/EO).

c. Represents the Service, as designated by the Commissioner, to the Department of the Treasury, Office of Management and Budget, Congress, and the public on major cross-functional issues and discusses or explains the Service's policy formulation and long-term plans.

Under the supervision of the Associate Commissioner (Operations) are the following organizations:

a. Office of the Assistant Commissioner (Collection)

b. Office of the Assistant Commissioner (Examination)

c. Office of the Assistant Commissioner (Criminal Investigation)

d. Office of the Assistant Commissioner (Employee Plans and Exempt Organizations)

2. *Office of Associate Commissioner (Policy and Management)*

The Associate Commissioner (Policy and Management) is the principal advisor to the Commissioner on policy matters affecting agency administration.

The Associate Commissioner (Policy and Management) is responsible for the following activities:

a. Serves as the spokesperson for the administrative functions, which are: Personnel administration; fiscal management; training and employee development; management information systems; advice and assistance to foreign governments on tax administration; management of the Service's physical plant, equipment, property, and support services; disclosure and security; tax forms and publication design, printing, and distribution; provision of centralized clerical, typing, and mass processing support in district offices for the operating functions; and operation of the IRS Data Center (payroll and non-tax data processing).

b. Provides policy guidance and direction to the Assistant Commissioner (Support and Services), the Assistant Commissioner (Human Resources), and the Assistant Commissioner (Planning, Finance, and Research).

c. Conducts the research, planning, analysis, and budget formulation functions of the Service.

d. Represents the Service, as designated by the Commissioner, to the Department of the Treasury, Office of Management and Budget, Congress, and the public on major issues, and discusses or explains the Service's policy formulation and long-term plans.

Under the supervision of the Associate Commissioner (Policy and Management) are the following organizations:

a. Office of the Assistant Commissioner (Support and Services)

b. Office of the Assistant Commissioner (Human Resources)

c. Office of the Assistant Commissioner (Planning, Finance, and Research)

3. *Office of Associate Commissioner (Data Processing)*

The Associate Commissioner (Data Processing) is the principal advisor to the Commissioner on policy matters affecting data processing.

The Associate Commissioner (Data Processing) is responsible for the following activities:

a. Serves as the spokesperson for the data processing functions, which are: Processing of tax returns and information documents, accounting for all revenues collected by the Service, maintaining master files of all taxpayer accounts, managing all large-scale tax-processing computers in the Service, and designing, developing, testing, and maintaining computer software used on large-scale tax-processing computers in the Service.

b. Provides policy guidance and direction to the Assistant Commissioner (Computer Services) and the Assistant Commissioner (Returns and Information Processing).

c. Represents the Service, as designated by the Commissioner, to the Department of the Treasury, Office of Management and Budget, Congress, and the public on major data processing issues, and discusses or explains the Service's policy formulation and long-term plans.

Under the supervision of the Associate Commissioner (Data Processing) are the following organizations:

a. Office of the Assistant Commissioner (Computer Services)

b. Office of the Assistant Commissioner (Returns and Information Processing)

4. *Office of Assistant to the Commissioner (Congressional Affairs)*

The Assistant to the Commissioner (Congressional Affairs) is the principal advisor to the Commissioner, Deputy Commissioner, and top executives of the Service on all Congressional and legislative matters except those involving appropriation hearings, and is responsible for planning, developing, directing, and evaluating the Congressional Affairs program and activities of the Service.

5. *The Assistant Commissioner (Inspection) and the Deputy Assistant Commissioner (Inspection)*

The Assistant Commissioner (Inspection) and the Deputy Assistant Commissioner (Inspection) will, to ensure objectivity and integrity, continue to report directly to the Commissioner and Deputy Commissioner.

6. The Corporation Tax, Individual Tax, and Appeals Divisions are transferred to the Chief Counsel, and the Commissioner of Internal Revenue will exercise line supervision over the Chief Counsel for these functions. The transfer of such personnel, records, equipment and funds will be determined by the Commissioner of Internal Revenue and Chief Counsel as appropriate.

7. The Office of the Commissioner shall consist of the Commissioner, Deputy Commissioner, Assistants to the Commissioner, Assistant to the Commissioner (Public Affairs), Assistant to the Commissioner (Congressional Affairs), Assistant to the Commissioner (Taxpayer Ombudsman), the Assistant to the Commissioner (Equal Opportunity), and the Assistant to the Deputy Commissioner.

8. The Commissioner of Internal Revenue may assign functions to component organizations in such manner as he may determine to be in the interest of efficiency and economy of operation.

9. This Order shall become effective upon such date as the Commissioner of Internal Revenue may determine. Prior Treasury Department Orders are hereby amended, supplemented, or superseded as is appropriate.

Donald T. Regan,

Secretary of the Treasury.

[FR Doc. 82-1787 Filed 1-22-82; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 16
Monday, January 25, 1982

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 Energy Regulatory Commission	1
Federal Trade Commission	2
National Credit Union Administration	3

1

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: 10 a.m., January 27, 1982.

PLACE: Room 9306, 825 North Capitol Street, N.E. Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Acting Secretary; Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—742nd Meeting, January 27, 1982, Regular Meeting (10: a.m.)

CAP-1. Project No. 2866, The Metropolitan Sanitary District of Greater Chicago
CAP-2. Project Nos. 2979-001 and 2980-001, Traverse City Light & Power Board
CAP-3. Project No. 4515, Eric R. Jacobson; Project No. 5413, Palisade Irrigation District
CAP-4. Project No. 4366-000, Consolidated Hydroelectric, Inc.; Project No. 4927-000, City of Rohnert Park, California; Project No. 5240-000, Modesto Irrigation District
CAP-5. Project No. 4343-000, Consolidated hydroelectric, Inc.; Project No. 4970-000, City of Rohnert Park, California; Project No. 5254-000, Modesto Irrigation District
CAP-6. Project No. 4190-000, Consolidated Hydroelectric, Inc.; Project No. 4830-000, City of Rohnert Park, California; Project No. 5224-000, Modesto Irrigation District; Project No 5232-000, Tehama County Flood Control and Water Conservation District
CAP-7. Project No. 3509, Little Falls Hydroelectric Associates; Project No. 4339-000 Mohawk Energy Corp. Project No. 4341-000, Niagara Mohowk Power Corp.; Project No. 5512-000, New York State Energy Research and Development Authority
CAP-8. Omitted
CAP-9. Project No. 4167, Energenics System, Inc.
CAP-10. Project No. 4226, Fort Miller Pulp & Paper Co.; Project No. 4557, Long Lake Energy Corp.; Project No. 5595, New York State Energy Research and Development Authority
CAP-11. Project Nos. 3499, 3500, 3501, and 3502, Chain Dam Hydroelectric Corp. and Cooperative Energy Development Association; Project No. 3788, American Hydro Power Co. and the Commonwealth of Pennsylvania, Department of Environmental resources
CAP-12. Project No. 3047, Pacific Power & Light Co.; Project No. 3313, City of Klamath Falls, Oregon
CAP-13. Omitted
CAP-14. Docket No. HB24-63-3, Public Service Co. of Colorado
CAP-15. Docket No. ER82-105, Sierra Pacific Power Co.
CAP-16. Docket No. ER82-128-000, Mississippi Power & and Light Co.
CAP-17. Docket No. ER82-141-000, Public Service Co. of New Hampshire
CAP-18. Docket No. ER82-146-000, Commonwealth Edison Co.
CAP-19. Docket No. ER82-123-000, Kansas City Power & Light Co.
CAP-20. Docket No. ER81-388-000, Virginia Electric & Power Co.
CAP-21. Docket No. ER80-569, Yankee Atomic Electric Co. et al.; Docket No. ER80-570, Public Service Co. of New Hampshire
CAP-22. Docket No. ER77-578, Kansas Gas & Electric Co.
CAP-23. Docket No. ER79-616, Northen States Power Co. (Minnesota) and Nothern States Power Co. (Wisconsin)
CAP-24. Docket No. EL79-8 and E-9558, Central Power & Light Co., Public Service Co. of Oklahoma, Southwestern Electric Power Co., and West Texas Utilities Co.
CAP-25. Docket No. EL78-21, Seminole Electric Cooperative v. Florida Power Corp.
CAP-26. Docket No. ER81-518, Toledo Edison Co.
CAP-27. Docket No. ER81-387-000, Central Power & Light Co.
CAP-28. Docket No. ER81-199-000, Central Telephone & Utilities Corp.
CAP-29. Docket No. ER81-649-000, Central Vermont Public Service Corp.
CAP-30. Docket No. ER76-819, Central Illinois Light Co.
CAP-31. Docket No. ER81-577-000, Arkansas Power & Light Co.
CAP-32. Docket No. ER81-588-000, Florida Power & Light Co.

Consent Miscellaneous Agenda

CAM-1. Docket No. RM79-76 (Texas—11addition), high-cost gas produced from tight formations
CAM-2. Docket No. RM79-76 (Texas—1 addition), high-cost gas produced from tight formations
CAM-3. Docket No. RM79-76 (Louisiana—2 addition), high-cost gas produced from tight formations
CAM-4. Docket No. RM79-76 (Texas—7addition), high-cost gas produced from tight formations
CAM-5. Docket No. GP82- , State of Oklahoma, Section 103 NGPA determination, Phillips Petroleum Co. Crose A #1 Well; FERC No. JD80-59073, State Docket No. 5260
CAM-6. Docket No. GP81-46-000, State of Louisiana, NGPA Section 107 determinations; Ace Drilling Services, Inc.; Hopkins Estate No. 2 Well, et al.; JD Nos. 81-35124, et at.
CAM-7. Docket No. GP82-1-000, Commonwealth of Virginia, Section 108 NGPA determination Ashland Exploration, Inc. W. H. Matney No. 3 Well, J. D. No. 81-25503
CAM-8. Docket No. GP80-4, Louisiana-Nevada Transit Co.; Docket No. GP80-38, Zenith Natural Gas Co.
CAM-9. Docket No. RA81-66-000, Caribou Four Corners, Inc.

Consent Gas Agenda

CAG-1. Docket No. TA82-1-53-000, Kansas-Nebraska Natural Gas Co., Inc.
CAG-2. Docket No. TA82-1-14 (PGA82-1), Lawrenceburg Gas Transmission Corp.
CAG-3. Docket No. TA82-1-15 (PGA82-1), Mid Louisiana Gas Co.
CAG-4. Docket No. TA82-1-16 (PGA82-1), National Fuel Gas Supply Corp.
CAG-5. Docket No. TA82-1-17 (PGA82-1), Texas Eastern Transmission Corp.
CAG-6. Docket No. TA82-1-18 (PGA82-1), Texas Gas Transmission Corp.
CAG-7. Docket No. TA82-1-61 (PGA82-1), West Lake Arthur Corp.
CAG-8. Docket No. RP82-33, El Paso Natural Gas Co.
CAG-9. Docket No. TA82-1-33-001 (PGA82-1a), El Paso Natural Gas Co.
CAG-10. Docket No. TA82-1-32-001 (PGA82-1a), Colorado Interstate Gas Co.
CAG-11. Docket No. RP78-61-007, Mountain Fuel Resources, Inc.
CAG-12. Docket Nos. RP77-54-000, et al. Arkansas Louisiana Gas Co.
CAG-13. Docket Nos. CI77-488-001 and CI77-564-001, The Superior Oil Co.; Docket No. CS72-203-001, Petro Lewis Funds, Inc.; Docket No. CS73-158-000, Partnership Properties Co.; Docket No. CS73-158-001, Partnership Properties Co.; Docket No. CS75-B-001, Home Petroleum Corp. and HPC, Inc. (Home Petroleum Corp.); Docket No. CSB2-3-000, Royce A. Scott; Docket No. CI82-11-000, Conoco, Inc.; Docket No. CI74-392-002, Exxon Corp.
CAG-14. Docket No. CI76-559-001, Oil Lease Operating Co.

CAG–15. Docket Nos. CP81–378–000, CP–402–001 and CP81–417–000, Texas Eastern Transmission Corp.
CAG–16. Docket No. CP82–20–000, Michigan Wisconsin Pipe Line Co.
CAG–17. Docket No. CP81–305–000, Northern Natural Gas Co.
CAG–18. Docket No. CP82–8–000, Lone Star Gas Co., a Division of Enserch Corp.
CAG–19. Docket No. CP68–139, B–V Gas Gathering System, Inc.
CAG–20. Docket No. CP81–5–000, United Gas Pipe Line Co.; Docket No. CP81–68–000, Southern Natural Gas Co.; Docket Nos. CP81–83–000 and CP81–93–000, Transcontinental Gas Pipe Line Corp.
CAG–21. Docket No. CP81–528, Consolidated Gas Supply Corp.; Docket No. CP81–533, Texas Gas Transmission Corp.
CAG–22. Docket No. CP80–503–004, Arkansas Louisiana Gas Co.
CAG–23. Omitted
CAG–24. Docket No. RP82–32–000, Sea Robin Pipeline Co.

Power Agenda

I. Licensed Project Matters

P–1. Project No. 4057, Commonwealth of Pennsylvania and the Susquehanna River Basin Commission; Project No. 3367, Hydro Corp. of Pennsylvania
P–2. Project No. 405, Susquehanna Power Co. and Philadelphia Electric Power Co.
P–3. Project No. 2409, Calaveras County Water District
P–4. Project No. 3186, City of Ukiah, California; Project No. 3351, Sonoma County Water Agency

II. Electric Rate Matters

ER–1. Docket No. ER79–126, Arizona Public Service Co.
ER–2. Docket Nos. ER77–485 and ER77–551, Carolina Power & Light Co.; Docket No. E–9606, North Carolina Electric Membership Corp., Four County Electric Membership Corp., Electricities of North Carolina, and Cities of Bennettsville and Camden, South Carolina
ER–3. Omitted
ER–4. Docket No. EL78–29, Village of Penn Yann, New York; Docket No. EL79–29, Municipal Electric Utilities Association
ER–5. Project No. 3654, City of Tenino, Washington; Project No. 4441, Pacific Power & Light Co.; Project No. 4702, City of Centralia, Washington
ER–6. Project No. 2361, Blandin Power Co. and Minnesota Power & Light Co.

Miscellaneous Agenda

M–1. Docket No. RM82– , Collection of cost of service information under Section 133 of the Public Utility Regulatory Policies Act of 1978
M–2. Reserved
M–3. Docket No. RM82– , Statement of policy regarding "fraud, abuse and similar grounds" under the NGPA

Regular Gas Agenda

I. Pipeline Rate Matters

RP–1. Docket No. RP81–1–000, Michigan Wisconsin Pipe LIne Co.
RP–2. Docket No. TA82–1–33–000, El Paso Natural Gas Co.

II. Producer Matters

CI–1. Docket Nos. CI75–45, et al., Tenneco Oil Co., et al.

III. Pipeline Certificate Matters

CP–1. Docket No. CP81–384–000, Transcontinental Gas Pipe Line Corp.
CP–2. Docket No. CP82–136–000, Distrigas of Massachusetts Corp.

Lois D. Cashell,

Acting Secretary.

[S–104–82 Filed 1–21–82; 9:49 am]

BILLING CODE 6717–01–M

2

FEDERAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 47 1238, January 11, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m.,Thursday, January 21, 1982.

CHANGES IN THE AGENDA: Federal Trade Commission cancelled its Oral Argument scheduled for January 21, 1982. The argument has been rescheduled for Tuesday, February 2, 1982, at 2:00 p.m., in room 532.

[S–106–82 Filed 1–21–82; 2:54 pm]

BILLING CODE 6750–01–M

3

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Thursday, January 28, 1982.

PLACE: Seventh floor board room, 1776 G Street N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility lending rate.
2. Revised Policy on sale of loan portfolios.
3. Delinquent insurance premiums.
4. Proposed amendment to Part 747 of the NCUA Rules and Regulations regarding administrative hearings for insolvency proceeding initiated under Sections 120 and 207 of the Federal Credit Union Act.
5. Applications for charters, amendments to charters, bylaw amendments, mergers that may be pending at that time.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 a.m., Thursday, January 28, 1982.

PLACE: Seventh floor board room, 1776 G Street N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed charter amendment. Closed pursuant to exemptions (8) and (9) (A)(ii).
2. Request from federally insured credit union for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9) (A) (ii).
3. Request for merger with special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9) (A) (ii).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–105–82 Filed 1–21–82; 9:50 am]

BILLING CODE 7535–01–M

federal register

Monday
January 25, 1982

Part II

Department of Transportation

Federal Aviation Administration

Pilots and Flight Instructors Certification; Instrument Rating Requirements

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No. 22051; Amdt. 61-70]

Certification: Pilots and Flight Instructors; Amendment of Instrument Rating Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the rules governing the requirements for the issuance of an original or additional instrument rating added to an airmen certificate. It deletes the requirement that cross-country experience be gained in a specific category of aircraft. Under this rule, cross-country time gained in any powered aircraft may be applied toward meeting the experience requirements for the rating. The amendment is intended to relieve applicants from unnecessary duplication of experience. It relieves the public of an undue economic burden and prevents the waste of aviation fuel.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Dan Keenan, Regulatory Review Branch (AVS-22), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Background

Part 61, Certification: Pilots and Flight Instructors, of the Federal Aviation Regulations (14 CFR Part 61) prescribes the requirements for issuing pilot and flight instructor certificates and ratings. Part 61 also prescribes the conditions under which those certificates and ratings are necessary and the privileges and limitations of those certificates and ratings. In 1973, Part 61 was revised to update the standards for issuing pilot and flight instructor certificates and ratings, and to adopt recent experience and proficiency check requirements. Amendment 61-60 (38 FR 1356; February 1, 1973) reflected the increased activity in aviation as well as the growing sophistication of aircraft and equipment being utilized in the national airspace system.

As part of this revision effort, the requirements for the issuance of a helicopter instrument rating were revised. These new requirements stemmed from, and were in recognition of, the increased interest and activity in the world-wide application of the helicopter. They included a requirement in § 61.65(e)(1) that an applicant for a instrument rating have at least a total of 200 hours as pilot in command, of which 50 hours are cross-country in the category of aircraft for which an instrument rating is sought.

When § 61.65(e)(1) was adopted, it was uncommon for a person to apply for an instrument rating in more than one category of aircraft. Compliance with the 50 hours of cross-country flight time in a single category of aircraft did not present a problem. However, with the increased demand for economic efficiency of corporate flight departments, more and more individuals must be qualified in both airplanes and helicopters. The increased cross-utilization of flight personnel has focused attention to the burden imposed on individuals seeking an additional instrument rating in another aircraft category, because of the cross-country flight experience requirements in § 61.65(e)(1).

Since this section was adopted in 1973, over 105,000 instrument ratings have been issued. Individuals seeking instrument ratings for both airplanes and helicopters have had to repeat cross-country flight experience in order to be eligible for the additional instrument rating. This has been an unnecessary burden in view of the fact that the cross-country experience gained in operating airplanes and helicopters is quite similar and not unique to the category of aircraft. This amendment relieves this burden. The rule change deletes the category requirement and permits individuals to combine the flight experience without compromising safety. It also eliminates the unnecessary waste of aviation fuel and the undue economic burden on the public.

Discussion of Comments

Interested persons were afforded the opportunity to participate in the making of this amendment by Notice 80-11 (46 FR 40646; August 10, 1981). Due consideration has been given to all comments presented in response to that notice.

Eight of the nine public comments received on the notice concur in the proposal. Four of the commenters agreed with FAA's conclusion as stated in the economic evaluation that the rule relieves a burden. One business entity cites a direct savings of $45,000 in transition training costs of its corporate flightcrews. The single opposing comment expresses concern that the experience gained in one category of aircraft will not suffice for the other because of the many performance, aerodynamic, control, and certification differences. The FAA has determined, however, that the experience gained during cross-country flight in one category of aircraft, which includes en route radio navigation and instrument approach procedures at different airports, is transferrable. The experience gained through making the necessary preflight plans, as well as operating in unfamiliar airspace and into a different airport, is the same. This experience will be gained even through the flight characteristics or handling qualities may differ from one category of aircraft to another. While cross-country experience may now be gained in any category of powered aircraft, an applicant is still required to obtain the necessary skill and experience to be eligible for an instrument rating.

The deletion of the aircraft category requirements provides individuals seeking an added instrument rating with an approximate savings of $1,500 to $2,500 and $5,000 to $6,250 for an added fixed-wing or rotorcraft rating, respectively. The savings for all helicopter pilots currently expected to add an airplane instrument rating to their pilot certificates, amounts to an annual estimate of $90,000 to $150,000.

As previoulsy stated, one business entity cites an expected savings of $45,000 in transition training costs of its corporate flightcrew. It is expected that many other entities will receive comparable savings.

Based on the foregoing, the FAA has determined that adopting this amendment relieves the public of an undue economic burden and prevents the waste of aviation fuel, without compromising the level of training necessary to ensure safety. Accordingly, the proposal is adopted without substantive change.

Adoption of the Amendment

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

Accordingly, Part 61 of the Federal Aviation Regulations (14 CFR Part 61) is amended effective January 25, 1982, by revising § 61.65(e)(1) to read as follows:

§ 61.65 Instrument rating requirements.

* * * * *

(e) *Flight experience.* An applicant for an instrument rating must have at least the following flight time as a pilot:

(1) A total of 200 hours of pilot flight time, including 100 hours as pilot in command, of which 50 hours are cross-country in a powered aircraft.

* * * * *

(Secs. 313(a), 601, and 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1422); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45)

Note.—Since this amendment reduces the number of hours of flight experience that an applicant must have and, therefore, does not impose any cost or other economic burden on the applicant, it has been determined that this is not a major regulation under Executive Order 12291 and is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). For these reasons, I certify that under the criteria of the Regulatory Flexibility Act, this amendment will not have a significant economic impact on a substantial number of small entities. A copy of the final regulatory evaluation is included in the regulatory docket.

Issued in Washington, D.C., on January 4, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-1676 Filed 1-22-82; 8:45 am]

BILLING CODE 4910-13-M

federal register

Monday
January 25, 1982

Part III

Department of Agriculture

Animal and Plant Health Inspection Service

Brucellosis Regulations

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations governing the interstate movement of cattle, as related to brucellosis, by removing incorporation by reference of the July 1977 Uniform Methods and Rules (UM&R) and by incorporating pertinent provisions of the current UM&R directly in the regulations; by specifically removing the definition of the use of Certified Brucellosis-Free, Modified Certified Brucellosis, and Noncertified Areas and by defining and using Class Free, Class A, Class B, and Class C States in their places; by amending the requirements for interstate movement of livestock to reflect the new classification of States; and to make other amendments to update and clarify the regulations. This action is needed to correct various weaknesses in and to update the current regulations. The intended effect of these amendments is to make these regulations more effective in preventing the spread of brucellosis and to enhance the Department's brucellosis eradication program.

DATE: Comments must be received on or before March 26, 1982.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–5961.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, Chief Staff Veterinarian, National Brucellosis Eradication Program, Federal Building, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–5961.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this regulation (§§ 78.1, 78.6, 78.8, 78.9, 78.10, 78.11, 78.16, 78.20, 78.21, 78.22, 78.25, and 78.29), have been approved by the Office of the Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0579–0064.

Executive Order 12291

This proposed action is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this action would have an annual effect on the economy of less than one hundred million dollars; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; would not have a significant adverse effect on competition, employment or investment, productivity, innovation, or the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because both direct and indirect costs to producers should be minimal. Direct testing costs to producers moving cattle interstate, are estimated to total approximately $1,200,000, would be spread out among the approximately 1,460,000 cattle owners in the United States. Direct costs to small entities moving livestock should therefore be minimal. Indirect costs to entities moving livestock should be approximately the same as under the current regulations. Some requirements would be relaxed under this proposal, but this would be partially offset by the additional cost of acquiring permits for entry into the various States. In addition, in Class Free States, quarantines would be imposed on herds adjacent to or having contact with infected herds. However, the number of entities potentially subject to such quarantines would be limited to only certain entities in Class Free States, which include only 10 States and which have the lowest rate of disease. The competitive position of small entities vis-a-vis larger ones should not be harmed, the cash flow and liquidity of small entities should not be affected, and the ability of small entities to remain in the market should not be affected by this proposal. At any rate, there is no basis for lessening restrictions on any small entities from a disease standpoint.

Historical Information

The Secretary of Agriculture is authorized to cooperate with the States in conducting a brucellosis eradication program. Brucellosis is a contagious, infectious, and communicable disease which affects animals and man and is caused by bacteria of the genus brucella. Since 1947, minimum standards for the program have been recommended to the Department by the United States Animal Health Association (USAHA). The USAHA is a non-governmental organization dedicated to the betterment of livestock health and the livestock industry. It is composed of livestock industry organizations and individuals, State animal health officials, and Federal animal health officials. The Department serves on the Brucellosis Committee of USAHA both as members and as advisors. The recommendations of USAHA are reviewed by the Department. Those acceptable to the Department are proposed as amendments to the Brucellosis Eradication Uniform Methods and Rules (UM&R) APHIS Publication 91–1. The UM&R forms the basis for cooperation between the States and the Department to control and eradicate brucellosis. The 1977 edition of the UM&R, which contains provisions respecting interstate activity and interstate commerce, has been incorporated by reference into Part 78 of the regulations. The UM&R is subject to annual review and amendment to reflect progressive program needs as determined by representatives of all impacted segments of: the livestock industry, the scientific community, the State animal health officials and USDA–APHIS animal health officials. In 1976, the USAHA, the National Cattlemen's Association, several State cattlemen's associations, several dairymen associations both national and State, the American Farm Bureau Association, and a number of other livestock industry oriented organizations requested the Secretary of Agriculture to review the brucellosis eradication program. The Secretary responded to these requests by appointing a Brucellosis Technical Commission (hereafter referred to as the Commission). The Commission, a five member panel of non-USDA brucellosis experts not connected with the brucellosis eradication program, was charged with the responsibility to review the entire program for feasibility, cost, and technical effectiveness. If found to be feasible and cost effective, they were to make recommendations for program improvements. Their report was delivered in August 1978, and served as the basis for the UM&R published September 4, 1979. The amendments since that date have been the result of further deliberations of the USAHA in consultation with the Commission and the Department.

Analysis of Alternatives

Three alternative sets of regulations for interstate movement have been considered to limit the disease spread

and losses to the livestock industry. They are as follows: (1) Option A—the current system, (2) Option B—the Brucellosis Technical Commission (BTC) proposal of August 1978, and (3) Option C—the amendments proposed herein. The main difference among these options concerns the allowed herd infection rate, the Market Cattle Identification program reactor rate allowed in different areas, and the testing requirements imposed on animals moving interstate from those areas.

The following table shows the basic interstate movement and testing requirements of each alternative. The requirements apply only to cattle from non-quarantined herds moving interstate other than for slaughter or to quarantined feedlots.

Classification criteria			Movement requirements—interstate [1]
Status	Herd infection rate (percent)	MCI reactor rate (percent)	
Option A—The Current Regulations			
Certified brucellosis free area	1	N/A	No test required.
Modified certified brucellosis area	5	N/A	Test within 30 days before movement.
Non-certified area	N/A	N/A	Two tests before movement 30 days apart. First a complete herd test. Last within 30 days of movement.
Option B—Brucellosis Technical Commission's Proposal of November 1981			
Class A State	0	.2	No test required—recommend quarantine at destination and retest in 45 to 120 days.
Class B State	1	.5	Test before movement; postmovement quarantine and retest in 45 to 120 days.
Class C State	Over 1	Over 0.5	Two negative tests at intervals of not less than 60 days; plus postmovement quarantine and retest in 45 to 120 days.
Option C—Modification of BTC Proposal			
Class free State	0	.05	None.
Class A State	.25	.10	One negative test within 30 days of movement.
Class B State	1.5	.30	One negative test within 30 days of movement.
Class C State	Over 1.5	Over .30	Two negative tests at intervals of not less than 60 days. (Vaccinated animals may move with only one negative test prior to movement).

[1] Cattle from certified brucellosis free herds are exempt from premovement testing requirements.

The following table shows how many areas and herds would be subject to the various interstate test requirements for cattle under the three options.

Status	Number of States	Number of counties	Percent of counties	Estimated number of herds	Percent of all herds
Option A—The Current Regulations					
Certified brucellosis free	32	2,051	65.0	1,021,161	63.000
Modified certified brucellosis areas	18	1,096	34.8	591,012	37.000
Non-certified areas		6	0.2	1,530	0.001
Option B—BTC Proposal of August 1978					
Class A	5			21,279	1.5
Class B	40			1,291,521	80.0
Class C	5			300,903	18.5
Option C—Modified BTC Proposal					
Class free	5			21,279	1.5
Class A	27			686,530	42.5
Class B	13			604,992	37.5
Class C	5			300,903	18.5
Total				1,613,703	

As indicated in the historical section above, serious problems with the interstate movement of infected animals, particularly into Brucellosis-Free States, led to the Brucellosis Technical Commission (Commission) report in August 1978. Brucellosis currently results in losses due to decreased milk and beef production, abortions, and culling and replacement of diseased and exposed animals which exceed $33 million annually. The Department believes that either Option B or Option C would be more effective than the current system in controlling and preventing the spread of the disease, and thereby reducing losses caused by it. Adoption of either option would result in long run cost reductions to the general public, cattle owners and government entities involved in the disease control and eradication program, as diseased animals would be identified more quickly and eliminated as sources of infection.

All the plans would have approximately the same federal and States costs, as the governmental duties are similar and mainly supervisory in all cases. The Commission plan, Option B, would provide for three classifications of States, with 40 of the States falling into one classification. Option C would provide for four classifications, with the largest classification covering 27 States. Because Option C provides for an extra classification, it is possible under that option to write regulations which more closely meet the needs of individual States. In addition to this advantage, Option C provides a workable and effective plan for controlling and eventually eradicating brucellosis. Option B, while scientifically sound, would cause short-term great disruption and cost to the livestock industry and would cost more. The estimated cost to producers for tests required by these

options would be: 1) Option A—$390,390; 2) Option B—$1,529,300, and Option C—$1,202,400. Indirect costs, such as the cost to producers of acquiring the various permits required, should be no more than under the current regulations. For these reasons Option C is being proposed.

Proposal

A major recommendation of the Commission was for a change in the system of recognizing status of various areas under the brucellosis program. Presently, areas consist of the 3,153 counties in the United States. When a county reaches the highest level, Certified Brucellosis-Free Area, cattle may move from the county interstate without restrictions. The Commission recommended that classification in the future be by entire States and movements be permitted according to the status of that entire State. This would simplify the regulations and would at the same time encourage States with disease problems in source areas to improve the situation in order to raise the status of the entire State. In so classifying entire States, the terms would be Class Free, Class A, Class B, and Class C. The present terms used for counties, Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas would then be terminated and removed from the regulations. The basic infection rates and other differences between the different classifications are those recommended by the Brucellosis Technical Commission as being the most effective at reducing risk of disease spread to a minimum without overly restricting trade.

Proposed Class Free would be reserved for States with no infection with field strains of *Brucella abortus* for 12 months or longer. The present highest status, Certified Brucellosis-Free Area, only means that at some past point in time the area had a herd infection rate of less than one percent over a period of 18 months and that at the time of designation, has no known foci of brucellosis infection. As long as herd infection rates do not exceed one percent for any 18 month period, the area retains the Certified Brucellosis-Free Area status and its privileges in movement of cattle. The proposal for Class Free, recognizing that infection can be introduced from other States, would not permit the State to retain Class Free status unless any imported cattle herd found to be affected with brucellosis is slaughtered or returned to the originating State without spread of brucellosis to native herds.

Proposed Class A would be for those States having an annual prevalence rate of less than 0.25 percent of herds within the State infected with field strains of *Brucella abortus* or exceeding an annual prevalence rate of less than 1 reactor per 1,000 cattle tested in unrestricted marketing channels.

Proposed Class B would be for those States not yet qualifying for Class A but having less infection than those States required to be Class C.

The proposed Class C status would be for States that have more than a 12 months average prevalence rate of 1.5 percent of herds within the State infected with field strains of *Brucella abortus*, or exceed an annual prevalence rate of 3 reactors per 1,000 cattle tested in unrestricted marketing channels.

In order to accomplish the change from area status to State-wide status and to incorporate the Uniform Methods and Rules, other changes would be required in Part 78. This docket proposes amending § 78.1 by repositioning some definitions for better referencing, removing others, revising some, and adding a few new definitions. Paragraphs that would be removed, as they are no longer pertinent, are paragraphs (j), (l), (m), (n), (p), (y), and (z). Paragraphs (ee), (ll), and (mm) would be removed but added to other paragraphs that would be revised. Paragraphs (k), (o), (q), (r), (s), (u), (v), (x), (aa), (bb), (ff), and (gg) would be revised and repositioned.

Definitions in new § 78.1 (a) through (l) have not be revised, but some have been repositioned. The definition of "certificate," new § 78.1(m), would be reworded slightly for clarity. The definition of "permit," new § 78.1(n), would be revised in order to enable better control over brucellosis infected, exposed, and unknown status cattle.

The revised definition would identify a permit as either a VS Form 1–27 or a comparable State form, a "Permit for Entry", or an "S" brand permit. The "Permit for Entry" would be described as an authorization for entry of cattle into a State issued by an animal health official of that State. Such authorization for entry could be either oral or written. If an oral permit were issued, written confirmation would be sent to the shipper. An "S" brand permit would be described as any document that is required to accompany "S" branded animals which must be moved to a quarantined feedlot, to slaughter, or to an approved stockyard for sale for movement to slaughter or to a quarantined feedlot.

Under the current regulations, the only permit in use has been the VS Form 1–27 or comparable form. However, this permit is required for all movements, and is not being used effectively by the industry. It appears that its importance and use would be enhanced if it were restricted to certain movements. Therefore, the proposed regulations would restrict the use of the I–27 or comparable State form to infected animals and animals from infected herds. Any other animals of unknown status which must move to restricted destinations in trade, i.e. only to slaughter, to a quarantined feedlot, or to a specifically approved stockyard for sale to slaughter or to a quarantined feedlot, would be covered by the new "S" brand permit.

To better control cattle which test negative to brucellosis but which are actually incubating the disease, a requirement is proposed that cattle moving interstate from areas of greater risk, Class B and C States, must have, in addition to required tests and certificates, a permit for entry from the receiving State animal health official. This appears to be necessary to keep better track of these animals and ensure that they spread no disease.

It is proposed to amend the regulations to include a definition for "Permit for Entry" under the general definition of "Permit."

The definition of an official test has been repositioned as § 78.1(o). The proposed revised definition would define the official tests for the diagnosis of brucellosis, the use of the various tests, and standards for interpreting the test results. The present regulations refer to the July 1977 UM&R. Recent research and controlled field studies have caused the Department to propose significant revisions to standards used by the cooperative State-Federal Brucellosis Eradication Program since the time that version of the UM&R was published.

Through research and experience, the Department has developed a variety of serological tests to detect blood components caused by invasion of *B. abortus* into the bodies of animals. The immune responses of an animal's body to these invaders is very variable, both in production of components and in the length of time to reach measurable levels of these components. Any one test may be superior to another test at a given time after the animal is exposed to *B. abortus*. Each test that would be an official test is set forth in the proposed definition. Tests may be used as official tests only under conditions specified in the regulations. Some tests may be used to officially classify cattle as negative but not as reactors. In all cases, different

test results would indicate that an animal was positive, suspect, or negetive to brucellosis. The test results would also be dependent on other factors, such as, how recently the animal had been vaccinated against brucellosis. The rivanol test, for example, is adjusted to compensate for the fact that the vaccine itself causes a reaction until 5 months after it is administered. In addition, if there were reason to believe that the animals being tested could be harboring disease, then more strongly negative results would be required to support a determination that the animal was in fact not diseased. For example, the standard tube test for swine is so adjusted.

As this proposal would remove the incorporation by reference of the UM&R a complete definition of a "Certified Brucellosis Free Herd" would be added to the regulations in § 78.1(p).

"Validated Brucellosis Free Herds of Swine" would be defined in proposed § 78.1(q). Except for the addition of an approved individual herd plan, which is discussed later in this preamble, the proposed definition contains the same criteria as in the 1977 Uniform Methods and Rules.

A "Validated Brucellosis Free State for Swine" would be defined in § 78.1(r) as a State which has not had a diagnosed case of brucellosis infected swine in the preceding 12 months, and which has carried out all requirements of the surveillance program chosen by the area from those provided in the proposed regulations, and where an analysis of test results shows an equivalent to that which would have been attained under another of the possible surveillance methods. It would be revalidated by either complete herd testing, slaughter surveillance, or combined surveillance.

The standards for this new whole State classification system for controlling brucellosis have been developed after careful analysis of the functioning and effective of the current area classification system, as discussed above under "Analysis of Alternatives." A four-tier system is being proposed which classifies States according to the rate of brucellosis infection present and the general effectiveness of their brucellosis control and eradication program. A Class Free State would be a State with no known brucellosis infection for the 12 months preceding classificaitons. A Class C State would have the highest rate of brucellosis, with Class A and B States in between. This system also allow livestock moving interstate to be handled in a manner appropriate to the risk they pose of carrying or transmitting the disease.

The four classes—Free, A, B, and C, would be defined in proposed §§ 78.1(s) though (v). To be initially classified, a State would have to meet the basic standards and be certified by the State animal health official, the Veterinarian in Charge, and the Deputy Administrator. The basic standards for the different classifications of States would all require maintenance of: (1) a surveillance system which includes testing program for dairy herds and slaughtering establishments, and provisions for monitoring or placing herds at high risk to infection, including herds adjacent to infected herds and herds from which infected animals have been sold or received, under approved action plans; (2) a State-wide average herd infection rate not to exceed a stated level; (3) a Market Cattle Identification (MCI) program reactor rate not to exceed a stated rate; and (4) minimum procedural standards for administering the program. States which do not meet even the minimum standards for Class C will be placed under Federal quarantine.

Each of these standards would be adjusted for the needs of disease control in each Class. They would reflect the fact that different classes would have different rates of infection. Class Free States would have the lowest incidence of disease—free from infection for at least 12 consecutive months, and Class C would have the highest—an infection rate more than 1.5 percent or 16 infected herds per 1,000. Likewise, the MCI reactor rate allowed in the different classes would vary. Again, Class Free would have the lowest rate—no more than 0.05 percent over a 12 month period, and Class C would have the highest—greater than 0.3 over a 12 month period.

In States with high infection rates, it would be more difficult to trace diseased animals and the infection they carried through the livestock population. On the other hand, because the disease was already high, it would not be quite as urgent that new or spreading infection be found and eliminated immediately. For these reasons, the proposed regulations would be slightly different for each class. The classes with lower infection rates would have requirements emphasizing speed and efficiency in locating and eliminating disease. The classes with high infection rates would operate under somewhat more relaxed rules. For example, all classes would be required to trace reactors found during market cattle testing to their source and then conduct an epidemiologic investigation to determine, among other things, the original source of the disease, whether it had spread to other herds, and its status within the herd. However, Class Free and Class A States would have to trace at least 90 percent of reactor cattle to their source within 15 days of finding them, while Class B and C States would have to trace at least 80 percent of such cattle to their source within 30 days.

Other requirements would also reflect the difference between classes. Herds adjacent to a reactor herd and other herds having contact with cattle in a reactor herd, and epidemiologically traced herds, that is herds from which infected animals were sold or which received infected animals, would have to be placed under quarantine and/or be subject to an approved action plan for testing or monitoring the herds in order to reduce the possibility of disease spread until all foci of infection are located. However, such herds in Class Free States would need to be both quarantined and placed under an approved action plan within 15 days of locating the affected herds. Such herds in Class A States would require only the approved action plan within 15 days, and such herds in Class B and C States would require only an approved action plan within 45 days.

Initial State classifications, and any reclassifications to a higher status would need to be certified to by the State Animal Health official, the Veterinarian in Charge, and the Deputy Administrator. However, reclassification to a lower grade could be certified by the Deputy Administrator alone. The State Animal Health official would be notified of such downgrading and would have an opportunity to present its objections and arguments to the Deputy Administrator prior to the downgrading taking effect.

Proposed § 78.1(w) would define a brucellosis reactor for cattle and bison in § 78.1(w)(1) and for swine in § 78.1(w)(2). The definitions would set forth classes of animals, i.e. whether or not they are official vaccinates, the disease status of their herd of origin, and the exact reactions to the several official tests that would require classification as a reactor.

Proposed § 78.1(x) would define a brucellosis suspect for cattle and bison in § 78.1(x)(1) and for swine in § 78.1(x)(2). The definition would set forth ages, classes of animals and the exact reactions to the several official tests that would require classification as a suspect.

Proposed § 78.1(y) would define a brucellosis negative test for cattle and bison in § 78.1(y)(l) and for swine in § 78.1(y)(2). The definition would set forth ages, classes of animals and the exact reaction to the several officials

tests that would require classification as a negative animal.

Proposed § 78.1(z) would define brucellosis exposed animals. This definition would combine previous definitions for such cattle and swine and would cover all animals as defined in proposed § 78.1(bb) as cattle, breeding swine, and bison. In addition, the definition would remove a present exception for cattle which have been exposed to reactors but have been in marketing channels for less than 24 hours. The Department believes the exception not to be in the best interests of the Brucellosis Eradication Program. This is because *Brucella* organisms can be tranmitted from animal to animal in mere seconds, and this exception allows the disease to be spread. The proposal would also define brucellosis exposed animals as animals that are part of a known affected herd or have been in contact with brucellosis reactors in marketing channels to be exposed animals regardless of the blood test results. This definiton includes suspects, animals in quarantined feedlots and quarantined pastures.

As in § 78.1(z), the definition of herd in proposed § 78.1(aa) would combine cattle, bison, and swine in one definition. This would provide a definition for herd which is not defined in the present regulations. The Department would define a herd as (1) all animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot, farm, or ranch), and (2) all animals on two or more premises geographically separated but on which the animals have been interchanged or where there has been contact of animals between the premises. Brucellosis spreads primarily by animal to animal contact. The Department has found that under the present regulations, only portions of herds have been put under quarantine, defeating efforts to eradicate the disease.

Proposed § 78.1(cc) would be amended to add bison under the definition of a farm of origin. Bison are now domesticated in many States, and should be included in the definition.

Definitions § 78.1(dd) through (ii) are repositioned and redesignated without change. They are respectively: Herd of origin of swine, Breeding swine, Sow, Boar, Recognized slaughtering establishment, and Specifically approved stockyard.

Proposed § 78.1(jj) would define a herd blood test for all animals regulated by this Part 78. The Department believes such a definition is necessary to more clearly indicate the animals included in the term. The proposal would define cattle and bison together and swine separately. The proposal would define a herd blood test as follows:

Cattle or bison: The herd blood test must include all test-eligible, as defined in § 78.1(kk), cattle or bison.

Swine: The herd test shall include all breeding swine 6 months of age and older. All swine being held for feeding purposes, separate and apart from and with no physical contact with breeding swine, are exempt from herd test requirements, if they are to be moved direct to slaughter. This is because feeder pigs are never, for economic reasons, sold other than to slaughter, and when so sold they pose no threat of disease.

Proposed § 78.1(kk) would add a definition for "test-eligible cattle and bison." In defining cattle and bison eligible for a herd blood test it would read:

Test-eligible animals shall include all cattle or bison over 6 months of age except steers, spayed heifers, official calfhood vaccinates of the dairy breeds under 20 months of age, and official calfhood vaccinates of bison or beef breeds under 24 months of age (as evidenced by the presence of the first pair of permanent incisor teeth) which are not parturient (springers) or postparturient.

These are the only animals considered test-eligible as they are the only animals likely to be breeding, and therefore contracting and transmitting the disease.

For Market Cattle Identification (MCI) blood testing, two components of the program would be separated. Requriements for blood testing at livestock markets, farms, or ranches would read:

All cattle over 18 months of age except steers, spayed heifers, official calfhood vaccinates of the dairy breeds under 20 months of age, and official calfhood vaccinates of beef breeds under 24 months of age which are not parturient (springers) or postparturient.

These animals are included as they are the only animals likely to be breeding, and therefore contracting and transmitting the disease.

Blood sampling at slaughtering establishments would include all cows and bulls over 2 years of age. This is because the animals at a slaughtering plant are separated into two lines before slaughtering—one for animals 2 years of age and older, and the other line for younger animals. It would be very difficult to require that animals 18 months and older be tested, as this would disrupt the line. As tests conducted on animals 2 years and older appear to be adequate for the purposes of the program, this age is being proposed.

All tests for other movements would be the same as blood testing for MCI at livestock markets, farms, or ranches.

The definition for a quarantined area would be repositioned as § 78.1(11) and amended to refer to renumbered § 78.22 instead of the present § 78.22a, which would be removed.

The definition for a "qualified herd" would be repositioned as § 78.1(mm) and the present paragraph (a) of § 78.1(o) would be removed. That paragraph refers to a qualified herd in a noncertified area. As the designation of areas as noncertified would no longer exist under this proposal, that paragraph is no longer necessary. Paragraph (b) would remain as § 78.1(mm).

Present § 78.1(q), which defines "quarantined feedlot" would be revised as new § 78.1(nn). Also proposed as § 78.1(oo) would be a definition for a "quarantined pasture." This is needed to give herd owners more flexibility in handling exposed animals and to allow them to keep animals until they reach slaughter condition. Animals in both quarantined feedlots and pastures would have to be permanently identified with an "S" brand and would be classified as "exposed." Animals in feedlots would be allowed to move only direct to slaughter, to another quarantined feedlot, or to a specifically approved stockyard for sale to another quarantined feedlot or to slaughter. Animals in quarantined pastures could move only direct to slaughter or to a quarantined feedlot. A permit would be required. These restrictions are intended to ensure that animals do not spread disease to healthy stock. The brand would help ensure that they were not diverted from their proper destination; the restricted destination would limit their possible contact with other animals and the permit would allow authorities to keep track of them, and help ensure they are not diverted. However, there would be an exemption for finish fed heifers moving from a quarantined feedlot which could move direct to slaughter without branding or a permit. It is already uneconomical to divert such animals from slaughter; therefore those requirements would serve no useful purpose. Both operators of quarantined feedlots and pastures would be required to keep an accounting of the animals on their premises. Any system which kept track of the number of animals on the premises at any given time would be acceptable. Joint approval of quarantined feedlots and pastures by both Federal and State authorities would be required under the

new definition to better control exposed animals and limit spread of the disease. Before approval would be granted, the premises would be inspected and various items such as the following would be required and checked: 1) that animals were secure and isolated from possible contact with any nonquarantined feedlot or pasture animals; 2) that there were facilities for identifying animals as required in the regulations; and 3) that there was no possibility of mechanical transmission of disease from the premises, by such as improper drainage or vehicular traffic. Any specific criteria developed for approval will be promulgated and published in the **Federal Register.**

Proposed § 78.1(pp) would add a new definition not in the present regulations of "S" branded cattle or bison. This proposal would define these animals as cattle or bison which have been identified by branding with a hot iron the letter "S" at least 5 cm x 5 cm (2 x 2 inches) placed on the left jaw or high on the tailhead (over the fourth to the seventh coccygeal vertebrae). This is to distinguish infected animals and animals from infected herds from animals of unknown status which may only move interstate to slaughter to a quarantined feedlot, or to a specifically approved stockyard for sale to slaughter or to a quarantined feedlot.

Proposed § 78.1(qq) would add a new definition not in the present regulations of an "official metal eartag." The term is used throughout the regulations. It would be defined as a metal identification eartag conforming to the nine-character alpha-numeric National Uniform Eartagging System. It provides unique identification for each individual animal.

Proposed § 78.1(rr) would add another definition not in the present regulations. The Department would rely strongly on the Market Cattle Identification (MCI) program in conducting surveillance of the cattle population to locate infected herds. The proposal would define MCI test animals as follows: Market cattle identification test animals are test-eligible animals moving through auction markets, stockyards, or to slaughtering establishments. Also they are those animals assembled at farms or ranches that are being readied for movement to markets, stockyards, slaughtering establishments, or to other places for sale, such as consignment and dispersal sales. Such animals shall be identified by eartag and/or backtag to the herd of origin prior to or at the first point of concentration in marketing channels.

These cattle need to be tested as they are moving into marketing channels where they could contract brucellosis or spread it to other animals. Therefore, the disease needs to be found before it can spread. If any diseased animals are found, they can be traced back to their origin and any other animals which may have come in contact with them can also be located. In this way brucellosis can be kept from spreading and foci of infection can be found and eliminated.

Official vaccination is an important part of the Department's program. Section 78.1(ss) would define an approved brucella vaccine as used in the brucellosis program as a *Brucella abortus* Strain 19 product that is approved by and produced under license of the U.S. Department of Agriculture for injection into cattle and bison to enhance their resistance to brucellosis.

A term used in these proposed amendments not presently defined is "whole herd vaccination." Section 78.1(tt) would define the term "Whole Herd Vaccination" as a situation when all female cattle in a herd over two months of age are officially vaccinated, including animals older than the age of official calfhood vaccination which would be vaccinated under specific conditions with a reduced dose of vaccine. All eligible calves as defined in proposed § 78.1(uu) would also be vaccinated and identified.

Section 78.1(uu) would contain the amended definition of "official vaccinates," and § 78.1(vv) would contain the amended definition for identification of vaccinates. Proposed § 78.1(uu) would fully define both official calfhood vaccinates and official adult vaccinates. The considerable changes in the proposed definition are the result of research, field studies, and input by the affected industry with the Department. Amending the regulations would relieve the considerable discrepancies which exist between the definition actually used in the eradication program and the outmoded definition which appears in the present regulations. Since these regulations were originally written, a new reduced dose vaccine against brucellosis has been developed, tested, and found to be effective, which is now used for all adult vaccinations. The development of this vaccine has in turn changed the ages of animals suitable for vaccination. Therefore, the regulations need to be amended to keep pace with this scientific advance.

The proposed changes in those definitions would be as follows:

1. The regulations would be revised to recognize the use of reduced dose vaccine which has been found effective against brucellosis. It should be noted that the national brucellosis program is a State-Federal cooperative program. Some States have not yet sanctioned the use of the reduced dose for vaccination of cattle. Consequently, it is proposed to establish two sets of conditions—one where standard dose vaccine was authorized for use in a State and another set where reduced dose vaccine was authorized for use in a State. A list of States using each size dose is available upon request from Veterinary Services.

2. The regulations would be amended and clarified to specifically authorize a Veterinary Services representative, State representative or accredited veterinarian to vaccinate cattle, instead of merely stating that the vaccination must be done under Federal or State supervision. Historically, this has meant that vaccination has been performed by accredited veterinarians who are under Federal and State control. The proposed change would be specific concerning who may officially vaccinate. The terms Veterinary Services representative and State representative would be substituted for "Federal and State supervision." Veterinary Services representative and State representative are already defined in Part 78 and would include the Federal and State personnel associated with the vaccination program. These changes are perceived by the Department to be non-substantive, clarification changes.

3. The regulations would be amended to specifically include bison in vaccination definitions currently referring to beef cattle. Bison are not used for dairy purposes. These changes are believed by the Department to be non-substantive in nature.

4. Because calfhood vaccinates are hardly ever identified by brands, it is proposed that the definition of official vaccinates and provisions relating to the identification of vaccinates be amended to delete the use of brands as a means of identification.

5. The definition of official adult vaccinate would be substantially reworded. It is proposed to amend it to apply to female dairy cattle over 6 months of age and female beef cattle or female bison over 10 months of age in States which administer standard dose vaccination to calfhood vaccinates. In States which administer reduced dose vaccination to calfhood vaccinates, adult vaccinates would be defined as female cattle of any breed over one year of age. In all of these situations, female animals over two months of age but younger than the stated ages, are eligible for calfhood vaccinations.

It is proposed that the definition also be revised, similar to the proposed

changes for calfhood vaccinates, to reflect specifically who can perform the official vaccination (i.e. Veterinary Services representative, State representative, or accredited veterinarian) for the reasons discussed above.

It is proposed that the vaccination of adult cattle would have to be authorized by both the Veterinarian in Charge and State animal health official instead of the State Veterinarian and Deputy Administrator, Veterinary Services. It has not been necessary for such high-level management employees to be involved in granting approval. The Veterinarian in Charge and the State animal health official are appropriate to determine whether authorization for a vaccination program is warranted. Authorization for vaccination would be required in the Federal-State Brucellosis eradication program because, through close control, the aim of the program, i.e. eradication of the disease, would be better accomplished. The provisions for authorization of vaccination would provide stability and consistency of procedures utilized by individual ranchers in the field.

The vaccination of adult cattle and bison would be required to be reported to the State animal health official or the Veterinarian in Charge to better enable the Federal and cooperating State governments to keep a record of the vaccination. Further, the animal would have to be identified by a V hot iron brand administered to the right jaw in a letter "V" 7.5 × 7.5 centimeters (3 × 3 inches). This branding would have to be conspicuous enough to identify the animal as a vaccinate. In lieu of branding, the proposed regulations would authorize the use of an adult vaccination tattoo applied to the right ear at the time of vaccination and testing. This alternative to branding is provided because this method should also adquately identify the animal as an adult vaccinate. The regulations also would require that all adult vaccinates be either individually identified with an official metal eartag or a tattoo recognized by a registered breed association. Both of these means of identification should likewise be adequate to identify the animal individually.

6. As noted above, the definitions would designate different procedures for those States where the reduced dose vaccine has been authorized for use. Vaccination would have to be done by a Veterinary Services representative, State representative, or accredited veterinarian. It is proposed that female calves in such States would be eligible for calfhood vaccination if they were cattle or bison between 4 and 12 months of age. The test data indicates that the reduced dose is effective for dairy and beef breeds and bison between such ages. A copy of data demonstrating the effectiveness of the reduced dose vaccine may be obtained by contacting Dr. A. D. Robb, Room 805, 6505 Belcrest Road, Hyattsville, MD. 20782, 301–436–5961. The Department has established that officially calfhood vaccinated animals should be 12 months of age or less because animals in this age group generally have a lower percentage of persistent titers when vaccinated with a reduced dose vaccine. The ages for officials calfhood vaccinates for animals vaccinated with standard dose Brucella vaccine would be established at two through six months for dairy breeds and two through ten months for bison and beef breeds since the larger number of brucella organisms present tend to produce persistent titers in animals as they develop closer to sexual maturity. The Department has determined that there is a definite correlation between the development of sexual maturity, the number of organisms in the vaccine and the development of a persistent titer. The identification requirements would be identical to those required for calfhood vaccinates vaccinated with standard dose vaccine. These would be adequate to identify the animal.

7. Adult cattle or bison would be eligible for vaccination with reduced dose vaccine if over 12 months old. As stated previously, persistent titer responses to brucella vaccination varies significantly with the number of organisms present in the vaccine and the age of the animal when vaccinated. Persistent titers are found in a higher percentage of animals as they reach sexual maturity. One year of age is considered an average age for sexual maturity.

8. A "grandfather" clause is added to the definitions to clearly indicate that cattle and bison officially vaccinated under the regulations prior to these amendments would continue to be recognized as official vaccinates. Animals vaccinated as calves usually retain their resistance to brucellosis for their lifetime. It is essential that they continue to be recognized as "official calfhood vaccinates" for the rest of their lives. Revaccination is not medically indicated and after they are past the age for "calfhood" vaccination, they can no longer be "officially calfhood vaccinated." Official calfhood vaccinates have an economic value in excess of animals that have not been so vaccinated. Therefore, it is in the interests of the producer and the program to assure their continued recognition as "official calfhood vaccinates."

Also added to the regulations would be a definition under § 78.1(ww), of "Approved Action Plan or Approved Individual Herd Plan." The definition would provide for a herd management and testing plan approved by the State animal health official and the Veterinarian in Charge which is designed by the herd owner, his veterinarian if so requested, and a veterinarian of the Cooperative Brucellosis Eradication Program, and which will control and eventually eradicate brucellosis from an affected herd. A similar plan for determining the true status of suspects and preventing exposure to brucellosis within the herd is also within the meaning of the term "Individual Herd Plan."

The plan must utilize those veterinary procedures most applicable to that immediate situation and circumstances and the proven herd management procedures necessary to assist in controlling the spread of brucellosis within the herd and thereby eradicating the disease from the herd. Factors to be considered in designing a plan would include the number of animals per acre, whether the calving season is controlled in the herd, type of watering facilities, and whether calfhood vaccination has been used in the herd in the past. All of these factors could affect the susceptibility of the herd to brucellosis and the course of the disease, should it be introduced.

Proposed § 78.1(xx) would define "official seal" and is unchanged from the present regulation where it is § 78.1(pp). It would be repositioned and renumbered.

Proposed § 78.1(yy) would be added to define "finished fed heifers," a term that would be used in revised § 78.8(a). The term "finished fed heifers," is generally used in the cattle industry to mean a heifer fed at a feedlot with no pasture available until it is ready for slaughter. The proposed definition would establish 90 days as the minimum days on feed in a quarantined feedlot necessary to fatten these animals to the degree desired by the consuming public for their steaks, chops, and other choice cuts of beef.

Also proposed are amendments of the requirements for interstate movement of animals. These proposed amendments to the regulations would remove conflicts among intrastate testing and identification requirements, intrastate movement requirements, and interstate movement requirements.

Specifically, these amendments would remove from § 78.6 *Steers and spayed heifers,* the words "over 6 months of age" and insert the words "of any age." The paragraph would then read as follows: "Steers and spayed heifers of any age may be moved interstate from any area without restrictions under this subpart." The restriction on calves under 6 months of age was necessary when the brucellosis status of many herds was unknown. Calves in such herds had a high probability of nursing an infected cow, receiving brucella organisms in the milk, and contaminating food and water by its feces or urine containing the brucella organism. Because the incidence of brucellosis in the nation's herds is now very low, the Department believes the possibility of such mechanical transmission to be so low that virtually no probability exists presently for such unknowing mechanical transmission to take place in herds not known to be affected. There is only a slightly greater chance of infection being spread by such non-breeding animals from other herds. Therefore, this continued restriction would be an unwarranted burden on cattlemen.

Section 78.8, *Brucellosis Exposed Cattle,* would be revised. In subsection (a)(1) and (b)(1), the phrase "or USDA backtag" would be added as an alternative method of identification. Including this alternate method of identification would relax the requirement that only a metal eartag could be used for exposed cattle moving to quarantined feedlots or to immediate slaughter. It has become clear in actual practice that requirring a metal eartag is unnecessarily restrictive and can not be defended as being necessary to prevent the spread of brucellosis. The USDA backtag is less expensive and easier to apply.

These amendments would provide in §§ 78.8(a)(2) and (b)(2) for optional use of the "S" brand permit, which is easier to prepare than the more detailed VS Form 1–27, when moving exposed cattle to quarantined feedlots or to immediate slaughter. Since there does not exist any method to distinguish between "S" branded exposed cattle and "S" branded untested cattle, all must be moved as exposed cattle. The large volume of such restricted animals makes it imperative that a less onerous, but still effective, method be constructed. The Department believes that both classes of cattle are a continuing threat to the brucellosis eradication program. This proposed amendment, using the same definition of "S" branded cattle, would allow for the use of a permit to move "S" branded cattle interstate to quarantine feedlots or to immediate slaughter.

Sections 78.8 (a)(3)(i) and (b)(3)(i) would be amended by deleting language describing "S" branding requirements, as this requirement would now be defined in proposed § 78.1 (pp.). Section 78.8(a) would be further amended by adding an exemption for finished fed heifers moving from quarantined feedlots directly to a recognized slaughtering establishment from the identification and permit procedures. These are young, usually nonpregnant females, which have been fed to a degree of fattening desired by the consuming public for their steaks, chops, and other choice cuts of beef. Additionally, the fattening process makes it uneconomical to divert them from slaughter to a breeding herd. The Department believes it would, therefore, be unproductive to the brucellosis eradication program to require these finished fed heifers to be restrained for identification and permit issuance which are designed to ensure that animals go only to slaughter.

Section 78.8(c)(1) would be amended by deleting the restrictive and contradicting phrase "other than to a quarantined feedlot or for immediate slaughter if such calves are accompanied by a permit." Under the proposal, permits would be required for restricted animals. As the preceding language in these paragraphs allows the described calves to move without restriction for any purpose, this phrase would be deleted. The regulations in § 78.8(c)(1) would also be amended to authorize the movement from any area to any other area without restriction, of official calfhood vaccinates under 12 months of age and steers and sprayed heifers of any age in a herd known to be affected, but which was following an approved individual herd plan. This authorization is restricted to herds following an approved individual herd plan because the level of exposure within such herds to brucellosis is low as compared to affected herds not following an approved individual herd plan. These animals do not appear to represent a measurable threat to disseminate brucellosis and, therefore, do not appear to warrant restriction of their interstate movement. This is because female cattle and bison under 12 months of age are not yet sexually active and, therefore, do not transmit brucellosis through sexual activity. Steers and spayed heifers being neutered also can not transmit the disease. This change would also be made for bison in § 78.16. The provisions applicable to brucellosis-exposed cattle should also be applicable to brucellosis-exposed bison because the disease follows the same course in bison as in cattle.

Section 78.8(c)(2)(ii) would be amended to remove an unnecessary reference to the UM&R.

Section 78.9 would be revised to contain the movement requirements from States designated as Class Free, A, B, and C. The material in §§ 78.10 and 78.11 which concerns cattle from non-certified areas, would be removed and these sections designated as reserved for future use. Proposed § 78.9 would thus contain all movement requirements for all cattle not affected with brucellosis.

Proposed § 78.9(a) would allow cattle from herds not known to be affected with brucellosis in Class Free States to move interstate without brucellosis testing requirements if accompanied by a certificate. To be designated Class Free, States must have been free of virulent field strain brucellosis for a minimum of 12 months. The Department believes the risk of cattle spreading brucellosis from herds in such States to be highly unlikely. Brucellosis incubation periods beyond one year are very rare. Surveillance procedures carried out during outbreaks of brucellosis prior to release from quarantine of the last affected herd within the State would be expected to have removed any animals capable of incubating brucellosis.

Proposed § 78.9(b) would regulate movements of cattle from Class A States. Exempt from brucellosis testing and certification would be cattle under 18 months of age, from farms of origin, official vaccinates of dairy breeds under 20 months, official vaccinates of beef breeds under 24 months of age, and cattle over these ages moving directly to a recognized slaughtering establishment or to a specifically approved stockyard for sale to such an establishment. The Department does not believe additional restrictions are justified on these cattle since the probability of their transmitting brucellosis to other herds is very remote. In Class A States, opportunity to become exposed to brucellosis is slight. Official vaccinates and sexually immature cattle have considerable resistance to brucellosis, and sexually immature cattle are unlikely to contract the disease. In addition, cattle moving directly to slaughter would not normally come in contact with other herds, thereby limiting opportunities to spread brucellosis if such cattle were infected.

Other cattle moving directly to slaughter or to quarantined feedlots would not be required to be brucellosis tested, neither would such cattle moving to specifically approved stockyards for sale for movement to slaughter or to quarantined feedlots if identity to the farm of origin was maintained. Identity can be maintained by penning animals from one farm apart from other animals, and by individually identifying animals to sale records showing the consignor. However, a certificate would be required to accompany such cattle. The Department believes that because of low infection levels in Class A States, the opportunity for such cattle to spread brucellosis is minimal and does not justify testing. Additionallly, as the destination is to either a quarantined feedlot, where brucellosis is expected to already be present, to slaughter, where the disease status of the animal is important only for tracing, or to a stockyard for sale to slaughter or to a quarantined feedlot, testing is superfluous.

For cattle which are not exempt from the requirements and which are moving other than to slaughter or to quarantined feedlots, the Department proposes to require a negative brucellosis test within 30 days prior to movement and to require that the cattle be accompanied interstate by a certificate. However, cattle moving interstate with no change of ownership would be exempt from testing and certificate issuance requirements. Cattle from Certified Brucellosis-Free herds would require only the certificate since such herds must be tested negative annually in order to retain their status. The Department believes such tests and procedures will adequately safeguard receiving herds.

An exception in the present regulations would be continued under this proposal. The Department recognizes that expanding ranching operations and rapid vehicular transport have changed the unitized ranch of yesteryear to a multiple location operation. In addition, increasingly, State lines bisect property used as a single ranching operation. The present regulations permit cattle which are moving interstate but which are not changing ownership to have an annual herd test to satisfy the testing requirements for interstate movement. The Department believes this requirement adequately protects other herd owners from exposure to brucellosis and avoids imposing unnecessary testing requirements on herd owners moving cattle from part of their property to another. No provision is made for documents to accompany the cattle on these movements as they are essentially normal ranching movements. To impose certification or permit requirements would not give better control of brucellosis but only add to the livestock producers regulation compliance burden. Therefore, this proposal would continue this exception to the testing and certification requirements in proposed § 78.9(b).

Proposed § 78.9(c) would regulate movement of cattle from Class B States. Exempt from brucellosis testing requirements would be cattle under 18 months of age, from farms of origin, official vaccinates of dairy breeds under 20 months, official vaccinates of beef breeds under 24 months of age, and cattle over these ages moving directly to a recognized slaughtering establishment or to a specifically approved stockyard for sale to such an establishment. The Department does not believe additional restrictions are justified on these cattle since the probability of their transmitting brucellosis to other herds is remote. Official vaccinates and sexually immature cattle have considerable resistance to brucellosis, and sexually immature cattle are unlikely to contract the disease. In addition, cattle moving directly to slaughter from farms of origin would not normally come in contact with other herds, thereby limiting opportunities to spread brucellosis if such cattle were infected.

Other cattle moving directly to slaughter or to quarantined feedlots from other than farms of origin in these proposed amendments would have a choice of two methods of compliance. The cattle could be tested negative for brucellosis immediately prior to movement. The Department prefers that this method be used because if cattle are found to be infected, other cattle exposed to them may be immediately controlled as to further movement. Such control prevents other herds from being inadvertently exposed. Further, the farm of origin is known at once and that herd can be placed under an individual herd plan for eradicating brucellosis from the herd.

The less favored method for moving cattle to slaughtaer or quarantined feedlots from other than a farm of origin would be by branding the letter "S" on the left jaw with a hot iron. The Department believes that cattle in a Class B State have an unacceptable possibility of being from affected herds. By hot iron branding the letter "S" on the left jaw, such untested cattle can be more readily kept in channels to slaughter or to a quarantined feedlot. To further control the movement of these cattle of unknown brucellosis status, the proposal requires they be accompanied by an "S" brand permit.

The proposed amendment to § 78.9(c) also offers an alternative method for moving such cattle to slaughter. The cattle would be allowed to move to immediate slaughter without "S" brand if accompanied by a VS Form 1–27 permit and the vehicle is closed with official seals applied by program officials. The Department believes such an exception to be less onerous but effective.

For cattle moving other than to slaughter or quarantined feedlots, the proposed § 78.9(c) would require a negative brucellosis test for the cattle within 30 days prior to movement and require the cattle to be accompained by a certificate and to have a permit for entry from the State animal health official. Cattle originating in Certified Brucellosis-Free Herds would require only the certificate since their negative test would be done annually. The Department believes such tests will adequately safeguard receiving herds.

Proposed § 78.9(d) would regulate movements from Class C States which have higher levels of infection than any of the other classes. Exempt from the brucellosis testing and "S" brand requirements would be cattle under 18 months of age from farms of origin, official vaccinates of dairy breeds under 20 months of age, official vaccinates of beef breeds under 24 months of age, and cattle over these ages moving directly to a recognized slaughtering establishment on to a specifically approved stockyard for sale to such slaughtering establishment. The Department does not believe additional restrictions are justified on these cattle since the probability of their transmitting brucellosis to other herds is remote. Official vaccinates and sexually immature cattle have considerable resistance to brucellosis, and sexually immature cattle are unlikely to contract the disease. In addition, cattle moving directly to slaughter from farms of origin would not normally come in contact with other herds, thereby limiting opportunities to spread brucellosis if such cattle were infected.

Cattle moving from a farm of origin directly to slaughter or to a specifically approved stockyard for sale to slaughter may be moved without being "S" branded and without being accompanied by an "S" brand permit. Cattle from other than a farm of origin may move interstate directly to slaughter if they are tested and found negative, or if they are "S" branded and accompanied by an "S" brand permit.

Finally, cattle from other than a farm of origin may be moved to immediate slaughter without being "S" branded if they are accompanied by a VS Form 1–27 permit and are moved in officially sealed vehicles.

Cattle moving to quarantined feedlots from a farm of origin would be moved without an "S" brand either directly to the quarantined feedlot or to a specifically approved stockyard for sale for movement to a specifically approved stockyard if the cattle were "S" branded upon arrival at the first location reached. These cattle from farms of origin at specifically approved stockyards or cattle from other origins when moved interstate would be required to be "S" branded and accompanied by an "S" brand permit.

Cattle from Certified Brucellosis-Free Herds would be permitted to move to any destination if accompanied by a certificate stating their origin as being from a Certified Brucellosis-Free Herd.

For movements other than to immediate slaughter or quarantined feedlots, official vaccinates of dairy breeds under 20 months of age and official vaccinates of beef breeds under 24 months of age would be required to be accompanied by a certificate.

For movements other than to immediate slaughter or quarantined feedlots, official vaccinates of the dairy breeds over 20 months of age and offical vaccinates of the beef breeds over 24 months of age would be required to have a negative test within 30 days prior to movement and be accompanied by a "Permit for Entry."

Other cattle moving other than to immediate slaughter or to quarantined feedlots would be required to have had two negative tests. The first test would be valid for 12 months. The second test would be required to be more than 60 days after the first test. The second test would also be required to be within 30 days before the interstate movement.

Such cattle would also be permitted to move as official vaccinates or tested cattle to specifically approved markets to be tested prior to losing their identity to origin.

As previously discussed under proposed § 78.9(b), the exception to allow normal ranching operations would be continued in Class C also.

Presently, §§ 78.9, 78.10, and 78.11 refer to cattle movements from Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas. Under these proposed amendments, this area designation system would cease to exist, and would be replaced by a whole State classification system. These proposed amendments would provide for movements of cattle which will be in harmony with intrastate movements provided for in the UM&R, and interstate movement between Classes of States as provided in these proposed regulations.

In Subpart D, of Part 78, the headings and text in §§ 78.20, 78.21, and 78.22 would be removed, and new paragraphs (a), (b), (c), and (d) for Class Free, Class A, Class B, and Class C designations would be added. Since the designations of areas presently listed in these sections would no longer exist under these proposed regulations this material is being removed. Actual State classifications would be added later. The title of § 78.25 would be revised to read "Designations of States and approved stockyards."

Section 78.29 would be revised to remove references to the UM&R and to add paragraph (a) which would provide that breeding swine from Validated Brucellosis Free Herds and Validated Brucellosis Free Areas may be moved interstate for other than slaughter only if they are accompanied by a certificate and the certificate states that they originated in such herd or area. This is necessary as, through an oversight, such movements have not been provided for in the current regulations. Breeding swine from Validated Brucellosis Free Herds and Areas are unlikely to carry brucellosis, and would therefore be allowed to move interstate for purposes other than slaughter if their origin is certified.

PART 78—BRUCELLOSIS

For the reasons set out above, Part 78, Title 9, Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 78 reads as follows:

Authority: Secs. 4, 5, 7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 114a–1, 115, 120, 121, 125, 134b, 134f); 37 FR 28464, 28477, 38 FR 19141, unless otherwise noted.

2. Section 78.1 would be revised to read as follows:

§ 78.1 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section except as otherwise specified.

(a) *Brucellosis.* The contagious, infectious, and communicable disease caused by bacteria of the genus Brucella. It is also known as Bangs disease, undulant fever, and contagious abortion.

(b) *Veterinary Services.* Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture.

(c) *Deputy Administrator.* The Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other Veterinary Services official to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(d) *Veterinarian in charge.* The veterinary official of Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, who is assigned by the Deputy Administrator to supervise and perform the official animal health work of the Animal and Plant Health Inspection Service in the State concerned.

(e) *Veterinary Services representative.* A veterinarian or other person employed by Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, who is authorized to perform the function involved.

(f) *State animal health official.* The State animal health official responsible for livestock and poultry disease control and eradication programs.

(g) *State representative.* A veterinarian or other person regularly employed in livestock sanitary work of a State or a political subdivision thereof, and who is authorized by such State or political subdivision to perform the function involved under a cooperative agreement with the United States Department of Agriculture.

(h) *Accredited veterinarian.* An accredited veterinarian as defined in Part 160 of this chapter.

(i) *State.* Any State, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, or Guam.

(j) *Person.* Any individual, corporation, company, association, firm, partnership, society, or joint stock company or other legal entity.

(k) *Interstate.* From any State into or through any other State.

(l) *Moved.* Shipped, transported, or otherwise moved, or delivered or received for movement.

(m) *Certificate.* An official document issued by a Veterinary Services representative, State representative, or accredited veterinarian at the point of origin of a shipment of domestic animals which shows the identification tag, individual animal registered breed association registration tattoo, or individual animal registered breed association registration brand, or registration number or similar

identification of each animal to be moved, the number of animals covered by the document, the purpose for which the animals are to be moved, the points of origin and destination, the consignor, and the consignee, and which states that the animal or animals identified on the certificate meets the requirements of 9 CFR Part 78 for interstate movement.

(n) *Permit.*—(1) *Permit (VS Form 1–27 or comparable state form).* Except for the terms "permit for entry" and "S brand permit," a permit shall mean an official document issued by a Veterinary Services representative, State representative, or accredited veterinarian which is required to accompany "B" branded cattle and bison (or exposed animals moved under official seal). It shall list one of the following: the identification tag, individual animal registered breed association tattoo, USDA backtag (when applied serially, only the beginning and the ending number need be recorded), registered breed association registration number, or similar individual identification. It shall also list the reactor tag number, owner's name and address, origin and destination locations, number of animals covered, and the purpose of the movement. If a change in destination is desired or becomes necessary, a new permit must be prepared.

(2) *Permit for entry.* A prémovement authorization for entry of cattle into a State from the animal health official of the State of destination. It may be oral or written. If oral, written confirmation must be sent to the shipper as soon as practicable.

(3) *"S" Brand permit.* Any document which is required to accompany animals required to be moved to a quarantined feedlot, or to slaughter, or to an approved stockyard for sale for movement to slaughter. It must show the origin, the destination, the number of restricted cattle, the purpose of the movement, the identification tag, individual animal registered breed association tattoo, USDA backtag, registered breed association registration number, or similar individual identification (when applied serially, only the beginning and the ending number need be recorded). It shall be prepared at the point of origin by an accredited veterinarian, a representative of the State animal health official, or at a quarantined feedlot by an official designated for that purpose by the State animal health official. The original shall accompany the animals and shall be delivered at the destination.

(o) *Official test.*—(1) *Classification of cattle and bison.*—(i) *Card test.* Card test results are classified as either negative or positive. The card test is to be used as an official test to classify animals as reactors in livestock markets within a State when the State animal health official specifically designates the card test as the official test in livestock markets in his State. Any agglutination reaction will be considered a positive reaction.

(ii) *Standard tube test (STT) or standard plate test (SPT).* The blood titers of animals tested by the STT or SPT methods are classified by use of the following:

1:50	1:100	1:200	
Official Vaccinates			
			Negative.
I			Negative.
+			Negative.
+	I		Suspect.
+	+		Suspect.
+	+	I	Suspect.
+	+	+	Reactor.
All Others			
			Negative.
I			Suspect.
+			Suspect.
+	I		Suspect.
+	+		Reactor.
+	+	I	Reactor.
+	+	+	Reactor.

(iii) *Complement-fixation test (CF).* (A) Interpretation for all nonvaccinated test-eligible animals:

(*1*) Fifty percent fixation (2 plus) in a dilution of 1:20 or higher—reactor.

(*2*) Fifty percent fixation (2 plus) in a dilution of 1:10 but less than 50 percent fixation (2 plus) in a dilution of 1:20—suspect.

(*3*) Less than 50 percent fixation (2 plus) in a dilution of 1:10—negative.

(B) Interpretation for all test-eligible vaccinated cattle including adult vaccinated animals beginning 2 months postvaccination:

(*1*) Twenty-five percent fixation (1 plus) in a dilution of 1:40 or higher—reactor.

(*2*) Fifty percent fixation (2 plus) in a dilution of 1:10 but less than 25 percent fixation (1 plus) in a dilution 1:40—suspect.

(*3*) Less than 50 percent fixation (2 plus) in a dilution of 1:10—negative.

(iv) *Rivanol test.* Complete agglutination at dilutions of 1:25 or more is classified as a reactor. Less than complete agglutination at 1:25 is negative. There is no suspect classification with rivanol. Within 5 months postvaccination of adult animals, a less than complete agglutination at the 1:50 dilution is negative.

(v) *Semen plasma test.* The semen plasma test is approved as an official test in bulls used for artificial insemination when used in conjunction with another official serological test. The classification of such animals shall be based on the maximum agglutination titer of either the seriological test or the semen test.

(vi) *Buffered acidified plate antigen presumptive test.* Buffered acidified plate antigen tests may be used to classify animals negative on surveillance samples collected at slaughter and at livestock markets.

(vii) *Rapid screening test (RST).* The RST may be used for classifying animals negative in State-Federal laboratories.

(viii) *Milk ring test (also known as Brucellosis Ring Test of BRT).* The milk ring test conducted on composite milk samples from entire dairy herds are classified as either negative or suspicious (positive). Negative BRT tests classify herds, which are not quarantined as brucellosis affected, as negative for public health ordinances and for surveillance purposes. Herds classified as suspicious require a whole herd blood test to determine the animal and herd status.

(2) *Classification of swine.*—(i) *Card test.* Card test results are classified as either negative or positive. Any agglutination reaction is considered positive.

(ii) *Standard tube test.* The blood titers of swine tested by the STT method are classified as follows:

(A) If there are no animals on test with titers greater than Incomplete at 1:100, if it is not a retest of an infected herd, if it is a complete herd test, or if it is an incomplete test of a validated herd, then use the following: Animals with a complete titer at 1:100 would be considered reactors.

1:25	1:50	1:100	
I			Negative.
+			Negative.
+	I		Negative.
+	+		Negative.
+	+	I	Negative.

(B) If there are one or more animals on test with a titer greater than I1:100, or if it is a retest of an infected herd, or if it is an incomplete test of a herd of unknown status, then use the following:

1:25	1:50	1:100	
I	–	–	Negative.
+	–	–	Reactor.
+	I	–	Reactor.
+	+	–	Reactor.
+	+	I	Reactor.
+	+	+	Reactor.

(p) *Certified Brucellosis-Free Herd.* A herd of cattle which has qualified for an been issued a Certified Brucellosis-Free

Herd Certificate signed by both the appropriate State animal health official and by the Veterinarian in Charge. A herd may qualify by either of the following methods:

(1) In the case of a dairy herd, by conducting a minimum of three consecutive negative milk ring tests at not less than 90-day intervals, followed by a negative herd blood test conducted within 90 days after the last negative milk ring test: or

(2) By conducting at least two consecutive negative blood tests of all test-eligible cattle. Tests shall not be less than 10 months nor more than 14 months apart.

The status will remain in effect for 12 months beginning with the date of the qualifying herd blood test. A negative blood test of all test-eligible cattle must be conducted within 10 to 12 months of the last certification date for continuous status. Lapsed certification may be reinstated if one herd test is conducted within 14 months of the last certification test date. If a herd is decertified because diseased animals are found, it may be recertified only be repeating the entire certification process.

(q) *Validated Brucellosis-Free Herds of swine.* Swine herds which are validated as brucellosis free by having one negative herd test of all breeding swine 6 months of age and over in the herd. Revalidation shall be done by a negative test of all breeding swine 6 months of age or over in the herd conducted within 10 to 14 months of the last validation test date or by showing that at least 20 percent of the adult breeding swine in the herd were tested under a market swine testing program (MST) during the year and that at least one-half of MST sampling occurred during the last 6 months of the validation period, or that all breeding swine 6 months of age or over in the herd are tested in groups according to an approved individual herd plan with each breeding animal tested at least once during the 1-year validation period.

(r) *Validated Brucellosis Free State for swine.* A State which meets the minimum procedural and qualifying standards and has necessary authorities for classification as a Validated Brucellosis Free Area and which has been certified as such by the appropriate State animal health official, by the Veterinarian in Charge, and by the Deputy Administrator. A State qualifies when it has not diagnosed a case of swine brucellosis in the preceding 12 months and a statistical analysis of combined test results of Market Swine Testing program (MST), change of ownership testing, farm validation tests, and diagnostic tests conducted during the period shows an effect equivalent to either complete herd testing or slaughter surveillance during a one or two year period. Revalidation may be obtained by either herd testing, slaughter surveillance, or combined surveillance.

(s) *Class Free State.* A State which meets standards for classification as a Class Free State and which has been certified as such, on initial classification or on reclassification from a lower class, by the State Animal Health Official, by the Veterinarian in Charge, and by the Deputy Administrator. Reclassification to a lower status shall be made by the Deputy Administrator after notice and opportunity to be heard is given to the State. All cattle herds in the State in which brucellosis has been known to exist must be released from quarantine, pursuant to law, prior to classification. In addition, if any herds of other species of domestic livestock have been found to be infected with brucellosis or are suspected to be infected with brucellosis, they must be tested negative, slaughtered, or quarantined prior to such designation, so that no known foci of infection in any species is left uncontrolled. The following are the standards to attain and maintain Class Free Status.

(1) *Surveillance.*— (i) *Milk ring test (BRT)* The milk ring test of dairy herds shall be conducted at least four times per year at approximately equal intervals on all dairy herds in the State.

(ii) *Market cattle identification program (MCI).*

(A) *Coverage.* All State or Federally inspected slaughtering establishments in the State must participate in the Market Cattle Identification program. The rate of sampling of test-eligible market cattle shall be at least 95 percent at each State or Federally inspected slaughtering establishment.

(B) *Reactors.* At least 90 percent of all reactors found in the course of market cattle testing (including card test positive animals with or without supporting serologic test results) must be traced to herd of origin and an epidemiologic investigation conducted by State or Veterinary Services representatives within 15 days of their official notification by the cooperative State-Federal laboratory. Herd blood tests must be conducted within 30 days of official notification of market cattle test reactors and quarantine issuance or the herds are to continue to be confined to the premises under quarantine.

(iii) *Epidemiologic surveillance.*—(A) *Adjacent herds.* All adjacent herds or other herds having contact with cattle in a reactor herd shall be placed under quarantine and have an approved action plan for testing or monitoring the herd(s) in effect within 15 days after notification of State or Veterinary Services representatives of reactors in the herd.

(B) *Epidemiologically traced herds.* All herds from which cattle are sold into an infected herd and all herds which have received cattle from an infected herd shall be placed under quarantine and have an approved action plan or other individual herd plan for testing or monitoring the herd in effect within 15 days of locating the source herd(s) or recipient herd(s).

(2) *Herd infection rate.*—(i) The State must remain free from field strain *B. abortus* infection for 12 consecutive months or longer to qualify.

(ii) An epidemiologic investigation of each herd having reactor cattle after designation as a Class Free State shall be conducted within 15 days of finding the reactors to identify the possible sources of infection. All possible sources shall be contacted within 15 days to determine appropriate action. If such investigation is not conducted, the State's classification will be changed to Class A or lower as appropriate.

(3) *MCI reactor prevalence rate.*— States must maintain a 12 consecutive months adjusted MCI reactor prevalence rate not to exceed one reactor per 2,000 cattle tested (0.050 percent). The MCI reactor rate will be adjusted for out-of-State cattle, recordkeeping errors, and animals traced to either infected herds or herds with negative tests.

(t) *Class A State.* A State which meets standards for classification as a Class A State and which has been certified as such, on initial classification or on reclassification from a lower class, by the State Animal Health official, by the Veterinarian in Charge, and by the Deputy Administrator. Reclassification to a lower class shall be made by the Deputy Administrator after notice and opportunity to be heard is given to the State. The following are the standards to attain and maintain Class A status.

(1) *Surveillance.*—(i) *Milk ring test (BRT).* The milk ring test shall be conducted on all dairy herds in the State at least four times per year at approximately equal intervals.

(ii) *Market cattle identification program.*—(A) *Coverage.* All State or Federally inspected slaughtering establishments in the State must participate in the Market Cattle Identification program. The rate of sampling of test-eligible market cattle shall be at least 95 percent at each State or Federally inspected slaughtering establishment.

(B) *Reactors.* A minimum of 90 percent of the reactors (including card test positive animals with or without supporting serologic test results) must be traced to the herd of origin and an epidemiologic investigation conducted by State or Veterinary Services within 15 days of their official notification by the cooperative State-Federal laboratory. Herd blood tests must be conducted within 30 days of official notification of State or Veterinary Services of market cattle test reactors or the herds are to be confined to the premises under quarantine.

(iii) *Epidemiologic surveillance.*—(A) *Adjacent herds.* All adjacent herds or herds having contact of cattle with the reactor herd shall have an approved action plan for testing or monitoring the herd in effect within 15 days of notification of infection in the reactor herd.

(B) *Epidemiologically traced herds.* All herds from which cattle are sold into an infected herd and all herds which have received cattle from an infected herd shall have an approved action plan for testing or monitoring the herd in effect within 15 days of locating the source herd(s) or recipient herd(s).

(2) *Herd infection rate.*—(i) States must not exceed a herd infection rate, during any 12 consecutive months, due to field strain *B. abortus* of 0.25 percent or 2.5 herds per 1,000 except in States with 10,000 or fewer herds. A special review by the Deputy Administrator will be made to determine if such small herd population States should qualify for Class A status. Locations of herds, sources of current infections, and control measures taken by the State will be considered.

(ii) An epidemiologic investigation of each herd with reactor cattle shall be conducted to identify the possible sources of infection by State or Veterinary Services representatives within 15 days of being notified that reactor cattle had been found by the cooperative State-Federal laboratory. All such possible sources shall be contacted within an additional 15 days to determine appropriate action.

(3) *MCI reactor prevalence rate.* A State must maintain a 12 consecutive months adjusted MCI reactor prevalence rate not to exceed one reactor per 1,000 cattle tested (0.10 percent). The MCI reactor prevalence rate will be adjusted for out-of-State cattle, recordkeeping errors, and animals traced to either infected herds or herds with negative tests.

(u) *Class B State.* A State which meets standards for classification as a Class B State and which has been certified as such, on initial classification or on reclassification from a lower class, by the State Animal Health Official, by the Veterinarian in Charge, and by the Deputy Administrator. Reclassification to a lower class would be made by the Deputy Administrator after notice and opportunity to be heard is given to the State. The following are the standards to attain and maintain Class B status.

(1) *Surveillance.*—(i) *Milk ring test (BRT).* The milk ring test shall be conducted on all dairy herds in the State at least four times per year at approximately equal intervals.

(ii) *Market cattle identification program.*—(A) *Coverage.* All State or Federally inspected slaughtering establishments in the State must participate in the Market Cattle Identification program. The rate of sampling of test-eligible market cattle shall be at least 95 percent at each State or Federally inspected slaughtering establishment.

(B) *Reactors.* A minimum of 80 percent of the reactors (including card test positive animals (with or without supporting serologic test results)) must be traced to the herd of origin and an epidemiologic investigation conducted by State or Veterinary Services representatives within 30 days of their being officially notified by the cooperative State-Federal laboratory of the finding of reactor cattle. Herd blood tests must be conducted within 30 days of such official notification of market cattle test reactors or the herds are to be confined to the premises under quarantine.

(iii) *Epidemiologic surveillance.*—(A) *Adjacent herds.* All adjacent herds or herds having contact of cattle with the reactor herd shall have an approved action plan for testing or monitoring the herd in effect within 45 days of notification of infection in the reactor herd.

(B) *Epidemiologically traced herds.* All herds from which cattle are sold into an infected herd and all herds which have received cattle from an infected herd shall have an approved action plan for testing or monitoring the herd in effect within 45 days of locating the source herd(s) or recipient herd(s).

(2) *Herd infection rate.*—(i) States must not exceed an accumulated 12 consecutive months herd infection rate due to field strain *B. abortus* of 1.5 percent or 15 herds per 1,000 except in States with 10,000 or fewer herds. A special review by the Deputy Administrator will be made to determine if such small herd population States qualify for Class B status. Locations of herds, sources of current infections, and control measures taken by the State will be considered.

(ii) An epidemiologic investigation of each herd with reactor cattle in it shall be conducted by State or Veterinary Services representatives within 45 days of their notification by the cooperative State-Federal laboratory of the finding of reactor cattle to identify the possible sources of infection. All such possible sources shall be contacted within an additional 30 days to determine appropriate action to maintain Class B status.

(3) *MCI Reactor prevalence rate.*—The State must maintain a 12 consecutive months adjusted MCI reactor prevalence rate not to exceed three reactors per 1,000 cattle tested (0.30 percent). The MCI reactor prevalence rate will be adjusted for out-of-State cattle, recordkeeping errors, and animals traced to either infected herds or herds with negative tests.

(v) *Class C State.* A State which meets standards for classification as a Class C State and which has been certified as such, on initial classification or on reclassification from being quarantined; by the State Animal Health Official, by the Veterinarian in Charge, and by the Deputy Administrator. Reduction in status to "quarantined" would be made by the Deputy Administrator after notice and opportunity to be heard is given to the State. The following are the standards to attain and maintain Class C status.

(1) *Surveillance*—(i) *Milk ring test (BRT)*—The milk ring test shall be conducted on all dairy herds in the State at least four times per year at approximately equal intervals.

(ii) *Market cattle identification program.* (A) *Coverage.* All State or Federally inspected slaughtering establishments in the State must participate in the Market Cattle Identification program. The rate of sampling of test-eligible market cattle shall be at least 95 percent at each State or Federally inspected slaughtering establishment.

(B) *Reactors.* A minimum of 80 percent of the reactors (including card test positive animals with or without supporting serologic test results) must be traced to the herd of origin and an epidemiologic investigation conducted by State or Veterinary Services representatives within 30 days of their official notification by the cooperative State-Federal laboratory that reactors have been found. Herd blood tests must be conducted within 30 days of such official notification of market cattle test reactors or the herds are to be confined to the premises under quarantine.

(iii) *Epidemiologic surveillance.* (A) *Adjacent herds.* All adjacent herds or

herds having contact of cattle with the reactor herd shall have an approved action plan for testing or monitoring the herd in effect within 45 days of notification of infection in the reactor herd.

(B) *Epidemiologically traced herds.* All herds from which cattle are sold into an infected herd and all herds which have received cattle from an infected herd shall have an approved action plan for testing or monitoring the herd in effect within 45 days of locating the source herd(s) or recipient herd(s).

(2) *Herd infection rate.* (i) A State with 1,000 or more herds having an accumulated 12 consecutive months herd infection rate due to field Strain *B. abortus* exceeding 1.5 percent or 16 herds or more per 1,000 is a Class C State. A special review will be conducted by the Deputy Administrator in a State with a small herd population but with a herd infection rate exceeding 1.5 percent to determine if it should be included as a Class C State. Locations of herds, sources of current infections, and control measures taken by the State will be considered.

(ii) An epidemiologic investigation of each herd with reactor cattle shall be conducted by State or Veterinary Services representatives within 45 days of their notification by the Cooperative State-Federal laboratory of the finding of reactor cattle to identify the possible sources of infection. All such possible sources shall be contacted to determine appropriate action within an additional 30 days.

(3) *MCI reactor prevalence rate.* The 12 consecutive months adjusted MCI reactor prevalence rate exceeds three reactor per 1,000 tested (0.30 percent). The MCI reactor prevalence rate will be adjusted for out-of-State cattle, recordkeeping errors, and animals traced to either infected herds or herds with negative tests.

(4) *Compliance with minimum procedural standards.* (i) A State must implement and maintain minimum procedural standards.

(ii) A State must make continued progress as judged over a two year period in reducing prevalence of brucellosis as determined by epidemiologic evaluation or it will be placed under federal quarantine.

(w) *Brucellosis reactor.*—(1) *Cattle and bison.* (i) Official vaccinates of dairy breeds 20 months of age and over and official vaccinates of bison or beef breeds 24 months of age and over (as evidenced by the presence of the first pair of permanent incisor teeth) or official vaccinates under these ages that are parturient (springers) or postparturient are classified serologically as reactors when they disclose complete standard plate test (SPT) or standard tube test (STT) agglutination reactions in the blood titer dilution of 1:200 or higher, are positive to the brucellosis card test where it has been the only test conducted, disclose titers of 25 percent fixation (1 plus) in a dilution of 1:40 or higher on the complement-fixation (CF) test, disclose a complete agglutination reaction in the 1:25 dilution or higher on the rivanol test, or are found infected by other diagnostic procedures such as isolation of *Brucella abortus.*

(ii) All other bison and cattle more than 6 months of age are classified serologically as reactors when they disclose a complete agglutination reaction in the blood titer dilution of 1:100 or higher, are positive to the card test where it has been the only test conducted, disclose titers of 50 percent fixation (2 plus) in a dilution of 1:20 or higher on the complement-fixation test, disclose a complete agglutination reaction in the 1:25 dilution or higher on the rivanol test, or are found infected by other diagnostic procedures such as isolation of *Brucella abortus.*

(iii) Where approved whole herd vaccination of herds at high risk (including Certified Brucellosis-Free Herds, infected herds, or herds not Certified Brucellosis-Free) with reduced doses of *B. abortus* Strain 19 has been carried out, adult vaccinated (AV), tattooed or branded animals are considered reactors if the CF test has at least 25 percent fixation (1 plus) in a dilution of 1:40 or higher. A first test is recommended at 2 months or as early thereafter as possible following the whole herd vaccination in order to facilitate elimination of field strain infection. At less than 5 months postvaccination, animals are considered reactors if a complete agglutination reaction occurs in the 1:50 dilution or higher on the rivanol test. On such tests at more than 5 months postvaccination, animals are considered reactors if a complete agglutination reaction occurs in the 1:25 dilution or higher on the rivanol test.

(2) *Swine.* Any swine that disclose complete STT agglutination reactions to the blood titer dilution of 1:100 or higher. Any swine in an infected herd or those on an incomplete test of a herd of unknown status having a complete reaction in the 1:25 dilution or higher. Any swine disclosing a positive card test reaction or found infected by another official test or by identifying the organism.

(x) *Brucellosis suspect.*—(1) *Cattle and bison.* (i) Official vaccinates of dairy breeds 20 months of age or over and official vaccinates of bison or beef breeds 24 months of age and over (as evidenced by the presence of the first pair of permanent incisor teeth) or official vaccinates under these ages that are parturient (springers) or postparturient are classified as suspects when they disclose SPT or STT agglutination reactions in the dilution of 1:100 or any partial agglutination in the 1:200 dilution. Cattle or bison negative to the SPT or STT tests but which are positive to the brucellosis card test, if it is performed, are classified as suspects. When the CF test is conducted, all test-eligible cattle having less than 25 percent fixation (1 plus) in a dilution of 1:40 and 50 percent (2 plus) or more in a dilution of 1:10 are classified as suspects.

(ii) All other cattle and bison more than 6 months of age are classified as suspects when they disclose any SPT or STT agglutination reactions in the blood titer dilution of 1:50 or incomplete agglutination in the 1:100 dilution. Cattle or bison negative to the SPT or STT tests but which are positive to the brucellosis card test, if it is performed, are classified as suspects. When the CF test is conducted, all cattle or bison more than 6 months of age having less than 50 percent fixation (2 plus) in a dilution of 1:20 and 50 percent fixation (2 plus) or more in a dilution of 1:10 are classified as suspects.

(2) *Swine.* Card test positive swine disclosed in a herd which is otherwise serologically, bacteriologically, and epidemiologically negative will be held under whole herd quarantine until subjected to additional official brucellosis tests to determine the status of the animals.

(y) *Brucellosis negative.*—(1) *Cattle and bison.* (i) Official vaccinates of dairy breeds 20 months of age or over and official vaccinates of bison and beef breeds 24 months of age and over (as evidenced by the presence of the first pair of permanent incisor teeth) or official vaccinates under these ages that are parturient (springers) or postparturient are classified as negative when the SPT or STT disclose reactions of not more than complete agglutination in the 1:50 dilution, are negative to the brucellosis card test, disclose 25 percent fixation or less (1 plus) at the 1:10 dilution of the CF test, or disclose less than complete agglutination at the 1:25 dilution on the rivanol plate agglutination test. If only one test is run, that test must be negative; if more than one test is run, all reactions must be negative for the animal to be classified as brucellosis negative.

(ii) All other such cattle and bison more than 6 months of age are classified as negative serologically when the SPT or STT disclose reactions of not more than complete agglutination in the 1:25 dilution, are negative to the brucellosis card test, disclose 25 percent fixation or less (1 plus) at the 1:10 dilution on the CF test, or disclose less than complete agglutination at the 1:25 dilution on the rivanol plate agglutination test.

(iii) Blood samples collected at slaughter are negative when no evidence of agglutination is disclosed by the rapid screening test (RST) or buffered acidified plate antigen test. Blood samples collected at livestock markets are negative when no evidence of agglutination is disclosed on the buffered acidified plate antigen test. Blood samples collected at slaughter or at livestock markets showing some agglutination to the rapid screening test or the buffered acidified plate test, as appropriate, are classified negative if the confirmatory test (brucellosis card test or SPT) is negative.

(2) *Swine.* Any swine from an infected herd of herd of unknown status that discloses a STT agglutination reaction of less than complete agglutination in the blood titer dilution 1:25 or that has no reaction to the card test is classified as negative.

Any swine from a Validated Brucellosis-Free herd not known to be infected in a validated brucellosis free area, or any swine on a complete herd test that discloses a STT agglutination reaction of less than complete agglutination in the blood titer dilution of 1:100 or that has no reaction to the card test.

(z) *Brucellosis exposed animal.* Any animal that is part of a known affected herd or that has been in contact with brucellosis reactors in marketing channels are considered to be exposed regardless of the blood test results. If an interstate movement involves suspects, they shall be treated as exposed animals.

(aa) *Herd.* A herd is 1) all animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot , farm, or ranch) and 2) all animals on two or more premises which are geographically separated, but on which the animals have been interchanged or where there has been contact among the animals on the different premises.

(bb) *Animals.* Cattle, bison, and breeding swine.

(cc) *Farm of origin of cattle and bison.* A farm or other premises where the cattle or bison to be shipped interstate were born or have been kept for not less than 4 months prior to the date of shipment and which premises within the 4 months prior to the date of shipment, have not been used to assemble cattle or bison from any other premises.

(dd) *Herd of origin of swine.* Any herd in which swine are farrowed and raised or in which such swine were maintained for a period of 30 days immediately prior to shipment interstate.

(ee) *Breeding swine.* Any swine 6 months of age or over which are maintained for breeding purposes as a part of a formal breeding program.

(ff) *Sow.* A female swine which has given birth to one or more litters of pigs or which is parturient.

(gg) *Boar.* An uncastrated male swine which has reached a stage of maturity rendering him capable of being used as a breeding animal including those which through age or infirmity are no longer capable of such use.

(hh) *Recognized slaughtering establishment.* Any slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State Meat Inspection act.

(ii) *Specifically approved stockyard.* A stockyard specifically approved for the purposes of the regulations in this part in accordance with §78.25(b).

(jj) *Herd blood test.*—(1) *Cattle or bison.* The herd blood test shall include all test-eligible cattle or bison.

(2) *Swine.* The herd test shall include all breeding swine 6 months of age and older. All swine being held for feeding purposes, separate and apart and without physical contact with breeding swine, are exempt from herd test requirements.

(kk) *Test-eligible cattle and bison.*—(1) *Herd blood test.* Test-eligible animals shall include all cattle or bison over 6 months of age, (as evidenced by the loss of the first pair of temporary incisor teeth) except steers, spayed heifers, official calfhood vaccinates of the dairy breeds under 20 months of age, and official calfhood vaccinates of bison or beef breeds under 24 months of age (as evidenced by the loss of the first pair of temporary incisor teeth) which are not parturient (springers) or postparturient.

(2) *Market cattle identification (MCI) blood testing.*—(i) *Blood sampling at slaughtering establishment.* All cows and bulls over 2 years of age are test-eligible.

(ii) *Blood testing at livestock markets or farms or ranches.* All cattle over 18 months of age (as evidenced by the loss of the first pair of temporary incisor teeth) except steers, spayed heifers, official calfhood vaccinates of the dairy breeds under 20 months of age, and official calfhood vaccinates of beef breeds under 24 months of age (as evidenced by the loss of the first pair of temporary incisor teeth) which are not parturient (springers) or postparturient.

(3) *Test for other movements.* Same as §78.1 (kk) (2) (ii).

(ll) *Quarantined area.* Any area listed in §78.22.

(mm) *Qualified herd.* Any herd of cattle or bison in a quarantined area which is not known to be affected with brucellosis and which has been subjected to two consecutive official tests for brucellosis and found negative. The first of these two official tests of the herd in the quarantined area shall be conducted not more than 240 days nor less than 120 days prior to the date of classification as a Qualified Herd and the second official test not more than 120 days prior to the date of such classification, and such tests shall be performed not less than 90 days nor more than 120 days apart. In order to remain a Qualified Herd, a herd must be subjected to successive requalifying official tests and found negative. To maintain status as a qualified herd, each such requalifying test shall be conducted not more than 120 days from the date of the immediately preceding official test. All cattle or bison added to a Qualified Herd must have been included in the preceding two official tests to qualify as cattle or bison from the Qualified Herd.

(nn) *Quarantined feedlot.* A quarantined feedlot shall be a confined area under official State quarantine and shall be approved jointly by the State animal health official and the Veterinarian in Charge. Approval will be granted only after inspection and after the feedlot demonstrates that all animals are secure and isolated from contact with any other nonquarantined feedlot or pasture animals, that there are facilities for identifying animals as required, and that there is no possibility of disease being mechanically transmitted from the premises. All cattle and bison, except steers and spayed heifers in a quarantined feedlot shall be classified as exposed to brucellosis. The quarantined feedlot shall be maintained for feeding of cattle and bison for slaughter, with no provisions for pasturing or grazing. All negative exposed animals and all untested, test-eligible cattle must be permanently identified with a hot iron "S" brand either on the left jaw or high on the tailhead (over the fourth to the seventh coccygeal vertebrae) upon entering such feedlots. All cattle and bison, except steers and spayed heifers, leaving such feedlot must move directly to slaugher accompanied by a permit, directly to another quarantined feedlot accompanied by a permit from the State

animal health official, or, after being "S" branded at the feedlot, directly to a specifically approved stockyard to be sold for movement to slaughter or to another quarantined feedlot accompanied by a permit issued at the stockyard. However, finished fed heifers moving directly to recognized slaughtering establishments are exempt from the requirement for identification and the requirement to be accompanied by a permit. The animal health officials shall establish procedures for accounting for all animals entering or leaving such quarantined feedlots.

(oo) *Quarantined pasture.* (1) A quarantined pasture shall be a designated, confined grazing area under official State quarantine and shall be approved jointly by the State animal health official and the Veterinarian in Charge. Approval will be granted only after inspection and after the owners of the pasture demonstrates that all animals are secure and isolated from contact with any other nonquarantined feedlot or pasture animals, that there are facilities for identifying the animals as required and that there is no possibility of disease being mechanically transmitted from the premises. The quarantined pasture shall be for the purpose of utilizing available forage to grow or to improve flesh condition of cattle. In all areas, these animal health officials shall request approval from the Deputy Administrator, Veterinary Services, APHIS, and justify the need. An intensified brucellosis eradication effort, which produces large numbers of exposed or adult vaccinated animals needing the grazing period to reach slaughter condition would be an acceptable justification. All animals, except steers and spayed heifers, in a quarantined pasture shall be classified as exposed to brucellosis. All cattle shall be of the same sex (e.g., all cows or all bulls), except that neutered animals may share the quarantined pasture. All animals except steers and spayed heifers must be permanently identified with a hot iron "S" brand either on the left jaw or high on the tailhead (over the fourth to the seventh coccygeal vertebrae) upon entering the quarantined pasture. All animals except steers and spayed heifers leaving the quarantined pasture must move to immediate slaughter at a recognized slaughtering establishment or to a quarantined feedlot. The movement shall be in accordance with established procedures for handling exposed animals, including issuance of "S" brand permits prior to movement.

(2) The State and Veterinary Services animal health official shall establish procedures for accounting for all animals entering or leaving the quarantined pasture. All exposed cattle must vacate the premises on or before the expiration of approval.

(pp) *"S" branded cattle or bison.* Cattle or bison which have been identified by branding with a hot iron the letter "S" at least 5cm x 5cm (2 x 2 inches) in size on the left jaw or high on the tailhead (over the fourth to the seventh coccygeal vertebrae).

(qq) *Official metal eartag.* A metal identification eartag conforming to the nine-character alpha-numeric National Uniform Eartagging System. It provides unique identification for each individual animal.

(rr) *Market cattle identification (MCI) test animals.* Market test animals are test-eligible animals moving through auction markets, stockyards, or to slaughtering establishments. Also, they are those animals assembled at farms or ranches that are being readied for movement to markets, stockyards, slaughtering establishments or other places for sale, such as consignment or dispersal sales. Such animals shall be identified by eartag and/or backtag to the herd of origin prior to or at the first point of concentration in marketing channels.

(ss) *Approved brucella vaccine.*—A *Brucella abortus* Strain 19 product that is approved by and produced under license of the U.S. Department of Agriculture for injection into cattle and bison to enhance their resistance to brucellosis.

(tt) *Whole herd vaccination.* The vaccination of all female animals in a herd over 2 months of age, including animals older than the age for official calfhood vaccination, which may be vaccinated when their entire herd is authorized, by the State animal health official and by the Veterinarian in Charge, to be vaccinated with a reduced dose of vaccine.

(uu) *Official-vaccinate.* (1) In States administering a standard dose approved brucella vaccine containing a minimum of 25 billion live cells per 5 ml dose for calfhood vaccination: [1]

(i) *Official calfhood vaccinate.* Female cattle of a dairy breed vaccinated by a Veterinary Services representative, State representative, or accredited veterinarian with a standard dose approved *Brucella abortus* Strain 19 vaccine in accordance with its labeling while from 2 through 6 months (60 to 179 days) of age. Female cattle of a beef breed or female bison vaccinated by a Veterinary Services representative, State representative, or accredited veterinarian with a standard dose approved *Brucella abortus* Strain 19 vaccine in accordance with its labeling while from 2 through 10 months (60 to 299 days) of age: *Provided, however,* That female cattle or bison vaccinated prior to January 1, 1982, in accordance with the definition of an official vaccinate as incorporated by reference into this part at the date of said vaccination, shall be deemed to be an official vaccinate.

(ii) *Official adult vaccinate.* Female cattle of a dairy breed vaccinated by a Veterinary Services representative, State representatative, or accredited veterinarian with an approved reduced dose *Brucella abortus* Strain 19 vaccine diluted as instructed jointly by the Veterinarian in Charge and the State animal health official while over 6 months (179 days) of age and as part of a whole herd vaccination plan authorized jointly by the State animal health official and Veterinarian in Charge. Female cattle of a beef breed or female bison vaccinated by a Veterinary Services representative, State representative, or accredited veterinarian with an approved reduced dose *Brucella abortus* Strain 19 vaccine diluted as instructed jointly by the Veterinarian in Charge and the State animal health official while over 10 months (299 days) of age and as part of a whole herd vaccination plan authorized jointly by the State animal health official and the Veterinarian in Charge: *Provided, however,* That female cattle or bison vaccinated prior to January 1, 1982, in accordance with the definition of an official adult vaccinate as incorporated by reference into this part at the date of said vaccination, shall be deemed to be an official adult vaccinate.

(2) In States administering the reduced dose approved brucella vaccine containing at least 300 million and not more than 3 billion live cells per 2 ml dose for calfhood vaccination: [1]

(i) *Official calfhood vaccinate.* Female cattle of any breed or female bison vaccinated while from 4 through 12 months (120 through 365 days) of age by a Veterinary Services representative, State representative, or accredited veterinarian with a reduced dose *Brucella abortus* Strain 19 vaccine diluted as instructed jointly by the Veterinarian in Charge and the State animal health official: *Provided, however,* That female cattle or bison vaccinated prior to January 1, 1982, in accordance with the definition of an official vaccinate as incorporated by

[1] A listing of these States may be obtained from Veterinary Services, Federal Building, Room 814, Hyattsville, MD 20782.

reference into this part at the date of said vaccination, shall be deemed to be an official vaccinate.

(ii) *Official adult vaccinate.* Female cattle of any breed or female bison vaccinated when more than one-year (365 days) of age by a Veterinary Services representative, State representative, or accredited veterinarian with a reduced dose *Brucella abortus* Strain 19 vaccine diluted as instructed jointly by the Veterinarian in Charge and the State animal health official and as a part of whole herd vaccination plan authorized jointly by the State animal health official and the Veterinarian in Charge: *Provided, however,* That a female cattle or bison vaccinated prior to January 1, 1982, in accordance with the definition of an official adult vaccinate as incorporated by reference into this part at the date of said vaccination, shall be deemed to be an official adult vaccinate.

(vv) *Identification of vaccinates.*—(1) *Calfhood vaccinates.* Calfhood vaccinated animals shall be permanently identified as vaccinates by tattoo and by official vaccination eartags. However, if already identified with an official metal eartag prior to vaccination, an additional tag is not required. Vaccination tattoos must be applied to the right ear. The tattoo must include the U.S. Registered Shield and "V", which will be preceded by a number indicating the quarter of the year and will be followed by a number corresponding to the last digit of the year in which the vaccination was done. Official vaccination eartags shall be applied to the right ear. The eartag must include the State numerical prefix as assigned by the National Uniform Eartagging System and a "V", followed by two letters and four numbers which will uniquely individually identify such vaccinated animal. Individual animal registered breed association registration tattoos or individual animal registered breed association registration brands may be substituted for official metal eartags.

(ii) *Adult vaccinates.* Animals which have been vaccinated over calfhood age in authorized "whole herd" vaccination herds shall be permanently identified as vaccinates by the following procedures:

(A) *Brucellosis affected herds and herds not Certified Brucellosis-Free but at high risk.* Animals will be identified by a "V" hot brand on the right jaw, or by an official AV (adult vaccination) tattoo in the right ear preceded by the quarter of the year and followed by the last digit of the year, as well as official metal eartag (or individual animal registered breed association registration tattoo or individual animal registered breed association registration brand).

(B) *Certified Brucellosis-Free herds.* Animals will be identified by a "V" hot branded on the right jaw, or by an official AV (adult vaccination) tattoo in the right ear preceded by the quarter of the year and followed by the last digit of the year as well as the official metal eartag (or individual animal registered breed association registration tattoo or individual animal registered breed association registration brand).

(ww) *Approved action plan or approved individual herd plan.* A herd management and testing plan which is designed by the herd owner, his veterinarian if so requested, and a veterinarian of the Cooperative Brucellosis Eradication Program to control and eventually eradicate brucellosis from an affected herd. Plans must be approved jointly by the State animal health official and the Veterinarian in charge. A similar plan for determining the true status of suspects and preventing exposure to brucellosis within the herd is also within the meaning of the term "Individual Herd Plan" or "Approved Action Plan."

(2) The plan must call for the most appropriate veterinary procedures and proven herd management procedures to control the spread of brucellosis within the herd and thereby eradicate the disease from the herd.

(xx) *Official seal.* A serially numbered, metal strip, consisting of a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged, which cannot be reused if opened, and which is applied by a representative of the Veterinarian in Charge or the State animal health official.

(yy) *Finished fed heifers.* Heifers in a quarantined feedlot which have been on full grain feed not less than 90 days.

3. Section 78.6 would be revised to read:

§ 78.6 Steers and spayed heifers.

Steers and spayed heifers of any age may be moved interstate from any area without restrictions under this subpart.

4. Section 78.8 would be revised to read:

§ 78.8 Brucellosis-exposed cattle.

Except as provided in Part 51 of the regulations, brucellosis-exposed cattle may be moved interstate only as follows:

(a) *Movement of brucellosis-exposed cattle for immediate slaughter.* Finished fed heifers from quarantined feedlots moving directly to slaughter may move without restrictions. Other brucellosis-exposed cattle may be moved directly to a recognized slaughtering establishment, or from a farm of origin directly through no more than one specifically approved stockyard and then directly to a recognized slaughtering establishment, only if such cattle are:

(1) Individually identified by a Veterinary Services approved metal eartag or a USDA backtag;

(2) Accompanied by a VS Form 1–27 permit or "S" brand permit; and

(3)(i) "S" branded before the animals leave the premises from which they move interstate, or

(ii) In the instances when a claim for indemnity is being made by the owner under the provisions of 9 CFR 51.3, they are identified with the letter "B" as prescribed in 9 CFR 51.5, or

(iii) If they are official adult vaccinates, they have been hot-iron branded "AV" or "V" on the right jaw, or

(iv) Moved in vehicles closed with official seals. Official seals shall only be applied or removed by a Veterinary Services respresentative, State representative, accredited veterinarian or by other persons authorized for this purpose by a Veterinary Services representative. If the movement is directly to a specifically approved stockyard and then to a recognized slaughtering establishment, a separate permit shall be required for the movement of such cattle from such stockyard directly to such slaughtering establishment if that movement is interstate.

(b) *Movement of brucellosis-exposed cattle to quarantined feedlots.* Such cattle may only be moved directly to a quarantined feedlot or from a farm of origin directly through no more than one

specifically approved stockyard and then directly to a quarantined feedlot, and then only if such cattle are:

(1) Individually identified by a Veterinary Services approved metal eartag or a USDA backtag;

(2) Accompanied by a VS Form 1–27 permit or "S" brand permit; and

(3)(i) "S" branded before they leave the premises from which they move interstate, or

(ii) Officially adult vaccinated cattle and have been hot-iron branded "AV" or "V" on the right jaw.

If the movement is directly to a specifically approved stockyard for sale and shipment to a quarantined feedlot, a separate permit shall be required for the movement of such cattle from any such stockyard directly to a quarantined feedlot if that movement is interstate.

(c) *Movement of brucellosis exposed cattle other than in accordance with paragraphs (a) or (b) of this section.* (1) Calves under 6 months of age which are being nursed by brucellosis exposed cows in a herd known to be affected with brucellosis, and which herd has been brucellosis tested within 10 days prior to the interstate movement of the calves, or calves under 6 months of age which have been weaned from brucellosis reactors or exposed cows not less than 30 days immediately preceding the interstate movement, may be moved interstate from any area into any area without restriction. Additionally, official vaccinates under 12 months of ago, and steers and spayed heifers of any age, in a herd known to be affected with brucellosis but which is following an approved individual herd plan may be moved interstate from any area into any area, without restrictions.

(2) Cattle that were moved interstate directly from a farm of origin to a specifically approved stockyard in accordance with the exception under §§ 78.9(b)(3)(iii) or (c)(3)(iii) and which have been subsequently determined to be brucellosis exposed animals, may be reshipped interstate directly back to the farm of origin under the following conditions:

(i) An authorized regulatory official of the State in which the animals are located and of the State to which the animals are to be moved advise Veterinary Services that such movement would not be contrary to the laws and regulations of their respective States;

(ii) The State to which the animals are to be moved agrees to quarantine the cattle on arrival and to provide for testing of all cattle on the farm of origin;

(iii) A permit for the shipment is obtained by the shipper from a Veterinary Services representative, State representative, or an accredited veterinarian upon a determination made by a Veterinary Services representative that the other conditions of this paragraph (§ 78.8(c)(2)) have been met; and

(iv) The cattle are accompanied to the farm of origin by such permit.

5. In § 78.9, paragraphs (a) and (b) would be revised and new paragraphs (c) and (d) would be added to read:

§ 78.9 Cattle from herds not known to be affected with brucellosis.

Cattle from herds not known to be affected with brucellosis may be moved interstate only as follows:

(a) *Class Free States.* If such cattle originate from a farm of origin in a Class Free State, they may be moved interstate without being tested for brucellosis under this subpart. They must be accompanied by a certificate which states, in addition to the items specified in § 78.1(m), that the cattle originated in a Class Free State.

(b) *Class A States.* If such cattle originate from a farm of origin in a Class A State and are non-vaccinates under 18 months of age, or are official calfhood vaccinates of the beef breeds under 24 months of age, or are official calfhood vaccinates of the dairy breeds under 20 months of age, they may be moved interstate without being tested for brucellosis. If such cattle originate from a farm of origin in a Class A State and are non-vaccinates over 18 months of age, are official calfhood vaccinates of the beef breeds over 24 months of age, are official calfhood vaccinates of the dairy breeds over 20 months of age, they may only be moved interstate from such area under the conditions specified below:

(1) *Movement for immediate slaughter.* Such cattle may be moved for immediate slaughter directly from a farm of origin to a recognized slaughtering establishment or directly through no more than one specifically approved stockyard and then directly to a recognized slaughtering establishment without being tested for brucellosis if identity to the farm of origin is maintained.

(2) *Movement to quarantined feedlots.* Such cattle may be moved to a quarantined feedlot directly from a farm of origin or directly through no more than one specifically approved stockyard and then directly to a quarantined feedlot without being tested for brucellosis if identity to the farm of origin is maintained.

(3) *Movement other than in accordance with paragraphs (b)(1) and (2) of this section.* Such cattle may be moved interstate other than in accordance with paragraphs (b)(1) and (2) of this section only if:

(i) Such cattle originate in Certified Brucellosis-Free Herds and they are accompanied interstate by a certificate, which states, in addition to the items specified in § 78.1(m), that the cattle originated in a Certified Brucellosis-Free Herd; or

(ii) Such cattle are subjected to an official test for brucellosis and found negative for brucellosis within 30 days prior to such interstate movement, and accompanied interstate by a certificate, and the certificate shows in addition to items required under § 78.1(m), the test dates and results of the official brucellosis tests; or

(iii) Such cattle are moved directly from a farm of origin to a specifically approved stockyard and the owner causes such cattle to be subjected to an official test for brucellosis upon arrival at such stockyard prior to losing their identity with the farm of origin; or

(iv) Such cattle may be moved to another premise without testing or a certificate so long as the ownership does not change.

(c) *Class B States.* If such cattle originate from a farm of origin in a Class B State and are non-vaccinates under 18 months of age, or are official calfhood vaccinates of the beef breeds under 24 months of age, or are official calfhood vaccinates of the dairy breeds under 20 months of age, they may be moved interstate without being tested for brucellosis. If such cattle originate from a farm of origin in a Class B State and are non-vaccinates over 18 months of age, or are official calfhood vaccinates of the beef breeds over 24 months of age, or are official calfhood vaccinates of the dairy breeds over 20 months of age, they may only be moved interstate from such area under the conditions specified below:

(1) *Movement for immediate slaughter.* (i) Such cattle may be moved for immediate slaughter directly from a farm of origin to a recognized slaughtering establishment or directly to a specifically approved stockyard for sale for direct movement to a recognized slaughtering establishment without being "S" branded and without being accompanied by an "S" brand permit. (ii) Such cattle from other than a farm of origin may also be moved interstate directly to a recognized slaughtering establishment if they are tested and found negative to an official test for brucellosis immediately prior to movement, or if they are "S" branded and accompanied by an "S" brand permit. (iii) Such cattle from other than a farm of origin may also be moved for

immediate slaughter without being "S" branded, if they are accompanied by a VS Form 1–27 permit and are moved in vehicles closed with official seals. Official seals shall only be applied or removed by a Veterinary Services representative, a State representative, an accredited veterinarian, or by other persons authorized for this purpose by the Veterinary Services representatives.

(2) *Movement to quarantined feedlots.* (i) Such cattle may be moved to a quarantined feedlot directly from a farm of origin without being "S" branded and without being accompanied by an "S" brand permit if such cattle are "S" branded upon arrival at the quarantined feedlot, or directly from a farm of origin to a specifically approved stockyard for sale, and direct movement to a quarantined feedlot without being "S" branded and without being accompanied by an "S" brand permit. (ii) Such cattle from other than a farm of origin may also move interstate directly to a quarantined feedlot if they are tested and found negative to an official test immediately prior to the movement, or if they are "S" branded and accompanied by an "S" brand permit.

(3) *Movement other than in accordance with paragraphs (c) (1) and (2) of this section.* Such cattle may be moved interstate other than in accordance with paragraphs (c) (1) and (2) this section only if:

(i) Such cattle originate in Certified Brucellosis-Free Herds and they are accompanied interstate by a certificate, which states, in addition to the items specified in § 78.1(m), that the cattle originated in a Certified Brucellosis-Free Herd; or

(ii) Such cattle are subjected to an official test for brucellosis and found negative for brucellosis within 30 days prior to interstate movement, are accompanied interstate by a certificate which shows in additions to items required under § 78.1(m), the test dates and results of the official brucellosis tests, and if such cattle are accompanied interstate by a "Permit for Entry;" or

(iii) Such cattle are moved directly form a farm of origin to a specifically approved stockyard and the owner causes such cattle to be subjected to an official test for brucellosis upon arrival at such stockyard, but prior to losing their identity with the farm of origin. These tested cattle shall be accompanied by a certificate which shows, in addition to the items required under § 78.1 (m), the dates and results of any official test required by this paragraph and shall be accompanied by a "Permit for Entry;" or

(iv) Such cattle originate from herds in which: (A) all the cattle were subjected to a complete heard test for brucellosis within 12 months of the dated of the interstate movement; (B) any cattle which were added to the herd subsequent to such complete herd test were tested and found negative to an official test for brucellosis within 30 days prior to the date the cattle were added to the herd; (C) the cattle subject to the complete herd test have not changed ownership from the date of such test; and (D) none of the cattle in the herd have come in contact with any other cattle which have not been tested as prescribed in this subparagraph.

(d) *Class C State.* If such cattle originate from a farm of origin in a Class C State and are non-vaccinates under 18 months of age, or are official calfhood vaccinates of the beef breeds under 24 months of age, or are official calfood vaccinates of the dairy breeds under 20 months of age, they may be moved interstate without restrictions under this subpart, unless they have calved. It such cattle originate from a farm of origin in a Class C State and are non-vaccinates over 18 months of age, or are official calfhood vaccinates of the beef breeds over 24 months of age, or are official calfhood vaccinates of the dairy breeds over 20 months of age, they may only be moved interstate from such area under the conditions specified below:

(1) *Movement for immediate slaughter.* (i) Such cattle from Certified Brucellosis-Free Herds may move to recognized slaughtering establishments or to specifically approved stockyards for sale for movement to immediate slaughter at a recognized slaughtering establishment without being tested for brucellosis if identity to the Certified Brucellosis Free Herd is maintained. (ii) Such cattle may be moved for immediate slaughter directly from a farm of origin to a recognized slaughtering establishment or to a specifically approved stockyard for sale for movement to a recognized slaughtering establishment without being "S" branded and without being accompanied by an "S" brand permit. (iii) Such cattle from other than a farm of origin may also be moved interstate directly to a recognized slaughtering establishment, it they are "S" branded and are accompanied by an "S" brand permit. (iv) Such cattle from other than a farm of origin may also be moved interstate for immediate slaughter to a recognized slaughtering establishment without being "S" branded, if they are accompanied by a VS Form 1–27 permit and are moved in vehicles closed with official seals. Official seals shall only be applied or removed by a Veterinary Services representative, a State representative, an accredited veterinarian, or by other persons authorized for this purpose by the Veterinary Services representatives.

(2) *Movement to quarantined feedlots.* (i) Such cattle may be moved to a quarantined feedlot directly from a farm of origin without being "S" branded and without being accompanied by an "S" brand permit if such cattle are "S" branded upon arrival at the quarantined feedlot, and such cattle may be moved directly from a farm of origin to a specifically approved stockyard for sale and movement to a quarantined feedlot without being "S" branded and without being accompanied by an "S" brand permit. (ii) Such cattle from other than a farm of origin may also move interstate directly to a quarantined feedlot if they are "S" branded and accompanied by an "S"brand permit.

(3) *Movement other than in accordance with paragraphs (d) (1) or (2) of this section.* Such cattle may be moved other than in accordance with paragraphs (d) (1) or (2) of this section only if: (i) Such cattle originate in Certified Brucellosis-Free Herds and they are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1(m), that the cattle originated in a Certified Brucellosis-Free Herd; or

(ii) Such cattle are official vaccinates of the beef breeds under 24 months of age or of the dairy breeds under 20 months of age and are accompanied interstate by a certificate; or

(iii) Such cattle, except calves under 6 months of age, have been subjected to two consecutive official negative tests for brucellosis with the first test not less than 60 days before interstate movement and the second test not less than 60 days after the first test nor more than 30 days before the date of the interstate movement, provided however, that the time period for the first test is valid up to 12 months. These tested cattle shall be accompanied by a certificate which shows, in addition to the items required under § 78.1(m), the dates and results of any official test required by this paragraph and shall be accompanied by a "Permit for Entry;" or

(iv) Such cattle are official vaccinates of the beef breeds over 24 months of age or of the dairy breeds over 20 months of age, have been subjected to an official test for brucellosis not more than 30 days before the date of interstate movement, and such cattle are accompanied by a certificate which shows in addition to the items required under 78.1(m), the date and results of the official test required by this paragraph, and shall be accompanied by a "Permit for Entry;" or

(v) Such cattle, except calves under 6 months of age, have been subjected to an official negative test for brucellosis not less than 60 days nor more than 1 year before the interstate movement, are moved directly from a farm of origin to a specifically approved stockyard and the owner causes such cattle to be subjected to an official test for brucellosis upon arrival at such stockyard but prior to losing their identity with the farm of origin. These cattle shall be accompanied by a document which shows the date and results of the official test required to be administered prior to interstate movement; or

(vi) Such cattle, which are official vaccinates of the beef breeds over 24 months of age or of the dairy breeds over 20 months of age, are moved directly from a farm of origin to a specifically approved stockyard and the owner causes such cattle to be subjected to an official test for brucellosis upon arrival at such stockyard but prior to losing their identity with the farm of origin. These cattle shall be accompanied interstate by a document which shows the date of vaccination; or

(vii) Such cattle originate from herds in which: (A) all the cattle were subjected to a complete herd test for brucellosis within 12 months of the date of the interstate movement; (B) any cattle which were added to the herd subsequent to such complete herd test were tested and found negative to an official test for brucellosis within 30 days prior to the date the cattle were added to the herd; (C) the cattle subject to the complete herd test have not changed ownership from the date of such test; and (D) none of the cattle in the herd have come in contact with any other cattle which have not been tested as prescribed in this subparagraph.

§§ 78.10 and 78.11 [Removed and Reserved]

6. Sections 78.10 and 78.11 would be removed and designated "reserved."

§§ 78.14, 78.16, 78.17 and 78.18 [Nomenclature Change]

7. Subpart C, Restrictions on Interstate Movement of Bison Because of Brucellosis, is amended by removing the word "Area" and inserting in its place the word "State" wherever it appears in §§ 78.14, 78.16, 78.17, and 78.18.

8. In § 78.16 a new paragraph (c) is added to read as follows:

§ 78.16 Brucellosis exposed bison.

* * * * *

(c) *Movement of brucellosis exposed bison other than in accordance with paragraph (a) or (b) of this section.* (1) Bison calves under 6 months of age which are being nursed by brucellosis exposed bison cows in a herd known to be affected with brucellosis, and which herd has been brucellosis tested within 10 days prior to the interstate movement of the calves, or bison calves under 6 months of age which have been weaned from brucellosis reactor or exposed bison cows for not less than 30 days immediately preceding the interstate movement, may be moved interstate from any area into any area without restriction. Additionally, official vaccinates under 12 months of age and steers and spayed heifers of any age in a herd known to be affected but which is following an approved individual herd plan may be moved interstate from any area into any area without restrictions.

9. Section 78.20 would be revised to read:

§ 78.20 State classifications.

(a) Class Free.
(b) Class A.
(c) Class B.
(d) Class C.

§§ 78.21 and 78.22 [Removed and Reserved]

10. Sections 78.21 and 78.22 would be removed and reserved.

11. Section 78.22a would be revised to read:

§ 78.22a Quarantined areas.

Notice is hereby given that because of the existence of the contagion of brucellosis and the nature and extent of such contagion in certain areas which do not have control and eradication procedures adequate to prevent the interstate dissemination of the disease, the following areas are quarantined:

The entire State of Texas.

12. Section 78.25(a) would be revised to read:

§ 78.25a Designations of States and approved stockyards.

(a) The Deputy Administrator, Veterinary Services, is authorized to amend §§ 78.20, 78.21, and 78.22 to designate States as Class Free, Class A, Class B, or Class C, when he determines that the areas come within the appropriate definitions in §§ 78.1 (s), (t), (u), or (v), and to delete any State from any such list when he determines that the area no longer comes within the relevant definition.

13. Section 78.29 would be revised to read:

§ 78.29 Brucellosis testing of breeding swine.

(a) Breeding swine from Validated Brucellosis Free Herds and Validated Brucellosis Free Areas may be moved interstate for other than slaughter only if they are accompanied by a certificate and the certificate states that they originated in either a Validated Brucellosis Free Herd or in a Validated Brucellosis Free area.

(b) Breeding swine from nonvalidated brucellosis free herds in nonvalidated brucellosis free areas may be moved interstate for other than slaughter only if they have been officially tested negative for brucellosis and found to be negative within 30 days prior to interstate movement and are accompanied interstate by a certificate which shows, in addition to items required under § 78.1(m), the dates and the results of the official brucellosis test.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 870, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 19th day of January 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc 82-1680 Filed 1-22-82; 8:45 am]
BILLING CODE 3410-34-M

federal register

Monday
January 25, 1982

Part IV

Securities and Exchange Commission

Net Capital Requirements for Brokers and Dealers; Borrowing and Lending of Securities by Brokers and Dealers and Related Requirements; and Treatment of Fails To Deliver and Fails To Receive Under the Uniform Net Capital Rule and the Customer Protection Rule; Amended and Proposed Rules

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-18417; File No. S7-855]

Net Capital Requirements for Brokers and Dealers; Amended Rules

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of amendments to net capital rule.

SUMMARY: The Commission is amending portions of the net capital rule. The amendments will lower the required minimum percentage of net capital to aggregate debit items under the alternative method of computing net capital. The amendments will also affect the computation of net capital under either the basic method or the alternative method.

EFFECTIVE DATE: May 1, 1982.

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SUPPLEMENTARY INFORMATION: In October 1980, the Commission proposed for comment a number of far-reaching amendments to its net capital rule for brokers and dealers ("the Concept Release").[1] Those amendments would have substantially reduced the amount of liquid capital required to be maintained by those firms which have elected the alternative method of computing net capital. In a companion release, the Commission proposed for comment new haircut schedules for debt securities.[2] In the Concept Release, the Commission also solicited comment on a broad range of questions regarding the financial responsibility standards for brokers and dealers in its reexamination of the scope, adequancy and necessity of those rules. The Commission received thoughtful and helpful comments from self-regulatory organizations, industry groups and from several brokers and dealers. In light of these comments, the Commission has determined to modify its initial proposal and to adopt the amendments described below. The Commission has also issued three associated releases which deal with subsidiary questions relating to the net capital rule.

[1] Securities Exchange Act Release No. 17208 (Oct. 9, 1980), 45 FR 69915 (Oct. 22, 1980).

[2] Securities Exchange Act Release No. 17209 (Oct. 9, 1980), 45 FR 69911 (Oct). 22, 1980) ("the Haircut Release").

I.

Capital standards based upon liquidity for brokers and dealers have been in effect since at least 1934 when the Securities Exchange Act was adopted. Section 8(b) of the original Act made it unlawful for a member of a national securities exchange to allow "in the ordinary course of business as a broker" its aggregate indebtedness to all other persons to exceed such percentage of the net capital employed in the business (but not exceeding in any case 2000%) as the Commission may by rules prescribe as necessary or appropriate. The primary purposes of this section was to prevent a broker from operating on a "shoestring."[3] Because of inherent limitations in the wording of Section 8(b), it never was more than a general standard of conduct for the securities business.

In 1938, Congress enacted Section 15(c)(3) of the Securities Exchange Act which authorized the Commission to adopt financial responsibility standards for brokers and dealers. In 1942, the Commission adopted Rule X-15C3-1 which incorporated the aggregate indebtedness standards of Section 8(b). The rule exempted from coverage members of national securities exchanges whose rules and practices imposed minimum capital requirements more comprehensive than those of the Commission. In succeeding years, the Commission was generally satisfied with the financial responsibility program. During the years 1967-1970, however, the securities industry underwent an unprecedented financial and operational crisis. That crisis is extensively detailed in the Commission's Study of Unsafe and Unsound Practice of Brokers and Dealers[4] which the Commission was called upon to prepare for the Congress under Section 11(h) of the Securities Investor Protection Act of 1970. Referring to the operational crisis of the late 1960's, the Study exposed the structural weaknesses of an industry which could not withstand "the stresses and strains placed upon it by events of virtual hurricane force."[5] Out of this period emerged a number of legislative and administrative proposals designed to prevent recurrence of the resulting problems.

The first major development was the passage of the Securities Investor Protection Act of 1970 which was designed to give investors who dealt with brokers and dealers additional protections for their funds and securities, in the event of the insolvency of a broker or dealer. Therein Congress provided additional authority to the Commission to adopt rules relating to the acceptance of custody and use of customer securities and the carrying and use of customers' deposits and credit balances. Pursuant to this authority, the Commission adopted Rule 15c3-3 which requires a broker or dealer to have and maintain possession or control of all fully-paid and excess margin securities carried by it for the account of customers and to use customers' funds or customers related funds only in "safe" areas of its business of its business related to financing customer transactions and to deposit in a separate bank account any such funds not so used.

In the meantime the Commission also adopted Rule 17a-13 which requires quarterly counts of securities by brokers and dealers in their possession or control, in order to establish a minimum standard as to the location of securities for brokers and dealers. The Commission also improved its early-warning system to require a broker or dealer to report immediately any net capital violation or the lack of current books and records. The Commission, in addition, revised its reporting provisions to provide for more detailed surveillance of brokers and dealers and to coordinate effectively the examination programs of the Commission and the self-regulatory organizations.

Finally, the Commission, responding to Congressional concern, substantially reformed its net capital rule. The Commission eliminated the exemption in its prior net capital rule for all members of national securities exchanges and made virtually all registered brokers and dealers subject to the Commission's capital requirements.[6] The reformed rule continued the basic liquidity concept under which the securities industry had operated for many years. That concept requires a firm to have and maintain designated minimum amounts of liquid assets in relation to its aggregate indebtedness. In addition, the Commission introduced an alternative method to measure the capital adequacy of brokers and dealers. The alternative method linked the capital requirement of a broker or dealer

[3] *See, for example,* House Hearings on H.R. 7852 and 8720, 73rd Cong., 2nd Sess. (1934) at 87.

[4] *See* Securities and Exchange Commission, *Study of Unsafe and Unsound Practices of Brokers and Dealers,* H. Doc. No. 92-231, 92nd Cong., 1st Sess. (1971) [hereinafter cited as "Unsafe and Unsound Study"].

[5] *Id.* at 11.

[6] Section 15(c)(3) of the Act was amended by the Securities Acts Amendments of 1975 to require the Commission, by September 1, 1975, to establish minimum financial responsibility requirements for all brokers and dealers.

to its customer related business as measured by the requirement of Rule 15c3–3. These reforms were significant steps in the Commission's continuing efforts to structure its rules to provide adequate protection for customers' assets while recognizing the industry's need for flexibility in efficiently allocating capital resources.

The Commission's present net capital rule requires that a broker's or dealer's "aggregate indebtedness" never be more than 1500% of its "net capital," as those terms are defined in the rule. Net capital essentially means the net worth of a broker or dealer reduced by prescribed percentages of the market value of securities owned by the broker or dealer ("haircuts") and reduced by other assets not readily convertible into cash, but including certain subordinated debt, i.e., net liquid assets. Aggregate indebtedness inlcudes all the money liabilities of a broker or dealer, except certain specifically described items. In essence, the rule requires a broker or dealer to cover each dollar of its liabilities with not less than one dollar and six and two-thirds cents of liquid assets.

The alternative method of computing net capital requires a broker or dealer to maintain minimum net capital equal to the greater of $100,000 or 4% of aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements for Brokers and Dealers under Rule 15c3–3 ("Reserve Formula"), 17 CFR 240.15c3–3a. The debit items in the Reserve Formula represent monies owed the broker or dealer in relation to customer transactions. The alternative method is founded on the concept that if the debit items in the Reserve Formula can be liquidated at or near their contract values, these assets, along with any cash required to be on deposit under the net capital rule, will be sufficient to satisfy all customer-related liabilities (which are represented as credit items in the Reserve Formula). As an additional safeguard, election of the alternative method requires a firm to reduce by 3% its aggregate debit items to provide, in essence, a bad debt reserve of firm capital to assure adequate resources to pay customer claims. Election of the alternative also requires that operational charges (stock record differences and suspense account items) be reflected in the Reserve Formula after seven business days, rather than after 30 business days, as permitted for those firms which have not elected the alternative method. These limitations, whether under the basic or the alternative method, allow a firm to increase its customer commitments only insofar as its net capital can support the increases.

Tables three through six of the Commission's Concept Release provide a financial profile of firms electing the alternative and basic methods of computing net capital. Most brokers and dealers utilize the basic method for complying with the net capital rule. As Tables three and four indicate, 139 of the 374 NYSE member firms conducting a public business as of December 31, 1979 were using the alternative method for the computation of net capital. These 139 firms accounted for 68% of the aggregate assets, 76% of the aggregate equity capital, and 81% of the aggregate revenues of the 374 NYSE firms conducting a public business. Of the classified NYSE member firms, all ten national full line firms elected the alternative capital approach, while 57 regional firms (48% of NYSE member firms classified as regional) utilized this method.[7]

Only 44 of the 2,066 brokers and dealers that conducted a public business as of December 31, 1979, and who were not members of the NYSE used the alternative method for computing net capital (*See* Tables five and six in the Concept Release). These 44 firms were, on average, substantially larger than the 2,022 firms using the basic method.

In this release, the Commission is adopting changes to the net capital rule which will affect not only the alternative method but also the basic method. Under the amendments, the net capital rule will still require, for the protection of customers, a cushion of liquid assets beyond the "net" amount of liquid assets needed to offset a broker's or dealer's liabilities.

The amendments will lower the ratio of required net capital to aggregate debit items. The amendments will also change the existing early warning levels. Finally, the amendments will modify the present treatment of certain items in the computation of net capital which will be applicable to firms using either the basic or alternative method. Other proposed amendments discussed in the companion releases will affect the treatment of certain debit items in the Reserve Formula, excluding those items from the computation of aggregate debit items, thereby further lowering the minimum net capital requirement under the alternative method.

The most significant issue before the Commission is whether the required ratio of net capital to aggregate debit items should be lowered from the present 4%. The Securities Industry Association (the "SIA") has recommended that the percentage be reduced to 2%. As a corollary, the SIA urges the Commission to lower the existing early warning levels, reasoning that otherwise there would be no effective lowering of the net capital required since prudent firms strive to stay above the early warning thresholds.

A. Lowering of the Percentage

Initially, the SIA proposed that the ratio of net capital applicable to item 10 debits be lowered from 4% to 2%. The "item 10 debits" are the debit balances in customers' cash and margin accounts or, more simply, the amount of money which customers owe the broker or dealer. The Commission proposed for comment a reduction to 3% and only as to the balances in margin accounts, not in cash accounts. The limitation as to margin accounts were premised on the theory that these accounts were adequately secured if in compliance with the maintenance margin rules of the appropriate self-regulatory organization.

The SIA in its comments to the Commission's proposal now recommends that the Commission reduce the minimum net capital requirement under the alternative method from 4% to 2% on all Reserve Formula debit items. It states that for the firms it observed it would require an inordinate operational effort to apply varying percentages to different debit items for purposes of computing net capital under the alternative method. In addition, for most firms, these remaining debits represent only a small portion of the total debits.

The Commission agrees with the SIA that any reduction in the required ratio should apply to all of the debit items. It is not, however, because the other debits are insignificant in amount. As to one large retail firm, those non-item 10 debits amounted to $207,000,000 or about 20% of its total debit items. Rather, for the sake of more simple calculations and manageability by all firms large and small, it is reasonable to extend the reduction to all debit items.

The main question before the Commission is whether the present ratio of net capital to aggregate debit items imposes an unwarranted requirement of liquid assets. This question is not easily

[7] National full line firms conduct a general securities business and have a nationwide branch office network. Regional firms, on the other hand, confine their activities to a more limited geographic area. For further information on classified NYSE member firms, *See* Chapter three Securities and Exchange Commission, *Staff Report on the Securities Industry in 1979*, September 1980.

answered. As the Commission said in its original proposal:

> Initially, it must be noted that there is not necessarily any direct correlation between the 4% figure presently in the Rule and the amount of liquid capital required to protect customers. That figure was selected based on judgments inferred from the then-existing system.

Essentially, the SIA's arguments in support of its recommendations are two fold:

A. The debit items in the formula are by and large collectable.

B. The pivotal development has been the emergence of Rule 15c3–3, the Customer Protection Rule, as the centerpiece of the Commission's financial responsibility program.

Neither point, however, is entirely conclusive in determining whether the liquidity requirements of the net capital rule should be lowered.

Collectability of Debits

The SIA states that statistics it has obtained indicate that even a 2% minimum net capital requirement would be more than adequate to account for the risk posed by item 10 debits.

The purpose of the net capital rule, however, is to ensure the ability of the broker or dealer promptly to pay its liabilities, particularly to customers. It requires the broker or dealer to be liquid at all times. When the Commission originally designed the Rule 15c3–3 formula it assumed that the debit items were fully collectable. It would have been inappropriate to allow the use of customer funds (the credits) to finance transactions which would result in uncollectable receivables. Thus, tying the net capital cushion to the collectability of these receivables mixes two concepts whose objectives are not entirely consistent. The capital cushion was designed to guard against the insolvency of a firm which could result from other losses.

The net capital rule establishes a minimum standard upon which customers and the industry can rely. Moreover, the liquidity cushion acts as a deterrent to the recurrence of those particular problems pointed out in the Unsafe and Unsound Study by dampening the degree of leverage a broker or dealer may achieve through its use of customers' assets.

Rule 15c3–3

The SIA also contends that the net capital rule is of lessened importance with the "success" of Rule 15c3–3. It states:

> To leave the uniform Rule substantially unchanged would be to disregard both the full extent of the protections afforded customers by Rule 15c3–3 and the Commission's own aim of placing less reliance on the uniform Rule after gaining operational experience with Rule 15c3–3. At this advanced date, that experience indicates that Rule 15c3–3 has succeeded to the point that it has been ready for some time to shoulder more of the Commission's financial responsibility regulation mandate.

The Commission has often expressed its desire to consider alternatives to the liquidity concept in the net capital rule. However, the present Rule 15c3–3, by itself, is not an adequate financial responsibility test. There are serious theoretical and practical limitations to its substitution for the net capital rule. First, as to the possession and control requirements of Rule 15c3–3, there are pronounced delays between the time when a decision is made that a security must be in possession or control and the time it must actually be in possession or control. As to the formula, the computation is made only once a week and there is a ten-day period between one computation and the next required deposit. Beyond that, however, examinations by the Commission and self-regulatory organizations have found substantial and continuing violations of Rule 15c3–3 and an apparent lack of understanding of the rule among some brokers and dealers some eight years after the rule's adoption.

Finally, it should be noted that many of the firms that have been liquidated under SIPC proceedings did not make the required deposits as they approached financial difficulty.

While limitations of the regulatory framework suggest caution, there are other factors which have led the Commission to believe that a lowering of the minimum percentage requirement from 4% to 2% is appropriate. Since 1975, the year the present net capital rule was adopted, brokers and dealers have exhibited a willingness to commit their capital to back-office improvements. Brokers and dealers have improved their ability to handle, without bookkeeping or other operational difficulties, heavy trading volume. Their inability to do this in the 1968–1970 period was an important factor in the demise of many brokers and dealers. Moreover, most brokers and dealers that compute net capital using the alternative method clear significant portions of their business through clearing agencies which reduces their exposure to losses and increases their efficiency. In addition to these operational improvements, the Commission and self-regulatory organization surveillance programs have been upgraded and the NYSE and the NASD have indicated that they intend to improve their surveillance techniques further.

Perhaps of equal importance is that the early warning rules of the Commission and the self-regulatory organizations will be set significantly above the 2% minimum now adopted. Based on these factors and the protections of Rule 15c3–3, as well as the Commission concern that there should be no unwarranted capital requirements to protect investors, the Commission in its judgment believes that a reduction from 4% to 2% is appropriate. The reduction will enable firms to reallocate capital without creating undue risks to investors.

B. Early Warning Levels

Although the net capital rule presently requires a broker or dealer to maintain net capital equal to only 4% of aggregate debit items, the rule contains other provisions restricting certain aspects of the broker's or dealer's business, if its net capital falls below 7% of aggregate debit items.[8] In addition, Rule 17a–11 requires a broker or dealer to file prescribed reports with the Commission if its net capital falls below 6% of aggregate debit items.

Since prudent brokers or dealers maintain sufficient net capital to avoid falling below these early warning levels, it would provide no relief for those firms if the Commission lowered the basic requirement of 4% without adjusting these early warning levels. In the Concept Release, the Commission proposed that these levels be replaced with amounts equal to 175% and 150%, respectively, of the amount of minimum net capital required. The NYSE has advised the Commission that it proposes to lower its own early warning test set forth in the Rule 325(b) to 5% of aggregate debit items if the minimum level under the alternative method is lowered to 2%. This appears to be a reasonable accommodation which the Commission believes should be incorporated into its own early warning system. The 3% cushion should be sufficient to provide advance warning of a possible impending failure of a broker or dealer and adequate time to initiate corrective action. Thus, the capital lock-in provisions of Rule 15c3–1(e), the restrictions in Appendix D and the early warning reporting requirements of Rule 17a–11 will be amended to be set at levels of 5% of aggregate debit items.

[8] Some restrictions become effective only when the firm's net capital falls below 6% of aggregate debit items.

III

Minimum Requirement

Election of the alternative method, as discussed above, requires that a broker of dealer maintain net capital of at least $100,000. In the Concept Release, the Commission announced its intention to consider lowering the minimum from $100,000 to $25,000. This reduction, the Commission noted, would result in equivalent minimum net capital requirements for non-introducing brokers and dealers that carry customer accounts, whether they comply with the aggregate indebtedness test (the basic method) or the aggregate debit items test (the alternative method). The Commission noted that consideration should be given to lowering the minimum in stages, and proposed for comment a new minimum of $75,000 for brokers and dealers electing the alternative method. Further, the Commission stated that, if the reduction was adopted, it would monitor the impact through FOCUS data and the review of SIPC liquidations and periodic on-site examinations of brokers and dealers.

Upon further review, the Commission has determined not to lower the minimum at this time for brokers and dealers electing the alternative method. The Commission notes that the $100,000 requirement has been substantially eroded by inflation.[9] The minimum level of required net capital was set originally because the alternative method's percentage requirements are based on customer-related receivables rather than liabilities. Thus, it was feared that a firm could expand its liabilities without limitation, thereby jeopardizing its solvency. The Commission sees no reason to alter its views on this matter.

IV

Short Securities Differences

Paragraph (c)(2)(v) of the uniform net capital rule requires brokers and dealers to deduct from net worth in computing net capital the market value of all short securities differences [10] that are unresolved for seven business days after discovery and the market value of long securities differences [11] where such securities have been sold by the broker or dealer before they are adequately resolved (less any reserves established therefor). Generally, the broker or dealer discovers these differences by performing a "box-count" and reconciling the results of the "box-count" with its books and records as required by Rule 17a–13.

Paragraph (c)(2)(v) of the net capital rule was promulgated in response to the industry's poor performance in the resolution of short securities differences during the "Paperwork Crisis" of 1968–70.[12] It was designed to provide an incentive to brokers and dealers to resolve short securities differences within a short time after discovery before the differences became impossible to trace. Potentially, if the securities are not located, the broker or dealer will be obligated to buy the missing securities in the open market to make delivery.

The Commission has determined that requiring a 100% deduction for unresolved short securities differences after seven business days is no longer warranted, although it should not be inferred that maintenance of current and accurate records and of adequate internal controls is being de-emphasized. As has recently been demonstrated, a broker or dealer can still encounter the same kind of recordkeeping problems that undermined many brokers and dealers from 1968 to 1970. It appears to the Commission from data submitted [13] that short securities differences are largely resolved over a period of time, although the data received relate to firms which have not failed. The scaling of deductions for short securities differences reflects more accurately the experience of brokers and dealers and, at the same time, adequately provides the necessary safeguards and incentives.

Furthermore, the early deduction may inhibit corrective action by a broker or dealer suffering severe and sudden operational problems. A broker or dealer faced with such a situation may be compelled to assign its personnel to research particular short securities differences in order to avoid potential capital charges rather than assign its personnel perhaps more productively to correct the underlying problems which gave rise to the operational problems.

While the NYSE recommended a different scaling than now adopted,[14] the Commission has determined to adopt a scaling that is compatible with the requirements of Rule 15c3–3(h) which generally requires broker-dealers to "buy-in" all unresolved short securities differences by at least the 45th calendar day after the discovery date. Forty-five calendar days is equivalent to approximately 30 business days. Under the scale proposed by the NYSE, if the broker or dealer is in compliance with Rule 15c3–3(h), the full capital charge would not be meaningful because the broker or dealer would have been required to buy in the short securities difference by the 28th business day or long before the 45th business day, the day on which a 100% deduction would be required under the NYSE scale. Consistent with Rule 15c3–3(h), the outer limits of the Commission's scale will be set at 28 business days. Since 28 business days is equal to approximately 40 calendar days, a broker or dealer would be required to have liquid assets equal to the short securities differences five days prior to the 45th calendar day, the day by which the broker or dealer would be required to "buy-in" short securities differences under Rule 15c3–3(h). The time periods specified in the scale (7, 14, 21 and 28 business days), will still provide a substantial incentive to brokers and dealers to review and eliminate their short securities differences. Finally, it appears prudent and less confusing to provide for equal increases of deductions from the market values of short securities differences at each successive level of the scale.[15]

In response to the need for flexibility to respond to sudden and unexpected occurrences, the amended rule provides

[9] The present value of $100,000 is about $65,000, as compared to 1975.

[10] "Short securities differences" occur where the securities record of a broker or dealer shows an obligation for a particular number of securities but which it is unable to locate.

[11] "Long securities differences" refer to situations where the "box-count" reveals securities in the broker's or dealer's possession or control, the owner of which is unknown.

[12] *See* Unsafe and Unsound Study at 100–104.

[13] The results of the study indicated that short securities differences and other unresolved items as reported by brokers and dealers in quarterly FOCUS filings from December 1979 through December 1980 ranged between $13.9 million and $100.7 million. Losses actually sustained during this period, however, were reported to be only $599 thousand.

[14] The NYSE proposed the following schedule:

Differences [1]	Number of business days after discovery
20 percent	10
40 percent	20
50 percent	30
100 percent	45

[1] Percentage of market value of short securities differences.

[15] The adopted scale is as follows:

Differences [1]	Number of business days after discovery
25 percent	7
50 percent	14
75 percent	21
100 percent	28

[1] Percentage of market value of short securities differences.

that, under appropriate circumstances, the examining authority for a broker or dealer can provide limited relief from the requirements of the rule. This flexibility would afford customer protection and also provide an opportunity to rehabilitate the broker's or dealer's operations under the oversight of an independent third party.[16] The self-regulatory organization of course is expected to notify the Commission if it grants an extension without which the broker or dealer in whose favor the extension was granted would have been compelled to send telegraphic notice to the Commission pursuant to Section 17a–11 because not in compliance with the net capital rule.[17]

V

Subordinated Loans

Appendix D to Rule 15c3–1 sets forth the minimum and non-exclusive requirements for satisfactory subordination agreements. Among other things, no prepayment or any payment of a payment obligation may be made (except under the strictly defined limitations of paragraph (c)(5) of Appendix D) before the expiration of one year from the effective date of the subordination agreement. This provision was designed to insure the adequacy as well as the permanence of capital in the industry.

Over the years, it has been suggested by both the self-regulatory organizations and brokers and dealers that firms meeting certain criteria be permitted to make use of "Revolving Subordinated Loan Agreements." Under the terms of such agreements, brokers and dealers are permitted to make subordinated borrowings which can be repaid at any time without penalty. The agreements would conform in all other respects to the requirements of Appendix D.

With limitations, the suggestion appears not to contravene the net capital rule's objectives. The NYSE has suggested criteria which appear to be appropriate. Accordingly, Appendix D to Rule 15c3–1 will be amended to permit any broker or dealer to prepay any borrowings arising out of a Revolving Subordinated Loan Agreement which could be prepaid at any time upon approval by the designated examining authority so long as:

1. The intended prepayment, along with other intended repayments and scheduled repayments of capital during the succeeding six months would not result in a capital ratio greater than 900% (if the broker or dealer is on the basic method) or a net capital percentage less than 6% of aggregate debit items (if the broker or dealer has elected the alternative method), or net capital less than 200% of the minimum dollar requirement (under either method); and

2. Pre-tax losses during the latest three month period equaled less than 15%[18] of current excess net capital.[19]

VI

Liquidity Concept

There are several additional proposals advocated by the SIA which would substantially lower the net capital requirements and which the Commission believes are not consistent with the liquidity concept of the net capital rule and therefore should not be wholly adopted, at least at this time.[20]

A. Exchange Memberships

The SIA has recommended that the current value of a firm's exchange seat, less appropriate haircuts, be includable in a firm's net capital. Under the present rule, the value of an exchange membership is considered a non-liquid asset which must be deducted from a firm's net worth. The SIA in its initial report argued that exchange memberships should be included in net capital because they are easily marketable.

The Commission, in its Concept Release, asked for additional comment on this recommendation noting that "though in most cases they may be readily sold at some price, because of the priorities set forth in exchange rules, it is not certain what amount of the proceeds would benefit customers."

In responding generally, the SIA noted the success of Rule 15c3–3 as the centerpiece of the Commission's financial responsibility program and then stated,

> This in turn indicates that the liquidity concept, and with it the notion that assets are properly allowable only to the extent that they will unconditionally inure to the benefit of customers upon liquidation, can be deemphasized. Rather, the question becomes to what extent a particular asset contributes to a level of financial viability sufficient to assure the completion of transactions among professionals (footnote omitted). In this light, the priority rules governing the disposition of the proceeds from the sale of exchange memberships are, if anything, a factor in favor of their allowance for purposes of the Rule.

The SIA submitted historical data which focuses on the fluctuation in value of exchange memberships, rather than their ready liquidity. The SIA concluded that this data demonstrated that it was unnecessary to deduct the entire value of an exchange membership in terms of the purposes of the net capital rule and that their present treatment under the net the net capital rule was both overcautious and presented particular difficulties for those smaller firms which commit a high portion of their net worth to exchange memberships recommendation to specify a 33⅓% haircut on exchange memberships.

Historically, the value of exchange memberships have not been included in a firm's net capital. The Securities Exchange Act, as originally enacted provided in Section 8(b) that firms must exclude only two items from net capital—fixed assets and *the value of exchange memberships.* This exclusion has continued into the present net capital rule. Further, two major exchanges did not allow member firms to include the value of memberships under their own rules concerning the computation of net capital.[21]

To allow the inclusion of exchange memberships in a firm's net capital would deemphasize the net capital rule's liquidity concept, the essential characteristic of the rule. Because of the substantial reduction in the required percentage of net capital for firms electing the alternative method, already discussed, the Commission does not believe that it would be appropriate to reduce the liquidity requirements further.

B. Receivables

Consistent with the concept of liquidity, Rule 15c3–1(c)(2)(iv) requires a broker or dealer in computing net capital to deduct from net worth "assets

[16] No proposal was made concerning long securities differences, and the Commission is unaware of any reason to change that provision.

[17] It should be noted that the provisions of Rule 17a–13 are not being amended.

[18] The NYSE recommended that 5% should be the criteria.

[19] The appropriate SRO must of course assure itself that the borrowings and repayments are being made for legitimate business purposes.

[20] In the Concept Release, the Commission solicited public comment on the SIA's recommendation that, for purposes of the Reserve Formula, a firm short position that allocates to a customer debit should be treated in the same manner as a firm long position that allocates to a customer credit. Currently, where a firm short position allocates to a customer debit both sides must be included in the Reserve Formula, whereas if a firm long position allocates to a customer credit, both sides are excluded from the Reserve Formula. The Commission stated the exposure inherent in a short sale to customers—that the broker or dealer selling short to a customer may be required to borrow securities in order to meet its delivery requirement under Rule 15c3–3. No comments have been received to negate this objection and the Commission knows of none. Accordingly, the interpretation will not be changed.

[21] *See* NYSE Rule 325 (June 1, 1975) and Chicago Board of Options Exchange Rule 13.3 (1973).

which cannot be readily converted into cash." Included in this category are most unsecured receivables, 100% of which must be deducted from net worth. Certain unsecured receivables, however, need be deducted only after a period of time specified in the net capital rule.

The SIA has recommended that underwriting receivables and investment banking receivables (otherwise known as "syndicate receivables") be given treatment similar to that accorded commissions receivable from other brokers and dealers under the net capital rule. In addition, the SIA has recommended that other unsecured receivables be allowed as liquid assets to the extent that they generate tax accruals.

The Commission has determined to allow inclusion of the receivables but only to the extent they generate tax liabilities which have not been paid.

While the data supplied by the SIA appears to demonstrate the high collectability of underwriting and investment banking receivables, their ultimate collectibility does not alone warrant amending the net capital rule to threat such unsecured receivables as allowable assets.

From the standpoint of liquidity, the question is first whether an asset is readily convertible into cash; this is an all important consideration since the purpose of the rule is to ensure that a broker or dealer has on hand at all times sufficient liquid assets to satisfy customer claims promptly.

As the Commission stated in the Concept Release,

> With certain limited exceptions, unsecured receivables have not been treated as readily convertible into cash because they may not be readily collectable on the initiative of the broker or dealer. If the broker's or dealer's debtor disputes the claim, or simply does not pay, court action and its attendant delays may be the only recourse.

The SIA's data have not demonstrated otherwise.

Although most unsecured receivables are not deemed by the net capital rule to be readily convertible into cash, the rule is somewhat inconsistent in recognizing other unsecured receivables as readily convertible into cash. This results largely from the fact that, in adopting the uniform net capital rule, the Commission annexed provisions from the various net capital rules of the self-regulatory organizations which accepted these unsecured receivables as liquid. Whatever the cause for these exceptions to an otherwise clear policy, the Commission does not view it as a reason to extend the exceptions any further.

Tax Offsets

The current treatment of receivables and corresponding accrued tax liabilities under the net capital rule subjects brokers and dealers to what appears to be a "double deduction." The rule does not allow a broker or dealer to add back actual tax liabilities (in contrast to deferred tax liabilities) to net worth even if the tax liability relates to a receivable which must be deducted from net worth in computing net capital. The Commission did not allow such offsets because current tax liabilities must be paid by the broker or dealer regardless of whether the asset to which the tax relates has been converted into cash.

In retrospect, the Commission believes that this treatment, while justified on a strict liquidity basis, seems unnecessary to protect the solvency of a broker or dealer. Accordingly, a broker or dealer will not be required to deduct from net worth receivables to the extent such receivables are offset by corresponding tax liabilities. Such tax liabilities, however, would have to be reflected as a liability and included in computing the broker's or dealer's aggregate indebtedness.

C. Free Shipments

Currently, Rule 15c3–1(c)(2)(iv)(B) provides that receivables arising out of "free shipments" of mutual fund shares need be deducted from net worth in computing net capital only if such receivables are outstanding more than seven business days. The NASD has requested that the Commission extend the time period during which receivables arising out of free shipments of mutual fund shares are considered "good assets" in computing net capital to 30 calendar days. In support of its proposal, the NASD points out that investment company share liquidations present little risk in view of Section 22(e) of the Investment Company Act of 1940 which provides that the proceeds of a mutual fund redemption must be paid within seven days of the tender of such securities. Moreover, the NASD believes that the seven business day processing period for mutual fund redemptions currently provided for in the rule is unrealistic and ignores current business practices. According to a study conducted by the NASD, on the average, a mutual fund redemption is settled in 18.9 calendar days.

It appears to the Commission that a period of 16 business days to allow for mutual fund redemption is appropriate. This period is based upon a study of the NASD data. Sixteen business days (or approximately 22 calendar days) exceeded the average number of days it took to "settle" mutual fund redemptions (18.9 according to the NASD) by approximately three days. Accordingly, Rule 15c3–1(c)(2)(iv)(B) will be amended to require a deduction from net worth for receivables arising out of free shipments of mutual fund shares after 16 business days rather than 7 business days as currently provided for in the rule.

Statutory Basis and Competitive Considerations

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 15(c)(3), 17(a), and 23(a) thereof, 15 U.S.C. 78*o*(c)(3), 78*q*(a) and 78*w*(a), the Commission is amending § 240.15c3–1 and § 240.17a–11 in Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below. The Commission believes that any burden imposed upon competition by the amendments is necessary in furtherance of the purposes of the Act, and particularly to implement the Commission's continuing mandate under Section 15(c)(3) thereof, to provide minimum safeguards with respect to the financial responsibility of brokers and dealers.

Text of Amendments

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

In accordance with the foregoing, 17 CFR Part 240 is amended as follows:

1. In § 240.15c3–1, paragraph (a) is revised; (c)(2)(i)(E) added; (c)(2)(iv)(B) and (v), (e) and (f)(1)(i) and (2) revised and paragraph (g) removed to read as follows:

§ 240.15c3–1 Net capital requirements for brokers and dealers.

(a) No broker or dealer shall permit his aggregate indebtedness to all other persons to exceed 1500 percentum of his net capital, except as otherwise limited by the provisions of paragraph (a)(1) of this section, or, in the case of a broker or dealer electing to operate pursuant to paragraph (f) of this section, no broker or dealer shall permit his net capital to be less than 2 percent of aggregate debit items as computed in accordance with § 240.15c3–3a of this chapter, or, if registered as a futures commission merchant, 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act, and the regulations thereunder, if greater, except as otherwise limited by paragraph (f) of this section, and every broker or dealer

shall have the net capital necessary to comply with the following conditions, except as otherwise provided for in paragraph (f) of this section.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(E) Adding to net worth any actual tax liability related to income accrued which is directly related to an asset otherwise deducted pursuant to this section.

* * * * *

(iv) * * *

(B) *Certain unsecured and partly secured receivables.* All unsecured advances and loans; deficits in customers' and non-customers' unsecured and partly secured notes; deficits in special omnibus accounts maintained in compliance with the requirements of 12 CFR 220.4(b) of Regulation T under the Securities Exchange Act of 1934, or similar accounts carried on behalf of another broker or dealer, after application of calls for margin, marks to the market or other required deposits which are outstanding 5 business days or less; deficits in customers' and non-customers' unsecured and partly secured accounts after application of calls for margin, marks to the market or other required deposits which are outstanding 5 business days or less, except deficits in cash accounts as defined in 12 CFR 220.4(c) of Regulation T under the Securities Exchange Act of 1934 for which not more than one extention respecting a specified securities transaction has been requested and granted, and deducting for securities carried in any of such accounts the percentages specified in paragraphs (c)(2)(vi) or (f) of this section or Appendix A (17 CFR 240.15c3–1a); the market value of stock loaned in excess of the value of any collateral received therefor; receivables arising out of free shipments of securities (other than mutual fund redemptions) in excess of $5,000 per shipment and all free shipments (other than mutual fund redemptions) outstanding more than 7 business days, and mutual fund redemptions outstanding more than 16 business days; any collateral deficiencies in secured demand notes as defined in Appendix D (17 CFR 240.15c3–1d);

* * * * *

(v)(A) Deducting the market value of all short securities differences (which shall include securities positions reflected on the securities record which are not susceptible to either count or confirmation) unresolved after discovery in accordance with the following schedule:

Differences [1]	Numbers of business days after discovery
25 percent	7
50 percent	14
75 percent	21
100 percent	28

[1] Percentage of market value of short securities differences.

(B) Deducting the market value of any long securities differences, where such securities have been sold by the broker or dealer before they are adequately resolved, less any reserves established therefor;

(C) The designated examining authority for a broker or dealer may extend the periods in (A) above for up to 10 business days if it finds that exceptional circumstances warrant an extension.

* * * * *

(e) *Limitation on withdrawal of equity capital.* No equity capital of the broker or dealer or a subsidiary or affiliate consolidated pursuant to Appendix C (17 CFR 240.15c3–1c) whether in the form of capital contributions by partners (excluding securities in the securities accounts of partners and balances in limited partners' capital accounts in excess of their stated capital contributions), par or stated value of capital stock, paid-in capital in excess of par, retained earnings or other capital accounts, may be withdrawn by action of a stockholder or partner, or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor or employee if, after giving effect thereto and to any other such withdrawals, advances, or loans and any Payments of Payment Obligations (as defined in Appendix D (17 CFR 240.15c3–1d) under satisfactory subordination agreements which are scheduled to occur within six months following such withdrawal, advance or loan, either aggregate indebtedness of any of the consolidated entities exceeds 1000 percentum of its net capital or its net capital would fail to equal 120 percentum of the minimum dollar amount required thereby or would be less than 5 percent of aggregate debit items computed in accordance with 17 CFR 240.15c3–3a, or, if registered as a futures commission merchant, 7 percent of the funds required to be segregated pursuant to the Commodity Exchange Act, and the regulations thereunder, if greater or in the case of any broker or dealer included within such consolidation if the total outstanding principal amounts of satisfactory subordination agreements of the broker or dealer (other than such agreements which qualify as equity under paragraph (d) of this section) would exceed 70 percent of the debt-equity total as defined in paragraph (d). *Provided,* That this provision shall not preclude a broker or dealer from making required tax payments or preclude the payment to partners of reasonable compensation.

(f) * * *

(1)(i) A broker or dealer who is not exempt from the provisions of 17 CFR 240.15c3–3 under the Securities Exchange Act of 1934 pursuant to paragraph (k)(1) or (k)(2)(i) may elect not to be subject to the limitations of paragraph (a) of this section respecting aggregate indebtedness as defined in paragraph (c)(1) of this section and certain deductions provided for in paragraph (c)(2) of this section. *Provided,* That in order to qualify to operate under this paragraph (f), such broker or dealer shall at all times maintain net capital equal to the greater of $100,000 ($25,000 in the case of a broker or dealer effecting transactions solely in municipal securities) or 2 percent of aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements for Brokers and Dealers (Exhibit A to Rule 15c3–3, 17 CFR 240.15c3–3a), or, if registered as a futures commission merchant, 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act, and the regulations thereunder, if greater, and shall notify the Examining Authority for such broker or dealer and the Regional Office of the Commission in which the broker or dealer has its principal place of business, in writing, of its election to operate under this provision. Once a broker or dealer has determined to operate pursuant to the provisions of this paragraph (f), he shall continue to do so unless a change is approved upon application to the Commission.

(2) In the case of a broker or dealer who has consolidated a subsidiary pursuant to Appendix C (17 CFR 240.15c3–1c), such broker's or dealer's minimum net capital requirements shall be the sum of the greater of $100,000 or 2 percent of the parent broker's or dealer's aggregate debit items computed in accordance with 17 CFR 240.15c3–3a, or, if the parent is registered as a futures commission merchant, 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder, if

greater, and the total of each consolidated broker or dealer subsidiary's minimum net capital requirements. The minimum net capital requirements of a subsidiary electing to operate pursuant to paragraph (f) of this section shall be the greater of $100,000 or 2 percent of its aggregate debit items computed in accordance with 17 CFR 240.15c3–3a, or, if registered as a futures commission merchant, 4 percent of the funds required to be segregated by the subsidiary pursuant to the Commodity Exchange Act and the regulations thereunder, if greater. Where the subsidiary which has been consolidated has not elected to operate pursuant to paragraph (f) of this section, its minimum net capital requirement is the greater of its requirements under paragraph (a) of this section or 6⅔ percent of its aggregate indebtedness.

* * * * *

2. In § 240.15c3–1d, paragraphs (b)(6)(iii), (7), (8)(i), (10)(ii)(B) and (c) (2) and (5) are revised to read as follows:

§ 240.15c–1d Satisfactory subordination agreements (appendix D to 17 CFR 240.15c3–1).

* * * * *

(b) * * *

(6) * * *

(iii) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by paragraph (b)(6)(ii) of this section, the lender with the prior written consent of the broker or dealer and the Examining Authority for the broker or dealer may reduce the unpaid principal amount of the secured demand note. *Provided,* That after giving effect to such reduction the aggregate indebtedness of the broker or dealer would not exceed 1,000 percentum of its net capital or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, net capital would not be less than 5 percent of aggregate debit items computed in accordance with 17 CFR 240.15c3–3a, or, if registered as a futures commission merchant, 7 percent of the funds required to be segregated pursuant to the Commodity Exchange Act, and the regulations thereunder, if greater. *Provided, further,* That no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn. No Examining Authority shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, net capital would be less than 120 percent of the minimum dollar amount required by 17 CFR 240.15c3–1.

(7) *Permissive Prepayments.* A broker or dealer at its option but not at the option of the lender, may, if the subordination agreement so provides, make a Payment of all or any portion of the Payment Obligation thereunder prior to the scheduled maturity date of such Payment Obligation (hereinafter referred to as a "Prepayment"), but in no event may any Prepayment be made before the expiration of one year from the date such subordination agreement became effective: *Provided, however,* That the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (c)(5) of this Appendix D. No Prepayment shall be made, if, after giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding the maturity or accelerate maturities of which are scheduled to fall due within six months after the date such Prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such Prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the broker or dealer, either aggregate indebtedness of the broker or dealer would exceed 1000 percentum of its net capital or its net capital would be less than 120 percentum of the minimum dollar amount required by 17 CFR 240.15c3–1 or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital would be less than 5 percent of its aggregate debit items computed in accordance with 17 CFR 240.15c3–3a, or if registered as a futures commission merchant, 7 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder, if greater, or its net capital would be less than 120 percent of the minimum dollar amount required by paragraph (f) of 17 CFR 240.15c3–1. Notwithstanding the above, no Prepayment shall occur without the prior written approval of the Examining Authority for such broker or dealer.

(8) *Suspended Repayment.* (i) The Payment Obligation of the broker or dealer in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to Payment of such Payment Obligation (and to all Payments of Payment Obligations of such broker or dealer under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such Payment Obligation) either (A) the aggregate indebtedness of the broker or dealer would exceed 1200 percent of its net capital or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital would be less than 5 percent of aggregate debit items computed in accordance with 17 CFR 240.15c3–3a or, if registered as a futures commission merchant, 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder, if greater, or (B) its net capital would be less than 120 percent of the minimum dollar amount required by 17 CFR 240.15c3–1 including paragraph (f), if applicable. *Provided,* That the subordination agreement may provide that if the Payment Obligation of the broker or dealer thereunder does not mature and is suspended as a result of the requirement of this paragraph (b)(8) for a period of not less than 6 months, the broker or dealer shall thereupon commence the rapid and orderly liquidation of its business but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of 17 CFR 240.15c3–1 and 240.15c3–1d.

* * * * *

(10) * * *

(ii) * * *

(B) The aggregate indebtedness of the broker or dealer exceeding 1500% of its net capital or, in the case of a broker or dealer which has elected to operate under paragraph (f) of 17 CFR 240.15c3–1, its net capital computed in accordance therewith is less than 2% of its aggregate debit items computed in accordance with 17 CFR 240.15c3–3a or, if registered as a futures commission merchant, 4% of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder, if greater, throughout a period of 15 consecutive business days, commencing on the day the broker or dealer first determines and notifies the Examining Authority for the broker or dealer, or the Examining Authority or the Commission first determines and notifies the broker or dealer of such fact;

* * * * *

(c) * * *

(2) *Notice of Maturity or Accelerated Maturity.* Every broker or dealer shall immediately notify the Examining Authority for such broker or dealer if, after giving effect to all Payments of Payment Obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit

or loss of the broker or dealer, either the aggregate indebtedness of the broker or dealer would exceed 1200% of its net capital or its net capital would be less than 120% of the minimum dollar amount required by 17 CFR 240.15c3–1, or, in the case of a broker or dealer who is operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital would be less than 5% of aggregate debit items computed in accordance with 17 CFR 240.15c3–3a, or if registered as a futures commission merchant, 6% of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder, if greater, or less than 120% of the minimum dollar amount required by paragraph (f) of 17 CFR 240.15c3–1.

* * * * *

(5) *Temporary Subordinations.* (i) For the purpose of enabling a broker or dealer to participate as an underwriter of securities or other extraordinary activities in compliance with the net capital requirements of 17 CFR 240.15c3–1, a broker or dealer shall be permitted, on no more than three occasions in any 12 month period, to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date such subordination agreement became effective. This temporary relief shall not apply to a broker or dealer if, at such time, it is subject to any of the reporting provisions of 17 CFR 240.17a–11 under the Securities Exchange Act of 1934, irrespective of its compliance with such provisions or if immediately prior to entering into such subordination agreement either (A) the aggregate indebtedness of the broker or dealer exceeds 1000 per centum of its net capital or its net capital is less than 120% of the minimum dollar amount required by 17 CFR 240.15c3–1, or (B) in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital is less than 5% of aggregate debits computed in accordance with 17 CFR 240.15c3–3a or, if registered as a futures commission merchant, 7% of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder, if greater, or less than 120% of the minimum dollar amount required by paragraph (f) of this section, or (C) the amount of its then outstanding subordination agreements exceeds the limits specified in paragraph (d) of 17 CFR 240.15c3–1. Such temporary subordination agreement shall be subject to all the other provisions of this Appendix.

(ii) A broker or dealer shall be permitted to enter into a revolving subordination agreement which provides for prepayment within less than one year of any or all of the Payment Obligations at the option of the broker or dealer upon the prior written approval of the Examining Authority for the broker or dealer. The Examining Authority shall not approve any Prepayment unless:

(A) If, after giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements than outstanding the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such Prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such Prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the broker or dealer, either aggregate indebtedness of the broker or dealer would exceed 900 percentum of its net capital or its net capital would be less than 200 percentum of the minimum dollar amount required by 17 CFR 240.15c3–1 or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital would be less than 6% of its aggregate debit items computed in accordance with 17 CFR 240.15c3–3a or if registered as a futures commission merchant, 7% of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder, if greater, or its net capital would be less than 200% of the minimum dollar amount required by paragraph (f) of 17 CFR 240.15c3–1 and

(B) Pre-tax losses during the latest three-month period equaled less than 15% of current excess net capital.

* * * * *

3. In § 240.17a–11, paragraph (b)(2) is revised to read as follows:

§ 240.17a–11 Supplemental current financial and operational reports to be made by certain brokers and dealers.

* * * * *

(b) * * *

(2) If a computation made by a broker or dealer pursuant to § 240.15c3–1(f) shows, at any point during the month, that his net capital is less then 5 percent of aggregate debit items computed in accordance with § 240.15c3–3 Exhibit A: Formula for the Determination of Reserve Requirements, or that his total net capital is less than 120 per centum of the minimum net capital required of him, such broker or dealer shall file a report on Part II or Part IIA of Form X–17A–5 (§ 249.617 of this chapter) as determined in accordance with the standards set forth in §§ 240.17a–5(a)(2)(ii) and (a)(2)(iii), within 15 days after the end of each month thereafter until three successive months shall have elapsed during which his net capital is not less than 5 percent of aggregate debit items computed in accordance with § 240.15c3–3 Exhibit A, and his total net capital does not fall below 120 per centum of the minimum net capital required of him.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

January 13, 1982.

[FR Doc. 82–1705 Filed 1–22–82; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-18418; File No. S7-856]

Net Capital Requirements for Brokers and Dealers; Proposed Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments.

SUMMARY: The Commission is reproposing for comment amendments to the uniform net capital rule which will result, overall, in an increase in the percentage deductions ("haircuts") from the market value of certain debt securities in the proprietary or other accounts of brokers or dealers, including Government securities, municipal securities and nonconvertible debt securities. The Commission is republishing all of the haircut schedules for these securities for the exclusive purpose of facilitating comment concerning the ability of brokers or dealers to deal with the complex procedures and increased haircut categories introduced in the proposed amendments which recognize hedging of certain debt securities as a method of reducing haircut requirements on those securities; the Commission intends to adopt the proposed haircut schedules themselves and is not soliciting public comment with regard to the appropriateness of specified percentage deductions. The Commission is proposing for comment amendments that will modify the current treatment of municipal securities that have no ready market, change the haircuts for redeemable securities of registered investment companies which invest solely in debt instruments and clarify the treatment of repurchase, reverse-repurchase and matched repurchase agreements under the net capital rule. Finally, the Commission is reproposing for comment amendments that will change the haircuts for preferred stock. In a companion release issued today, the Commission has adopted amendments to the net capital rule that will reduce the capital requirements for many brokers and dealers.

DATE: Comments must be received on or before March 15, 1982.

ADDRESSES: All comments should be submitted in triplicate and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments should refer to File No. S7-856 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Esq., Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 at (202) 272-2372.

SUPPLEMENTARY INFORMATION: The uniform net capital rule (the "Rule") requires a broker or dealer to maintain a minimum net capital, the amount of which depends on the nature of its business and its aggregate liabilities if on the basic method of computing net capital (the "basic method") or its customer related receivables if on the alternative method of computing net capital (the "Alternative"). A broker or dealer on the basic method may not allow its aggregate indebtedness to exceed 1500% of its net capital. A broker or dealer electing the Alternative must maintain a minimum net capital equal to the greater of $100,000 or 4% of aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements for Brokers and Dealers (the "Reserve Formula").

In computing net capital, a broker or dealer is required to deduct from net worth certain percentages of the market value of all securities carried in its proprietary or other accounts. These deductions are generally referred to as "haircuts." The amount of the haircuts for debt securities (including short term notes) depends on the nature of the issuer, the time to maturity of the security and, for securities of non-governmental issuers, the ratings of nationally recognized statistical rating services. In general, the haircuts for debt securities were designed to take into account the historical market fluctuations of each type of instrument.

Recent events in the debt market caused the Commission to question the adequacy of the present haircut provisions for debt securities. Interest rates rose to unprecedented heights in the 1979-1980 period, causing precipitous declines in the values of already issued debt instruments. Some brokerage firms dealing primarily in municipal securities were forced to liquidate or withdraw from the market because of the unanticipated sharp changes in interest rates. Moreover, some major brokerage firms reportedly suffered large trading losses in debt securities, as did several large national banks.

In Securities Exchange Act Release No. 17209 (the "Haircut Release"),[1] the Commission proposed for comment amendments to the haircut schedules for Government securities, municipal securities and nonconvertible debt securities. Also, in an effort to make its financial responsibility rules more compatible with sound business practices, the Commission solicited comment on the degree to which the haircut provisions should deal with hedges among various classes of debt instruments. Through the comment process the Commission expected to develop criteria for hedging which would be objective, clear and easily determinable.

As discussed in the Haircut Release, data provided to the Commission tended to confirm doubts as to the adequacy of the present haircut provisions. The data were compiled from records accumulated by brokerage firms in the ordinary course of dealing in debt securities. In general, the data were covered a period of 49 months from February 1976 through February 1980. In the case of Government securities, daily values were provided for 3 month, 6 month, 9 month and 12 month Treasury bills and for selected 2 year, 5 year, 10 year, 20 year and 30 year coupon Treasury bonds. For municipals, weekly prices were extracted from the Bond Buyer Municipal Index. The data showed that the month-end to month-end price movements in most debt securities in the months of January 1977, October 1979, January 1980 and February 1980 were greater than the existing haircuts for the securities. They indicated a need for higher haircuts than the Rule presently provides.

The New York Stock Exchange (the "NYSE"), the National Association of Securities Dealers (the "NASD"), the Securities Industry Association (the "SIA") and several brokers and dealers presented well-reasoned comments which the Commission has integrated into its own proposals. These groups also presented the Commission with extensive new data on debt instruments, updating the previously furnished data.

In view of the complexity of provisions in the proposed amendments that would allow brokers and dealers to elect to recognize hedges among Government securities with different maturities and between Government and nonconvertible debt securities and the possible difficulty of computing appropriate deductions for such securities, the Commission is reproposing those provisions for comment.

The Commission, however, is not soliciting comment with regard to the specific percentage deductions for debt

[1] Securities Exchange Act Release No. 17209 (Oct. 9, 1980), 45 FR 69911 (Oct. 22, 1980).

securities because of its belief that its proposed deductions adequately reflect the increased volatility in the Government securities marketplace.

The Commission is also reproposing for comment haircuts on preferred stock and is proposing for comment haircuts on redeemable securities of registered investment companies which invest solely in debt instruments. Finally, the Commission is proposing for comment amendments to the Rule codifying existing staff interpretations, with some modifications, with respect to the treatment of repurchase, reverse-repurchase and matched repurchase agreements.

I Government Securities

Haircut Schedules

The Rule requires, in the case of a security issued or guaranteed as to principal or interest by the United States or any agency thereof, deductions from net worth equal to a percentage of the net long or short position in each category described in subparagraph (A) of the haircut provisions of the Rule. There is no deduction for securities having less than one year to maturity. The deduction for securities having one year but less than three years to maturity is 1%; that for securities having three years but less than five years to maturity is 2%; that for securities with five years or more to maturity is 3%.

The data submitted to the Commission by the SIA in 1979 indicated that these haircuts were inadequate in measuring the risk in carrying the securities, particularly those securities with less than one year to maturity and those with five years or more to maturity. That data showed that the majority of monthly changes in market value were greater than the existing haircuts and that, for some months, the month-end to month-end price movements were considerably greater than the existing haircuts. For example, in 26 of the 49 months in the survey, Treasury bills maturing in 6 months moved in price between one-tenth of 1% to over 1%. In one month, Treasury bills maturing in nine months moved 1.50% and in February 1980, 1.90%. Finally, in 39 of 49 months, Treasury bills maturing in 12 months moved between .1% and 2.51% (February 1980). In each case, however, the Rule required no haircut.

The data for 2 year coupon bonds, 5 year coupon bonds, 10 year coupon bonds, 20 year coupon bonds and 30 year coupon bonds showed the same discrepancies as securities having 1 year or less to maturity. For example, in 3 different months within a 6 month period, Treasury bonds maturing in 30 years declined substantially: 7.06% in February 1980, 8.82% in January 1980 and 9.16% in October 1979. Yet, the required haircut for these securities is only 3%.

Based largely on these data, the Commission proposed in the Haircut Release to alter the haircuts on Government Securities in Rule 15c3-1(c)(2)(vi)(A) as follows:

(A) In the case of a security issued or guaranteed as to principal or interest by the United States or any agency thereof, the applicable percentages of the market value of the net long or short position as specified below are:

[the present haircut is indicated in brackets]

(1) Less than 3 months to maturity—0% [0];

(2) 3 months but less than 6 months to maturity—⅛ of 1% [0];

(3) 6 months but less than 9 months to maturity—¼ of 1% [0];

(4) 9 months but less than 1 year to maturity—⅜ of 1% [0];

(5) 1 year but less than 3 years to maturity—1½% [1%];

(6) 3 years but less than 5 years to maturity—3% [2%];

(7) 5 years but less than 10 years to maturity—4½% [3%];

(8) 10 years but less than 20 years to maturity—5% [3%]; and

(9) 20 years or more maturity—6% [3%].

While the proposed haircuts were not based on the largest changes in any 30 day period, the Commission believed that they nevertheless represented a more realistic appraisal of the potential movements of Government securities over a 30 day period.

Hedges

The present Rule assesses deductions only on the net long or net short positions in the fixed categories of subparagraph (A), thereby recognizing certain limited hedges. In some cases, however, the Rule may not appropriately deal with hedges. For example, the Rule requires no haircut where a broker or dealer is long a Government security 1 month to maturity and short a Government security 11 months to maturity but requires a haircut of 1% on the short position where the broker or dealer is long a security 11 months to maturity and short a security 13 months to maturity. Furthermore, the Rule requires no haircut on the following position: A long Government security, 5 years to maturity, offset by a short Government security, 30 years to maturity. Yet, the data demonstrates that the historical market fluctuations of these two securities are not similar.

In the Haircut Release, the Commission solicited comment on the degree to which the Rule should deal with hedges and proposed to alter the hedging provisions to allow long or short positions to be netted as follows:

(*i*) Long or short positions with maturity dates within 1 year may be netted against long or short positions with maturity dates within 15 months, but only when such maturity dates are within 3 months of one another;

(*ii*) Long or short positions with maturity dates of between 1 and 5 years (except as in (*i*) above) may be netted against long or short positions with maturity dates of between 1 and 6 years, but only when such maturity dates are within 1 year of one another;

(*iii*) Long or short positions with maturity dates of 5 years or more (except as in *ii* above) may be netted against long or short positions with maturity dates of 5 years or more, but only when such maturity dates are within 5 years of one another.

Industry Response

The commentators generally supported the Commission's efforts to revise the haircut schedule to reflect adequately the increased volatility of Government securities over the spectrum of maturities. Some commentators suggested reductions for certain maturities while others suggested increases. Many supported the Commission's efforts to inject greater flexibility into the haircut provisions by recognizing offsetting hedges. Others indicated a preference for computational simplicity, even at the cost of more rigid haircut categories and less flexibility to reduce applicable haircuts.

Although not discussed in this release, these comments have been reviewed extensively by the Commission and incorporated, as appropriate, in the amendments that the Commission is republishing for comment. Because the Commission believes that the SIA's proposal concerning haircuts for Government securities provides an appropriate framework for determining deductions in a manner that attempts to reflect sound industry business practices in the Government securities marketplace, the discussion that follows will focus initially on the SIA's proposal. That proposal has been modified, however, to take into account data regarding monthly price fluctuations (instead of data regarding weekly price fluctuations from which the SIA derived

its initial haircut schedules),[2] and comments from other interested persons. At this point, interested persons may wish to examine the text of the proposed rule amendments concerning haircuts on Government securities as they appear at the conclusion of this release.

The SIA submitted a proposal for revising the haircut schedules that the Commission believes would permit brokers and dealers to recognize the reduction in market risks inherent in many hedging strategies. The SIA prepared a statistical analysis of the price fluctuations of 13 separate securities issues over a 39-month period ending in March 1980. This analysis included 9 types of Treasury bills and bonds, 8% Government National Mortgage Association bonds (commonly referred to as "GNMA's"), 20-year corporate bonds having the highest rating by nationally recognized ratings services, 3-month Treasury bill futures contracts and Treasury bond futures contracts. On the basis of this statistical analysis, the SIA derived the following haircut schedule:

Category 1

(1) Less than 3 months to maturity—0%;

(2) 3 months but less than 6 months to maturity—¼ of 1%;

(3) 6 months but less than 9 months to maturity—⅜ of 1%;

(4) 9 months but less than 1 year to maturity—½ of 1%;

(5) 1 year but less than 15 months to maturity—⅝ of 1%;

(6) 15 months but less than 18 months to maturity—¾ of 1%;

(7) 18 months but less than 2 years to maturity—⅞ of 1%;

(8) 2 years but less than 2½ years to maturity—1%;

(9) 2½ years but less than 3 years to maturity—1¼%;

Category 2

(10) 3 years but less than 5 years to maturity—1¾%;

(11) 5 years but less than 7 years to maturity—2%;

(12) 7 years but less than 10 years to maturity—2¼%.

Category 3

(13) 10 years but less than 20 years to maturity 2½%;

(14) 20 years or more to maturity—3%.

The categories are based on traditional definitions of what constitutes long, intermediate and short-term debt instruments. The division of the sub-categories was determined by an analysis of the statistical data indicating which positions had the strongest relationships to other positions. As proposed for comment in this release, however, the categories and sub-categories have been modified to take into account monthly rather than weekly data and to reflect the historical relationship among securities with different lengths to maturity without unnecessarily increasing the number of sub-categories.

The SIA proposed that the haircut for each category should be determined by brokers and dealers using the following seven step process:

Step 1: For each category, compute the net long or short positions for each sub-category.

Step 2: Apply the appropriate haircut to each of the net long or short positions.

Step 3: Aggregate the haircuts for all the net short positions.

Step 4: Aggregate the haircuts for all the net long positions.

Step 5: Take the smaller of the result of step 3 or step 4 and multiply by 65%.

Step 6: Net the aggregate long haircuts and short haircuts computed in Steps 3 and 4.

Step 7: Total the results of Step 5 and Step 6 to arrive at the haircut for the category.

The computation process includes the "weighting" of subcategory haircuts in determining the overall haircut for the category and is regarded by the SIA as providing a regulatory requirement that corresponds to the limitation of economic risk arising from hedging techniques. Permitting only a partial offset of haircuts among subcategories within each category, according to the SIA, is necessary to account for the increasing fluctuation in prices and yields as the difference in dates to maturity of the long and short positions increase. At the same time, however, permitting a partial offset of haircuts among sub-categories recognizes that the market risks of holding both positions are historically less than the total deduction that would be required with respect to each position if the haircut schedule did not permit hedging of securities in different sub-categories. Thus, for example, a long position consisting of $1 million of three month Treasury bills does not entirely offset a short position consisting of $1 million of six month Treasury bills.

The SIA's hedging formula also prescribes a safety factor that is a percentage of the lesser of the aggregate net long or net short positions within each category. By including the safety factor in the haircut computation for each category, the computation takes into consideration the degree to which the various security positions act as hedges for each other. Since the haircuts for the sub-categories reflect only the manner in which the market value of the individual security positions within a particular sub-category fluctuates, the safety factor adds a measure of how the market value of the sub-categories vary with each other.[3] The SIA determined that the safety factor for a haircut schedule based on an analysis of 30 day price fluctuations would be 48% rather than the 65% originally recommended. For ease of computation and to provide an added measure of safety in the case of portfolios with an undue concentration in a particular sub-category, the Commission has increased the safety factor to 50%.

Because fixed categories would impose arbitrary restrictions forbidding the recognition of otherwise bona-fide risk-limiting hedges, the Commission has included in the proposed amendments a provision whereby a broker or dealer can elect to recognize some cross-category hedges. Under that provision, an electing broker or dealer could exclude the market value of a long or short security from one category and a security from another category provided that such securities have maturity dates: (1) Between 9 months

[2] The SIA chose to examine volatility on a weekly basis using readily available data supplied by the Federal Reserve Bank of New York. This data described the 1980 average value of daily transactions and the average turnover for Government securities. The data indicated that dealers, on the average, turn over their inventory every 1.5 days. The use of weekly volatility data instead of monthly volatility data as the basis for determining haircuts appears to be inappropriate. While the SIA's data reflect the experience of 35 Government securities dealers, it is substantially distinct from that of other registered brokers and dealers; *e.g.*, only one-third of these Government securities dealers are registered brokers or dealers. Historically, the haircut schedules have been based on a 30-day period. This 30-day time period represents the accepted industry accounting cycle and, under the recordkeeping rules, is the frequency within which brokers and dealers are required to make and preserve a full net capital computation, even though the Rule requires continuous compliance. Thus, the Commission believes that haircuts on Government securities under the Rule should be based on an average holding period of 30 days and should anticipate adverse market fluctuations occurring over a 30-day period. Accordingly, the Commission asked the SIA to prepare a statistical analysis of the 30-day price fluctuations. From this analysis, the Commission extracted the proposed haircut schedule as published in this release. The SIA's analysis indicated that larger haircuts were warranted for the very short maturities but that the haircut schedule as published in the Haircut Release was appropriate for the other maturities.

[3] The safety factor was derived by analyzing the covariance coefficients of each security position to formulate the safety factor in terms of a percentage of the lesser of the aggregate haircut on the long positions or the aggregate haircut on the short positions within a given category.

and 15 months and within 3 months of one another; (2) between 2 years and 4 years and within 1 year of one another; or (3) between 8 years and 12 years and within 2 years of one another. The electing broker or dealer, however, would be required to include the net market value of the two securities in the category for the security with the longer date to maturity.

Futures Contracts

The Commission proposes to amend the Government securities haircut provisions to permit brokers and dealers to exclude long or short positions in Government securities that are hedged by certain futures contracts.[4] To qualify, the futures contract must be traded on a regulated market and must provide for the delivery of a Government security with a maturity date that would be within a specified range of the maturity date of the long or short Government securities position the broker or dealer seeks to exclude.

Brokers and dealers electing to exclude certain Government securities positions hedged by futures contracts, however, would be required to take the appropriate deduction from net worth in accordance with the requirements of existing Appendix B to the Rule.

Simplified Computation for Brokers and Dealers

The NYSE, the NASD and others expressed concern about the complexity of a haircut rule that would permit substantial hedging. The Commission's revised amendments will require greater precision and more work in determining applicable hedges. Brokers and dealers will be required to classify Government securities in their portfolios according to more distinct maturity dates and, if they wish to use the special hedging provisions, will be required to compare maturity dates. The Commission is concerned that the benefits of the proposals—reduction in required capital and capital requirements that are more compatible with economic reality—for some firms may be outweighed by the added computation costs.

The NYSE suggested that an additional section be added to the SIA's proposal that, as an alternative to the computation of haircuts under the SIA proposal, would allow a broker or dealer to deem all long and short positions as falling into the category of the position with the longest term to maturity and, without any netting of long and short positions, would require the deduction of the applicable percentage of the market value of both long and short positions. Although this alternative would not permit reductions in haircuts for hedging, it would simplify the computation for those brokers or dealers that do not have extensive Government securities inventories.

Accordingly, the Commission proposes, as an alternative to the principal haircut procedure, a simplified procedure for computing applicable haircuts that should satisfy the concerns of commentators that the Rule continue to provide a simple and direct method for computing required deductions from net capital. This procedure would require an electing broker or dealer to apply the percentage deduction provided in the schedule to the value of each net long or short position in Government securities in the 12 subcategories, and would prohibit any hedging between sub-categories or adjacent categories. By netting long and short positions within sub-categories, however, the Rule would continue to permit some risk-taking hedges by electing brokers and dealers.

II. Municipal Securities

Under the current Rule, haircuts for municipal securities are divided into two categories. The first category prescribes haircuts for short term municipal notes having a maturity of 731 days or less and which are issued at par value and pay interest at maturity, or which are issued at a discount and which are not traded flat or in default as to principal or interest.[5] The second category prescribes haircuts for any other municipal security which is not traded flat or in default as to principal or interest. This second category has four subcategories which presently require haircuts ranging from 1% for securities with less than one year to maturity to 5% for securities with five years or more to maturity.

In the Haircut Release, the Commission proposed to increase the haircut for municipal securities in the second category with more than two years to maturity.[6] The Commission also solicited comment on what criteria should be used to determine the market value of municipal securities for net capital purposes where the securities are the subject of quotations only by the computing broker or dealer. Finally, the Commission requested comment on whether the haircut provisions for municipal securities should distinguish between "rated" and "unrated" securities to differentiate between investment grade and more speculative issues.

Haircut Schedules

Data developed in the course of the rulemaking process revealed that the existing haircuts for municipal securities were not adequate to cover price fluctuations in the municipal bond market during the past years.[7] Accordingly, the Commission proposed to increase the haircuts for municipal bonds having at least two but less than five years to maturity from 3% to 5% and for municipal bonds having five or more years to maturity from 5% to 7%.

In response to the proposal, the Public Securities Association (the "PSA"), disputed the appropriateness of increasing the haircuts for certain long term municipal securities. The PSA stated its belief that the current haircut schedules for municipal securities were adequate to protect investors and that the increased haircuts proposed by the Commission would have an adverse impact on the municipal bond market. The PSA, however, did not submit any data to demonstrate the validity of these beliefs. Rather, it noted that in response to market volatility firms take independent action to reduce market risks.

The SIA, while conceding that recent volatility in the market for municipal bonds justified an increase in the haircuts for such securities, recommended increases more modest than those proposed by the Commission. More specifically, the SIA proposed that the haircut for municipal bonds with at least 2 but less than 5 years to maturity be increased from 3% to 3.5%, that a separate haircut category be created for municipal bonds with at least 5 but less than 10 years to maturity and that the haircut be 5% and, finally, that the haircut for municipal bonds with at least 10 years to maturity be increased from

[4] Exchange listed options on debt securities will be factored into a formula as the options begin trading. A separate haircut schedule as to GNMA options has already been approved. *See* letter from the Division of Market Regulation to the Chicago Board Options Exchange, Inc. dated Sept. 29, 1981. The Commission solicits comment and analysis on the impact of this development.

[5] This category contains seven subcategories prescribing haircuts ranging from 0% for those securities having less than 30 days to maturity to 1% for those securities having maturities from 456 to 731 days.

[6] The Commission did not propose new haircut schedules for municipal securities in the first category or municipal securities in the second category with less than two years to maturity due to lack of sufficient data. It solicited comment on this matter but received none.

[7] This data was compiled by brokerage firms dealing in debt securities (including municipal bonds) over a 49 month period from February of 1976 through February of 1980. Weekly prices were extracted from the Bond Buyer Municipal Index. The data showed that municipal bond prices moved 8.58% in October 1979 and 11.05% in February 1980.

5% to 5.5%. The SIA's proposed haircuts were based on data compiled on the relative price movements of 30 municipal bonds.

Unprecedented increases in interest rates in recent years have caused precipitous declines in the market values of municipal securities already issued. According to a study recently conducted by the Commission staff, 34 municipal securities dealers (banks and registered brokers and dealers) ceased doing business in the past year. Although in some cases financial difficulties could be attributed to fraud or some other impropriety, it appears that many firms went out of business either because of sharp declines in the value of their inventories or simply because the market for municipal bonds had "dried-up."

The Commission is concerned that volatility in the municipal bond market will not abate in the near future. Recent events, such as reduction in maximum personal federal income tax rates indicate continued uncertainty in the municipal securities marketplace. Interested persons are invited to submit objective data and to discuss the impact of the proposed amendments on the municipal securities marketplace.[8]

Market Value of Municipal Securities

Rule 15c3–1(c)(2)(vii) requires that a broker or dealer in computing net capital deduct 100% of the carrying value of securities in the proprietary or other accounts of the broker or dealer for which there is no "ready market." Subparagraph (c)(11)(i) of the Rule provides that a "ready market" includes a recognized established securities market in which there exists independent bona fide offers to buy and sell.

At the time the Rule was adopted, the Commission, recognizing that the structure of the municipal markets did not resemble the corporate securities markets on which the marketability provisions of the Rule were premised, decided to suspend, by interpretation, the application of Rule 15c3–1(c)(2)(viii) to municipal securities pending forthcoming development of appropriate marketability criteria. In the Haircut Release, the Commission requested comment regarding the appropriate criteria to determine the market value of municipal securities for net capital purposes where the securities are the subject of quotations only by the computing broker or dealer.

[8] Companion releases may provide some measure of relief for those brokers or dealers which use the alternative method of computing net capital.

Since 1977, the NASD has been recommending that the Commission adopt the concept of "presumed marketability" for pricing municipal securities. This concept is based on the premise that, although a particular municipal security is not actively traded on a recognized established securities market, all such securities have value, are marketable and can be sold. Conversely, the PSA recommended maintenance of the "status quo" and objected to the alternative marketability criteria developed and proposed by the NASD. According to the PSA, the present practice of not applying the ready market provisions to municipal securities has worked relatively well.

The interim period during which applications of the marketability provisions to municipal securities has been suspended has lasted almost seven years. It has not worked well because it has been difficult, if not impossible, for anyone to value the positions of a firm holding such securities. The Commission believes that the "presumed marketability" test suggested by the NASD is responsive to the structure of the municipal marketplace and is a reasonable alternative to the continued suspension of Rule 15c3–1(c)(2)(vii) to municipal securities. Accordingly, the Commission proposes to rescind the interpretation embodied in Securities Exchange Act Release No. 11854[9] suspending the application of the marketability provisions to municipal securities and to adopt the following:

If a municipal security has no ready market, a broker or dealer shall value it at cost for a period of 30 calendar days following settlement date.[10] In the absence of further valid price or transaction data, a firm shall mark down the value of each position by 5% of the cost per month until the value has declined to 50% of its originally assigned value. Thereafter, the position shall be valued at zero and considered a non-marketable security for net capital purposes.

Ratings for Municipal Securities

In the Haircut Release, the Commission solicited comment concerning whether the haircut provisions should distinguish between "rated" and "unrated" municipal securities to differentiate between investment grade and more speculative issues. Currently, under Rule 15c31(c)(2)(vi)(E) and (F), commercial paper, and nonconvertible debt securities receive more favorable capital treatment if they are rated in one of the three highest categories by at least two of the nationally recognized statistical rating organizations.

While the Commission believes that ratings for municipal securities may ultimately be appropriate for distinguishing between investment grade and speculative issues, it does not at this time have sufficient information to formulate an appropriate provision. Thus, for the time being, the Commission proposes that there be no distinction between rated and unrated municipal securities for purposes of haircutting municipal securities under the Rule.

[9] Securities Exchange Act Release No. 11854 (Nov. 20, 1975), 40 FR 57786 (Dec. 12, 1975).

[10] The NASD originally recommended that municipal dealers be allowed to value their inventories at cost for a period of 60 calendar days following settlement date. Upon examination, however, the Commission determined that 60 calendar days was too long and proposed that the period should be 30 calendar days.

III. Nonconvertible Debt Securities

Haircuts

Rule 15c3–1(c)(2)(vi)(F) requires, in the case of nonconvertible debt securities having a fixed interest rate and fixed maturity date and which are rated in one of the four highest rating categories by at least two of the nationally recognized statisitical rating organizations, haircuts ranging from 1% for those securities with less than one year to maturity to 7% for securities with five years or more to maturity.

In the Haircut Release, the Commission solicited comment regarding the appropriate haircuts for nonconvertible debt securities with less than five years to maturity. On the basis of available data, the Commission proposed to increase the haircut on long term nonconvertible debt securities (securities with more than five years to maturity) from 7% to 9%.

The Commission received few comments regarding the proposed amendment. The NYSE proposed that, in lieu of providing separate categories, a broker or dealer be allowed to lump all long and short positions into the category of the position with the longest term to maturity and deduct the applicable percentage of the market value of the greater of the long or short position. The Commission believes that such an approach, although simplifying computation of haircuts, would not adequately reflect the volatility of particular securities. Furthermore, the NYSE's proposal would require a broker or dealer to set aside an unduly and unnecessarily large sum of capital, since it would require the broker or dealer to take an unnecessarily large haircut on shorter term nonconvertible debt securities.

The NASD suggested that the Commission reduce the number of

categories in the haircut schedule from six to four and change the applicable percentages to coincide with those for municipal securities. Absent further data, however, the Commission does not believe that a reduction in the number of categories is warranted or that nonconvertible debt securities have the same volatility as their respective counterparts in the municipal securities categories.

The Commission believes that, in order to represent more accurately the volatility of nonconvertible debt securities, it is appropriate to raise the percentage haircuts in the schedule of maturity categories.

Hedges

In the Haircut Release, the Commission solicited comment on the degree to which the haircut provisions should deal with hedges among different securities. The Commission invited interested persons to submit data with regard to hedging among securities of different issuers. The Commission indicated that it may be possible to establish hedging criteria that are objective, clear, and easily determinable for reducing any required haircuts.

Most commentators supported, as a matter of principle, a reduction in haircuts under the Rule for hedged securities positions. Commentators noted that requiring haircuts on both the long and short components of a hedged position penalizes brokers and dealers for avoiding market risks.

Debt obligations of the United States Government, because of the virtual absence of credit risk, are widely used by brokers and dealers to price debt securities issued by corporations and other entities. The historic price relationship between debt obligations of the United States Government and other debt instruments, particularly noncovertible debt securities, appears to continue in the secondary market. Although the relative market prices of a particular issue of Government debt securities and a particular issue of nonconvertible debt securities may vary in response to such factors as changes in interest rates and relative supply and demand, the variation in the differences between the prices of the two debt obligations (the "spread") appears to be relatively narrow.

The Commission examined the range of dollar price spreads over a 6 month period between 31 corporate debt securities (including 13 industrials, 6 telephone and 12 utilities) and 4 Treasury bills that would appear to be logical choices for hedging market risks associated with long positions in the corporate debt securities. The spreads between the corporate debt securities and the appropriate hedging Government debt obligations did not vary significantly with different types of corporate obligations of the same maturity. Although the range of spreads varied depending on the date of maturity of the hedged positions, all hedged positions appeared to have spread fluctuations that, with the exception of corporate debt securities with maturity dates of less than 2 years, were less than half of the percentage deductions that are currently required under the Rule.

On the basis of this somewhat limited study, the Commission believes that it is appropriate to propose amendments to the Rule that would allow brokers and dealers to reduce applicable haircuts on nonconvertible debt securities that are hedged by certain debt obligations of the United States or agencies thereof. The proposed amendments, if adopted, would permit a broker or dealer to exclude from the haircut categories in computing haircuts on nonconvertible debt obligations those securities that are hedged by short or long positions in securities issued by the United States or any agency thereof having certain specified maturities.

The amendments would also permit the exclusion of the long or short position in Government securities from the applicable categories under Rule 15c3–1(c)(2)(iv)(A), thereby eliminating the requirement that the broker or dealer take a deduction with respect to both the long and short components of the hedged position. The amendments would require, however, that the electing broker or dealer deduct a specified percentage of the market value of the hedged nonconvertible debt securities position (depending upon its length to maturity), that would be generally equal to one-half of the percentage deduction that would otherwise be required with respect to a long or short position in nonconvertible debt securities of the same length to maturity. The required deduction under the amendments would also be substantially below the combined deduction that would be required if a haircut with respect to the Government securities position were also required.

The Commission specifically requests commentators to submit additional data concerning the price spreads of nonconvertible debt securities that are hedged by Government debt obligations. The Commission also invites commentators to submit data on price spreads involving other hedging strategies.

IV. Preferred Stock

Rule 15c3–1(c)(2)(vi)(H) requires in the case of cumulative, nonconvertible preferred stock a deduction of 20% of the market value of the greater of the long or short position. In its 1979 Report to the Commission on the net capital rule, the SIA proposed that the haircut on preferred stock be reduced from 20% to 15% for firms electing the Alternative.

In Securities Exchange Act Release No. 17208,[11] the Commission noted that the SIA failed to address the fact that the prices of preferred stocks tend to move in tandem with those of debt instruments and are thus influenced by factors other than those affecting common stocks. Noting that the present haircuts for debt securities are based on historical data of the fluctuation of these instruments over a long period, the Commission stated tht the same kind of record should be made for preferred stocks. The Commission also observed that, since preferred stocks, like corporate debt securities, are rated by nationally recognized statistical rating rating services, it might be appropriate to require a greater haircut for those preferred stocks that are not rated in the higher categories by statistical rating services.

In response to the Commission's proposal, the SIA revised its proposal and recommended that the haircut on nonconvertible preferred stock for firms electing the Alternative be lowered to 10% for securities rated on one of the four highest categories by statistical rating organizations and 15% for all other nonconvertible preferred stock. This revised proposal was based on data submitted by the SIA indicating that a 10% haircut for utility preferred stocks rated in one of the four highest categories by a nationally recognized statistical rating organization would cover approximately 95% of the monthly price movements.

Preferred stock is a hybrid security. While some of its characteristics are similar to those debt obligations, others more closely approximate those of equity securities. For this reason, problems related to this class of security are derived in part from those of debt obligations and in part from those of equity securities.

As approximately 85% of preferred stocks are rated by nationally recognized statistical rating organizations, the Commission believes it would be appropriate to treat those preferred stocks that are rated in one of the four highest categories by those

[11] Securities Exchange Act Release No. 17208 (Oct. 9, 1980), 45 FR 69915 (Oct. 22, 1980).

organizations in the same manner as nonconvertible debt securities. The higher rated preferred stocks present virtually no risk of non-payment of dividends when due. Giving preferential treatment to higher rated preferred stocks would more fairly reflect the degree of risk involved.

Accordingly, the Commission proposes to reduce the haircut from 20% to 10% for nonconvertible preferred stocks which are rated in one of the four highest categories by at least two of the nationally recognized statistical rating organizations.

With respect to lower rated preferred stocks, however, the Commission believes it would be more appropriate to treat these securities like common stock. This is primarily because, since the financial health of the issuer affects its ability to pay dividends on its preferred stock, the price of lower rated preferred stocks is more likely to approximate the volatility of the issuer's common stock rather than its debt obligations. Since Rule 15c3–1(c)(2)(vi)(H) will deal only with higher rated preferred stocks, every other issue will thereby be treated under Rule 15c3–1(c)(2)(vi)(J) which requires a haircut of 30%. For those firms on the Alternative, however, the haircut will only be 15%.

V. Securities of Certain Registered Investment Companies

Rule 15c3–1(c)(2)(vi)(D) requires in the case of securities of registered investment companies a deduction of 5% of the greater of the long or short position, if the assets of the investment company consist exclusively of one or more of the following: (1) Cash; (2) securities issued or guaranteed as to principal or interest by the United States Government or an agency thereof; (3) municipal securities; (4) securities issued or unconditionally guaranteed by the Canadian Government; (5) commercial paper which is rated in one of the three highest categories by at least two of the nationally recognized statistical rating organizations; and (6) bankers acceptances and certificates of deposit issued by any bank as defined in Section 3(a)(6) of the Securities Exchange Act of 1934.

In light of proposed changes in the haircut schedules for certain debt securities, the Commission believes it appropriate to adjust the haircut provisions relating to redeemable securities issued by registered investment companies investing in such debt securities. The Commission also believes that Rule 15c3–1(c)(2)(vi)(D) should be amended to clarify that it applies only to "redeemable" securities of registered investment companies.

With respect to the haircut provisions, the Commission proposes to amend the Rule to provide for: (1) A deduction of 2% of the market value of the greater of the long or short position of redeemable securities of a registered investment company whose assets consist of investments restricted to debt securities with one year or less to maturity ("the 2% Haircut") ("money market funds"), (2) a deduction of 7% of the market value of the long or short position of redeemable securities of a registered investment company whose assets consist of investment in long-term debt securities (other than corporate debt securities) with one year or more to maturity ("the 7% haircut"); and (3) a deduction of 9% of the market value of the long or short position of redeemable securities of a registered investment company whose assets consist of investments in long-term debt securities and nonconvertible debt securities ("the 9% Haircut").[12]

The 2% Haircut

Redeemable securities issued by investment companies are required to be sold and redeemed at their current net asset value. The current net asset value per share is the current market value of the company's assets less liabilities divided by the number of shares outstanding.[13] As a result, the net asset value per share would fluctuate with the market value of the investment company's portfolio. Since, however, most money market funds have obtained exemptive relief from the Commission to allow them to maintain a constant price per share (usually $1), few have fluctuating net asset values.

While the Commission recognizes that minimal risks are involved with maintaining positions in money market instruments, it nontheless recognizes that some risks are involved in managing the assets of the money market fund. Even though under normal circumstances the broker or dealer should be able to recover the full principal of his investment, the possibility of loss does exist. For these reasons, the Commission proposes a 2% haircut for redeemable securities of registered investment companies which invest in short-term debt securities with one year or less to maturity.

[12] Nonconvertible debt securities are defined in Rule 15c3–1(c)(2)(vi)(F) as those securities having a fixed interest rate and fixed maturity date and which are not traded flat or in default as to principal or interest and which are rated in one of the four highest rating categories by at least two of the nationally recognized statistical rating services.

[13] See Rule 22c–1 of the Investment Company Act.

The 7% Haircut

Due to the changes in the haircut schedules for long-term Government and municipal securities, the Commission believes that it is appropriate to adjust the haircut provision for redeemable securities of investment companies which invest in those securities. Accordingly, since the Commission is proposing to increase the haircut for long-term Government securities to 6% and the haircut for certain long-term municipal securities to 7%, the Commission proposes a haircut of 7% for redeemable shares of registered investment companies which invest in those securities.

The 9% Haircut

The 9% Haircut applies to securities of all other investment companies which, in addition to investing in Government and municipal securities, invest in high-quality nonconvertible debt securities. It has been the Commission's experience that nonconvertible debt securities are subject to a much greater risk of fluctuation in their market value, especially those with five years or more to maturity. Thus, investment companies which invest in these securities bear a greater risk. In order to protect against such market fluctuations, the Commission proposes a haircut of 9% for redeemable securities of registered investment companies which invest in long-term nonconvertible debt securities.

VI. Repurchase, Reverse-Repurchase and Matched Repurchase Agreements

The use of repurchase, reverse-repurchase and matched repurchase agreements by brokers and dealers as a means of financing proprietary, customer and institutional securities positions, primarily Government securities positions, has increased substantially during the past 10 years. These agreements, as represented on the balance sheets of brokerage firms, constitute the single largest liability and asset.[14]

A repurchase agreement, viewed from the perspective of a broker or dealer, is a method of financing a particular securities position, primarily Government securities and Federal

[14] According to data compiled by the Commission's Directorate of Economic and Policy Analysis, securities purchased under agreements to resell represented 32.0% of the aggregate total assets and securities sold under repurchase agreements represented 32.6% of the aggregate total liabilities of the approximately 2,532 broker-dealers that filed four quarterly FOCUS Reports in 1979. *See* Securities and Exchange Commission, *Staff Report on the Securities Industry in 1979*, at 24–28 (1980).

agency securities, whereby the broker or dealer sells the securities to another party subject to a commitment to repurchase the same securities at some future date. The broker or dealer usually obtains funds representing nearly 100% of the value of the securities and the repurchase price usually includes what is essentially an interest payment. A reverse-repurchase agreement is simply the other side of a repurchase transaction. Thus, when viewed from the perspective of a broker or dealer, a reverse-repurchase agreement represents an agreement whereby a broker or dealer agrees to finance a securities position of another party; the broker or dealer agrees to purchase securities from another party subject to a commitment to resell the same securities to that party.

A matched repurchase agreement represents a transaction whereby a broker or dealer provides financing for securities held by others by selling all or part of the securities to another party under a repurchase agreement. Maturities of repurchase, reverse-repurchase and matched repurchase agreements vary from 1 day to over 90 days, although the majority of these agreements mature in less than 30 days.[15]

Based upon concerns expressed by brokers and dealers, the Commission staff indicated by way of informal interpretation that, in repurchase transactions with certain persons, a broker or dealer could deduct, in lieu of total deficit,[16] a percentage of the total deficit with respect to a reverse-repurchase agreement determined by reference to the number of days to maturity of that agreement as of the net capital computation date as follows:

(1) 30 calendar days or less to maturity—0%.

(2) 31 calendar days to 90 calendar days to maturity—25%.

(3) 91 calendar days or more to maturity—100%.

In addition, the Commission staff stated that a charge should be taken equal to the amount by which the deficit in all reverse-repurchase agreements with 90 calendar days or less to maturity exceeds 5% of net capital before the application of subparagraphs (c)(2)(bi), (f)(3) or Appendix A to the Rule. Finally, the Commission staff indicated that the excess collateral in one reverse-repurchase agreement could be used to reduce the deficit in the same account or related accounts of the same "customer or non-customer."[17]

The Commission is proposing to amend Rule 15c3–1(c)(2)(iv) to clarify the treatment of repurchase, reverse-repurchase and matched repurchase agreements. The Commission believes that the proposed amendments will provide an appropriate framework for a discussion of these agreements, including the risks to brokers and dealers and customers of brokers and dealers and how these agreements should be treated under the financial responsibility rules.[18] The Commission also believes that these proposed amendments, if adopted, will eliminate some uncertainties surrounding the treatment of reverse-repurchase agreements and the different components of matched repurchase agreements under the Rule.

The proposed amendments would not change the current treatment of repurchase agreements and, if adopted, would codify the exclusion from the applicable haircut provisions of the Rule of those securities that are sold subject to repurchase as a component of matched repurchase agreements. Furthermore, the proposed amendments would codify the treatment currently accorded reverse-repurchase agreements (individually and as components of matched repurchase agreements)[19] and would require a deduction equal to only a percentage of any deficiency in the market value of the securities collateralizing the loan.

The proposed amendments would also permit the offset of any required deduction with respect to a reverse-repurchase agreement by any margin or other deposits held by the broker or dealer on account of the reverse-repurchase agreement. The proposed amendments, however, would alter the percentage deduction required with respect to repurchase agreements, increase the number of maturity categories to six, and require that brokers and dealers deduct the entire deficiency in the event that the market value of the securities falls to below 50% of the contract price for resale under the agreement.

The Commission invites commentators to explore the credit risks to brokers and dealers and to address whether these transactions raise regulatory concerns under the federal securities laws. In particular, brokers and dealers are invited to submit sample agreements and data concerning average daily commitments under repurchase, reverse-repurchase and matched repurchase agreements, length to maturity of these agreements, fluctuations in market value of securities under these agreements, and history of loss in connection with these agreements.

Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis (the "Analysis") in accordance with 5 U.S.C. 603 regarding the proposed amendments to Rule 15c3–1.

The Analysis notes that the amendments to Rule 15c3–1 are being proposed as a part of the Commission's

[15] According to a 1977 survey of 46 large member banks by the staff of the Board of Governors of the Federal Reserve System, 10% of their repurchase agreements extended for periods beyond 30 days; 39% ranged from 2 to 30 days; and 42% matured overnight or were terminable without advance notice. Approximately 25% of the average daily dollar volume of repurchase agreements with securities dealers, however, matured in more than 30 days. *See* "Repurchase Agreements and Federal Funds." *Federal Reserve Bulletin* at 353, 355–57 (May 1978).

[16] The Commission described the net capital treatment to be accorded repurchase, reverse-repurchase and matched repurchase agreements in Securities Exchange Release No. 11497 (June 26, 1975), 40 FR 29795 (July 16, 1975) (the "1975 Release"). Securities sold subject to repurchase agreements were to be treated as if owned by the broker or dealer with an appropriate haircut applied to the market value of the securities. Securities purchased under a reverse-repurchase agreement were to be treated as a secured receivable, inasmuch as the other party, in effect, borrowed funds from the broker or dealer; therefore, the broker or dealer was required to take a charge with respect to the deficiency, if any, in the securities collateralizing the receivable. Finally, the Commission stated that "matched repurchase agreements which result in fully secured matched contractual commitments to buy or sell U.S. Government securities should not normally receive a capital charge." Brokers and dealers argued that requiring a capital charge with respect to a reverse-repurchase agreement equal to the total deficit between the amount paid by the broker or dealer and the market value of the securities could have a significant negative impact on brokers and dealers reverse-repurchase operations.

[17] *See* NYSE Interpretation Handbook: Regulation and Surveillance at 139–140 (1979) [hereinafter "NYSE Interpretation Handbook"].

[18] Since a reverse-repurchase transaction, in essence, is a secured loan and is carried on the books of the broker or dealer as a secured receivable, a decline in the market value of the securities exposes the broker or dealer to a credit risk. In the event that the other party to the reverse-repurchase agreement refuses to accept delivery of the securities, the broker or dealer may be exposed to a loss in excess of any unrealized profit. Moreover, the existence of a matched repurchase agreement with regard to all or some of the securities subject to the reverse-repurchase agreement does not appear to substantially reduce or eliminate this credit risk, since the other party to the repurchase component of the matched repurchase agreements almost always will deliver the securities to the broker or dealer in the event of a decline in the value of the securities in order to obtain the return of cash.

[19] Although the 1975 Release excludes fully secured matched repurchase agreements, Commission staff interpretations, as reported in the NYSE Interpretation Handbook, imply that a haircut may be required with respect to the repurchase side of the matched repurchase agreement. *See* NYSE Interpretation Handbook at 140.

review of the broker-dealer financial responsibility and customer protection rules. The proposed amendments are intended, among other things, to reflect in the rule more accurately changing economic conditions and business practices in the securities industry.

The Analysis notes that the amendments to Rule 15c3–1 with respect to haircuts on securities would apply to all brokers or dealers that hold such securities and, therefore, could affect all brokers and dealers, including small brokers and dealers.[20]

The proposed amendments to Rule 15c3–1, as discussed in the Analysis, would change the amount of deductions required to be taken by brokers and dealers in computing regulatory capital requirements, and in the case of government securities the method by which the deductions are computed. A change in the applicable deductions will result in a change in the amount of cash or other liquid assets which a broker or dealer must maintain to satisfy regulatory requirements. An increase in applicable deductions may force some brokers and dealers to obtain additional capital through an offering of equity interests or through loans under subordinated loan agreements (which must satisfy the requirements of Appendix D to Rule 15c3–1).[21] For those brokers and dealers, including small brokers and dealers, that compute net capital under the alternative method, it would appear that an increase costs under the proposed amendments will be more than offset by the reduction in minimum regulatory capital requirements announced today in Securities Exchange Act Release No. 18417. For those that compute their net capital requirements using the basic method, the proposed amendments may, however, result in an overall increase in regulatory capital costs. Finally, the Analysis notes that reporting and recordkeeping requirements for all brokers and dealers would not appear to be significantly altered.

The Commission recognizes the need to formulate compliance and reporting requirements that take into account the economic impact on small brokers and dealers. The Regulatory Flexibility Act directs the Commission to consider significant alternatives to the proposed amendments that would accomplish the stated objectives of applicable statutes and minimize any significant economic impact on small brokers and dealers. As discussed in the Analysis, the Commission believes that it would be inconsistent with the purposes of the Exchange Act to exempt, categorically, any small brokers and dealers from the proposed provisions of these amendments. The Commission, however, has devised an alternative to the proposed provisions for computing haircuts on U.S. Government securities that, as discussed earlier in this release, it believes, will substantially reduce the costs to small brokers and dealers in computing those haircuts. The other proposed amendments do not appear to entail significant additional computational costs and do not appear to impose additional reporting or recordkeeping requirements on small brokers and dealers.

A copy of the Analysis may be obtained by contacting Michael A. Macchiaroli, Division of Market Regulation, U.S. Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 at (202) 272–2372.

Statutory Basis

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 15(c)(3) and 23(a) thereof, 15 U.S.C. sections 78(c)(3) and 78*w*(a), the Commission proposes to amend § 240.15c3–1 in Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below.

Text of Proposed Amendments

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

It is proposed to amend 17 CFR Part 240 as follows:

By adding paragraph (c)(2)(iv)(F) to § 240.15c3–1 and revising (c)(2)(vi) (A), (B)(*2*), (D), (F) and (H) to read as follows:

§ 204.15c3–1 Net capital requirements for brokers or dealers.

* * * * *

(c) * * *

(2) * * *

(iv) * * *

(F)(*1*) For purposes of this subparagraph:

(*i*) The term "repurchase agreement" shall mean an agreement to sell securities subject to a commitment to repurchase from the same person securities of the same quantity, issuer and maturity;

(*ii*) The term "reverse-repurchase agreement" shall mean an agreement to purchase securities subject to a commitment to resell the same person securities of the same quantity, issuer and maturity; and

(*iii*) The term "matched repurchase agreement" shall mean the purchase of securities pursuant to a reverse-repurchase agreement and the resale of such securities pursuant to a repurchase agreement.

(*2*)(*i*) In the case of a reverse-repurchase agreement, the deduction shall be equal to a percentage of the difference between the contract price for resale of the securities under the reverse-repurchase agreement and the market value of those securities, determined on the basis of the date to maturity of the reverse-repurchase agreement, as of the net capital computation date, as follows:

(*A*) 7 days or less: 0%

(*B*) 8 days to 14 days: 5%

(*C*) 15 days to 30 days: 10%

(*D*) 31 days to 60 days: 25%

(*E*) 61 days to 90 days: 50%

(*F*) 91 days or more: 100%

(*ii*) If the market value of the securities subject to the reverse-repurchase agreement declines to below 50% of the contract price for resale under that agreement, the applicable deduction shall equal 100% of the difference between the contract price for resale of the securities under the agreement and the market value of those securities.

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[20] For purposes of this rulemaking proceeding, the Commission is proposing to define as small any broker or dealer that: (1) had total capital of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a–5(d) or, if not required to file such statements, had total capital of less than $500,000 on the last business day of the preceding fiscal year (or in the time it has been in business, if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in the Regulatory Flexibility Act. "Total capital" for these purposes consists of net worth plus subordinated liabilities, including those subordinated liabilities that do not qualify for purposes of determining a firm's net capital under Rule 15c3–1. On the basis of data compiled by the Directorate of Economic and Policy Analysis from FOCUS Reports filed by brokers and dealers, it would appear that in excess of approximately 4100 brokers and dealers would qualify as small under this definition. As discussed in the Analysis, the Commission invites comments on the appropriateness of this definition and suggestions of alternative definitions.

[21] As discussed in the Analysis, the revision in haircuts on government securities, without taking into account the impact of those provisions that would reduce capital requirements by recognizing certain hedging strategies, could increase aggregate industry regulatory capital requirements with respect to such securities by approximately 120% to 180% or $42 million to $63 million and the revision in haircuts on municipal securities could increase aggregate industry capital requirements with respect to such securities by approximately 40% or $40 million to $45 million. The Analysis also notes that the proposed amendments, if in effect during 1980, would have increased aggregate industry haircuts with respect to nonconvertible debt securities (without accounting for the impact of provisions which would allow reduced haircuts for certain hedges between nonconvertible debt and U.S. government debt securities) by approximately $24 million.

(*iii*) A deduction on account of a reverse-repurchase agreement may be offset by any margin or other deposits held by the broker or dealer on account of the reverse-repurchase agreement or by any excess market value of securities over the contract price for the resale of those securities under any other reverse-repurchase agreement with the same person.

(*iv*) A broker or dealer shall deduct an amount equal to the excess of the difference between the market value of the securities and the contract prices for resale under reverse-repurchase agreements with 90 calendar days to maturity or less, which exceeds 5% of net capital before the application of paragraphs (c)(2)(vi), or (f)(3) of this section, or Appendix A to Rule 15c3–1 (240.15c3–1a).

(*3*) In the case of a matched repurchase agreement, a broker or dealer shall not be required to deduct a percentage of the value of the securities sold under the repurchase agreement pursuant to paragraphs (c)(2)(vi)(A) of this section, *Provided*, That a deduction is taken with respect to the securities purchased under the reverse-repurchase agreement pursuant to paragraphs (c)(2)(iv)(F)(*2*) of this section.

* * * * *

(c) * * *

(2) * * *

(vi) * * *

(A)(*1*) In the case of a security issued or guaranteed as to principal or interest by the United States or any agency thereof, the applicable percentages of the market value of the net long or short position in each of the categories specified below are:

Category 1

(*i*) Less than 3 months to maturity—0%;

(*ii*) 3 months but less than 6 months to maturity—½ of 1%;

(*iii*) 6 months but less than 9 months to maturity—¾ of 1%;

(*iv*) 9 months but less than 12 months to maturity—1%.

Category 2

(*i*) 1 year but less than 2 years to maturity—1½%;

(*ii*) 2 years but less than 3 years to maturity—2%.

Category 3

(*i*) 3 years but less than 5 years to maturity—3%;

(*ii*) 5 years but less than 10 years to maturity—4%.

Category 4

(*i*) 10 years but less than 15 years to maturity—4½%;

(*ii*) 15 years but less than 20 years to maturity—5%;

(*iii*) 20 years but less than 25 years to maturity—5½%;

(*iv*) 25 years or more to maturity—6%.

Except as provided in paragraph (c)(2)(vi)(A)(*2*) of this section and as modified by paragraphs (c)(2)(vi)(A) (*3*) and (*4*) of this section, brokers or dealers shall compute a deduction for each category above as follows: Compute the deductions for the net long or short positions in each sub-category above. The deduction for the category shall be the net of the aggregate deductions on the long positions and the aggregate deductions on the short positions in each subcategory plus 50% of the lesser of the aggregate deductions on the long or short positions.

(*2*) A broker or dealer may elect to deduct, in lieu of the computation required under paragraph (c)(2)(vi)(A)(*1*) of this section, the applicable percentages of the market value of the net long or short positions in each of the sub-categories specified in paragraph (c)(2)(vi)(A)(*1*) of this section.

(*3*) In computing deductions under paragraph (c)(2)(vi)(A)(*1*) of this section, a broker or dealer may elect to exclude the market value of a long or short security from one category and a security from another category *Provided*, That:

(*i*) Such securities have maturity dates:

(*A*) Between 9 months and 15 months and within 3 months of one another;

(*B*) Between 2 years and 4 years and within 1 year of one another; or

(*C*) Between 8 years and 12 years and within 2 years of one another; and

(*ii*) The broker or dealer includes the net market value of the two securities in the category for the security with the longer date to maturity.

(*4*) In computing deductions under paragraph (c)(2)(vi)(A)(*1*) of this section, a broker or dealer may exclude from the categories specified in paragraph (c)(2)(vi)(A)(*1*) of this section, long or short positions in securities issued by the United States or any agency thereof that are hedged by long or short positions in futures contracts on a contract market in securities issued by the United States or any agency thereof, *Provided*, That the securities deliverable under the futures contract and the related long or short securities position mature in: (*A*) Less than 15 months and within 3 months of one anothr; (*B*) more than 1 year but less than 5 years and within 1 year of one another; (*C*) more than 5 years and within 5 years of one another; and *Provided, Further* that the broker or dealer deducts the applicable percentage with respect to the positions in futures contracts in accordance with the requirements of Appendix B (17 CFR 240.15c3–1b).

(B)(*1*) * * *

(*2*) In the case of any municipal security, other than those specified in paragraph (c)(2)(vi)(B) (*1*) of this section, which is not traded flat or in default as to principal or interest, the applicable percentages of the market value of the greater of the long or short position in each of the categories specified below are:

(*i*) Less than 1 year to maturity—1%;

(*ii*) 1 year but less than 2 years to maturity—2%;

(*iii*) 2 years but less than 5 years to maturity—5%;

(*iv*) 5 years or more to maturity—7%.

* * * * *

(D)(*1*) In the case of redeemable securities of an investment company registered under the Investment Company Act of 1940, which assets are limited to cash or securities or money market instruments with 1 year or less to maturity which are described in paragraphs (c)(2)(vi) (A) through (C) or (E) of this section, the deduction shall be 2% of the market value of the greater of the long or short position.

(*2*) In the case of redeemable securities of an investment company registered under the Investment Company Act of 1940, which assets are in the form of cash or securities or money market instruments of any maturity which are described in paragraphs (c)(2)(vi) (A) through (C) or (E) of this section, the deduction shall be 7% of the market value of the greater of the long or short position.

(*3*) In the case of redeemable securities of an investment company registered under the Investment Company Act of 1940, which assets are in the form of cash or securities or money market instruments which are described in paragraphs (c)(2)(vi) (A) through (C) or (E) and (F) of this section, the deduction shall be 9% of the market value of the long or short position.

* * * * *

(F)(*1*) In the case of nonconvertible debt securities having a fixed interest rate and fixed maturity date and which are not traded flat or in default as to principal or interest and which are rated in one of the four highest rating categories by at least two of the nationally recognized statistical rating organizations, the applicable percentages of the market value of the greater of the long or short position in each of the categories specified below are:

(*i*) Less than 1 year to maturity—2%;

(*ii*) 1 year but less than 2 years to maturity—3%;

(*iii*) Two years but less than three years to maturity—5%;

(*iv*) 3 years but less than 4 years to maturity—6%;

(*v*) 4 years but less than 5 years to maturity—7%;

(*vi*) 5 years or more to maturity—9%;

(*2*) A broker or dealer may elect to exclude from the above categories long or short positions that are hedged with short or long positions in securities issued by the United States or any agency thereof and that have maturity dates of within—3 months, if the nonconvertible debt security has a maturity date or less than 15 months; 6 months, if the nonconvertible debt security has a maturity date of greater than 15 months but less than 2 years; 1 year, if the nonconvertible debt security has a maturity date of greater than 2 years but less than 5 years; and 5 years, if the nonconvertible debt security has a maturity of 5 years or more. The electing broker or dealer shall also exclude the hedging short or long securities position from the applicable under paragraph (c)(2)(vi)(A) of Rule 15c3–1[§ 240.15c3–1(c)(2)(vi)(A)], but shall deduct a percentage of the market value of the hedged long or short position in nonconvertible debt securities as specified in each of the categories below:

(*i*) Less than 1 year to maturity—1%;

(*ii*) 1 year but less than 2 years to maturity—1½%;

(*iii*) 2 years but less than 3 years to maturity—2½%;

(*iv*) 3 years but less than 4 years to maturity—3%;

(*v*) 4 years but less than 5 years to maturity—3½%;

(*vi*) 5 years or more to maturity—4½%.

* * * * *

(H) In the case of cumulative, nonconvertible preferred stock ranking prior to all other classes of stock of the same issuer, which is rated in one of the four highest categories by at least two of the nationally recognized statistical rating organizations and which is not in arrears as to dividends, the deduction shall be 10% of the market value of the greater of the long or short position.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

January 13, 1982.

[FR Doc. 82-1707 Filed 1-22-82; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 240

[Release No. 34-18420; File No. S7-923]

Borrowing and Lending of Securities by Brokers and Dealers and Related Requirements; Proposed Rule

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rule amendments.

SUMMARY: The Commission today announced a proposal to amend the requirement in the customer protection rule that brokers and dealers obtain and maintain possession or control of customers' fully-paid and excess margin securities to exempt those securities that are borrowed from financial institutions and other persons pursuant to a written agreement that provides, among other things, for the full collateralization of the borrowed securities and the delivery of additional collateral to satisfy deficiencies in excess of five percent of the market value of the securities. In that connection, the Commission will interpret the customer protection rule so as to reduce the reserve and net capital requirements of certain brokers and dealers by excluding from the Formula for the Determination of the Reserve Requirements of Brokers and Dealers (the "Reserve Formula"), debit and credit items that are related to securities borrowed from financial institutions and other persons pursuant to a written agreement that provides, among other things, that the securities are collateralized by cash or United States Government securities. In connection with its review of the broker-dealer net capital and financial responsibility rules,[*] the Commission believes that it is appropriate to clarify the treatment of securities loans under those rules.

DATE: Comments must be received on or before March 15, 1982.

ADDRESSES: Persons wishing to submit written views should file three copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7–923 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroni, Esquire, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. (202) 272–2372.

SUPPLEMENTARY INFORMATION: Rule 15c3–3 [§ 240.15c3–3] under the Securities Exchange Act of 1934 (the "Exchange Act") requires, among other things, that a broker or dealer obtain and thereafter maintain possession or control of all fully-paid [1] and excess margin [2] securities carried for the account of customers ("customer securities"). For purposes of Rule 15c3–3, a "customer" is any person "from whom or on whose behalf a broker or dealer has received or acquired or holds funds or securities for the account of such person" and may be construed to include any person or entity, such as an institution, that lends securities to a broker or dealer, whether or not it maintains an account with that broker or dealer. Since, under that interpretation, customer securities that have been borrowed and reloaned would not generally be held in a control location as defined under paragraph (c) of Rule 15c3–3, brokers and dealers would, in effect, be precluded from borrowing and relending them. The Commission's staff, however, has generally not objected to the borrowing and lending of customer securities for particular purposes under circumstances established primarily by general practice in the securities industry.

In connection with its review of the broker-dealer net capital and financial responsibility rules,[3] the Commission believes that it is appropriate to clarify the treatment of securities loans under those rules. In particular, the Commission believes that it is appropriate to reduce the net capital requirements for brokers and dealers that borrow securities from persons other than brokers, dealers, or municipal securities dealers and that compute their minimum net capital requirement under the "alternative method" [4] (*i.e.*, on the basis of a percentage of aggregate debit items in the Reserve Formula) by removing those transactions from the Reserve Formula under certain circumstances. Coincident with this reduction in net capital requirements and in order to assure the financial responsibility of brokers and dealers and provide a framework for the borrowing and lending of securities, the Commission is proposing to amend Rule 15c3–3 to codify staff interpretations of the possession or control requirement of that rule and industry practices that provide for the initial delivery of collateral by the borrowing broker or

[*] Securities Exchange Act Release No. 34–18417.

[1] *See* 17 CFR 240.15c3–3(a)(3).

[2] *See* 17 CFR 240.15c3–3(a)(5).

[3] Securities Exchange Act Release No. 34–18417.

[4] *See* 17 CFR 240.15c3–1(f).

dealer to secure the loan and the subsequent delivery of additional collateral as necessary to satisfy deficiencies in excess of a specified percentage of the value of the collateral.

Introduction

Rule 15c3–3 requires a broker or dealer holding customer funds or securities, among other things, to establish a cash reserve, based on periodic computations pursuant to the rule, correlated to the customer monies held by the borker or dealer that are not necessary to finance its customer business. Through the Reserve Formula,[5] a broker or dealer compares the monies that it owes customers (liabilities, or credits in the Reserve Formula) against monies owed by customers to it (assets, or debits in the Reserve Formula) [6] and deposits to a reserve bank account, in satisfaction of the requirements of Rule 15c3–3, an amount of money or qualified securities equal to the excess (if any) of liabilities over assets (the "Reserve Requirement"). The Reserve Formula also serves as a basis for the determination of the minimum net capital requirement for those brokers and dealers electing to comply with the alternative method of computing net capital requirements as set forth in Rule 15c3–1(f).[7] Under that provision, generally, electing brokers and dealers are required to maintain minimum net capital equal to the greater of $100,000 or four percent of aggregate debit items computed in accordance with the Reserve Formula.

Currently, securities loan transactions by brokers and dealers must be reflected in the Reserve Formula if the securities are borrowed to complete customer transactions.[8] Securities borrowed from persons other than brokers, dealers and municipal securities dealers, including financial institutions, have been considered to be [9] borrowed from a customer, and debit and credit items associated with these transactions are includable in the Reserve Formula.[10] As a consequence, brokers and dealers that borrow securities from such persons, in addition to providing cash or Government securities to fully collateralize the loan, are required to reflect such transactions in computing their Reserve Requirements under Rule 15c3–3. Brokers and dealers that compute their required net capital using the alternative method must also maintain liquid assets equal to four percent of the collateral deposited against the securities.

The Commission believes that inclusion in the Reserve Formula of securities that are borrowed pursuant to a written agreement under which the broker or dealer has delivered to the lender full collateral in the form of cash or Government securities may impose an unnecessary financial burden on brokers and dealers. The Commission, therefore, is revising the treatment of these transactions for purposes of the Reserve Formula and proposing amendments to Rule 15c3–3.

For purposes of the Reserve formula, securities borrowed by brokers or dealers from any person (other than a broker, dealer or municipal securities dealer) under certain circumstances should now be treated in the same way as securtities borrowed by borkers or dealers from other brokers, dealers or muncipal securities dealers. To qualify for exclusion from the Reserve Formula, the securities must be borrowed pursuant to a written agreement and the broker or dealer must (i) deliver collateral in the form of cash or Government securities equal to at least 100 percent of the value of the securities; and (ii) undertake to deliver additional collateral to satisfy the entire deficiency in the event that the market value of the securities exceeds by five perent the value of the collateral.[11] Thus, securities borrowed in conformity with these requirements should be treated as if securities borrowed from a broker, dealer or municipal securities dealer. Furthermore, for purposes of allocating funds associated with these securities in the Reserve Formula, a broker or dealer may treat lenders of securities as being non-customers, so long as the broker or dealer complies with the requirements of proposed paragraph (b)(3) of Rule 15c3–3.

The exclusion of the market value of securities that are borrowed from financial institutions and others can be expected to reduce potential Reserve Requirements for brokers and dealers. In addition, it can be expected to reduce substantially the net captial requirements of brokers and dealers that operate under the alternaitve method and that borrow securities from persons other than brokers and dealers.

II. Proposed Amendments to Rule 15c–3

As noted above, Rule 15c3–3(b) requires a broker or dealer to have and maintain physical possession or control of all fully-paid and excess margin securities held for the account of customers. The term "customer," as defined in Rule 15c3–3, includes any person, other than a broker, dealer or municipal securities dealer, that lends securities to a broker or dealer, whether or not the lender maintains an account with that broker or dealer.[12] Thus, Rule 15c3–3(b) could be read to require brokers and dealers to maintain physical possession or control of securities borrowed from such persons; the Commission's staff, however, has informally advised brokers and dealers of circumstances under which it will not take such a view.

The Commission is proposing to amend Rule 15c3–3 to codify the staff's informal advice regarding the circumstances under which borrowed securities will not be treated as subject to the possession or control requirement of that rule. While generally codifying standard industry practice in securities loan transactions, the proposed amendments are also desgined to establish safeguards to assure the financial responsibility of the borrowing

[5] *See* 17 CFR 240.15c3–3a.

[6] The credits and debits also include payables and receivables on account of customer-related transactions. The notes to the Reserve Formula specify that the debit items are to be reduced by a specified percentage in computing Reserve Requirements. *See* 17 CFR 240.15c3–3a.

[7] Approximately 275 firms, accounting for a significant percentage of industry gross revenues and a combined required net capital of approximately $1.1 billion, elected to comply with the alternative net capital requirement as of December 31, 1980.

[8] The cash collateral given by the broker or dealer to the lender is entered as a debit in the Reserve Formula; the dollar value of the securities, if borrowed from persons other than brokers or dealers, is entered as an offsetting credit in Reserve Formula. Loans allocable to properitary transactions, however, are not included in the Reserve Formula. *See* Securities Exchange Act Release No. 9922, 38 FR 1737 (Jan. 18, 1973).

[9] *See* New York Stock Exhcange, Inc. Interpretation Handbook: Regulation and Surveillance 1601 (1980).

[10] The broad reading of "customer transactions" for purposes of determining Reserve Requirements and net capital requirements under the alternative method reflected, in part, the possibility that loans of fully-paid and excess margin securities by persons other than brokers or dealers might be protected under the Securities Investor Protection Act of 1970 (the "SIPA"). Among other things, SIPA established the Securities Investor Protection Corporation ("SIPC") to oversee broker-dealer liquidations and a fund (administered by SIPC with annual contributions from brokers and dealers) to insure customers against certain losses. Congress amended SIPA in 1978, however, among other things, to clarify that lenders of securities who receive collateral or compensation, generally, are not customers under SIPA and, therefore, are not protected by the SIPA fund against certain losses. *See* discussion in Section II, *infra*.

[11] These requirements represent current industry practices in borrowing and lending securities that have developed as a consequence of the requirements Regulation T and Rule 15c3–3(b) under the Exchange Act. *See* 12 CFR 220.6(h) and 17 CFR 240.15c3–3(b). As discussed in greater detail in Section II of this release, the Commission is proposing to amend Rule 15c3–3(b) to codify informal staff interpretations of that rule and to codify certain industry practices.

[12] *See* 17 CFR 240.15c3–3(a)(1).

broker or dealer and protect its customers.

The proposed amendments would exclude from the possession or control requirement of Rule 15c3–3(b)(1) fully-paid and excess margin securities borrowed, loaned or arranged to be loaned in accordance with the requirements of new paragraph (b)(3) of the rule. That paragraph, as proposed to be adopted, would require that the broker or dealer and the lender enter into a separate written agreement with respect to the loan [13] that, at a minimum, contains each of the disclosures or undertakings specified in the rule.

The primary undertaking by a broker or dealer in the loan agreement contemplated by the proposed amendments (*see* proposed paragraph (b)(3)(ii) of rule 15c3–3) is that the lender receive, at the time of the execution of the consent to the loan (or by the close of the business day of the loan, if the loan occurs subsequent to the execution of the agreement), actual possession of collateral that fully secures the loan. This undertaking appears to be necessary in order to cover the credit risks and to dampen the financial leverage available to brokers and dealers.

In order to preserve the integrity of the collateral, the proposed amendments would require borrowing brokers and dealers to undertake to mark the securities to the market. When the market value of the securities increases by more than five percent over the value of the collateral, the borrowing broker or dealer would be required to deliver to the lender, by the end of the next business day, cash or Government securities of sufficient value to fully secure the loan. The Commission believes that determining the amount of collateral deficiencies on a daily basis and delivering additional collateral to satisfy collateral deficiencies of five percent or more will relieve borrowing brokers and dealers of the expense of delivering additional collateral because of insignificant increases in the value of the securities while at the same time substantially maintaining the integrity of the collateral. The Commission invites commentators, in considering the collateral delivery and maintenance requirements, to report on the present basis by which collateral requirements are determined and met and to discuss whether those requirements are manageable and provide adequate protection for lenders. [14]

The Board of Governors of the Federal Reserve System (the "Board"), in response to a request by a large brokerage house, has recently proposed for comment amendments to § 220.6(h) of Regulation T that bear upon the form of the collateral that may be given in exchange for borrowed securities. [15] The proposed amendments would permit brokers and dealers to use irrevocable letters of credit (issued by banks that are insured by the Federal Deposit Insurance Corporation) as the required deposit when securities are borrowed. The proposed amendments, if adopted, would alter general industry practice by eliminating, in many circumstances, the need to deposit cash as collateral for securities borrowed by a broker or dealer.

The Commission is concerned that the use of letters of credit to secure borrowed securities may provide an opportunity for financial leverage on short-term transactions that could expose brokers, dealers and their customers to risks inconsistent with the financial responsibility requirements of the federal securities laws. The proposed amendments to Rule 15c3–3, therefore, do not permit the use of letters of credit in lieu of cash or Government securities as collateral for the loan. The Commission, however, invites commentators to address whether use of letters of credit as collateral for borrowed securities would be consistent with the current financial responsibility requirements of the federal securities laws and, in particular, whether alternative restrictions concerning the use of any cash generated by relending the borrowed securities may be appropriate in circumstances where unsecured letters of credit are used to collateralize a loan of securities.

The proposed amendments also would require that the loan agreement contain a prominent notice that the provisions of the Securities Investor Protection Act of 1970 ("SIPA") may not protect the lender with respect to the loan transaction and that, therefore, the collateral delivered to the lender would constitute the first source of satisfaction of the broker-dealer's obligation in the event the broker or dealer failed to return the securities. Lenders of securities, generally, would not be afforded the protections of SIPA with respect to specific loans of customer securities to brokers or dealers for which collateral or consideration is paid, [16] since the receipt of collateral or consideration, as a general rule, precludes the lender from attaining the status of a "customer" under SIPA with respect to those transactions. [17]

The Commission invites commentators to discuss whether it is appropriate to mandate that the loan agreement contain, for the benefit of lenders of securities, certain disclosures regarding the lender's rights to incidents of ownership in securities that are subject to the agreement. Under current industry practice, the lender may surrender most incidents of ownership, including the right to transfer, vote and tender the securities, in order to enable the borrowing broker or dealer to transfer or relend the securities as necessary to complete transactions. Often, however, the lender retains some incidents of ownership and the right to receive distributions on the securities. Accordingly, the Commission invites comment as to whether the proposed amendments should require the agreement specifically and clearly to disclose the nature of the rights relinquished, the period for which they are surrendered and the procedures for the delivery of distributions, in kind or in equivalent value, to the lender. Interested persons may also wish to discuss whether the Commission should require that the agreement advise the lender that it may terminate the loan at any time by notifying the broker or dealer in writing and that the agreement

[13] This requirement, however, should not be interpreted so as to preclude the parties from entering into an agreement that provides for the future delivery of loaned securities.

[14] Under the proposal, the lender could appoint an agent, other than the broker or dealer, to receive and maintain the collateral under the loan agreement. If the lender, however, appointed as its agent to receive the collateral either the borrowing broker or an associated person of the borrowing broker, the lender may significantly increase the risk of loss associated with the transaction. In the event that the broker failed to return the securities loaned or became insolvent, the lender could risk the loss of the securities and the collateral, since the lender would not appear to have a perfected security interest in either the securities or the collateral. *See*, U.C.C. 8–313, 317 (1977); U.C.C. 9–304 & 9–305 comment 2. Since it is not clear whether the lender would be protected under the Securities Investor Protection Act of 1970, *see* discussion *infra*, the Commission is considering whether to preclude borrowing brokers or their associated persons from retaining possession of the collateral and invites comment with regard to the appropriateness of such a restriction.

[15] *See* 46 FR 55533 (Nov. 10, 1981). Section 220.6(h) of Regulation T currently provides that:

[W]ithout regard to the other provisions of this part, a creditor (1) may make a bona fide deposit of cash in order to borrow securities (whether margin or nonmargin) for the purpose of making delivery of such securities in the case of short sales, failure to receive securities he is required to deliver, or other similar cases, and (2) may lend securities for such purpose against such a deposit.

[16] *See Securities Investor Protection Corp.* v. *Executive Securities Corp.*, 556 F.2d 96 (2d Cir. 1977).

[17] *See* Section 16(2) of SIPA as amended by the Securities Investor Protection Act Amendments of 1978, Pub. L. No. 95–283, 92 Stat. 249 (May 21, 1978), 15 U.S.C. 78*lll*(2).

specify the procedures for return of the securities and the collateral.[18]

III. Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis (the "Analysis") in accordance with 5 U.S.C. 603 regarding the proposed amendments to Rule 15c3–3.

The Analysis notes that the amendments to Rule 15c3–3 are being proposed as a part of the Commission's review of the broker-dealer financial responsibility and customer protection rules. The objective of the proposed amendments to Rule 15c3–3 regarding borrowed securities is to assure the financial responsibility of brokers and dealers for the protection of their customers and lenders of securities through a codification of current industry practice.

The Analysis notes that the proposed amendments would apply to brokers and dealers that are subject to the possession or control requirement of Rule 15c3–3 and that borrow fully-paid or excess margin securities from persons or entities that are not brokers, dealers or municipal securities dealers. The Analysis also notes that, although the amendments could impose additional compliance costs on these brokers and dealers, the Commission believes that because many of the requirements of the proposed rule amendments (particularly the written-consent and collateralization requirements) represents accepted industry practice, the incremental costs associated with complying with the requirements of the amendments will not be substantial and will not be likely to have a detrimental effect on competition in the industry.

A copy of the Analysis may be obtained by contacting Michael A. Macchiaroli, Division of Market Regulation, U.S. Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 at (202) 272–2372.

IV. Statutory Authority

The Commission is proposing to amend Rule 15c3–3 pursuant to authority granted in Sections 15(c)(3), 17(a), and 23(a) of the Exchange Act.[19]

V. Text of the Proposed Rule Amendments

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Part 240 of 17 CFR is proposed to be amended as follows:

By revising paragraph (b)(1) of § 240.15c3–3 and adding paragraph (b)(3) to read as follows:

§ 240.15c3–3 Customer protection—reserves and custody of securities.

* * * * *

(b) *Physical possession or control of securities.*(1) A broker or dealer shall promptly obtain and shall thereafter maintain the physical possession or control of all fully-paid securities and excess margin securities carried by a broker or dealer for the account of customers, except those fully-paid securities and excess margin securities borrowed, loaned or arranged to be loaned in accordance with paragraph (b)(3) of this section.

* * * * *

(3) A broker or dealer shall be deemed not to be in violation of the provisions of paragraph (b)(1) of this section regarding physical possession or control of fully-paid or excess margin securities borrowed, loaned or arranged to be loaned from any person, provided that the broker or dealer and the lender, at the time of the loan, enter into a written agreement with respect to the loan that, at a minimum:

(i) identifies the securities to be loaned and the basis of compensation for the loan;

(ii) Specifies that the broker or dealer (A) must transfer to the lender, upon the execution of the agreement or by the close of the business day of the loan if the loan occurs subsequent to the execution of the agreement, actual possession of collateral, consisting exclusively of cash (in the form of a cashier's or a certified check) or United States Treasury bills and Treasury notes, which fully secures the loan of securities, and (B) must mark the loan to the market not less than daily and, in the event that the market value of all the outstanding securities loaned at the close of trading at the end of the business day exceeds 105 percent of the collateral then held by the lender, the borrowing broker or dealer must deliver additional cash or United States Treasury bills and Treasury notes to the lender by the close of the next business day, as necessary to equal, together with the collateral then held by the lender, not less than 100 percent of the market value of the securities loaned; and

(iii) Contains a prominent notice that the provisions of the Securities Investor Protection Act of 1970 may not protect the lender with respect to the securities loan transaction and that, therefore, the collateral delivered to the lender would constitute the first source of satisfaction of the broker's or dealer's obligation in the event the broker or dealer failed to return the securities.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

January 13, 1982.

[FR Doc. 82–1706 Filed 1–22–82; 8:45 am]

BILLING CODE 8010–01–M

[18] Upon notice of termination of the loan agreement, the broker or dealer would be required, in compliance with Rule 15c3–3(d) (17 CFR 240.15c3–3(d)), to act to obtain possession or control of the customer securities. Pursuant to paragraph (d)(1) of Rule 15c3–3, the broker or dealer must determine, on a daily basis, the quantity of customer securities required to be in its possession or control. If there is a deficiency (as may be likely if a lender withdrew its consent to the loan), the broker or dealer must issue instructions not later than the next business day following its possession-or-control determination for the return of the securities so that they could be forwarded to the lender. It must obtain physical possession or control of the securities within five business days following the date of issuing instructions. Alternatively, the broker may borrow the securities needed for possession or control rather than recall the securities loaned. *See* Securities Exchange Act Release No. 9922, 38 FR 1737 (Jan. 18, 1973).

[19] 15 U.S.C. 78*o*(c)(3), 78q(a) and 78w(a).

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17 CFR Part 240

[Release No. 34–18419, File No. S7–922]

Treatment of Fails To Deliver and Fails To Receive Under the Uniform Net Capital Rule and the Customer Protection Rule; Proposed Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule interpretation and proposed rule amendments.

SUMMARY: The Commission proposes to amend an interpretation to its customer protection rule so that fails to deliver and fails to receive which allocate to one another would be excluded from the Reserve Formula under that rule. This would have the effect of lowering the capital requirements for brokers and dealers who use the alternative method of computing net capital. In addition, the Commission is proposing to amend its uniform net capital rule to reduce in stages the time period before a deduction must be taken for fails to deliver and to provide a deduction for those fails to deliver which would be excluded from the Reserve Formula in accordance with the amended interpretation. The rule as amended would authorize the designated examining authority for a broker or dealer to extend the aging period under prescribed circumstances.

DATE: Comments must be received on or before March 15, 1982.

ADDRESSES: All comments should be submitted in triplicate and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments should refer to File No. S7–922 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Division of Market Regulation (202) 272–2372, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Presently, fails to deliver [1] and fails to receive,[2] if aged, result in deductions to a broker's or dealer's net worth in computing its net capital pursuant to Rule 15c3–1 (the "net capital rule"). Under the net capital rule, the amount by which the market value of securities failed to receive outstanding longer than 30 calendar days exceeds the contract value of those fails to receive is deducted from net worth.[3] In addition, fail to deliver contracts are the subjects of deductions if they are outstanding 11 business days or longer (21 business days or longer in the case of municipal securities).[4] Under Rule 15c3–3 (the "customer protection rule"), customer related fails to receive and customer related fails to deliver not older than 30 calendar days are included in the Reserve Formula under items 4 and 12 respectively. The inclusion of fails to receive in the Reserve Formula (a credit item) increases a broker's or dealer's potential cash deposit requirement. For a firm electing to compute its net capital under the alternative method (Rule 15c3–1(f)), the inclusion of fails to deliver in the Reserve Formula (a debit item) raises the broker's or dealer's net capital requirement.

The current treatment of fails to receive and fails to deliver is derived in large part from the excessive number of fails which existed during the "Paperwork Crisis" of 1968–70. During this period, increased trading volume coupled with the inability of brokers and dealers to handle this increased volume caused the number of fails to reach unprecedented levels.[5] In its Unsafe and Unsound Study, the Commission noted that allowing fails to deliver to remain outstanding for long periods of time exposed the "failing" broker or dealer to great risks of loss. That is, the greater the duration of a fail to deliver, the more the "failing" broker or dealer is exposed to the risks of possible financial difficulties of the party to whom he is obligated to make delivery. Moreover, in order to fulfill its delivery obligation, the "failing" broker or dealer may ultimately be forced to procure the security at a price in the open market higher than the contract price.[6]

When the altenative method of computing net capital was adopted, the Commission authorized conservative interpretations regarding Reserve Formula items, when an allocation procedure was used. Fails to receive not allocable to the broker's or dealer's proprietary long positions and fails to deliver not allocable to the broker's or dealer's proprietary short positions were presumed to be customer-related and thus includable in the Reserve Formula. These interpretations were intended to insure that customer related fails would be provided for through a Reserve Formula deposit or increased capital requirement.

In its 1979 Report to the Commission on the net capital rule, the Securities Industry Association (the "SIA") recommended that fails to deliver and fails to receive which allocate to one another ("matched fails") be excluded from both sides of the Reserve Formula.[7] The SIA reasoned that, since matched fails occur with other brokers and dealers, customer assets are jeopardized only to the extent that the broker or dealer on the other side of the fail to deliver can demonstrate an obligation to redeliver to a customer. For this reason, the SIA argued that the current Reserve Formula treatment of matched fails was not justified in light of the purposes of the customer protection rule. In support of its recommendation, the SIA also argued that a fail situation creates a risk of loss only in the event of an "aged" fail to deliver, and Rule 15c3–1(c)(2)(ix) requires a capital charge for that aged fail to deliver.

In Securities Exchange Act Release No. 17208,[8] the Commission acknowledged that the present treatment of matched fails may no longer be justified. Noting that elimination of these fails from the Reserve Formula would exclude from net capital consideration a firm's collection risk on fails to deliver until these items became "aged," however, the Commission proposed an amendment under which a broker or dealer could elect to exclude from the Reserve Formula both fails to receive and fails to deliver which allocate to one another. The broker or dealer would, however, for purposes of Rule 15c3–1(c)(2)(ix) be required to treat these fails to deliver as "aged" 3 business days or longer after settlement (11 business days or longer for municipal securities). A broker or dealer who elected not to match fails would follow Rule 15c3–1(c)(2)(ix) as it presently stands. Under either election, the Commission reasoned, the net capital rule would assure protection of any customers who may be involved by providing incentives for the broker or dealer to resolve these items, and reduce the potential risk.

In response to this proposal, the SIA contended that a fail to deliver does not "age" more rapidly from a credit risk standpoint solely because it is offset by a fail to receive. Asserting that the provisions of the present Rule 15c3–1(c)(2)(ix) appropriately reflect the credit risk presented by fails to deliver under all circumstances, the SIA renewed its recommendation that, subject to the present provisions of Rule 15c3–1(c)(2)(ix), matching fails be excluded from the Reserve Formula.

The SIA, however, in a letter dated July 22, 1981, withdrew this recommendation. Instead, it recommended that: (1) Subject to the net capital rule's existing treatment of aged fails, a firm should have the option of completely or selectively excluding its matching fails from the Reserve Formula; (2) the minimum net capital requirement of a firm operating under the alternative method should be equal to the greatest of (a) the alternative's minimum capital requirement ($100,000 under the current net capital rule) or (b) 2 percent of the firm's aggregate Reserve

[1] A "fail to deliver" arises when the selling broker or dealer fails to deliver the certificates in proper form at the agreed upon settlement date to the buying broker or dealer. A fail to deliver is an asset since it represents monies due to the firm for sales of securities.

[2] A "fail to receive" arises when a buying broker or dealer has not taken delivery from the selling broker or dealer as of settlement date. A fail to receive is a liability which the buying broker or dealer must satisfy when the securities are delivered.

[3] *See* paragraph (c)(2)(iv)(E) of Rule 15c3–1.

[4] *See* paragraph (c)(2)(ix) of Rule 15c3–1.

[5] The Commission noted in its Unsafe and Unsound Study that fails to deliver of New York Stock Exchange (NYSE) member firms in December of 1968 amounted to $4 billion. Securities and Exchange Commission, *Study of Unsafe and Unsound Practices of Brokers and Dealers*, H. Doc. No. 231, 92nd Cong., 1st Sess. (1971) at 19.

[6] *Id.* It was in this context that the Commission and the exchanges adopted amendments to their net capital rules to provide deductions from net worth for fails to deliver outstanding beyond specified periods of time. *See* Securities Exchange Act Release No. 8508 (Jan. 30, 1969), 34 FR 1587 (Feb. 1, 1969).

[7] Such allocation procedure would allow a broker or dealer to match a security which he had failed to receive with a security of the same class and issuer he had failed to deliver and exclude both from the Reserve Formula.

[8] *See* Securities Exchange Act Release No. 17208 (Oct. 9, 1980), 21 SEC Docket 139, 45 FR 69915 (Oct. 22, 1980).

Formula debits (other than debits arising from excluded matching fails) or (c) that the firm should be required to have net capital equal to some appropriate percentage of the firm's excluded matching fail debits.

II

The Commission has considered carefully the SIA's proposal in light of the underlying purposes of the uniform net capital and the customer protection rules, and has determined that, although the proposal is consistent with the purposes of those rules, it reaches its goal at the cost of greatly increasing the complexity of the net capital rule. Accordingly, the Commission proposes herein an alternative scheme which it believes will achieve essentially the same results without increasing the difficulty of monitoring the net capital rule.

First, the Commission proposes that fails to deliver and fails to receive which allocate to one another should be excluded from both sides of the Reserve Formula. This will equate somewhat the treatment of matched fails under the alternative method to that now afforded matched fails under the aggregate indebtedness method.[9] More importantly, however, it appears that excluding matched fails from both sides of the Reserve Formula would have the effect of providing the greatest reduction in capital requirements for those firms having the fewest retail customers. It would appear that these amendments will benefit particularly those firms dealing heavily with municipal securities.[10]

In its original proposal the Commission would have amended the net capital rule to provide different aging criteria under paragraph (c)(2)(ix) for fails to deliver which allocated to fails to receive. In contrast to its earlier recommendation, however, the Commission believes that all fails to deliver should age at the same rate regardless of whether they are excluded from the Reserve Formula, but believes that the net capital rule allows too long a time before fails to deliver must be aged. At the same time, however, the Commission recognizes that its original proposal of allowing only 3 business days (11 business days in the case of municipal securities) before aging may be too short to be implemented practically and may not reflect current industry practices.[11] In order to reflect more realistically the time frame in which the industry operates, the Commission proposes that the time period for aging a fail to deliver be cut gradually from 11 business days or longer to 5 business days or longer (or from 21 business days or longer to 15 business days or longer in the case of municipal securities).

Since fails to deliver which allocate to fails to receive would be excluded from the Reserve Formula, the Commission proposes that fails to deliver excluded by allocation be subject to an additional capital charge of 1% of the contract value of the fail to deliver. Imposition of this additional capital charge will alleviate the problem of providing dangerously low minimum net capital requirements for those firms whose Reserve Formula debits consist largely of fails to deliver allocable to fails to receive. In addition, this proposal will impose a capital requirement for those firms with retail business which more closely approximates the customer risk involved, and, for any customers which may be involved, insure protection by providing incentives for the broker or dealer to resolve those items.[12]

Finally, the Commission proposes to amend the net capital rule to provide authority to the designated examining authority (the "DEA") to grant, upon application, an extension under appropriate circumstances of the number of days allowed before application of the required percentage deductions for "aged" fails under the net capital rule. The DEA may allow an extension for a period up to five business days before the provision of this subparagraph is applied upon an appropriate showing that the extension is warranted. Among other things, the firm must be able to show that the fail has not been disavowed in some way.

* * * * *

The proposed new interpretation is as follows:

(1) Fails to receive which are not allocable to long positions in the proprietary or other accounts of the broker or dealer or to fails to deliver of the same quantity and issue are customer related and should be included in the computation of the Reserve Formula; and (2) fails to deliver which are not allocable to short positions in the proprietary or other accounts of the broker or dealer or to fails to receive of the same quantity and issue are customer related and should be included in the computation of the Reserve Formula.

Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis (the "Analysis") in accordance with 5 U.S.C. 603 regarding the proposed amendments to Rule 15c3–1.

The Analysis notes that the amendments to Rule 15c3–1 are being proposed as a part of the Commission's review of the broker-dealer financial responsibility and customer protection rules. The proposed amendments are intended to eliminate a disparity in the treatment of failed to deliver contracts that match with certain failed to receive contracts under the two methods of computing net capital requirements. The Analysis also notes that the reduction, in stages, of the time frame within which brokers and dealers are required to take a deduction from net worth for failed to deliver contracts is intended to reflect in the rule more accurately the time frame within which the industry operates to resolve those items.

The Analysis notes that the amendments to Rule 15c3–1 concerning the amount of deduction with respect to certain failed to deliver contracts that match with failed to receive contracts would affect those brokers and dealers, including small brokers and dealers,[13]

[9] Although firms electing the basic method of computing net capital are required to take a deduction for aged fails to deliver under Rule 15c3–1(c)(2)(ix), these firms are allowed to exclude fails to receive for which the firm has matching fails to deliver from the aggregate indebtedness computation pursuant to Rule 15c3–1(c)(1)(iii). No such treatment is afforded firms having matched fails and electing the alternative method since, under the present rule, fails to deliver must be included as debit item in the Reserve Formula (thereby raising the broker's or dealer's capital requirement) regardless of whether the broker or dealer has corresponding fails to receive.

[10] The Commission has been advised that firms who do a substantially retail-oriented business have the largest percentage of fail items which would not match and therefore would continue to be included in the Reserve Formula. Conversely, those firms which do business primarily with other professionals have the largest percentage of matched fails and thus would benefit the greatest from this proposal. Excluding matched fails from the Reserve Formula has the desired effect of providing a reduction in the net capital requirement for all firms, with the greatest reduction going to those firms with minimal customer exposure.

[11] Some industry commentators objected to the proposed accelerated aging of fails to deliver excluded from the Reserve Formula, citing, among other things, the inadequacy of the present clearing systems to allow brokers and dealers to liquidate fails to deliver for securities within three business days. Also in this regard, the National Association of Securities Dealers, Inc. (the "NASD"), in a letter to the Commission dated March 16, 1981, suggested that five business days in the case of non-municipal securities was a more realistic guide for aging than the three business days proposed by the Commission. The NASD further stated that experience of NASD members indicate that many fails are resolved within five business days after settlement.

[12] The Commission responses in its letter to M. S. Wein & Co., Inc., dated July 15, 1976, and in similar letters to other brokers or dealers will no longer be applicable.

[13] For purposes of this rulemaking proceeding, the Commission is proposing to define as small any

Continued

that use the alternative method to compute required net capital. The Analysis also notes that the amendments to Rule 15c3–1 with respect to the timing of deductions from net worth on account of failed to deliver contracts would apply to brokers or dealers that carry customer accounts, including approximately 630 small brokers and dealers.

The Analysis notes that the proposed amendments to Rule 15c3–1 with respect to failed to deliver contracts that match with certain failed to receive contracts, in conjunction with a proposed interpretation of Rule 15c3–3, would decrease the amount of liquid assets that must be maintained by brokers and dealers that use the alternative method to compute capital requirements. The reduction in aggregate industry required minimum net capital, the Analysis notes, would be approximately $8 million and will likely accrue to the benefit of those brokers and dealers that do business primarily with other professionals and, therefore, have a large percentage of failed to deliver contracts that match with failed to receive contracts.

The Analysis notes that the reduction from 11 business days (21 business days for municipal securities) to 7 business days (17 business days for municipal securities) upon adoption of the proposed amendments and to 5 business days (15 business days for municipal securities) effective September 1, 1982, could increase, for some entities, the regulatory capital and securities processing costs associated with resolving failed to deliver contracts that remain outstanding. The time frames that will ultimately apply under the proposed amendments, however, conform to the time frames within which the industry operates and the proposed amendments, therefore, should not increase significantly the regulatory capital or securities processing costs of brokers and dealers whose operations conform to industry standards. Furthermore, any increase in costs associated with these amendments would appear to have no significant impact on competition among brokers and dealers.

The Commission recognizes the need to formulate compliance and reporting requirements that take into account the economic impact on small brokers and dealers. The Regulatory Flexibility Act directs the Commission to consider significant alternatives to the proposed amendments that would accomplish the stated objectives of applicable statutes and minimize any significant economic impact on small brokers and dealers. As discussed in the Analysis, the Commission believes that it would be inconsistent with the purposes of the Exchange Act to exempt, categorically, any small brokers and dealers from the proposed provisions of these amendments. The Commission, however, as noted in the Analysis, invites interested persons to suggest alternatives to the proposed amendments that they believe will accomplish the stated objectives of the Exchange Act and minimize any significant economic impact on small brokers and dealers.

A copy of the Analysis may be contained by contacting Michael A. Macchiaroli, Division of Market Regulation, U.S. Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 at (202) 272–2372.

Statutory Basis

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 15(c)(3) and 23(a) thereof, 15 U.S.C. §§ 78*o*(c)(3) and 78*w*(a), the Commission proposes to amend § 240.15c3–1 in Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below.

Text of Proposed Amendments

It is proposed to amend 17 CFR Part 240 as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

By revising paragraph (c)(2)(ix) of § 240.15c3–1 and adding (f)(5)(iv) to read as follows:

§ 240.15c3–1 Net capital requirements for brokers or dealers.

* * * * *

(c) * * *

(2) * * *

(ix) Deducting from the contract value of each failed to deliver contract which is outstanding 5 business days or longer (15 business days or longer in the case of municipal securities) the percentages of the market value of the underlying security which would be required by application of the deduction required by paragraph (c)(2)(vi) of this section or, where appropriate, paragraph (f) of this section. Such deduction, however, shall be increased by any excess of the contract price of the fail to deliver over the market value of the underlying security or reduced by any excess of the market value of the underlying security over the contract value of the fail but not to exceed the amount of such deduction; *Provided, however,* That until September 1, 1982, the deduction provided for herein shall be applied only to those fail to deliver contracts which are outstanding 7 business days or longer (17 business days or longer in the case of municipal securities). The designated examining authority for the broker or dealer may, upon application, extend for a period of up to 5 business days, any period herein specified where it is satisfied that the extension is warranted.

* * * * *

(f) * * *

(5) * * *

(iv) Deduct from net worth in computing net capital 1% of the contract value of all fails to deliver which are allocable to fails to receive of the same issue and which thereby are excluded from Item 12 of Exhibit A, 17 CFR 240.15c3–3a.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

January 13, 1982.

[FR Doc. 82–1708 Filed 1–22–82; 8:45 am]

BILLING CODE 8010–01–M

broker or dealer that: (1) had total capital of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a–5(d) or , if not required to file such statements, had total capital of less than $500,000 on the last business day of the preceding fiscal year (or in the time it has been in business, if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in the Regulatory Flexibility Act. "Total capital" for these purposes consists of net worth plus subordinated liabilities, including those subordinated liabilities that do not qualify for purposes of determining a firm's net capital under Rule 15c3–1. On the basis of data compiled by the Directorate of Economic and Policy Analysis from FOCUS Reports filed by brokers and dealers, it would appear that in excess of approximately 4,100 brokers and dealer would qualify as small under this definition. As of December 31, 1980, approximately 275 brokers and dealers elected to compute capital requirements using the alternative method; only a few of these would appear to qualify as small brokers and dealers. As discussed in the Analysis, the Commission invites comment on the appropriateness of this definition.

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Federal Register

Vol. 47, No. 16

Monday, January 25, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
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Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JANUARY

1-128	4
129-588	5
589-744	6
745-934	7
935-1108	8
1109-1256	11
1257-1366	12
1367-2072	13
2073-2282	14
2283-2474	15
2475-2766	18
2767-2854	19
2855-2976	20
2977-3070	21
3071-3338	22
3339-3538	25

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.

3 CFR

Proclamations:	
4707 (Amended by Proc. 4889)	1
4889	1
4890	2855
4891	2977
4892	3339
Executive Orders:	
1643 (Revoked by PLO 6101)	769
11157 (Amended by EO 12337)	1367
11476 (See EO 12340)	3071
11835 (See EO 12340)	3071
12018 (See EO 12340)	3071
12171 (Amended by EO 12338)	1369
12198 (See EO 12340)	3071
12233 (See EO 12340)	3071
12251 (Revoked by EO 12341)	3341
12306 (See EO 12340)	3071
12310 (Amended by EO 12339)	2475
12315 (See EO 12340)	3071
12337	1367
12338	1369
12339	2475
12341	3341

5 CFR

Ch. XIV	3343
293	3077
359	2283
410	935
832	2284
1201	936
Proposed Rules:	
Ch. I	154
352	956
550	958
610	958
890	961

6 CFR

Ch. VI	2285
Ch. VII	2285

7 CFR

Ch. XII	2981
Subtitle B	745
1a	2073
2	5, 6
68	129, 2074
160	3343
282	532
301	1257
319	3082, 3086
425	6
631	130
701	937
800	131, 2254
801	2979
905	589
906	1265
907	746, 2074, 2980
910	939, 2767, 3082
944	747, 1265
1300	2981
1701	3088
1924	590
1942	590
Proposed Rules:	
Ch. I	3126
102	631
360	2874
979	631
1004	2118
1006	814
1007	962, 2122
1011	2999
1012	814
1013	814
1033	814
1036	814
1040	814
1046	2999
1098	2999
1124	814
1125	814
1133	814
1134	778, 814
1135	814
1136	778, 814
1137	778, 814
1139	814, 3361
1250	1105
1701	3126
1865	33
1942	2774
1951	33

8 CFR

101	940
204	942
238	131
264	940
316a	132
Proposed Rules	
3	1396

9 CFR

Ch. I	745

Ch. II.....745
Ch. III.....745
82.....1109, 3089
92.....591
331.....3089
381.....3089

Proposed Rules
78.....3490

10 CFR
2.....2286
40.....8
50.....2286
70.....8
71.....596
73.....600
150.....8
504.....749
508.....749

Proposed Rules:
Ch. XVI.....1138
50.....2876, 2879
317.....1137
378.....817
440.....1299
455.....2880
457.....1301
486.....3127
500.....161
501.....161
503.....161
710.....2874
790.....1302

12 CFR
Ch. VII.....1371
5.....132
203.....750
207.....2981
213.....755
217.....9, 2857
220.....2981
221.....2981
226.....755
327.....943
563.....3091
563c.....2857, 3091
614.....2477

Proposed Rules:
309.....3127
311.....3127
332.....3127
335.....3127
338.....3127
345.....3127
349.....3127
701.....963
702.....633, 2122

13 CFR
101.....2074, 2305
107.....2859
120.....9
124.....1109

14 CFR
21.....756
39.....10–14, 759, 1110–1113, 2477, 2479, 3346, 3347
61.....3486
71.....15–18, 759, 760, 1113–1115, 2079, 2481, 2984, 2985, 3348–3350
73.....18, 2986
75.....18
93.....2079
97.....1115
159.....2079
201.....132
207.....134
208.....134
212.....135
231.....137
245.....761
246.....762
298.....604
302.....138
321.....139
380.....140
399.....140
1214.....3095

Proposed Rules:
Ch. I.....817, 3369
39.....1140–1142, 2485
71.....36–38, 1144, 1145, 2488, 2489, 3002–3005, 3370
73.....1146, 2488, 2490
91.....818
121.....3068
296.....633
297.....633

15 CFR
0.....3350
50.....18
371.....609
373.....609
376.....609
378.....609
379.....141
385.....141, 609
390.....144
399.....141, 609

Proposed Rules:
30.....2122
369.....2320

16 CFR
1.....3095
13.....1372, 3350
305.....18, 19

Proposed Rules:
13.....3371
14.....3128

17 CFR
201.....609
211.....1266
230.....3098
240.....1372, 1373, 2079, 3512

Proposed Rules:
1.....2325
210.....2776
230.....3130
239.....3130
240.....2124, 3521–3534
274.....3130

18 CFR
Ch. I.....613
141.....1267, 2083
270.....614
282.....20

Proposed Rules:
141.....39, 2329, 3374
271.....39, 638, 2883, 2884
273.....638
274.....638

19 CFR
4.....2084
6.....2085
10.....944
18.....2086
101.....1286, 2088

Proposed Rules:
4.....3374
10.....2124
18.....2125
111.....1396
177.....2126, 3375

20 CFR
Ch. I.....145
Ch. V.....145
Ch. VI.....145
416.....3099

Proposed Rules:
Ch. I.....402
Ch. V.....402
Ch. VI.....402
404.....642
416.....642, 2127

21 CFR
1.....946
2.....946
73.....946
105.....946
135.....1287
145.....2311
166.....3108
170.....946
172.....946
173.....145
175.....1288
176.....1288
178.....1288
193.....616, 1374, 2986
510.....146, 2312, 2767
522.....146
558.....1289, 2312
561.....1375, 1376, 2860

Proposed Rules:
7.....2331
20.....162
146.....963
168.....163
310.....424, 430
333.....436
357.....444–512
358.....522
874.....3280
878.....2810

22 CFR
42.....2089

23 CFR

Proposed Rules:
635.....1146

24 CFR
201.....616, 617
203.....916
234.....916
511.....1117
540.....1117
541.....1117
551.....1117
555.....1117
556.....1117
561.....1117

25 CFR
700.....2089

26 CFR
1.....147
5e.....2986

Proposed Rules:
1.....163, 164, 988, 3006
15A.....164
301.....3007

27 CFR

Proposed Rules:
5.....1148
9.....1149–1153

28 CFR
2.....2312
17.....2861

29 CFR
Subtitle A.....145
Ch. V.....145
Ch. XVII.....145
1952.....1289
2619.....2313

Proposed Rules:
Subtitle A.....402
Ch. V.....402
Ch. XVII.....402
Ch. XXV.....402
5.....966
1990.....187
2672.....1304

30 CFR
904.....3108
936.....2989

Proposed Rules:
Ch. I.....402
Ch. VII.....820, 2338
100.....2335
211.....819
700.....41, 3377
701.....41, 3377
716.....928, 2340
764.....41, 3377
770.....41, 3377
771.....41, 3377
779.....41, 3377
780.....41, 3377
783.....41, 3377
784.....41, 3377
785.....41, 3377
786.....41, 3377
788.....41, 3377
816.....41, 3377
817.....41, 3377
825.....41, 3377
826.....928, 2340
828.....41, 3377
870.....967
872.....967
874.....967
875.....967
877.....967
879.....967
882.....967
884.....967
886.....967
888.....967
913.....57
914.....3008
921.....560, 3377

922 560
937 560
939 ..... 560, 3377
948 2340

31 CFR

535 145

32 CFR

230 2112

Proposed Rules:

543 822
585 190

33 CFR

80 3351
82 3351
110 1117
117 1118
165 1118

Proposed Rules:

88 826
89 826
117 3010

34 CFR

219 3328
220 3328
624 540
625 540
626 540
627 540
644 2258
674 736
675 736
676 736
690 736

Proposed Rules:

674 908
675 908
676 908

35 CFR

103 2991

36 CFR

Ch. II 745
60 3109

Proposed Rules:

Ch. II 2886
60 3138

39 CFR

111 ..... 3351, 3352
601 1377

Proposed Rules:

111 3377

40 CFR

52 ..... 762, 763, 947, 948, 1119, 1290–1292, 2112, 2113, 2768, 3110–3115, 3352, 3353
60 ..... 950, 2314
65 1293
80 764
81 ..... 763, 952, 1120, 1377, 2113, 2115, 3354
123 ..... 618, 1248, 2314
180 ..... 619–623, 1378–1384, 2862, 2863
193 1385
262 1248
264 953
265 ..... 1254, 2316
702 2771
762 ..... 148, 149

Proposed Rules:

50 ..... 2127, 2341
52 ..... 191, 1304, 1398, 2129 3138
58 2127
65 ..... 969, 2889
81 ..... 2131, 3011
86 ..... 972, 1306, 1642
123 ..... 1155, 2378, 3378
180 ..... 651–654, 2889
244 1307
245 1307
246 ..... 1307, 2379
761 2379
775 193
799 ..... 973, 2379

41 CFR

Ch. 50 145
Ch. 60 145
5–12 1385
5A–7 2481
5A–16 2481
5A–72 2481

Proposed Rules:

Ch. 60 402

42 CFR

405 1386
441 1386

43 CFR

7 2995
20 ..... 2316, 2995
428 624
3100 2864
3110 2864

Public Land Orders:

6100 ..... 21, 3351
6101 769

Proposed Rules:

Subtitle A 2381
426 2890
4100 1155

44 CFR

64 ..... 3116, 3119, 3355
65 ..... 770, 3121, 3122, 3357, 3358
66 770
67 ..... 22, 3123
70 ..... 771, 772, 3124, 3125

Proposed Rules:

13 2491
67 ..... 3012, 3140–3147, 3379
205 827

45 CFR

680 193
681 193
682 193
683 193
684 193

46 CFR

547 3359

Proposed Rules:

69 2131
510 215
536 655

47 CFR

0 ..... 1294, 2864
2 ..... 953, 1386
21 953
73 ..... 150, 1386, 2116, 2865–2871
74 ..... 150, 953, 1392, 2864
83 2317
97 ..... 2872, 3360

Proposed Rules:

2 ..... 983, 1308
15 ..... 216, 836
73 ..... 58, 837, 983, 985, 1308, 2135, 2136, 2384, 2385, 2890–2893, 3388, 3389
74 983
81 2894
83 2894
90 1310

48 CFR

Proposed Rules:

13 1400
17 1400

49 CFR

Ch. X 613
1 1122
571 2996
635 3391
650 3391
658 3391
830 773
1033 ..... 151, 152, 624, 773, 776, 2482
1056 777
1136 2117
1139 2317

Proposed Rules:

Ch. X 3392
1031 1155
1039 220
1300 220
1310 59

50 CFR

17 2317
23 ..... 1294, 2117
32 1122–1135
611 ..... 625, 1294, 1295
662 629
675 1295

Proposed Rules:

23 1242
611 2386
672 2386

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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.

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